Charter

and

Code of Ordinances

of the

City of Sterling Heights, Michigan

COUNTY OF MACOMB

STATE OF MICHIGAN

1992

Republication of the 1968 Charter adopted on May 25, 1968.

Code of Ordinances adopted by Ordinance No. 306

on March 2, 1993, effective March 8, 1993.

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2020 Municipal Officials

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Michael C. Taylor, *Mayor*
Liz Sierawski, *Mayor Pro-Tem*

Council Members

Deanna Koski
Maria G. Schmidt
Michael V. Radtke Jr.
Henry Yanez
Barbara A. Ziarko

Mark D. Vanderpool, *City Manager*
Melanie D. Ryska, *City Clerk*
Marc Kaszubski, *City Attorney*

ADOPTING ORDINANCE

CITY OF STERLING HEIGHTS

COUNTY OF MACOMB, MICHIGAN

ADOPTING ORDINANCE NO. 306

CITY OF STERLING HEIGHTS ORDAINS:

Section 1. The Code of Ordinances consisting ofChapter 1-53 each inclusive, is adopted under authority of M.C.L.A. 117.5b as the "Code of Ordinances, City of Sterling Heights, Michigan."

Section 2. All provisions of this Code shall be the law on March 8, 1993. All ordinances adopted before December 22, 1992, that conflict with this Code are repealed on March 8, 1993.

Section 3. Unless another penalty is clearly provided, a violation of any provision of this Code shall be punished by either a fine, imprisonment, or both fine and imprisonment, as provided in Section 1-9 of this Code.

Section 4. When an amendment to this Code is passed and the form of the amendment indicates the intention of the City Council to make the amendment a part of this Code, it shall be incorporated in this Code. References to the "Code of Ordinances, City of Sterling Heights, Michigan" or "The Sterling Heights City Code" shall be understood to include such amendments.

Section 5. A copy of this Code shall be kept on file in the Office of the City Clerk preserved in looseleaf form. It shall be the duty of the City Clerk or someone authorized by the Clerk to insert in their designated places, all amendments which indicate the City Council's intent to make them part of this Code. This shall be done when the amendments have been printed in page form. It shall also be the duty of the City Clerk or someone authorized by the Clerk, to remove from the Code all provisions which are repealed by the City Council. This copy of the Code shall be available for all persons who want to examine this Code.

Section 6. It shall be unlawful for any person to change or amend by additions or deletions, and to alter or tamper with any part of this Code in any manner which will

cause the City of Sterling Heights law to be misrepresented. Any person violating this section shall be punished as provided in Section 3 of this ordinance.

Section 7. Nothing in this ordinance shall be interpreted to affect any suit or proceeding pending in any Court: rights acquired; liability incurred; or any other cause of action under any ordinance repealed by this Code of Ordinances. No just or legal right or remedy of any character shall be lost, impaired or affected by this ordinance.

Section 8. That all provisions of the Sterling Heights Zoning Ordinance, Text and Map, except as amended, shall remain in full force and effect.

Section 9. This ordinance shall become effective immediately upon publication on March 8, 1993.

This Ordinance was introduced at a regular meeting of the City Council of The City of Sterling Heights on the 16th day of February, 1993 and was duly adopted at a regular meeting of the City Council of the City of Sterling Heights on the 2nd day of March, 1993.

BY ORDER OF CITY COUNCIL

INTRODUCED: 2-16-93

ADOPTED: 3-2-93

PUBLISHED: 3-8-93

EFFECTIVE: 3-8-93

CHARTER

1968 Charter

Adopted by Election held on May 25, 1968, as amended.

CHAPTER 1. INCORPORATION AND BOUNDARIES

1.01. Name and boundaries.*

The municipal corporation created by the vote of the electors on the 25th day of May, 1968, to be known as the "City of Sterling Heights" shall be the body corporate and politic and shall have perpetual succession in accordance with the provisions of this Charter and the Constitution and the laws of the state which are applicable thereto. It embraces the following described territory in the County of Macomb, State of Michigan, together with such territory as may from time to time be attached thereto and less such territory as may from time to time be detached therefrom in accordance with law: (All that territory known as the Township of Sterling located in Township 2 North, Range 12 East, Macomb County, Michigan, except the following described parcels: All that territory situated in Township 2 North, Range 12 East, Macomb County, Michigan, now incorporated within the corporation limits of the City of Utica, Mich.)

Editor's note:

The Charter is printed herein as adopted at an election held on May 25, 1968. The Charter became effective at 8:00 p.m. on July 1, 1968. Any words appearing in brackets [ ] were added by the editor for clarity.

Chapter 21 of the Charter contained provisions concerning the election to be held on its adoption and other provisions which have accomplished their purpose. Pursuant to § 21.01, that chapter is no longer a part of the Charter, and it has, therefor, been omitted.

CHAPTER 2. MUNICIPAL POWERS

2.01. General powers.

Unless otherwise provided or limited in this chapter, the city and its officers shall be vested with any and all power, privileges and immunities, expressed and implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide in their Charters under the Constitution and laws of the State of Michigan, including all powers, privileges and immunities which cites are, or may be, permitted to provide in their Charters by Act Number 279 of the Public Acts of 1909, as amended, as fully and completely as though those powers, privileges and immunities were specifically enumerated in and provided for in this chapter, and in no case shall any enumeration of particular powers, privileges or immunities in this chapter be held to be exclusive.

2.02. Additional powers.

(A) The city may sue and be sued in its corporate name; may plead or be impleaded in all courts of law or in equity and in all actions whatsoever; may contract and be contracted with; may acquire by condemnation, purchase, lease, construction, gift, or otherwise, any property, real, personal and mixed, and hold, lease, use and dispose of the same, whether the same may lie within or without its boundaries. In any emergency when the necessities of life may not be obtained or essential services performed necessary to the health or welfare of the people, the city may take charge of, and supply such necessities or services, but shall not do such acts for gain or profit.

(B) In addition to the powers provided above, the city shall have power and may:

(1) Provide for the use, regulation, improvement and control of the surface of its streets, alleys and public ways, and of the space above and beneath them.

(2) Provide for the use, by other than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon payment of a reasonable compensation to the owners thereof.

(3) Provide for a plan of streets and alleys within and for a distance of not more than three miles beyond its limits.

(4) Acquire by purchase, gift, condemnation, lease, construction or otherwise, either singly or in conjunction with other governmental bodies, either within or without its corporate limits and either within or without the corporate limits of the County of Macomb, the following improvements, including the necessary lands therefor, viz: city hall, police stations, fire stations, boulevards, streets, alleys, public parks, recreation grounds, municipal camps, public grounds, zoological gardens, museums, libraries, airports, cemeteries, public wharves and landings upon navigable waters, levees and embankments, watch houses, city prisons, and work houses, penal farms, institutions, hospitals, quarantine grounds, electric light and power plants and systems, gas plants and systems, waterworks plants and systems, sewage disposal plants and systems, garbage disposal plants, rubbish disposal plants, market houses and market places, office buildings for city officers and employees, public works and public buildings of all kinds; and for the costs and expenses thereof.

(5) Acquire by purchase, gift, condemnation, lease or otherwise, private property, either within or without the corporate limits of the County of Macomb, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not. If condemnation proceedings are resorted to for the acquisition of private property, such proceedings may be brought under the provisions of Act 149 of the Public Acts of 1911, as heretofore or hereafter amended, or under such other provisions as shall be made by law.

(6) Maintain, develop and operate its property and upon discontinuance thereof to lease, sell or dispose of the same subject to restrictions placed thereupon by law; provided, that on the sale of any capital asset of a municipally owned utility the money received shall be used in procuring a similar capital asset, or placed in the sinking fund to retire bonds issued for said utility.

(7) Acquire by construction, condemnation, or purchase and own, equip, possess, lease, operate and maintain transportation facilities including a rapid transit system consisting of a tunnel, subway, surface or elevated system or any combination or qualification of these, in and through said city, and for a distance of not more than ten miles beyond its limits, for the purpose of furnishing transportation facilities to the city and to the people hereof; the city may provide by ordinance or resolution for the preparation and publication of plans for such construction, equipment and maintenance; for the operation of such facilities independently or in connection with other transportation facilities, or transportation system, owned, operated or controlled by the city or existing therein, or in the territory in which any such rapid transit system is established; for the appropriate designation of such facility; for the taking of the fee of or easement of right-of-way on, under, above and through any

property for the purposes thereof; by gift, grant or purchase, and by condemnation proceedings in accordance with any law of the State of Michigan providing therefor; and for the management of such facilities, for the purposes for which the same is or may be acquired or constructed and for the execution of contracts incidental to the carrying out of the purposes hereby contemplated, subject to the general laws of the state.

(8) Negotiate, execute and perform contracts with any other municipality or municipalities, duly authorized and empowered to that end, with reference to the construction, equipment, operation, maintenance and management of a rapid transit system and facilities, and finance any obligations assumed under or imposed by any such contract.

(9) Provide for the use, control and regulation of streams, waters and watercourses within its boundaries, subject to any limitation imposed by law.

(10) Secure by condemnation, by agreement or purchase, or by any other means, an easement on property abutting or adjacent to any navigable stream for the purpose of securing the privilege and right to construct, own and maintain along or adjacent to any navigable stream an elevated structure of one or more levels for the use as vehicular or pedestrian passageway or for any other municipal purposes.

(11) Acquire, establish, operate, extend and maintain facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collecting of charges for services and use thereof on a public utility basis, and for such purposes to acquire by gift, purchase, condemnation or otherwise the land necessary therefor.

(12) Acquire, construct, establish, operate, extend and maintain facilities for the docking of pleasure water craft within its corporate limits, including the fixing and collection of charges for use thereof, and for such purpose to acquire by gift, purchase, condemnation or otherwise the land necessary therefor.

(13) Regulate and restrict the locations of oil and gasoline stations.

(14) Establish districts or zones within which the use of land and structures, the height, the area, the size and location of buildings and required open spaces for light and ventilation of such buildings and the density of population therein may be regulated. Such regulations in one or more districts may differ from those in other districts.

(15) Regulate trades, occupations and amusements within its boundaries, not inconsistent with state and federal laws, and prohibit such trades, occupations and amusements as are detrimental to the health, morals or welfare of its inhabitants.

(16) License, regulate, restrict and limit the number and location of billboards within the city.

(17) Enact and enforce all such local, police, sanitary and other regulations for the public peace and health and for the safety of persons and property as are not in conflict with the general laws.

(18) Establish any department that the council shall deem necessary for the general welfare of the city and provide for the separate incorporation thereof, subject to general law and the provisions of this Charter.

(19) The city and its officers shall have power to exercise all municipal powers in the management and control of municipal property and in the administration of municipal government, whether such powers be expressly enumerated or not; to do any legal act to advance the interest of the city, the good government and prosperity of the municipality and its inhabitants, and through its regularly constituted authority, to pass and enforce all laws, ordinances, and resolutions relating to its municipal concerns, subject to the constitution and general laws of the state and provisions of this Charter.

2.03. Construction.

The powers of the city under this chapter shall be construed liberally in favor of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this chapter.

2.04. Intergovernmental cooperation.

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, of the United States or any agency thereof.

2.05. Appropriation of private property for public use.

Subject to any limitations in the Constitution or general laws of the state or contained in this Charter, the city shall have power to appropriate private property either within or without the city limits for the use or benefit of the public and shall have the power and authority to institute and prosecute proceedings for that purpose. All proceedings to condemn private property either before commissions or in court shall be taken in accordance with the provisions of any state law providing for the condemnation of property for public use, applicable to the purpose for which the city seeks to condemn any particular property, in as close a manner as possible.

CHAPTER 3. ELECTIONS

3.01. Qualification of electors.

The residents of Sterling Heights having the qualifications of voters in the State of Michigan shall be the electors of the city. All electors shall satisfy the requirements of registration as prescribed by general election statutes or as otherwise provided in this Charter.

3.02. Wards and precincts.

The City of Sterling Heights shall consist of one ward. The election precincts heretofore established for the Township of Sterling within the boundaries of the City of Sterling Heights shall continue to be the election precincts for the City of Sterling Heights unless otherwise changed pursuant to the laws of the state.

3.03. Election procedure.

The election of all city officers shall be on a non-partisan basis. The general election laws of the state shall apply to and control, as nearly as possible, all procedures relating to registration and city elections except as such general laws relate to political parties or partisan procedure and except as otherwise provided in this chapter.

3.04. Notice of elections.

Notice of the time and place of holding any city election and of the officers to be nominated or elected and the questions to be voted upon shall be given by the clerk in the same manner and at the same time as provided in the state election statutes for the giving of notice by township or city clerks.

3.05. Primary elections.

The primary election, for the nomination of candidates for elective offices, shall be held on the third Saturday in February preceding the regular municipal election. Primary elections shall be conducted as nearly as possible in the manner provided for holding elections under this Charter.

3.06. Regular city elections.

A regular city election shall be held on the first Tuesday in September in each odd numbered year.

3.07. Informalities in conducting elections.

No informalities in conducting any city primary or election shall invalidate the same, if they have been conducted fairly and in substantial conformity with the requirements of this Charter and the general law of the state.

3.08. Challengers, state law.

Challengers may be appointed in such manner and with such rights and privileges as are provided in the general laws of the state.

3.09. General or special election; alternating names; state law.

The names of candidates for the several offices shall be printed upon the ballots and the provisions of the general primary law for transposing and alternating the names of candidates shall apply to said ballot.

3.10. Special elections.

Special city elections shall be held when called by resolution of the council at least forty-five (45) days in advance of such election or when required by this Charter or the general laws of the state. Any resolution calling a special election shall set forth the purpose of such election. No more than two special city elections shall be held in any one calendar year.

3.11. Voting hours.

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

3.12. Nominations.

Candidates for any elective office to be voted for at any municipal election under the provisions of this Charter shall be nominated at a primary election, and no other names shall be placed on the election ballot for the election of such officers, except those nominated in the manner hereinafter prescribed; provided however, that whenever the number of candidates for nomination to any office does not exceed twice the number to be elected to that office, then in such case, no primary election for the nomination of candidates for such office shall be held, and such candidates shall be deemed to be nominated for such office, and the names of such candidates for any such office shall be placed on the election ballot to be voted for at the next regular municipal election, the same in all respects as though the said candidates had been nominated at a primary election. The names of all candidates for an elective office to fill a vacancy shall be placed on the election ballot for the special election under the provisions of this Charter except that no primary election shall be held.

***Footnote*:**

This Charter amendment was approved at the General Election held November 8, 1994.

3.13. Statement of candidacy.

Any qualified voter of the city who has been a resident of the city for a period of not less than one year prior to the primary election in which he desires to become a candidate for nomination to any elective office shall file his statement of candidacy, including his nomination petitions with the clerk at least thirty days and not more than forty days prior to the date of holding the primary election. The clerk shall publish notice of the last day permitted for filing nomination petitions, at least one week before and not more than three weeks before, that date. Each candidate shall file nominating petitions with the clerk containing a minimum of 400 signatures of the city's registered voters and no more than 1,000 signatures of the city's registered voters.

It shall be unlawful for any person to sign more petitions for any office than there are persons to be elected to such office. Upon receipt of any nomination petition, the city clerk shall affix his certificate thereto certifying as to the number of signers who are registered voters of the city according to the records in his office.

Footnote:

This Charter section was amended at the General Election held November 3, 2020.

3.14. Form of petition.

The form of nominating petition shall be substantially that required by state law for state and county officers, except for references to political parties. A supply of petition forms shall be provided and maintained by the clerk.

3.15. Approval of petition.

The clerk shall accept for filing only nomination petitions as described in section3.14 containing the required number of signatures for candidates having those qualifications required for elective city officials by this Charter. When petitions are filed by persons other than the person whose name appears thereon as a candidate, they may be accepted for filing only when accompanied by the written consent of the person in whose behalf the petition(s) were circulated. The clerk shall provide those persons submitting petitions with an affidavit indicating receipt of nominating petition(s). Upon filing the clerk shall forthwith notify any candidate whose petition does not meet the requirements as to validity and sufficiency according to this Charter and the laws of this state pertaining thereto. No later than seventy-two (72) hours after the final time for filing nominating petitions, the clerk shall notify all candidates, in writing, whose petitions are valid and sufficient. The names of the candidates who file valid and sufficient nominating petitions shall be certified by the clerk to the election commission to be placed upon the ballot for the next subsequent primary city election.

3.16. Ballots.

Ballots for primary elections, regular and special elections, shall conform as nearly as possible with the provisions of the state election laws with respect to ballots, except that they shall contain no party mark, emblem vignette or designation whatsoever. It shall be the duty of the city election commission, hereinafter provided, to provide for the printing of such ballots.

3.17. Election commission.

An election commission is hereby created consisting of the clerk who shall serve as chairman, and two (2) additional members appointed by the city council from the qualified voters of the city. Except for the clerk who is designated as chairman, other elective or appointive officials shall not be eligible for appointment to the election commission. The members shall serve without compensation for a period of two (2) years and shall take office sixty (60) days after the municipal regular election. Any two (2) members of such board shall be a quorum.

3.18. Duties of election commission.

The election commission shall provide all necessary voting booths, equipment and supplies for the conduct of all elections. The election commission shall have charge of all activities and duties required of it by statute and this Charter relating to the conduct of elections in the city. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed. When a city election is held on the same day as a state or county election, the same election officials shall act in both the city and state or county elections.

3.19. Appointment and compensation of election inspectors.

The election commission shall, before each election, appoint for each election precinct of the city a board of such number of inspectors of election as the commission may determine. They shall receive such compensation as shall be fixed by the council.

3.20. Canvass of votes.

Four (4) persons having the qualifications of electors shall be appointed by the council as provided by statute (M.S.A., Sec. 6.1030(1)-(7) incl.); and shall be the board of canvassers to canvass the votes of all city elections. The board of canvassers shall convene at its regular place of meeting at 8 o'clock p.m. within three (3) days following any primary, general or special election and shall publicly canvass the results of such election and shall determine the vote upon all questions and propositions and declare whether the same have been adopted or rejected and what persons have been nominated or elected to the several offices. When only one person is to be elected to any one office at any election, then the two (2) candidates receiving the highest number of votes for nomination to that office at the preceding primary election shall be deemed to have been nominated thereto and shall be the candidates and the only candidates whose names shall be placed on the ballot for that office at such election. When more than one person is to be elected to any office at any election, then the candidates equal in number to twice the number of persons to be elected to that office receiving the highest number of votes for nomination to said office at the preceding primary election, shall be deemed to have been nominated thereto and shall be the candidates and only candidates whose names shall be placed on the ballot for said office at such election. At any election the person receiving the highest number of votes for any office to which one person only is to be elected shall be deemed to have been duly elected to that office. If more than one person is to be elected to any office, then the persons equal in number to the number to be elected to that office receiving the highest number

of votes, shall be deemed to have been duly elected to that office. The clerk shall notify within five (5) days, in writing, by certified mail, the successful nominees or candidates of their nomination or election.

3.21. Election by lot in case of tie vote.

If, at any election, it shall appear that two (2) or more persons have an equal number of votes for the same office for which but one person is to be nominated or elected and such number shall be the highest number cast therefore, the election commission shall determine the successful candidate by lot as provided in the general election laws of the state.

3.22. Proposition submitted at primary election.

Any question or proposition which may be submitted at any election may be submitted at a primary election.

3.23. Recount.

A recount of the votes cast at any city election for any office, or upon any proposition may be had in accordance with the general election laws of the state. Unless otherwise provided by state law, a petition for the recount of votes cast at any city primary or election shall be filed with the clerk within six (6) days after the board of canvassers has canvassed the votes cast at such primary or election. Any counter petition shall be filed within twenty-four (24) hours thereafter. No officer shall be qualified to take office until the final determination of any recount of the votes cast for such office.

3.24. Same (recount); deposit required.

Such petitioner shall deposit or cause to be deposited with the clerk the sum of ten dollars for each and every election precinct referred to in his petition, but no petitioner shall be required to deposit more than one hundred dollars. Said deposit shall not be returned unless the result of the original count is substantially changed.

3.25. Recall.

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

3.26. General election laws.

The general election laws of the state, when applicable, shall apply to all primary, general and special elections in the city; provided however, that when there is a conflict between such general laws and this Charter as to any matter which may be lawfully regulated by charter, then the provisions of this Charter shall control.

CHAPTER 4. GENERAL PROVISIONS AFFECTING ELECTIVE AND APPOINTIVE OFFICERS OF THE CITY

4.01. Council-Manager government.

The city shall have the council-manager form of government.

4.02. Officers to be elected at large.

The elective officers shall be the mayor and six (6) councilpersons all of whom shall be elected from the city at large as provided in section 5.01 of this Charter.

***Footnote*:**

This Charter amendment was approved at the General Election held in November, 1992.

4.03. Qualifications of elective or appointive officers in city.

(A) No person shall hold any elective office under this Charter, except as otherwise herein provided, unless he has been a resident of the city for at least one year immediately prior to the primary election in which he desires to become a candidate for nomination or prior to the time of his appointment to fill a vacancy; and unless such person is a registered and qualified voter at the time of the filing of his petition for said office. No person shall hold any elective office unless he is a qualified and registered voter of the city on such last day for filing or at such time of appointment and throughout his tenure of office except as hereinbefore provided.

(B) No person shall be eligible for any elective or appointive office who is in default to the city. The holding of office by any person who is in such default shall create a vacancy unless such default shall be eliminated within thirty (30) days after written notice thereof by the clerk or unless such person shall in good faith be contesting the liability for such default.

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

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

(E) No person who has been removed from office by recall or removed pursuant to sections 3.25 or 4.04 of this Charter, or who has resigned from office after a petition for recall has been filed with the clerk, shall be eligible to be elected or appointed to any office within two (2) years after such removal or resignation.

4.04. Vacancy in elective office.

In addition to the other provisions of this Charter, a vacancy shall be deemed to exist in any elective office when such officer fails to qualify within ten (10) days after his election or appointment, fails to perform the duties of his office for a period of ninety (90) days, dies, resigns, is removed from office, moves from the city, is convicted by a court of competent jurisdiction of a felony, or misconduct in office, or is judicially declared to be mentally incompetent.

4.05. Vacancy on boards and commissions.

In addition to the other provisions of this Charter, a vacancy shall be deemed to exist on any board or commission [to] which members are appointed for a specific term of office, when such board member fails to qualify within ten (10) days after his appointment, fails to perform the duties of his office for a period of ninety (90) days, dies, resigns, is removed from office, moves from the city, is convicted by a court of competent jurisdiction of a felony, or of misconduct in office or is judicially declared to be mentally incompetent.

4.06. Filling vacancies in elective office.

(A) If a vacancy occurs in any elective office, then the Council, by a majority vote of its members, shall fill such vacancy within sixty (60) days. If the Council fails to do so, then the City Clerk shall conduct a special election within the next ninety (90) days to fill such vacancy following procedures set forth in Sections 3.12 through 3.15 of this Charter.

(B) No vacancy arising within one hundred fifty (150) days of the general city election shall be filled by special election.

Footnote:

This Charter amendment was approved at the General Election held November 8, 1994.

4.07. Filling vacancies in appointive office.

Vacancies that occur in appointive offices of an unspecified term shall be filled in the manner provided for making the original appointments, and vacancies that occur in appointive offices of a specified term shall be filled for the balance of the unexpired term in the manner provided for making the original appointments.

4.08. Resignations.

Resignations of elective officers shall be made in writing, filed with the clerk and shall be acted upon by the council at its next regular meeting, following receipt thereof by the clerk. Resignations of appointive department heads, board and commission members shall be made in writing to the appointing officer and shall be acted upon immediately.

4.09. Change of term of office.

(A) Except by procedures provided in this Charter, the terms of office of the elective officers and of the members of boards and commissions appointed for a definite term shall not be shortened.

(B) The terms of elective officers shall not be extended beyond the period for which any such officer was elected, except that an elective officer shall, after his term has expired, continue to hold office until his successor is elected and has qualified.

4.10. Compensation: Elective and appointive officers.

(A) Compensation for all members of boards and commissions where permitted by law shall be established by council ordinance.

(B) The compensation of all employees and officers of the city whose compensation is not provided for herein shall be fixed by ordinance and shall be within the limits of budget appropriations and shall be in accordance with any pay plan adopted by the council.

(C) Except as otherwise provided in this Charter, the respective salaries and compensation of officers and employees as fixed by, or pursuant to this Charter, shall be in full for all official services of such officers or employees and shall be in lieu of all fees, commissions and other compensation receivable by such officers or employees for his services.

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

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

(F) The council shall not grant or authorize extra compensation to any officer or employee after his service has been rendered.

4.11. Oath of office and bonds.

(A) All of the officers of the city before entering upon the duties of their office shall file with the clerk such bonds as are required by law or this Charter.

Footnote:

This Charter amendment was approved at the General Election held in November, 1992.

(B) All bonds shall be surety company bonds subject to approval as to form and content by the city attorney, or by an assistant in his office, and the premiums thereon shall be paid by the city. The council shall have the authority to require bonds of a larger amount than is required by law and shall have the authority to authorize the issuance of a blanket surety bond to cover all of the officers and such employees of the city as they deem proper in lieu of individual bonds.

(C) Failure on the part of the officers or employees to furnish such bonds as are required by this section or upon their failure to qualify for such bonds shall be deemed sufficient grounds for removal from office by the council.

4.12. Officers must not have interest in city contracts.

(A) No officer of the city shall be financially interested, directly or indirectly, in any contract, sale, job, work or service (other than official service), to be performed for the city except as hereinafter provided in paragraph (B), nor shall he stand as, give, or provide any bail, security, or bond required by this Charter or the ordinances of the city; nor personally, nor as an agent, provide any bond required by law of any liquor licensee whose license is subject to approval by the council. Any officer of the city offending against the provisions of this section shall be guilty of misconduct in office.

(B) A contract in which an officer or member of his family has a financial interest may be made by the city if the members of the council having no such interest shall unanimously determine that the best interests of the city will be served by the making of such contract after comparative prices are obtained.

4.13. Solicitation of political contributions or support.

No elective officer of the city shall orally, by letter or otherwise solicit, or be in any manner concerned in soliciting any assessment, subscription, contribution, or support for any political party, or for any candidate for public office, from any classified employee of the city. Any elective officer of the city who offends against the provisions of this section shall be guilty of misconduct in office.

4.14. Officer shall hold no office except elective office.

No elective officer shall hold more than one elective or appointive office, the compensation for which is paid out of city funds. No classified employee of the city shall seek any elective city office, unless he first resigns from his position with the city.

4.15. Department regulations: Hiring of employees.

Subject to the provisions of this Charter, the department heads, commission or board in charge of the city government shall formulate all rules and regulations required for the organization and conduct of its department and unless otherwise specifically provided to the contrary in this Charter, each department head, commission or board shall hire the necessary employees for his or her department, subject, to the approval of the council and to any civil service provision that may be hereinafter enacted by the council in accordance with the Charter.

4.16. Employees maybe appointed to two or more appointive offices.

The city manager, with the approval and consent of the council, shall have the authority to appoint one person to fulfill the functions and duties of two (2) or more offices provided that the functions of such appointive offices are not incompatible with each other, unless otherwise provided in this Charter.

4.17. Residence requirements for employees.

All full-time employees of the city, if not residents of Macomb County at the time of their appointment, shall become residents thereof within six (6) months thereafter and shall remain so while so employed. The council may, by resolution or by ordinance, extend the six (6) month period.

Footnote:

This Charter amendment was approved at the General Election held in November, 1990.

4.18. Private use of public property.

No officer or employee of the city shall devote any city property or labor to his own personal use.

4.19. Delivery of office.

When any elective or appointive officer or employee of the city has qualified and is entitled to assume the duties of his office his predecessor in such office or position shall surrender to him forthwith, all the books, papers, records and other city property which may be in his possession. The failure of such predecessor to comply with this provision shall constitute a misdemeanor.

4.20. Anti-nepotism.

Unless the council shall by five-sevenths vote, which shall be recorded as part of its official proceedings, determine that the best interests of the city shall be served

and the party considered by such a vote has met the requirements for such a classified position as are specified in section 8.19 (1-4 of this Charter), the following relatives of any elective or appointive officer are disqualified from holding any appointive office or employment during the term for which said elective or appointive officer was elected or appointed: Spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister or the spouses of any of them. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees for the city at the time of the election or appointment of said official.

CHAPTER 5. THE CITY COUNCIL

5.01. The council: Composition and term of office.

The legislative and governing body of the city shall be the city council, which shall consist of the mayor and six (6) councilpersons, each of whom shall serve a four-year term of office. Beginning at the regular city election to be held in November, 2021 and at each November regular city election held every 4 years thereafter, the mayor and six (6) councilpersons shall be elected for a four-year term of office.

Footnote:

This Charter amendment was approved at the General Election held in November, 1992. The section was subsequently amended at the General Election held November 3, 2020.

5.02. Compensation of mayor and councilmen.

Each councilman shall receive as compensation thirty dollars for each regular and special meeting of the council which he attends, but the compensation so paid shall not exceed $1800 in any fiscal year. The mayor shall receive as compensation forty dollars for each regular and special meeting of the council which he attends, but the compensation so paid shall not exceed $2500 in any fiscal year. Such compensation shall be paid monthly and except as otherwise provided in this Charter shall constitute the only compensation which may be paid the mayor or councilmen for the discharge of any official duty for or on behalf of the city during their tenure of office. However, the mayor and councilmen may, upon order of the council be paid such necessary bona fide expenses incurred in service in behalf of the city as are authorized and itemized.

5.03. Election; mayor pro tem.

The highest vote-getter in each regular city election for councilperson shall serve as mayor pro tem. Vacancies in the office of mayor pro tem shall be filled by the next highest vote-getter.

In the event of absence or disability of both the mayor and mayor pro tem, the council may designate another of its members to serve as acting mayor during such absence or disability.

Footnote:

This Charter amendment was approved at the General Election held in November, 1992; amended and approved at the General Election held November 8, 1994.

5.04. Duties of mayor.

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

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

(C) The mayor shall execute or authenticate by his signature such instruments as the council, this Charter, or statute or laws of the United States shall require.

(D) Except as may be required by statute, the mayor shall exercise only such powers as this Charter or the council shall specifically confer upon him.

(E) In the absence or disability of the mayor, the mayor pro tem shall perform the duties of mayor. In the absence or disability of both, the designated acting mayor shall perform such duties.

5.05. Regular meetings of the council.

The council shall meet not less than twice each month commencing at a time to be set by council resolution at the usual place of holding meetings of the council. If any time set for the holding of a regular meeting of the council shall fall on a legal holiday, then such regular meeting shall be held at the same time and place on the next secular day which is not a holiday.

5.06. Special meetings of the council.

Special meetings may be called by the clerk of the council on the written request of the mayor or any three (3) members of the council on twenty-four (24) hours written notice to each member of the council, designating the purpose of such meeting and served personally or left at his usual place of residence by the clerk or someone designated by him. Any special meeting at which all members of the council are present or have waived notice in writing, shall be a legal meeting for all purposes, without such notice.

5.07. Business at special meetings.

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

5.08. Meetings of the council to be public.

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

5.09. Quorum.

The majority of the council shall constitute a quorum for the transaction of business at all meetings of the council, but in the absence of a quorum two (2) or more members may adjourn any regular or special meeting to a later date.

5.10. Rules of procedure; journal of proceedings required.

The council shall determine its own rules, policies and order of business and shall keep a written or printed journal of all its proceedings in the English language which shall be signed by the mayor and the council clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by "yes" and "no" votes and entered upon the record except that where the vote is unanimous, it shall only be necessary to so state. An affirmative vote of the majority of the quorum of the council is necessary to validate any resolution except as otherwise required by law or this Charter. Neither the mayor nor any councilperson shall vote on any question in which he has any financial interest other than the common public interest. Any citizen or taxpayer of the city shall have access to the minutes and records of all regular and special meetings of the council at all reasonable times. There shall be no standing committees of the council.

Footnote:

This Charter amendment was approved at the General Election held in November, 1992.

5.11. Discipline.

The council may by vote of not less than a majority of its members, compel the attendance of its members at its regular meetings and enforce orderly conduct therein; and any member of the council who refuses to attend such meetings and conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in office. The council may require the attendance of the city manager and that of any elective or appointive officer of the city for the purpose of securing from them any information upon the affairs of the city within their jurisdiction.

5.12. Investigations.

The council, by majority of its members, or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office or officer of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure on the part of any officer of the city to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute misconduct of office and shall also constitute a misdemeanor. If such failure shall be on the part of any employee of the city, it shall constitute a misdemeanor.

5.13. Official newspaper.

The council, after investigating the circulation, rate, quality of printing, deliveries and responsibility of available newspapers, and after receiving bids, shall designate at least one newspaper of general circulation in the city which is qualified to publish legal notices under the laws of the State of Michigan, as the official newspaper of the city for the next twelve (12) months. All notices, ordinances, and other records required by the provisions of this Charter to be published, shall be published in said official newspaper in the manner and form [prescribed] in this Charter; provided, however, that the council may order additional publications of any such notice, ordinance or other record in other newspapers, in any financial or trade paper, journal or magazine. If at any time, no newspaper had been designated as the official newspaper of the city, or in case the newspaper designated as the official newspaper of the city ceases regular publication or is violating any of the terms of its contract, the council shall order publication of such notices, proceedings, ordinances, or other records as are required to be published, in some other newspaper printed in the English language and circulated in the city; provided, however, that the city shall not be without an official newspaper more than thirty (30) days.

5.14. Publication of council proceedings.

No proceedings of the council shall be published in the official newspaper of the city until the meeting following the meeting at which said proceedings were adopted. A synopsis of such proceedings, prepared by the clerk of the council and approved by the presiding officer, showing the substance of each separate proceeding of the council, shall be sufficient compliance with the requirements of this section except for ordinances adopted by the council. Ordinances shall be published in the complete form.

5.15. Public hearings.

The council shall have the power to hold hearings on any matter within its province, and to compel by subpoena, the attendance of witnesses and the production of books, papers and data in any hearing pending before it. Such subpoena may be served by any person of legal age. Each witness shall be entitled to receive the same fees for attendance as is provided by law for the payment of witness fees in the circuit court for the County of Macomb. The council may by ordinance prescribe the method to more effectually carry out the foregoing provisions. Any person who having been personally served with subpoena willfully refuses to comply with the same, may be punished with a fine not to exceed five hundred dollars ($500.00) or imprisonment not to exceed ninety (90) days, or both in the discretion of the court.

5.16. Claims and accounts.

The council shall audit and pass on all accounts and claims against the city. All claims whether arising out of contract or tort shall be made under oath and shall be filed with the clerk for consideration by the council within sixty (60) days after the cause of action in every case has arisen. It shall be a sufficient defense to any action for the collection of any demand or claim against the city that such claim has not been filed with the clerk as hereinbefore provided.

5.17. Power to enter into insurance contracts.

The council shall have the power to adopt and make available to the administrative officers and employees of the city and its departments any recognized standard plan of group life, hospital health or accident insurance.

5.18. Licenses: Requiring council approval.

(A) The council shall by ordinance prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked, and may require an exact payment of such reasonable sums for any licenses as it may deem proper. The persons receiving the licenses shall, before the issuing thereof, execute a bond to the city, when required by any ordinance, in such sum and with such securities as prescribed by such ordinance, conditioned for the faithful observance of the Charter of the city, the ordinance under which the license is granted and otherwise conditioned as any such ordinance may prescribe.

(B) The licensing power granted to cities by state law shall be vested in the council unless otherwise provided by ordinance.

5.19. Depository of city funds.

The council shall select a depository or depositories in which the funds of the city shall be deposited.

CHAPTER 6. CITY LEGISLATION: ORDINANCES, RESOLUTIONS, INITIATIVE AND REFERENDUM

6.01. Legislative power, council authority.

The legislative power of the city is vested exclusively in the council, except as otherwise provided by law.

6.02. Prior township legislation.

All valid ordinances, resolutions, rules and regulations of the Township of Sterling which are not inconsistent with this Charter and which are in full force and effect at the time of the effective date of this Charter shall continue in full force and effect until repealed or amended. Provided, however, that if any such ordinance, resolution, rule or regulation provides for the appointment of any officers or members of any boards, commissions or departments, such officers, members of such boards, commissions or departments, shall, after the effective date of this Charter, be appointed in accordance with the provisions of this Charter.

6.03. Ordinances and resolutions.

The official actions of the council shall be by ordinance or resolution, adopted by not less than a majority of the council in the case of ordinances or not less than a majority of quorum of the council in the case of resolutions, unless otherwise required by law or this Charter. Action of the council by resolution shall be limited to matters required or permitted to be so done by law or relating to the internal affairs or concerns of the city. All acts of the council carrying a penalty for the violation thereof shall be by ordinance. Each ordinance shall be identified by a short title and by a number or by a Code section number when and after the ordinances are codified. All other acts of the council which do not constitute ordinances shall be deemed to be resolutions.

6.04. Ordination, amendment, repeal, effective date, penalties.

(A) The enacting clause of all ordinances shall read "The City of Sterling Heights Ordains." Such caption may be omitted when said ordinances are published in book form by authority of the council. Each proposed ordinance shall be introduced in written or printed form in the English language.

(B) No ordinance shall be passed at the same meeting at which it is introduced, unless the same is declared to be an emergency action by a vote of not less than five (5) members of the council.

(C) An ordinance may be repealed, amended or modified by re-enacting the section or sections of the ordinance to be amended.

(D) An ordinance may be repealed by reference only to its number and title.

(E) All ordinances shall become effective immediately after publication and recording pursuant to law; unless a different effective date is provided in the ordinance.

(F) The council shall have the authority to provide in any ordinance for the punishment of those who violate the same, by a fine not to exceed five hundred dollars ($500.00), or imprisonment in the city prison, a county jail, or such other penal institution authorized to receive city prisoners for a period not to exceed ninety (90) days, or both such fine and imprisonment at the discretion of the court.

(G) Prosecution for violation of any ordinance of the city shall be commenced within two (2) years after the commission of the offense; provided, that the limitation herein imposed shall not be construed as a limitation of the city's rights to forfeit any franchise, grant or license for violation of the terms and conditions thereof after said two (2) year period.

6.05. Ordinance book: Publication.

All ordinances shall be recorded in an indexed book marked "Ordinance Book," and the record of each ordinance shall be authenticated by the signature of the mayor and clerk. Such record and authentication shall be done promptly after the final passage of the ordinance, but failure to so record and authenticate any ordinance shall not invalidate or suspend its operation.

It shall be the duty of the clerk to cause every ordinance to be published by printing the same in the official newspaper of the city. The publication of an ordinance in the council proceedings shall be deemed a sufficient publication. The clerk shall immediately after such publication, enter in the "Ordinance Book," under the record of the ordinance, a certificate under his hand stating the time and method of such publication. Such certificate shall be prima facie evidence of the due publication of the ordinance.

6.06. Proof of ordinances in judicial proceedings.

City ordinances may be proved in any judicial proceedings by the following methods:

(A) By a certified copy of an extract of the clerk's records.

(B) By a copy of the ordinance duly certified as a true copy by the clerk under the seal of the city.

(C) From any volume purporting to have been published, printed, and compiled by authority of the council.

6.07. Codes of technical regulations: Adoption by reference.

The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance and without publishing such code in full. Provided that, such code is clearly identifiable in said ordinance and that the purpose of such code shall be published with the adopting ordinance. Printed copies thereof shall be kept in the office of the clerk, available for inspection by and distribution to the public at all times. The publication shall also contain a notice to the effect that a complete copy of said Code is available for public use and inspection at the office of the clerk.

6.08. Compilation: Codification.

The city council shall, within a period of three (3) years after the adoption of this Charter, enact such ordinances as are necessary for the efficient operation of the city and shall provide for the compilation or codification of the Charter and all ordinances of the city in book or loose leaf form. Such compilation or codification shall be made available to the public in the office of the clerk, at a reasonable charge.

6.09. Initiative and referendum.

(A) Any ordinance which may be legally adopted by the council of the City of Sterling Heights, may be proposed by a petition signed by registered electors of the city not less in number than fifteen percent (15%) of all votes cast for governor of the State of Michigan at the last fall election held in the state, but in no case less than fifteen hundred (1500). Such petition shall be addressed to the council of the City of Sterling Heights, and shall set forth at length the ordinance proposed to be enacted. With each signature attached thereto shall be given the place of residence, with the street and number of the elector so signing, and the date when such signature was attached. Such signatures need not all be on one paper, but all petitions shall be filed with the clerk at one and the same time. An affidavit or affidavits shall be made by one or more registered electors of the city, which affidavits shall state that each signature, appearing upon the petition to which such affidavit is attached, is the genuine signature of the person whose name it purports to be, and that to the best of applicant's knowledge and belief, the signers whose names are attached to said petition are registered electors of the City of Sterling Heights. The petition proposing an ordinance shall be in the following form:

"To The Honorable Council of The City of Sterling Heights, Michigan:"

We, the undersigned registered electors of the City of Sterling Heights, under and by virtue of the authority granted by Act No. 279 of The Public Acts 1909, as amended, and by Chapter VI of the Charter of The City of Sterling Heights, do hereby propose and initiate for submission to the qualified electors of the City of Sterling Heights, the following proposed ordinance:

(Here set forth proposed ordinance in full)

and your petitioners will ever pray, etc.

Name Number Street Date of Signing

AFFIDAVIT

STATE OF MICHIGAN)

COUNTY OF MACOMB)

STATE SEAL:

_____being first duly sworn, deposes and says that the names appearing upon the foregoing petition are the genuine signatures of the persons whose names appear thereon, and that to the best of applicant's knowledge and belief, such persons are registered electors of the City of Sterling Heights.

Subscribed and sworn to before me this_____day of _____19 ____.

Notary Public, Macomb County, Michigan

My Commission Expires _____".

(B) Said petitions, when signed by the requisite number of registered electors, shall be filed with the clerk. Such clerk shall attach thereto a certificate, setting forth the name and address of the person or persons filing the said petition in his office, and the date when said petition was filed. A copy of said petition, exclusive of signatures, together with said certificate, shall be entered in a record book to be kept for that purpose in the office of the clerk.

6.10. Petition: When sufficient; procedure after filing.

(A) Within ten (10) days from the date of the filing of said petition with the clerk, it shall be the duty of such clerk to ascertain, by comparison of said petition with the registration records of the City of Sterling Heights, whether or not such petitions contain the requisite number of signatures of registered electors as the same appear on the registration records of the city, and following such examination, the clerk shall attach to such petition his certificate showing the result of such examination. If the certificate of the clerk so attached shows the petition to be insufficient, he shall, within ten (10) days, cause notice in writing, setting forth the fact that such petitions are found to be insufficient, to be served upon one or more of the persons designated in the certificate attached by him to said petition as the persons who filed said petition in his office. Additional signatures properly verified as hereinbefore provided may be filed with the clerk at anytime fifteen (15) days from the date of the service of such notice. The clerk shall attach his certificate to such additional petitions and shall cause them to be entered in the record book as herein provided shall be done when the original petitions are filed. The clerk shall, within five (5) days after the filing of such additional petitions make like comparisons of the additional signatures with the registration books and attach thereto his certificate of the result. If the number of signatures are still shown to be insufficient, or if no additional signatures are so filed, the clerk shall, upon demand, return the petition to any of the persons designated as filing it, without prejudice however, to the filing of a new petition for the same purpose. Whenever the petition shall be found by the clerk to be sufficient, he shall so certify and submit the same with his certificate to the council at its next regular meeting.

(B) At such next regular meeting, the council shall proceed to consider such petition, including the form and purpose of the ordinance thereto attached. If such ordinance be determined by the city attorney to be illegal, in form or otherwise, the council shall so declare by resolution and shall direct the clerk to return said petition immediately to any of the persons designated as filing it, without prejudice to filing a new petition for the same purpose. If the council, upon consideration, finds such ordinance legal, then it may provide for public hearings on such ordinance; and if it deems the same advisable, shall pass such ordinance within four (4) weeks from the day of the filing of such petition with the clerk. If the council finds such petition and ordinance legal and does not pass such ordinance within the time herein limited, it shall within two (2) weeks after its failure to pass such ordinance, provide for the submission of such ordinance to the qualified electors of the city at the next election occurring more than thirty (30) days thereafter, at which questions of propositions submitted by the council may be voted upon by the electors; but no special election shall ever be called by the council for the purpose of referendum only.

(C) A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

6.11. Referendum on ordinance passed by council.

Within forty-five (45) days after the publication of any ordinance duly passed by the council, a petition may be presented to the council protesting against such ordinance continuing in effect. Said petition shall contain the text of such ordinance and shall be signed by registered electors of the city, not less in number than fifteen percent (15%) of all votes cast for governor of the State of Michigan at the last fall election held in the state, but in no case less than fifteen hundred (1500). Said ordinance shall thereupon and thereby be suspended from operation, and the council shall immediately reconsider such ordinance.

If the ordinance be not entirely repealed, the council shall submit the question of whether or not it shall become effective to a vote of the electors of the city. The procedure in regard to such petition of protest and referendum shall be the same as hereinabove in this chapter provided for the initiative and referendum of a proposed ordinance, with such modification as the case may require.

6.12. Referendum may be provided by council without petition.

The council may, on its own motion, submit to a referendum for adoption or rejection by the electors of the city at any election any proposed ordinance or measure or a proposal for the repeal or the amendment of any ordinance in the same manner and with the same force and effect as provided in this chapter for submission on petition.

6.13. Referendum elections.

(A) The ordinance or other measure or proposal submitted to the electors shall be published at least once in a newspaper or newspapers published in the city and printed in the English language at least ten (10) days prior to the election at which it is to be submitted. If the majority vote of the electors voting at the election is "for the ordinance" (or other proposition), the same proceedings shall be taken, after the canvass of the returns and declaration of results by the council, as would be necessary if the same action upon such proposition had been taken by the council itself, except that in the case of ordinances, no further publication thereof shall be required.

(B) Except as in this chapter otherwise provided, all of the provisions of chapter 3 of this Charter for the calling and holding of city elections shall apply to referendum elections as near as may be, and the proposition upon the ballot shall state the nature and purpose of the ordinance in terms sufficient to identify it. The voting lines on such ballot shall be as follows:

(_) FOR THE ORDINANCE

(_) AGAINST THE ORDINANCE

(C) No referendum shall be held upon any ordinance required to be passed by the general laws of the state.

(D) No ordinance adopted under this Charter by referendum vote shall be repealed or amended except by referendum vote.

6.14. Where referendum fails.

If at such election such ordinance shall fail, a similar ordinance on the same subject shall not be submitted to the electors for one year after the date of such election. The council may by ordinance or resolution make such regulations not in conflict herewith as it may deem necessary to carry out the provisions of this chapter.

CHAPTER 7. THE ADMINISTRATIVE SERVICE

7.01. Administrative officers.

(A) The administrative officers of the city shall be the city manager, clerk, treasurer, assessor, director of finance, chief of police, fire chief, superintendent of public works, city attorney, director of parks and recreation and such other additional administrative officers as may be created by ordinance. The council may designate an administrative officer to conduct the operations of more than one administrative office if deemed necessary or advisable for the proper and efficient operation of the city except that the offices of chief of police and fire chief may not have one person appointed to both positions. No such designation shall assume or be granted any of the powers or duties granted to or required of the city manager by this Charter.

(B) The administrative officers of the city except the city attorney, boards and commissions of the city, shall, in the performance of the duties of their respective offices, serve under the direction of the city manager. The administrative officers shall submit monthly reports in duplicate to the city manager who shall file one copy of each such report with the council.

(C) All administrative officers of the city whose appointment is not otherwise provided for in this Charter shall be recommended for appointment by the city manager for an indefinite period, shall be responsible to the city manager and shall have their compensation fixed by ordinance. Recommendations of administrative officers by the city manager shall be subject to confirmation by the council. The city manager may discharge such officers only with confirmation by the council.

7.02. City manager: Qualifications; appointment; powers and duties; removal from office.

(A) The city manager shall be chosen by the council on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office. At the time of his appointment he shall have had at least three (3) years experience as a city manager or assistant city manager or any three (3) year combination thereof; or he shall be a holder of a baccalaureate degree from an accredited college or university and possess three (3) years of administrative experience, but need not be a resident of the City of Sterling Heights. As promptly as possible after his appointment, the city manager shall become a resident and a registered elector of the city, and shall so remain during his tenure of office. In the event that a petition requesting the removal of the city manager by the council be filed with the clerk, signed by not less than fifteen percent (15%) of the registered electors of the city and setting forth as reasons for the requested removal specific acts or failures to act on the part of the city manager which constitute violations of the Charter, or failure to perform the duties of his office as set forth in this Charter, the council shall designate a committee of three (3) of its members to investigate such reasons. Such committee shall make a report of its investigation of such statement of reasons at the second regular meeting of the council following its appointment. If the committee finds and reports that the statements contained in the petition do not constitute violations of this Charter or that the acts or failure to act complained of were performed at the direction of the council or in conformance with policies established by it, no further action shall be taken on such petition. If the committee finds and reports that the reasons set forth in the petition are true and the acts or failure to act were not in accordance with directives or policies of the council, the council shall, at its next regular meeting, vote to remove or to retain the city manager.

(B) The city manager shall be the administrative agent of the council, shall be vested with all administrative powers of the city, and shall perform the duties of his office under the authority of the council and shall be accountable to it. He shall devote his entire time to his municipal employment, and shall not engage in or be engaged or employed in any private business or private employment.

(C) It shall be the duty of the city manager to:

(1) Supervise and coordinate the work of the administrative officers and departments of the city, except as otherwise provided in this Charter;

(2) Prepare the annual budget proposals of the city, together with supporting information in explanation thereof;

(3) Maintain an inventory of city-owned property;

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

(5) In case of conflict of authority between officers and administrative departments or in case of absence of administrative authority, occasioned by inadequacy of Charter or ordinance provision, resolve the conflict or supply the necessary authority, so far as may be consistent with law and the ordinances of the city, and direct the necessary action to be taken in conformance therewith, making a full report immediately to the council;

(6) Attend all meetings of the council, with the right to be heard in all council proceedings, but without the right to vote;

(7) Recommend to the council, from time to time, such measures as he deems necessary or appropriate for the improvement of the city or its services;

(8) Prepare and maintain an administrative code which, when adopted by the council, shall supplement this Charter in establishing the duties and functions of each officer and department of the city;

(9) Furnish the council with information concerning city affairs and prepare and submit such reports as may be required or which the council may request, including an annual report, which shall consolidate the reports of the several departments;

(10) Possess such further powers and perform such additional duties as may be granted to or required of him, from time to time, by the council, so far as may be consistent with the provisions of the law.

7.03. Duties of the clerk.

The clerk shall be the clerk of the council and shall attend all its meetings and:

(A) He shall keep a permanent journal of the council proceedings in the English language.

(B) He shall keep a record of all ordinances, resolutions, and actions of the council.

(C) He shall have power to administer all oaths required by state law, this Charter and the ordinances of the city.

(D) He shall be custodian of the city seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same.

(E) He shall be the custodian of all papers, documents, and records pertaining to the city, the custody of which is not otherwise provided for by this Charter.

(F) He shall give the proper officials of the city ample notice of the expiration or termination of any official bonds, franchises, contracts, or agreements.

(G) He shall issue and sign all licenses granted after the license fee has been paid to the city treasurer, and shall register the same.

(H) He shall certify by his signature all ordinances and resolutions enacted or passed by the council.

(I) He shall countersign all warrants issued upon the city treasurer.

(J) He shall perform such other duties as are required of him by state or federal law, this Charter, the city manager and the council or the ordinances of the city.

7.04. Duties of the treasurer.

The city treasurer shall be the tax collector and shall perform all of the duties as prescribed by this Charter; the general laws of the state, together with such other duties as may be required or assigned to him by the city manager [and:]

(A) He shall file a bond in such amount and with such sureties as shall be satisfactory to the council or as may hereafter be required by law.

(B) He shall have custody of all monies of the city, the clerk's bond, and all evidences of value belonging to the city or held in trust by the city.

(C) He shall receive all monies belonging to and receivable by the city that may be collected by any official or employee of the city including license fees, taxes, assessments, utility charges and all other charges belonging to and payable to the city and shall, in all cases, give a receipt therefore.

(D) He shall keep and deposit all monies or funds in such manner and in such places as the council may determine from time to time and shall report the same in detail to the clerk.

(E) He shall have such powers, duties and prerogatives in regard to the collection and custody of state, county and school district and city taxes and monies as are conferred by law to enforce the collection of state, county, township and school district taxes upon real and personal property.

(F) He shall pay no money out of the treasury except in pursuance of and by the authority of the law and upon warrants issued in the manner as required by this Charter which warrants shall specify the purpose for which the amounts thereof are to be paid.

(G) He shall collect and keep an account of and be charged with all taxes and monies appropriated, raised or received for each fund of the city, and shall keep a separate account of such funds, and shall credit thereto all monies raised, paid in or appropriated therefore, and shall pay every warrant out of the particular fund raised for the purpose for which the warrant was issued.

(H) He shall keep all monies in his hands belonging to the city separate and distinct from his own monies and is hereby prohibited from using, either directly or indirectly, the city's money, warrants or evidences of debt which are in his custody or keeping for his own use and benefit or that of any other person.

7.05. Deputies of clerk and treasurer.

(Has been deleted.)

7.06. Duties of the assessor.

The assessor shall possess all the powers vested in and shall be charged with all the duties imposed upon assessing officers by state law. In addition, the assessor shall make and prepare all regular and special assessment rolls in a manner prescribed by this Charter, the ordinances of the city or by state law. He shall perform such other duties as may be prescribed for him by state law, this Charter, ordinances of the city or the council.

7.07. Duties of the city attorney.

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

(B) The attorney shall prosecute such ordinance violations and he shall conduct for the city such cases in court and before other legally constituted tribunals as the mayor and/or the council may request. He shall file with the clerk, copies of such records and files relating thereto as the city manager and/or the council may direct.

(C) The attorney shall prepare and review all ordinances, contracts, bonds and other written instruments which are submitted to him by the city manager and/or the council and shall promptly give his opinion as to the legality thereof.

(D) The attorney shall call to the attention of the council and the city manager all matters of law, and changes of developments therein, affecting the city.

(E) The attorney shall perform such other duties as may be prescribed for him by this Charter, by ordinance or by direction of the council and/or the city manager.

(F) Upon recommendation of the attorney, the council may retain special legal counsel to handle any matter in which the city has an interest, or to assist and counsel with the city attorney therein.

7.08. Duties of the director of finance.

(A) The director of finance shall be the general accountant of the city, shall keep the books of account of the assets, receipts, and expenditures, and shall keep the council and the city manager informed as to the financial affairs of the city. The system of accounts of the city shall conform to such uniform system as may be

required by law.

(B) He shall examine and audit all accounts and claims against the city. He shall not allow withdrawals from any city fund which, after deduction of withdrawals therefrom, does not have a sufficient amount therein to pay such proposed withdrawal.

(C) He shall balance all the books of account of the city quarterly in each year, and shall make a report thereon to the city manager.

(D) He shall at any time, upon direction of the council or the city manager, examine and audit all books of account kept by any official or department of the city. He shall examine and audit all books of account of the clerk, treasurer, and the municipal court at least once each month.

7.09. Duties of the superintendent of public works.

The superintendent of public works shall be charged with the responsibility for the maintenance and lighting of streets and alleys, and the construction and maintenance of public buildings, streets, sewers, sewage disposal facilities, motor transportation, construction and maintenance of water, sewer and drain systems, and such other duties and responsibilities that may be designated by this Charter, ordinance or state law.

7.10. Duties of the chief of police.

(A) The police chief shall be in charge of the police department. He shall be appointed by and responsible to the city manager, under the provisions of Act No. 78 of the Public Acts of 1935, as amended, and as adopted by this Charter.

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

7.11. Duties of the fire chief.

(A) The fire chief shall be in charge of the fire department. He shall be appointed by and responsible to the city manager under the provisions of Act. No. 78 of the Public Acts of 1935, as adopted by this Charter.

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

(C) The fire chief or any of his authorized subordinates, with the concurrence of the city manager or of any two (2) councilmen, may cause any building to be pulled down or destroyed, when deemed necessary in order to arrest the progress of a fire. If the city manager or members of the council are not available for such concurrence, the fire chief or his subordinate may act without such concurrence. In such case no action shall be maintained against the city or any person therefore. If any person having an interest in such building shall apply to the council within three (3) months after the fire, for damages or compensation for such building, the council may pay him such compensation as it may deem just. The council may ascertain the amount of such damage or compensation by agreement with the owner of the property or by the appraisal of a jury selected in the same manner as in the case of juries selected to appraise damages for the taking of property for public use. No compensation shall be paid on account of any loss which would probably have occurred to a building if it had not been pulled down or destroyed under authority of this section.

7.12. Library; library commission.

(A) The city council of Sterling Heights have [has] the power to establish and maintain a public library for the use and benefit of the inhabitants of this city.

(B) [Deleted at election of 11-3-70]

7.13. Planning commission.

(A) The council shall by ordinance maintain a city planning commission created under the provisions of Act 285 of Public Acts of 1931, as amended.

(B) The administrative head of the department of planning shall be the city planner, who shall be appointed by the city manager, provided, however, that such appointment shall not be effective until confirmed by the council according to the provisions of this Charter.

7.14. The duties of other administrative officers.

The duties of all administrative officers, not otherwise provided for herein, shall be those established by law and an administrative plan proposed by the city manager and approved by the council.

7.15. Department of civil service.

There shall be a department of civil service which shall be under the control and management of the civil service commission in accordance with the provisions of section 8.0. The plan of civil service as established by Act No. 78 of the Public Acts of 1935, as amended, adopted by the electors of the Township of Sterling and for the police and fire departments having been heretofore included in this Charter by reference in section 8.03 is applicable to those two (2) departments only.

7.16. Terms of office of department heads and of members of all commissions and boards.

(A) The terms of office of each head of the departments of the city government and of members of all commissions and boards shall commence on the twenty-fifth day following the third Monday in April following each regular biennial city election and upon the date of certification to the city clerk in the case of appointees to fill a vacancy or to replace the head of any department or member of a commission or board who is removed from office.

(B) Unless a definite term of office is specified in this Charter for the head of any department of the city government, such department heads shall hold office at the discretion of the city manager; provided, however, that no officer shall continue to hold office later than fifteen (15) days after the third Saturday in April following a regular biennial city election unless he shall be reappointed for a new term.

7.17. Restrictions concerning offices.

No classified employee of the city shall seek any elective city office, unless he first resigns from his position with the city.

7.18. Salaries.

Except as otherwise provided by this Charter, the salaries of the department heads of the administrative departments of the city shall be set by the council in the annual city budget, but shall not be changed during term of office under any appointment. Subject to the civil service provisions of this Charter and subject to budget appropriations, the salaries and remuneration of subordinates and employees of the departments of the city government shall be set by the head of each respective department in accordance with any pay plan adopted by the council.

7.19. Department rules; appointing authority.

Subject to the provisions of this Charter, the department head, commission or board in charge of each department of the city government shall formulate all rules [and] regulations required for the organization and conduct of his or its department and of the divisions under his or its jurisdiction. Unless otherwise provided in this Charter, each such department head, commission or board shall be the appointing authority for his or its department, and, as such, shall be responsible for the appointment of all division heads, subordinates and employees of his or its department, subject to the civil service provisions of this Charter. For the purpose of this section, all elective officers, except councilmen, shall be considered department heads.

7.20. Independent boards and commissions.

The council may not create any board or commission, other than those provided for in this Charter, to administer any activity, department or agency of the city government except a municipal hospital, recreation or any activity which by statute is required to be so administered. The council may, however, establish:

(A) Quasi-judicial appeal boards and

(B) Boards or commissions to serve solely in an advisory capacity or to administer activities conducted jointly with other units of government.

CHAPTER 8. CIVIL SERVICE

8.01. Creation.

There is hereby created a system of civil service in the City of Sterling Heights that will affect the police and fire departments of said city and all other municipal employees except as provided in section 8.10.

8.02. General purpose.

The general purpose of this chapter is to provide for the establishment of a civil service system of personnel administration based on merit, principles and scientific methods governing the appointment, promotion, transfer, layoff, removal and discipline of all employees in the classified service as hereinafter defined. No personnel changes or personnel actions of any kind in the classified service shall be made for political or religious considerations or for causes other than the good of the service.

8.03. Police and fire departments.

The plan of civil service, as established by Act No. 78 of the Public Acts of 1935, as amended, for the police and fire departments having heretofore been adopted by the electors of the Township of Sterling, is hereby incorporated in this chapter by reference, with the same force and effect as though fully set forth in this Charter. Nothing is hereby added to or deleted from the said Act by such incorporation as a part of this Charter and there shall be no addition or deletion from the provisions of that Act, as it was in effect on the effective date of this Charter, except by amendment of this Charter.

8.04. Definitions and interpretations.

The following terms, when used in this chapter shall have the following meanings unless the context clearly requires otherwise:

(A) "Commission" means the civil service commission set up in this chapter.

(B) "Council" means the council of the City of Sterling Heights.

(C) "Appointing authority" means the officers of the City of Sterling Heights who have charge of directing the work of the city employees and under the provisions laid down in and by virtue of this chapter, the Charter of the City of Sterling Heights and city ordinances and resolutions, of appointing, promoting, demoting and dismissing such employees.

(D) "Employees" means any person who is legally an incumbent of a position in the classified service of the City of Sterling Heights.

(E) "Position" means any office or place of employment in the city classified service, the duties and responsibilities of which are exercised by one person.

(F) "Personnel director" means the officer of the City of Sterling Heights designated by this chapter to effectuate the provisions of this chapter under the limitations hereinafter imposed.

(G) "Promotion" means an increase in rank from a lower to a higher classification within the classified service and may, under certain conditions laid down in this chapter and the personnel rules, include a transfer from one department or bureau to another.

(H) "Demotion" means a reduction in rank from a higher to a lower classification within the classified service.

(I) "Transfer" means a transfer of an employee from one position in the classified service to another in the same or in a different department or bureau but with both positions being approximately the same rank in the classified service.

(J) "Probationary period" refers to that period when the newly appointed or promoted employee of the classified service is being tested as to his performance on the job and does not have full status as a member of the classified service.

(K) The word "shall" as used herein is to be construed as mandatory and not merely directory.

8.05. Department of personnel.

For the purpose of centrally administering a personnel system, there is hereby established a department of personnel, whose officers shall be a civil service commission of three (3) members, and a director of personnel.

All officers and employees of the city shall grant to the civil service commission or its authorized representatives free access to premises and records under their control and shall furnish them such facilities, assistance, or information as he or they may require in carrying out the provisions of this chapter.

8.06. Creation of civil service commission for municipal employees other than policemen and firemen.

The commission shall consist of three (3) electors of the city who meet the qualifications for city board and commission members contained in section 4.03 and who while in office shall not hold any other city office or city employment and who shall not serve on any municipal political committee or take part in the management of any municipal political campaign. Within sixty (60) days of the effective date of this Charter, the civil service commission as hereinbefore created shall be appointed as follows: One member shall be selected by the city council for a term of two (2) years; one member shall be selected by the city employees other than the employees of the police and fire departments, to serve for a term of four (4) years; the third member of the commission shall be selected by the other two (2) for a period of six (6) years. Thereafter, the appointments shall be made in each case by the same respective authority, and shall be for six (6) year terms commencing on the day following the first Tuesday in January of each year that a new term begins, except that vacancies shall be filled only for the unexpired term. Any member of the civil service commission may be removed by resolution of the council but only after an opportunity has been given to such member to be heard before the council in his own defense.

8.07. Compensation and organization of the civil service commission.

The members of the commission shall serve without compensation. The commission, at its first meeting and thereafter at its first meeting after January 1 of each year shall elect a chairman. It shall determine the order of its business for the conduct of its meetings. Two (2) members of the commission shall constitute a quorum for the transaction of official business.

The commission shall meet at regular times specified by its rules, upon call by the personnel director, upon call by its chairman or upon call by any two (2) of its members. All meetings of the commission shall be held at the city office.

8.08. Appointment of the director of personnel.

There shall be an executive officer of the department of personnel who shall be designated as director of personnel. Any vacancy in the position shall be filled by the civil service commission within sixty (60) days after such vacancy occurs from the three (3) highest successful candidates whose names appear on an employment list established as the result of an open competitive examination conducted by a special examining committee of three (3) qualified examiners appointed by the civil service commission. The director of personnel shall be in the classified service and shall be removed only in accordance with the provisions of this chapter. Until such time as the services of a full-time director of personnel is [are] required, the civil service commission shall assume the responsibilities of the function.

The personnel director shall act as secretary for the commission. He shall be custodian of all records of the commission and shall be the official upon whom all

notices, requests for hearing, complaints, and other official documents shall be served or filed. He shall keep the minutes of meetings and records of all proceedings of the commission. He shall appoint and remove, subject to the provisions of this chapter, all employees of the department of personnel.

8.09. Civil service commission: Director of personnel: Powers and duties.

(A) The civil service commission shall have general supervision over the broad problems of administrative policy involved in the personnel matters prescribed in this section, and except for the purpose of inquiry, the civil service commission and its members shall deal with the specific technical problems of administration solely through the director of personnel. It shall be the duty of the civil service commission:

(1) To represent the public interest in the improvement of personnel administration in the city service;

(2) To make annual reports and special reports to the council on the quality and status of personnel administration in the city government and to make recommendations for improvements;

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

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

(5) To consider such other matters as may be referred to the committee by the director of personnel, the council or the city manager.

(B) The director of personnel shall be the executive officer of the department of personnel, and shall initiate and direct administrative work. He shall:

(1) Attend all regular and special meetings of the civil service commission;

(2) Make, and may amend, rules for promoting efficiency in the classified service of the city and for the appointment, promotion, transfer, layoff, reinstatement, suspension, and removal of city officers and employees in such service, but no such rule or amendment shall become effective unless printed [in] full in a newspaper circulated at least once each week in the City of Sterling Heights prior to a public hearing thereon held by the civil service commission after twenty (20) days' notice, and unless thereafter approved by said commission. The rules shall provide:

(a) For the standardization and classifications of all positions and employments in the classified service of the city, based upon and graded according to duties and responsibilities and so arranged as to promote the filling of the higher grades, so far as practicable, through promotions;

(b) For open competitive tests to ascertain the relative fitness of all appointments in the classified service;

(c) For public notice of the time and place of all competitive tests, at least thirty (30) days in advance thereof, by publication in the official paper of the city and by posting a notice in a conspicuous place in the city hall and other public buildings;

(d) For the creation of eligibility lists upon which shall be entered the names of the successful applicants in the order of their standing in the competitive tests;

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

(f) For the certification from the appropriate eligibility list, for filing a vacancy in the classified service, the names of the three (3) applicants with the highest standing on such list;

(g) For the rejection by the appointing authority of the persons certified for appointment; provided, that any person rejected shall have the right to appeal to and a hearing before the civil service commission;

(h) For promotions based on competitive tests and upon records of efficiency, character, conduct, and seniority;

(i) For transfer from a position to a similar position in the same class and grade;

(j) For the immediate reinstatement of his position, at no loss of classification or pay rate, of any person who, without fault or delinquency on his part, is separated from the service or reduced in rank; except where such separation or reduction in rank is caused by normal procedure as set down in the personnel rules, or for reasons of economy in the city government;

(k) For suspension for purpose of discipline, for not longer than thirty (30) days, and for leaves of absence;

(l) For the discharge or reduction in grade and pay of any employee after he has been informed in writing, by the person in authority, of the reason for such action, with copies of the written reasons submitted to the city manager and the civil service commission for permanent filing, with the right of the employee to a public hearing before the civil service commission;

(m) For maintaining a record of the efficiency of each employee by establishing a service rating system.

8.10. Exemptions from the classified service.

The following officers and employees are exempt from the provisions of this chapter:

(A) All elective officers and all other officers who may be hereafter elected by the people.

(B) Members of appointed boards and commissions.

(C) Head of the present departments and of any departments which may in the future be created by Charter amendment or council ordinance or resolution.

(D) The city attorney.

(E) Municipal court clerk and deputies.

(F) The city assessor.

(G) The city engineer.

(H) The finance officer.

(I) All part-time employees, persons serving emergency appointments, provisional appointments and temporary appointments in accordance with the sections relating thereto.

(J) Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation or examination.

(K) Persons serving in a deputy capacity to any elective or appointive officer; provided, however, that no more than one such person can be appointed to each such officer.

(L) Administrative assistant to the city manager.

8.11. The classified service.

The classified service shall include all other positions now existing or hereafter created as provided in the city Charter and the provisions of this chapter shall apply thereto.

8.12. Status of present employees.

Except for officers and employees designated in section 8.10, any person employed by Sterling Township, who shall have served in such position for a period of at least six (6) months when this chapter takes effect, shall be retained without preliminary or performance tests and shall thereafter be subject in all other respects to the provisions of this chapter. All other persons employed by Sterling Township at the time this chapter takes effect shall be considered as having been given probationary appointment as covered by section 8.26 of this chapter. Said probationary period shall extend until the employee has been holding his position for six (6) months or for

the period of probation which [is] specified by the personnel rules, whichever is the shorter.

(A) The civil service commission may, by resolution, provide for the appointment on a probationary basis of employees of other governmental units or privately operated enterprises which have been annexed or taken over by the city.

8.13. Classification plan.

The commission shall prepare, or cause to have prepared, installed and maintained a position classification plan based on the duties, authority and responsibilities of all positions in the classified service; and such plan shall be based upon accepted and established principles of position classification plans.

8.14. Salary and wage plan.

The civil service commission shall prepare the salary and wage plan for positions in the classified service together with regulations for the administration of such plan. This plan shall be presented to the city council for approval and shall, when adopted, constitute the official salary and wage plan for positions in the classified service.

(A) The salary and wage plan shall consist of a salary and wage range for each class in the classification plan, provided that nothing herein provided for shall be deemed to prohibit the establishment of but one salary or wage for a single class. Each such range shall be determined with due regard to the ranges for other classes and to the relative difficulty and responsibility of characteristic duties of the positions in the class, the minimum qualifications required, the prevailing rate for similar employment outside the city service, and any other factors that may properly be considered to have a bearing upon the fairness or adequacy of the range, provided that the salary and wage plan in force at the effective date of this chapter shall remain in effect until amended in accordance with the provisions of this chapter. The civil service commission may at any time recommend to the council changes in the plan which shall take effect when adopted by the council, provided that any changes increasing the expenditures for personal services must be reflected in full in the budget. No amendments shall be made in the plan by the council unless the same have been referred to the civil service commission for its opinion.

8.15. Suspensions.

An appointing authority, may, for disciplinary purposes, suspend a classified employee without pay for a period not to exceed thirty (30) days at any one time. Upon the request of the employee, the appointing authority shall, within twenty-four (24) hours after receipt of such request, give the employee a written statement of the reasons for such action and shall file a copy thereof with the personnel director.

All suspensions shall be subject to the provisions governing dismissals and demotions hereinafter specified.

8.16. Dismissal and demotions.

An appointing authority may dismiss or demote a classified employee whenever he considers the good of the service to be served thereby. Any removal or involuntary separation of an employee from the classified service shall be deemed to be a dismissal except as in this chapter otherwise provided on suspensions and layoffs. Upon the request of the employee, the appointing authority shall give the employee a written statement of the reasons for such action and shall file a copy thereof with the personnel director. The commission, upon the request of the employee dismissed or demoted, may investigate such dismissal or demotion, and upon the request in writing of the employee filed within fifteen (15) days from the receipt of the notice of dismissal or demotion shall grant to such employee a fair and impartial hearing. If the commission finds and determines that the dismissal or demotion is unfounded and not supported by the proper showing of sufficient facts to substantiate the cause assigned, it shall issue an order providing for the return of such employee to his position without prejudice, together with the payment of compensation withheld due to the dismissal or demotion. Its reason for reversing the dismissal or demotion shall be put in writing and shall be made a part of the official records of the commission and a copy of the same shall be furnished to the appointing authority concerned.

(A) Any employee of the classified service who has been reinstated from dismissal or demotion by the commission and whose dismissal or demotion was immediately preceded by suspension without pay shall be entitled to receive the full amount of pay lost during suspension.

(B) The personnel rules shall contain a list of the valid reasons for dismissal and demotion which shall not, however, be deemed to be all inclusive.

(C) The decision of the commission shall be final and conclusive upon all parties concerned.

8.17. Layoffs.

An appointing authority may lay off a classified employee whenever he deems it necessary because of a material change in duties or organization, or a shortage or stoppage of work or lack of funds. The rules and regulations shall specify the method of determining the persons to be laid off and in every case of layoff for more than two (2) weeks duration the appointing authority shall, not less than fifteen (15) days before the effective date thereof, give to the employee a written statement of the reasons for such action and shall at the same time file a copy thereof with the personnel director. In the case of layoffs of more than two (2) weeks duration, the commission shall, upon the written request of the laid-off employee, made within ten (10) days after the effective date of such layoff, investigate such layoff. If it shall find as a result of such investigation that the layoff was made for reasons other than a material change in duties or organization or a shortage or stoppage of work or a lack of funds, or was not made in accordance with the method prescribed by the rules and regulations for determining persons to be laid off, it shall so report to the appointing authority, and the person so laid off shall thereupon be entitled to resume his position. The names of all persons who have been laid off for an indefinite period shall be placed on an appropriate re-employment list in the manner provided in the personnel rules.

8.18. Incapacitated employees.

When an employee has become physically or mentally incapable of or unfit for the efficient performance of his duties by reason of infirmities due to advanced age or other disability it shall be the duty of the appointing authority to recommend his retirement or transfer to less arduous duties and if necessary to a different classification. Such action shall be effected under the same methods or procedure as are presented herein for removals and demotions.

8.19. Employment procedure.

Except as specifically provided otherwise herein, no person shall be appointed to a position in the classified service unless he shall have:

(1) Filed a written application on a form prescribed by the personnel director,

(2) Qualified by passing the minimum requirements set for the position in the classification plan,

(3) Qualified by passing the required competitive examinations after due and proper public notice of such examinations has been given, and

(4) Been certified for appointment in accordance with the provisions of this chapter and the personnel rules adopted hereunder.

(A) The examinations for unskilled labor classifications in the classified service may be limited to performance tests under the direction of the appointing authority concerned, provided that in no event may a physical examination be prohibited for any class or classes of positions.

8.20. Re-employment procedure.

Employees or officers laid off in accordance with section8.17 of this Charter and the provisions of rules and regulations adopted by the commission relative thereto, shall have their names placed on a re-employment list, which list shall be the first source for filling appropriate vacancies as they occur. No names shall remain on a re-employment list for longer than two (2) years, except by specific action of the commission or except as provided in section 8.11.

(A) Appointments made by re-employment shall not be subject to the provisions for probationary period as provided in employment from the original and promotional lists and anyone so appointed shall have his former rating and seniority restored to him.

(B) Persons who, for reasons specified in the rules, have voluntarily left the city service, may be placed in the same classification regarding re-employment as employees who have been laid off, provided they apply for re-employment within a year after having left the service and provided the appointing authority shall approve, and provided further, that such persons may be required by the appointing authority to take a qualifying examination for the position.

8.21. Promotions.

Any vacancy in the classified service may be filled by promotion except where such vacancy may properly be filled from the re-employment list. Promotional examinations shall be open to all members of the classified service who have passed the minimum established qualifications for the position to which promotion is sought.

(A) Unless no employee of the department or bureau in which the promotional appointment is to be made shall apply for the promotion or shall pass the minimum qualifications, the promotion shall be made from employees of the aforementioned department or bureau.

(B) If not more than one person is eligible or applies to take the promotional examination, the personnel director, upon the request of the appointing authority, may in his discretion authorize such promotion without examination, provided the employee applying for promotion is qualified.

8.22. Order of eligible list.

The order of eligible list shall be as follows:

(1) Re-employment eligible list;

(2) Promotional eligible list; and

(3) Original eligible list.

8.23. Emergency appointments.

When an appointing authority finds it essential to fill a vacancy and the personnel director is unable to certify eligibles for such vacancy because of the lack of an appropriate list or because there is not a sufficient number of persons on appropriate lists who are willing to accept appointment, the personnel director may authorize the appointing authority to fill the vacancy by means of a provisional appointment. Such appointment shall expire when an eligible list is prepared for the position or four (4) months after it has been in effect except that the personnel director may approve the extension of a provisional appointment up to a maximum of eight (8) additional months.

(A) A provisional appointee shall have the right to take the examination for the permanent appointment to the position he is holding when such examination is given.

8.24. Temporary appointments.

Temporary appointments for short term employment shall be made from lists if possible. If no list exists or if certification from lists is impracticable because of nonavailability of eligibles for temporary work, the personnel director may authorize the temporary appointment of any qualified individual to be designated by the appointing authority. Successive temporary appointments of the same person to the same position shall not total more than six (6) months. The acceptance or refusal by an eligible of a temporary appointment shall not affect his standing on the list.

8.25. Transfers.

The transfer of an employee in the classified service from one position to another, or from one department or bureau to another shall be made only by the consent of the appointing authorities involved and the personnel director, provided the employee may appeal any such action to the commission which may either sustain or reverse such action.

(A) If the new position is at a higher classification this transfer shall be deemed to be a promotion and shall come under section 8.20, and under the rules governing promotions.

(B) An employee of the classified service who shall fill any appointive position in the exempt service of the city may preserve his status in the classified service by an application for approval by the personnel director. In the event that such employee wishes to return to his former position in the classified service he shall be immediately reinstated by the personnel director.

8.26. Probationary period.

Every person appointed to a regular position in the classified service from an original or promotional list shall be required to complete successfully a probationary period which shall begin immediately upon appointment and shall continue for the time specified by the personnel rules. The rules shall not grant to the probationer any right of appeal to the commission. In the case of a newly promoted employee whose tenure in a new position is terminated, he shall return to the position held previously; provided that he may at any time be removed from the classified service for cause as provided in section 8.18.

8.27. Veteran's preference.

The commission shall provide for the granting of employment preference in original appointments to such honorably discharged veterans of the United States Armed Forces as shall be consistent with statute but shall not be contrary to the best interests of the city service; provided, however, that any such preference shall be allowed to only those applicants who have attained a passing score on the examination for the position, and provided further, that no such preference shall be awarded in promotional examinations.

8.28. Prohibitions.

No person in the city classified service or seeking admission thereto shall be appointed, promoted, demoted, dismissed or in any way favored or discriminated against because of his political or religious opinions or affiliations. No person shall willfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment held or made under the provisions of this chapter, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such personnel provisions or of the rules and regulations made thereunder. No person seeking appointment to or promotion or transfer in the classified service of the city shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for, or on account of, or in connection with his test, appointment, proposed appointment, promotion, or proposed promotion. No person elected to the city council shall, during the term for which he is elected, be appointed to any office or position in the city classified service. No member or officer of the commission shall continue in such office after becoming an officer of any political party or a member of any local, state or national political party committee, nor take part in the management, operation or conduct of any political party or political campaign. No employee in the city classified service shall continue in such position after becoming an officer of any political party or a member of any local, state or national political party committee or after becoming a candidate for nomination or election to any public office. No person holding a position in the city classified service shall make or solicit for any contribution to the campaign funds of any political party or any candidate for public office, in the city of Sterling Heights. No person shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting an assessment, subscription, contribution or support for any political party or candidate for public office in the City of Sterling Heights from any person holding a position in the classified service of the city. No person shall be prohibited hereby from exercising his right as a citizen to express his opinion and to cast his vote, nor shall this section abridge any of the rights guaranteed to any of the persons named herein by the Constitution of the United States or the State of Michigan. Any person in the classified service violating any of the provisions of this section shall be subject to disciplinary action by the commission in addition to any other penalties [provided for] in this chapter.

8.29. Certification of payrolls.

Neither the city finance officer nor any other fiscal officer of the city shall draw, sign, or issue, or authorize the drawing, signing or issuing of any warrant or check upon the city treasurer or other disbursing officer of the city, for the payment of a salary or other compensation for personal services, nor shall the city treasurer or other disbursing officer of the city pay any salary or other compensation for personal services unless a payroll or account for such salary or other compensation, containing the names of every person to be paid and the amounts to be paid them, has been certified by the civil service commission or a person designated by them to the effect that the persons named on the payroll or account are either in the unclassified service or have been appointed, employed, or otherwise established in their position according to the provisions of this chapter, and that the payment of the amounts shown in the payroll or account will not violate the provisions of the salary plan or the rules pertaining thereto. Any taxpayer of the city may maintain an action in any court of record to recover for the city any sum paid contrary to the provisions of this chapter, or to enjoin the civil service commission from certifying any item on a payroll or account, or the disbursing officer from paying any such account for services where the employment is in violation of the chapter or the rules made pursuant thereto.

8.30. Oaths and investigatory powers.

For the purpose of administering the provisions of this chapter, any member of the commission shall have the power to administer oaths. In any investigation by the commission it shall have the power to subpoena and require the attendance of witnesses and the producing thereby of books, papers and records pertinent to the investigation.

8.31. Penalties.

Any person who by himself or with others willfully or corruptly violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than $500, or by imprisonment at the discretion of the court. Any person who is convicted under the provisions of this chapter shall be for a period of five (5) years ineligible for appointment to or employment in positions in the city service and shall, if he be an officer or employee of the city, immediately forfeit the office or position he holds.

8.32. Appeal to the commission.

Any employee in the classified service, except one serving in his probationary period, who is aggrieved because of any action affecting his status or condition of employment which has not been adjusted to his satisfaction after consultation with his appointing officer or body may, within two (2) weeks of the time he has been formally notified of such action by his appointing officer or body, file a written appeal with the commission requesting a hearing thereon. This right of appeal shall not apply to one or more suspensions totaling not over seven (7) days in any calendar year. Such appeal shall state the pertinent facts relative to the cause of complaint and shall be signed by the employee. The filing of an appeal shall not stay the effect of the personnel action complained of. The commission shall investigate each such appeal and shall promptly hold [a] hearing thereon. A record of the proceedings of such hearing shall be kept by the commission.

After considering the facts brought out in the investigation and hearing the commission shall determine whether such action was made for political or religious reasons or without just cause; if it so determines that it was made for such reasons or without just cause, it shall order [that] the employee be restored to the status existing before such action. If it finds otherwise, it shall report its decision and order in writing to the employee making the appeal and to his appointing officer or body. The commission shall render its decision in all matters affecting an employee within thirty (30) days after receipt of the appeal.

Except as hereinafter provided, the decision and order of the commission shall be final and the affected parties shall comply therewith. If the decision finds the action was made for political or religious reasons or without just cause, it shall order the employee reinstated with payment of any lost salary or wages. Documents which may have been considered by the commission and decision and order of the commission shall be promptly filed with the secretary of the commission, and shall be public records.

The circuit court of Macomb County, upon petition of any party aggrieved, may review, by certiorari, any final decision or order of the commission. The issuance of such writ shall not, however, unless specifically ordered by the court, operate as a stay of such decision or order. The decision of such court shall be final, subject to appeal to a higher court.

The removing officer and the person sought to be removed shall at all times, both before the commission and upon appeal, be given the right to employ counsel to represent either of them before said commission and upon appeal.

8.33. Restrictions concerning other offices.

No appointive city officer or employee shall seek any elective office unless he resigns from his position with the city.

CHAPTER 9. GENERAL FINANCE; BUDGET; AUDIT

9.01. Fiscal year.

The fiscal year of the city shall begin on July 1 and end on June 30 of the following year. Such year shall also constitute the budget year of the city government.

9.02. Budget procedure.

On or before the first day of April of each year, the city manager shall prepare and submit to the council a complete itemized proposed budget for the next fiscal year. It shall include at least the following information:

(A) Detailed statements, with his supporting explanations, of all proposed expenditures for each department, office and agency of the city, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to January 1, and estimated expenditures for the balance of the current fiscal year.

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

(C) Detailed estimates of all anticipated revenues of the city from sources other than taxes, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding fiscal year in full, and for the current fiscal year to January 1, and estimated revenues for the balance of the current fiscal year.

(D) An estimate of the balance or deficit for the end of the current fiscal year.

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

(F) Such other supporting information as the majority of the council may request.

9.03. Budget: Public hearings.

A public hearing on the budget shall be held before its final adoption, at such time and place as the council shall direct, and notice of such public hearing shall be published at least one month in advance thereof by the clerk. A copy of the proposed budget shall be on file and available to the public for inspection at the office of the clerk during office hours for a period of not less than two (2) weeks prior to such public hearing.

9.04. Adoption of budget.

(A) The council shall, on or before May 10, adopt a budget for the ensuing fiscal year and shall, by resolution, designate the sums to be raised by taxation for the general purposes of the city and for the payment of indebtedness; provided, however, that failure to act within the time herein shall not invalidate any tax levy.

(B) The council shall not adopt a budget wherein anticipated or proposed expenditures are in excess of revenues and any unexpended general funds.

9.05. Budget control.

The adoption of a budget shall not be construed as authority to any officer of the city to expend the amount set forth in such budget unless such expenditure has been authorized by proper warrant.

At any meeting after the adoption of the budget and after at least one week’s notice to the members of the council, the council may amend such budget so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenues of a class not included in the annual budget.

9.06. Periodic evaluation of budget by council.

At the end of each quarter during the fiscal year, the city manager shall submit to the council data showing the relation between the estimated and actual income and expenses to date. If it shall appear that the income of the city is less than anticipated, the council may reduce appropriations, except amounts required for debt and interest charges. At the end of each fiscal year the unencumbered balance of any appropriation, except that for the payment of indebtedness, shall be deemed unappropriated.

9.07. Uniform accounting system.

Any system of accounts used for the city or any department thereof shall conform to such uniform system as may be required by law.

9.08. Disbursement of funds.

The treasurer shall receive and disburse all monies belonging to the city, and shall keep an accurate detailed account of all money received and disbursed by him, and of the particular fund into which or from which the same is paid. He shall, quarterly and oftener if required, furnish the council with a statement showing all cash on hand and in the bank at the beginning of the previous month, the receipts and disbursements for the previous month, and the condition of the several funds of the city. He shall make such other reports as the council may require.

9.09. Warrants: How drawn.

(A) No warrant shall be issued until the same has been first authorized by the council; provided, however, that warrants may be issued for the payment of any necessary expense without prior authorization of the council if authorized by the city manager, but the total amount of such warrants issued between any successive regular meetings of the council shall not exceed an amount as the council may from time to time establish.

(B) Except as provided in paragraph (A) no money shall be drawn from the treasury except upon the warrant of the city manager or finance director and countersigned by the clerk of the council. Every warrant shall specify the funds from which it is payable and shall be paid from no other fund. No warrant shall be drawn upon the treasury after the fund from which it should be paid has been exhausted, and if such warrant shall be drawn, it shall be void.

(C) All liquidated accounts and demands against the city shall be received and audited by the director of finance who shall enumerate them on a regular form prescribed by council and who, with the city manager, shall certify as to the correctness or incorrectness of the various amounts on said list. Each invoice shall be approved by the official incurring the expenditure.

9.10. Collection of monies.

All taxes, special assessments and other monies accruing to the city shall be collected by the treasurer. All monies received by the treasurer shall be promptly deposited by him with such responsible banking institution or institutions as shall be designated by council, and all interest on such deposits shall accrue to the benefit of the city. The council shall provide for such security for city deposits as is authorized or permitted by statute except that personal surety bonds shall not be deemed proper security.

9.11. Revenue deposit.

The revenues raised by general taxation or by loan to be paid by such tax shall be divided into such and so many funds as the council may determine; provided, that all monies raised for the retirement of debt and for interest thereon shall be kept in a separate fund and in a separate bank account.

9.12. Annual audit; report.

The council shall provide that a periodical audit be made at least annually of the accounts of all the officers and departments of the city government by independent certified public accountants. Copies of such audit shall be made available for public inspection at the office of the clerk.

The council shall order the preparation and publication of an annual report of the affairs of the city; to include a condensed financial statement of the city, and condensed statements of departmental activities. Such report shall also be available for inspection at the office of the clerk.

9.13. Investment of city funds.

The council may direct the treasurer to invest any surplus funds belonging to, or under the control of, the city [in] such obligations, bonds and securities that are permitted by the statutes of the State of Michigan in such amounts and issues as may be determined by the council.

9.14. Annual appropriation ordinance.

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

CHAPTER 10. TAXATION

10.01. General powers.

The city shall have the power to assess taxes and levy and collect rents, tolls, and excises. The annual ad valorem tax levy shall not exceed six (6) mills for the first four (4) years beginning with the first fiscal year under this Charter. The annual ad valorem tax levy shall not exceed nine (9) mills for the next four (4) years, beginning with the fifth fiscal year. Beginning with the ninth fiscal year dating from the adoption of this Charter, the annual ad valorem tax levy shall not exceed twelve (12) mills.

In addition to the foregoing authorization, the city may levy an annual ad valorem millage not exceeding a total of 2.5 mills, which is comprised of the following dedicated components: 1.7 mills for police and fire protection, and 0.8 mills for local street improvements. This additional annual ad valorem millage shall be effective for a period of six (6) years commencing July 1, 2014 and expiring on June 30, 2020.

Footnote:

This Charter amendment was approved at the General Election held November 5, 2013.

In addition to the foregoing authorizations, the city may levy an annual ad valorem millage not exceeding a total of ninety-seven hundredths mill (0.97 mill), to acquire, construct, furnish, equip and operate parks and recreation improvements, including a new community center. This additional annual ad valorem millage shall be effective for a period of twenty (20) years commencing July 1, 2017 and expiring on June 30, 2037.

Footnote:

This Charter amendment was approved at the General Election held November 8, 2016

The annual tax levy shall be applied to the assessed valuation of all real and personal property subject to taxation in the city as equalized by the state, exclusive of any levy required for the payment of principal and interest on outstanding bonds of the city and exclusive of any levy authorized by statute to be made beyond the charter tax rate limitation.

10.02. Subjects of taxation.

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

10.03. Exemptions.

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

10.04. No municipal income tax except as provided.

No municipal income tax shall be levied for municipal purposes, except that such a tax proposal may be placed on the ballot by a five-sevenths vote of the council

and which shall require for approval at least a majority of those electors of the city voting on the question in the election at which the tax proposal is considered.

10.05. Tax day.

Subject to the exemptions provided or permitted by law, the taxable status of persons and property shall be determined as of the 31st day of December or such other date as may subsequently be provided by law, which day shall be deemed the tax day.

10.06. Personal property-Jeopardy assessments.

If the treasurer finds, or reasonably believes that a person who is or may be liable for taxes upon personal property, the taxable sites of which was in the city on the tax day, intends to depart from the city, or to remove therefrom personal property, which is, or may be liable for taxation, or to conceal himself or his property, or to do any act tending to prejudice, or to render wholly or partially ineffectual the proceeding to collect such tax, unless proceedings therefore be brought without delay, he shall proceed to collect the same as a jeopardy assessment in the manner provided by law.

10.07. Preparation of the assessment roll.

On or before the first Monday in March of each year, the assessor shall prepare and certify an assessment roll of all property in the city subject to taxation. Such roll shall be prepared in accordance with the statutes and this Charter. Value shall be estimated according to recognized methods of systematic assessment as determined by statute and decisions of the state tax commission and the Supreme Court. The records of the assessor shall show separate figures for the value of the land, of the building improvements and of personal property; and the method of estimating all such values shall be as nearly uniform as possible.

10.08. Board of review.

(A) A board of review is hereby created, composed of three (3) members who shall be registered electors of the city, who have the qualifications for holding office in the city as set forth in this Charter and are owners of property assessed for taxation in the city.

(B) The members of the board of review shall be appointed by the council.

(C) The first three (3) members of the board of review shall be appointed during the month of July, 1968, for terms expiring on July 1, 1969, 1970, and 1971; thereafter, one member shall be appointed by the council in the month of May of each year for a term of three (3) years commencing on the following July 1.

(D) The board shall annually on the first day of the meeting select one of its members chairman and one of its members clerk for the ensuing year; the assessor shall attend all meetings of the board of review, shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question before the board.

(E) The members of the board of review shall be paid such compensation as the council may determine on a per diem basis.

10.09. Duties and functions of board of review.

For the purpose of revising and correcting assessments, the board of review shall have the same powers and perform like duties, in all respects, as are by law conferred upon and required of boards of review in townships, except as otherwise provided in this Charter. At the time and in the manner provided in the following section, it shall hear the complaints of all persons considering themselves aggrieved by assessment. If it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the board shall correct the roll in such manner as it deems just. Except as otherwise provided by law, no person other than the board of review shall authorize any change upon, or addition to, or correction to the assessment roll. The clerk of the board of review shall keep a permanent record of all proceedings of the board and enter therein all resolutions and decisions of the board. Such record shall be filed with the city clerk on or before the 15th day of April following the meeting of the board of review.

10.10. Meetings of board of review; quorum.

(A) The board of review shall convene on the third Monday in March in each year, or on such date as may subsequently be required by law for the meeting of boards of review in cities, at such places as shall be designated by the council at its first regular meeting in February and shall sit for no less than three (3) calendar days; provided however, that if the council does not so designate a place for the meeting of the board of review, it shall meet in the council chambers. A majority of the members of the board of review shall constitute a quorum for the transaction of its business.

(B) The board of review may examine on oath any person appearing before it respecting assessment property or properties on the assessment roll. Any member of the board may administer such oath.

10.11. Notice of meetings.

Notice of the time and place of the meetings of the board of review shall be published by the city clerk in the official newspaper of the city not less than ten (10) days prior to the first meeting thereof.

10.12. Endorsement of roll.

After the board of review has completed its review of the assessment roll, its members then shall immediately endorse thereon and sign a statement to the effect that the same is the assessment roll of the city for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll.

10.13. The clerk to certify tax levy.

Within three (3) days after the council has made the appropriations for the ensuing year, the city clerk shall certify to the assessor the total amount which the council has determined shall be raised by general ad valorem tax, together with such other assessments and lawful charges in amounts which the council requires to be assessed, reassessed, or charged upon the property and persons appearing upon such roll.

10.14. City tax roll.

After the board of review has completed its review of the assessment roll, the assessor shall prepare a copy of the assessment roll to be known as the "tax roll" and, upon receiving the certification of the several amounts to be raised as provided in section 10.13, the assessor shall spread upon said tax roll the several amounts determined by the council to be charged, assessed or reassessed against persons or property. He shall also spread the amounts of the general ad valorem city tax, county tax, state tax (if any), and school tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax roll shall belong to the city.

10.15. Tax roll certified for collection.

After spreading the taxes and placing other assessments and charges upon the roll, the assessor shall certify the tax roll and annex his warrant thereto directing and requiring the treasurer to collect on July 1 of the same year from the several persons named in the roll the several sums mentioned therein opposite their respective names as a tax or assessment, and granting to and vesting in the treasurer, for the purpose of collecting the taxes, assessments and charges on such roll all the statutory powers and immunities possessed by township treasurers for the collection of taxes; provided, however, that taxes and other lawful assessments and charges on any city tax roll which remain unpaid on the 1st day of October may be transferred, together with any collection fees or charges which have been added thereto, to the delinquent tax rolls to be collected thereon. The city tax roll shall be delivered to the treasurer on or before the 15th day of June.

10.16. Tax lien on property.

(A) Except as otherwise provided in this Charter, city taxes shall be due on July 1 of each year and on that day the taxes assessed to the owners of personal property shall become a debt due to the city from the person to whom they are assessed and the amounts assessed on any interest in real property shall become a lien upon said real property for such amounts and for interest charges thereon.

(B) All personal property taxes shall be a first lien, prior, superior and paramount on all personal property of such persons assessed. Such liens shall take precedence over all other claims, encumbrances and liens, to the extent provided by law, and shall continue until such taxes, interest and charges are paid.

10.17. Taxes due: Notification thereof.

(A) City taxes shall be due on July 1st of each year. The treasurer shall not be required to call upon the persons named in the city tax roll, nor to make personal demands for payment of taxes, but he shall publish between June 15 and July 1 notice of the time when said taxes will be due for collection and penalties for late payment of the same, and mail a bill to each person named in said roll, but in case of multiple ownership of property, only one bill need be mailed.

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

10.18. Collection fees and interest.

(A) All taxes paid on or before September 1st of each year shall be collected by the treasurer without additional charge. To all taxes, charges and assessments paid after September 1st there shall be added a collection fee of one-half of one per cent per month during each and every month or fraction of a month which shall elapse thereafter before the payment of such taxes, charges or assessments is made, until the last day of September next following that date that such taxes, charges and assessments become due and payable.

(B) Upon all city taxes, charges and assessments returned to the county treasurer upon any delinquent tax roll, a charge of three and one-half per cent shall be added and the same shall be collected by the county treasurer in like manner as and together with the taxes, charges and assessments so returned. Such collection fees shall belong to the city and shall constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as taxes to which they are added.

10.19. Protection of city lien.

The city shall have power, insofar as the exercise thereof shall not conflict with or contravene the provisions of law, to acquire such an interest in any premises within the city or purchase at any tax or other public sale or by direct purchase from the State of Michigan or the owner in fee as may be necessary to assure to the city the collection of its taxes, special assessments or charges which are levied against any lot or parcel of real property or to protect the lien of the city therefore, and may hold, lease, sell, or exchange the same. Any such procedure exercised by the city to assure the collection of its taxes or the protection of its tax or other liens shall be deemed to be for a public purpose. The council may adopt any ordinance which may be necessary to make this action effective.

10.20. Disposition of real property.

The council shall pass an ordinance providing for the care, custody and disposition of real property, or any interest therein, which it shall hereafter acquire by reason of any action taken to protect the city's tax lien thereon. Unless action is taken by the council as provided and permitted in this section, the owner of any interest therein by fee, title, as mortgagee or as vendor or vendee under land contract shall be given the right to purchase the city's interest therein, upon payment to the city of the amount of money which the city has invested therein in the form of unpaid taxes, special assessments and charges, fees, penalties, interest and cost. After the lapse of ninety (90) days after date the city acquires title to any such property, Council may remove the same from the market by determining that such property is needed for and should be devoted to public purpose, and naming such purpose, or may sell the same at a price that shall be not less than its market value as determined and certified to council by the assessor.

10.21. Failure or refusal to pay personal property tax.

If any person shall neglect or refuse to pay any tax on personal property assessed to him, the treasurer shall collect the same by seizing the personal property of such person, to an amount sufficient to pay such tax, fees, and charges, whenever the same may be found in the state. No property shall be exempt from such seizure. He may sell the property seized, to an amount sufficient to pay the taxes, charges, fees and penalties in accordance with law. The treasurer may, if otherwise unable to collect the tax on such personal property, sue the person to whom it is assessed in accordance with the power granted to him by statute.

10.22. Collection of delinquent taxes.

All taxes and charges together with fees, penalties and interest on real property on the tax roll remaining uncollected by the treasurer on the 1st day of October following the date when the roll was received by him shall be returned to the county treasurer to the extent and in the same manner and with like effect as provided by law for returns of township treasurers on township and county taxes. Such returns shall include all the additional assessments, taxes, fees, penalties and interest hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. Taxes thus returned shall be collected in the same manner as other taxes returned by the county treasurer or [are] collected, in accordance with law, and shall be and remain a lien upon the property against which they are assessed until paid.

10.23. State, county and school taxes.

For the purpose of assessing and collecting taxes for state, county and school purposes, the city shall be considered the same as a township and all provisions of law relative to the collection of and accounting for such taxes and the penalties and interest thereon shall apply. For the purpose of collecting state, county and school taxes, the treasurer shall perform the same duties and have the same powers as township treasurers under the state law.

10.24. Treasurer to report delinquent property to the council.

At least two (2) weeks before the date of sale of any real estate, upon which the city has any claim, the treasurer shall report to the council, a list of the parcels of such real estate and the amount of the city's claims, together with all fees, penalties and interest which have accumulated thereon or accrued thereto.

CHAPTER 11. BORROWING POWER; BONDS

11.01. General borrowing.

Subject to the applicable provisions of state law and this Charter, the council, by proper ordinance or resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the city and the issuance of bonds of the city or other evidences of indebtedness therefore, and may pledge the full faith credit and resources of the city for the payment of the obligation created therefore.

11.02. Special assessment bonds.

The council shall, subject to the applicable provisions of the general laws of the state, have authority to borrow money in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments, and to issue bonds therefore. Such special assessment bonds may be solely an obligation of the special assessment district or districts and a general obligation of the city. All collections on each special assessment roll or combination of rolls shall be set apart in a separate fund for the payment of the principal and interest of the bonds issued in anticipation of the payment of such special assessments, and shall be used for no other purpose.

11.03. Other bonds.

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

11.04. Preparation and record of bonds.

Every bond issued by the city shall contain on its face a statement specifying the object for which the same is issued. It shall be unlawful for any officer of the city to sign or issue any such bond unless such statement is set forth on the face of the same, or to use such bonds or the proceeds from the sale thereof for any object other than that mentioned on the face of such bond. Any officer who shall violate any of the provisions of this section shall be deemed guilty of misconduct in office.

Bonds and all other evidences of indebtedness issued by the city shall be signed by the mayor and clerk under the seal of the city. The coupons evidencing the interest upon said bonds may be executed with the facsimile signatures of the mayor and the clerk. A complete and detailed record of all bonds shall be kept by the clerk.

Upon the payment of any bond or other evidence of indebtedness, the same shall be canceled.

11.05. Unissued bonds.

No unissued bonds of the city shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized.

11.06. Limitation of indebtedness.

The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten (10) percent of the assessed value of all the real and personal property in the city subject to taxation as shown by the last preceding assessment roll of the city; provided, however, that in the case of fire, flood or other calamity requiring an emergency fund for the relief of the inhabitants of the City of Sterling Heights or for the repairing or rebuilding of any municipal building, works, bridges, or streets, the legislative body of the city may borrow money due in not more than five (5) years and in the amount not exceeding three-eighths (3/8) of one percent of the assessed valuation of all the real and personal property in the city, notwithstanding such loan may increase the indebtedness of the city beyond the limitation fixed in this Charter. In computing the net bonded indebtedness for the purposes hereof, bonds issued in anticipation of the payment of special assessments, even though they are also a general obligation of the city, mortgage bonds which are secured only by a mortgage on the property or franchise of a public utility, and bonds issued to refund moneys advanced or paid on special assessments for water main extensions, shall not be included, and the resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness.

11.07. Applicability of other statutory restrictions.

The issuance of any bonds, even if not otherwise requiring the approval of the voters, shall be subject to applicable requirements of statute with regard to public notice in advance of the authorization of such issue, filing of petitions for a referendum on such issuance, holding of such referendum and other applicable procedural requirements.

CHAPTER 12. SPECIAL ASSESSMENTS

12.01. General power relative to special assessments.

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

12.02. Hazards and nuisances.

(A) When any lot, building or structure within the city, because of accumulation of refuse or debris, the uncontrolled growing of noxious weeds, or age or dilapidation, or because of any other condition or happening becomes in the opinion of the city manager, a public hazard or nuisance which is dangerous to the health, safety, or welfare of the inhabitants of the city or those residing or habitually going near such lot, building or structure, the city manager may, after investigation, give notice by publication or by registered mail addressed to the last known address of the owner or owners of the land upon which such nuisance exists, or to the owner of the building or structure itself, specifying the nature of the nuisance and requiring such owner to abate or remove the nuisance promptly and within a time to be specified by the city manager, which shall be commensurate with the nature of the nuisance. If at the expiration of the time limit in said notice, the owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known, the city manager may order such hazard or nuisance abated by the proper department or agency of the city, or may do the work by contract or by hire, and the cost of such abatement shall be assessed against the lot, premises, or description of real property upon which such hazard or nuisance is located by special assessment provided same is permitted under state law.

(B) The council shall determine what amount or part of each such expense shall be charged and the person, if known, against whom, the premises upon which the same shall be levied as a special assessment; and as often as the council shall deem it expedient, it shall require notice of all or several so reported and determined to be given by the clerk either by registered or certified mail sent to their last known address as shown on the assessment roll of the city, or by publication. Such notice shall state the basis of the assessment, the cost thereof and shall give a reasonable time, which shall not be less than thirty (30) days, in which payment shall be made. In all cases where payment is not made within the time limit, the same shall be reported by the clerk to the assessor who shall spread such amounts against the several persons or descriptions of real property chargeable therewith on the next roll for the collection of city taxes.

12.03. Sidewalks.

The council may prescribe that sidewalks, except crosswalks, shall be built and/or repaired, by the owners of platted land within the city in the public streets adjacent to and abutting upon such lots and premises in the manner and within the time to be prescribed by ordinances; provided that in case of the failure of any such owner to comply with the provisions of such ordinance, the city may build or repair, or cause to be built or repaired, such sidewalks and assess the cost thereof against such owner and against the land improved thereby in a manner prescribed by the council by ordinance.

12.04. Boulevard lighting.

The council shall have the power to assess the cost of installing a boulevard lighting system on any street upon the lands abutting thereupon, provided the property owners of a majority of the frontage on such street or part thereof to be so improved shall petition therefore.

12.05. Procedure to be fixed by ordinance.

The council shall prescribe by ordinance the complete special assessment procedure concerning the initiation of projects, plans and specifications, estimates of costs, notice of hearings, making and confirming assessment rolls, and the correction of errors therein, collection of special assessments, and any other matters concerning the making of improvements by the special assessment method, subject to the provisions of this chapter. The council shall also prescribe in said ordinance procedures for holding a hearing to determine necessity.

12.06. Objection to improvement.

If, at or prior to final confirmation of any special assessment, more than fifty (50) percent of the number of owners of privately owned real property to be assessed for any improvement, or in case of paving or similar improvements more than fifty (50) percent of the number of owners of frontage to be assessed for any such improvement, shall object in writing to the proposed improvement, the improvement shall not be made by proceedings authorized by this chapter without a five-sevenths vote of the members of the council, provided that this section shall not apply to sidewalk construction.

12.07. Rejection of improvement by council.

Even though more than fifty (50) percent of the number of owners of privately owned real property to be assessed for any improvement, or in case of paving or similar improvements more than fifty (50) percent of the number of owners of frontage to be assessed for any such improvement, shall favor, through petition, the proposed improvement, the council may, by five-sevenths vote of its members, reject the petition for such improvement.

12.08. Installment payments of assessments.

The council may provide for the payment of special assessments in annual installments, not to exceed thirty (30) in number, the first installment being due upon confirmation of the roll and the deferred installments being due annually thereafter or, in the discretion of the council, may be spread upon and made a part of each annual city tax roll thereafter until all are paid. Interest may be charged upon deferred installments at a rate not to exceed six (6) percent per year payable annually. Under any installment plan adopted, the whole or any deferred installments with accrued interest to date of payment may be paid in advance of the due dates established.

12.09. Additional assessment.

When any special assessment roll shall prove insufficient to meet the costs of the improvements for which it was made, the council may make an additional pro rata assessment, but the total amount assessed against any one parcel of land shall not exceed the value of benefits received by said lot or parcel of land.

12.10. Refunds or assessments.

The clerk shall, within sixty (60) days after the completion of each local or special public improvement, compile the actual cost thereof and certify the same to the assessor who shall adjust the special assessment roll to correspond therewith. Should the assessment prove larger than necessary by five (5) percent or less, the same shall be reported to the council, which may place the excess in the city treasury or make a refund thereof pro rata according to [the] assessment. If the assessment exceeds the amount necessary by more than five (5) percent, the entire excess shall be credited to owners of property as shown by the city assessment roll upon which such assessment has been levied, pro rata according to the assessment; provided, however, that no refunds of special assessments may be made which impair or contravene the provision of any outstanding obligation or bond secured in whole or part by such special assessments.

12.11. Special assessment accounts.

Except as otherwise provided in this chapter, moneys raised by special assessments to pay the cost of any local improvement shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied except as otherwise provided in this chapter.

12.12. Contested assessments.

Except and unless notice is given to the council in writing of an intention to contest or enjoin the collection of any special assessment for the construction of any pavement, sewer, or other public improvement, the construction of any sidewalk, or the removal or abatement of any public hazard or nuisance, within thirty (30) days after the date of the meeting of the council at which it is finally determined to proceed with the making of the improvement in question, which notice shall state the grounds on which the proceedings are to be contested, no suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of such special assessments; and regardless of whether or not any public improvement is completed in any special assessment district, no owner of real property located in such district shall be entitled to commence any suit or action for the purpose of contesting or enjoining the collection of any such special assessments after he has received the benefits from the substantial completion of that portion of such public improvement for which he is assessed.

12.13. Reassessment for benefits.

Whenever the council shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, in whole or in part, the council shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed or not, and whether any part of the assessment has been collected or not. All proceedings on such reassessment and for the collection thereof shall be made in the same manner as provided for in an original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the persons making such payments.

12.14. Delinquent special assessments.

Special assessments and all interest and charges thereon, from the date of confirmation of the roll, shall be and remain a lien upon the property assessed of the same character and effect as the lien created by general law for state and county taxes, and by this Charter for city taxes until paid. From such date and after confirmation as shall be fixed by the council, the same collection fees shall be collected on delinquent special assessments and upon delinquent installments of such special assessment, beginning on the following October first of each year, as are provided by this Charter to be collected on delinquent city taxes. Such delinquent special assessments shall be subject to the same penalties, and the land upon which the same are a lien shall be subject to sale therefore, the same as are delinquent city taxes and the lands upon which they constitute a lien.

12.15. Lien not destroyed by judgment.

No judgment or decree, or any act of the council vacating a special assessment, shall destroy or impair the lien of the city upon the premises assessed, for such amount of the assessment as may be equitably charged against the same, or as by a regular vote or proceeding might have been lawfully assessed thereon.

12.16. Exemption: Payment by city.

No lands in a special assessment district which are benefitted by the improvement therein shall be exempt from assessment, but if the same are owned by a public or other corporation exempt by law from the payment of special assessments, then the special assessments against such lands, or the installments thereof, shall be paid by the city as the same become due or may be paid in advance of their due dates.

12.17. Special assessments: Inability to pay; remedy; procedure.

The council may provide that any person who, in the opinion of the assessor and council, by reason of poverty, is unable to contribute toward the cost of the making of a public improvement may execute to the city a deed conveying to the city such title as to create a lien for the benefit of the city on all or any part of the real property owned by him and benefitted by any public improvement for the amount of the special assessment levied for such public improvement, plus interest at six (6) percent per annum. Such lien shall mature and be effective from and after the execution of such instrument and shall be enforceable by the city only in the event that title to such property is thereafter transferred in any manner whatsoever. Such deed shall recite that the lien created may be extinguished by the grantor of the deed by payment of the amount of special assessments covered by such lien at any time and shall be extinguished by any grantee, heir, or devisee of the said grantor, within one year after title becomes vested in such grantee, heir, or devisee, [and failure] to so extinguish the said lien within the said one year period shall operate to vest title to the real property to which such deed pertains in the city in fee absolute. The council shall establish by ordinance the procedure for making this section effective.

CHAPTER 13. PURCHASES; CONTRACTS; LEASES

13.01. Contracts: City powers; limitation.

The city may contract for the performance of any public work or may perform the same itself through its departments, officers and employees; provided, however, that it shall not make any public improvements exceeding an amount set by ordinance until it has first advertised for sealed proposals therefore. The city shall have the right to reject any or all such proposals.

Footnote:

This Charter amendment was approved at the General Election held on November 1989.

13.02. Material purchases.

The council shall by ordinance stipulate the maximum dollar amount that can be expended by the city for the purchase of any materials, tools, apparatus or any other thing or things without an opportunity for competitive bidding. The city shall have the right to reject any or all proposals.

13.03. Specifications.

No public improvement costing more than five thousand dollars ($5,000.00) shall be contracted for or commenced until drawings, profiles and estimates for the same shall have been submitted to the council and approved by it; and a copy thereof shall thereafter remain on file in the office of the clerk subject to inspection by the public.

13.04. Approval of contract; review; appropriation.

(A) No contract shall be entered into by the city for the making of any public improvement or for the purchase of any materials, tools, apparatus, or any other thing or things, the consideration or cost of which shall exceed five thousand dollars ($5,000.00), until the same shall have been approved by a majority of the council elect. All contracts prior to submission to the council shall be reviewed by the city manager.

(B) No contract shall be made with any person who is in default to the city.

(C) No public work or improvement shall be commenced, nor any contract therefore be let or made, until a valid specific appropriation to pay the cost thereof shall have been made by the council from funds on hand and legally available for such purpose, or until a tax or assessment shall have been levied or bonds authorized and

sold to pay the cost and expense thereof.

13.05. Restrictions.

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

No contract shall be amended after the same has been made except upon the authority of the council.

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

CHAPTER 14. MUNICIPAL UTILITIES

14.01. General powers respecting utilities.

The city shall possess and hereby reserves to itself all the powers granted to cities by statute and constitution to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, including, but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits to an amount not to exceed the limitations set by statute and constitution.

14.02. Management of municipal utilities.

All municipally owned or operated utilities shall be administered as a regular department of the city government under the management and supervision of the city manager in such manner as he may direct.

14.03. Rates.

The city manager shall recommend to the council from time to time such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the city and others with such public utility services as the city may provide. No free service shall be permitted. Higher rates may be charged for service outside the corporate limits of the city.

14.04. Utility rates and charges-Collection.

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

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

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

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

14.05. Municipal utilities: Disposition; requisites.

The city shall not sell, exchange, lease, or in any way dispose of any municipal public utility or any property, easement, equipment, privilege, or asset needed to continue the operation of any utility, unless the proposition to do so is approved by the electors or the council, as the case may be, in the same manner as was required to acquire the utility. All contracts, grants, leases, or other forms of transfer in violation of this section shall be void and of no effect as against the city. The restrictions of this section shall not apply to the sale or exchange of articles of machinery or equipment of any utility, which are no longer useful or which are replaced by new machinery or equipment, or to the sale or leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other property needed for the utility.

14.06. Utility finances.

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

(B) Transactions pertaining to the ownership and operation by the city of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to, or rendered by, other city departments or agencies shall be recorded. An annual report shall be prepared to show the financial position of each utility and the result of its operations, which report shall be available for inspection at the office of the clerk.

CHAPTER 15. PRIVATELY OWNED UTILITIES

15.01. Franchises remain in effect.

All franchises to which the Township of Sterling is a party when this Charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

15.02. Franchise required.

No person, partnership, association or corporation operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of the city of [for] wires, poles, pipes, tracks or conduits without the consent of the council; nor may it transact a local business in the city without first obtaining a franchise therefor from the city.

15.03. Regulatory powers.

The city shall have the right:

(A) To regulate public utilities;

(B) To regulate the location of poles and other facilities used by public utilities, and

(C) To require that wires in streets and alleys be placed underground.

The city shall have the right to permit and regulate the use by others than the owners, of property located in the streets, alleys and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owners thereof.

15.04. Permit revocable.

The council may grant a permit at any time in or upon any street, alley or public place; provided, that such permit shall be revocable by the council at its pleasure at any time, whether such right to revoke be expressly reserved in said permit or not.

15.05. Granting of public utility franchises.

Public utility franchises and all renewals, and extensions thereof and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty (30) years. No franchise ordinance which is not subject to revocation at the will of the council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths (3/5) of the electors voting thereon. No such franchise ordinance shall be approved by the council for referral to the electorate before thirty (30) days after application therefor has been filed with the council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the clerk his unconditional acceptance of all terms of such franchise. No special election for such purposes shall be ordered unless the expenses of holding such election, as

determined by the council, shall have first been paid to the treasurer by the grantee.

A franchise ordinance or renewal or extension thereof or amendment thereto which is subject to revocation at the will of the council may be enacted by the council without referral to the voters, but shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have so been on file in the office of the clerk for public inspection for at least four (4) weeks after publication of a notice that such ordinance is so on file.

15.06. Conditions of public utility franchises.

All public utility franchises granted after the adoption of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the City of Sterling Heights, but this enumeration shall not be exclusive or impair the right of the council to insert in such franchise any provisions within the power of the city to impose or require:

(A) To repeal the same for misuse, nonuse or failure to comply with the provisions thereof;

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

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

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

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

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

(G) Any franchise granted to a public utility which is not subject to the jurisdiction of and regulation by the Michigan Public Service Commission, shall make provisions for fixing and adjusting the rates and charges to be made by such grantee from and after the effective date of the franchise.

15.07. Regulation of rates.

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

15.08. Use of public places by utilities.

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

15.09. Repeal and termination of franchise; acquisition of utility property.

All ordinances granting franchises, or extensions or renewals thereof, shall reserve to the city the right to terminate the same and to purchase all the property of the utility in the streets and highways in the city and elsewhere, used in or useful for the operation of the utility, at a price either fixed by the ordinance or to be fixed in the manner provided by the ordinance granting the same. Nothing in such ordinance shall prevent the city from acquiring the property of any such utility by condemnation proceedings or in any other lawful mode; but all such methods of acquisition shall be alternative to the power to purchase reserved in the ordinance granting such franchise, extension or renewal as hereinbefore provided. Upon the acquisition by the city of the property of any utility by purchase, condemnation or otherwise, all franchises, extensions and renewals shall at once terminate.

15.10. Franchise ordinance requirement.

No ordinance granting such franchise, or extension or renewal thereof, shall be valid unless it shall expressly provide therein that the price to be paid by the city for the property that may be acquired by it from such utility by purchase, condemnation or otherwise, shall exclude all value of such franchise, extension or renewal, except that, unless otherwise provided in such ordinance, the utility shall be entitled to the return of the proportionate amount for the unused period of any compensation paid to the city for such franchise, extension or renewal.

15.11. Sale or assignment of franchise.

The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the council gives its consent. Nothing in this section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise, nor shall it restrict the rights of the purchaser, upon foreclosure sale, to operate the same, except that such mortgagee or purchaser shall be subject to the terms of the franchise and provisions of this chapter.

CHAPTER 16. STREETS, SEWERS, WATER SYSTEM AND DRAINS

16.01. Authority for streets.

The council shall have authority to lay out, open, widen, extend, straighten, alter, and improve streets and alleys by grading, graveling, surfacing, curbing, paving, draining, repairing, illuminating, maintaining the same free from dust and nuisance, or as otherwise necessary.

16.02. Closing; vacation.

The council shall have power to close and/or vacate any street or alley, or any part thereof, provided, that it shall not have power to vacate or alter any state or county highway. When the council shall deem it advisable to vacate any street or alley or any part thereof, it shall, by resolution, so declare and in the same resolution shall appoint a time, not less than thirty (30) days thereafter, when it shall meet and hear objections thereto. Notice of such meeting, with a copy of said resolution, shall be published two (2) successive weeks before the appointed time for such meeting, in the official newspaper of the city and posted in not less than three (3) public places on the street, alley or part thereof proposed to be vacated or abolished.

16.03. Establishing grade.

The council shall have authority to establish and alter the grade of public streets and alleys within the jurisdiction of the city. Whenever a grade shall be established or altered a record and diagram thereof shall be kept on file in the office of the clerk.

16.04. Constructing, repairing, replacing [sidewalks]; payment of cost.

The city shall have control of all sidewalks in the public streets and alleys of the city and may construct, repair and replace such sidewalks as a public improvement and may provide for the payment of the cost thereof by special assessment or it may require the abutting owners to so do. If the latter procedure shall be followed, and any abutting owner shall fail to construct such sidewalk after being required to do so by resolution of the council and upon such notice as the council shall provide, then the city may construct such sidewalk and collect the costs thereof from the abutting property owner, or may make a special assessment in the same manner as herein provided for the making of special assessments where any expense has been incurred by the city upon or in respect to any particular lot or parcel of land.

16.05. Name changes; hearings; notice.

The council shall have power to change the name of any street, but before doing so shall set a date for hearing any objections thereto and shall give notice thereof by publication in the official newspaper of the city at least once not less than ten (10) days prior to such hearing, and by posting such notice at least ten (10) days prior to such hearing in three (3) public places on such street.

16.06. Regulations for planting trees and shrubbery.

The council may provide for and regulate the planting of shade and ornamental trees and shrubbery in the streets and public highways of the city and may provide for the care and maintenance thereof. It shall have power to prohibit the maintenance of diseased trees and shrubbery on private premises and if the same will be liable to infect trees and shrubbery on public property or on the property of others, the council may cause entrance upon private premises and destroy such diseased trees and shrubbery, if the owner shall fail to do so after ten (10) days notice served upon him or posted on the premises, and charge the property or the owner thereof in the discretion of the council.

16.07. Removal of sidewalk obstructions.

The council may by ordinance require abutting property owners to remove snow, ice, filth and other obstructions from the sidewalks adjacent to their respective properties and in event of the failure of any person to do so, such ordinance may provide that the city may perform such work and charge the cost thereof to such property owner, and to assess him and his property therefor as in this Charter provided.

16.08. Authority for drains and sewers.

The council may acquire, maintain, operate, improve, enlarge and/or extend, either within or without the city, drains, sewers, water distribution systems and facilities for the collection and treatment of storm water and/or sanitary sewage. The council may contract with any other governmental unit or units for sewage and drainage facilities for the treatment of sewage.

16.09. Council, authority for connection and privilege fees.

The owners or occupants of lots and premises shall have the right to connect their home or lot, by means of private drains, with the city sewers and drains after payment of the required connection and/or privilege fees and under such rules and regulations as the council shall prescribe.

16.10. Council, authority for public health.

Whenever the council shall deem it necessary for the public health, it may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, for the disposal of sewage and/or surface water from such lots and premises, and to keep such private drains in repair and free from obstruction. If such private drains are not constructed and maintained according to such requirements, the council may cause the work to be done at the expense of such owner or occupant and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessments to be levied thereon.

16.11. Council, authority for charges.

The city may fix and collect charges for such disposal services, privilege fees and connection fees [for the] water and sewage disposal system, the proceeds of which shall be exclusively used for the purpose of the sewage disposal and water distribution systems, [and] such charges, if not paid when due, may be levied and collected in the same manner as other city taxes.

16.12. Penalties.

In addition to any other remedy or penalty provided in this chapter, any person who by himself or with others violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than five hundred ($500.00) dollars or by imprisonment for a period not to exceed ninety (90) days, or by both such fine and imprisonment at the discretion of the court.

(Added 11-4-75)

CHAPTER 17. BOARD OF SUPERVISORS

17.01. City representation on county board of supervisors.

The city shall be represented on the board of supervisors of the County of Macomb by such members as the city shall be entitled to by appointment of the council.

Any additional number of supervisors permitted to the city by state law may be members of the council or active registered electors of the city, and shall be appointed by the council thirty (30) days after the effective date of adoption of this Charter.

17.02. Term of office.

The members of the board of supervisors appointed by the council shall be appointed for two (2) year terms commencing within thirty (30) days next following their appointment and shall continue to serve until a successor is appointed and has qualified.

17.03. Vacancies in the office of supervisors.

In case of a vacancy in the office of any appointed member of the Macomb County Board of Supervisors, the council shall within thirty (30) days appoint some other qualified person to fill the vacancy in the same manner as the original appointment was made.

17.04. Compensation of supervisors.

Each supervisor shall be entitled to retain any compensation and mileage paid to him by the county but shall receive no extra compensation from the city for his work as supervisor.

CHAPTER 18. RESERVED*

* ***Editor's note:***

Chapter 18 (§§ 18.01-18.23) related to the municipal court. The chapter has been omitted, since the court has been abolished. See M.S.A. §§ 27A.9921, 27A.9930; M.C.L. §§ 600.9921, 600.9930

CHAPTER 19. RETIREMENT SYSTEM

19.01. Applicability.

Section 19.02 and section 19.03 of this chapter shall apply to policemen and firemen in the employ of the city.

Section 19.03 and section 19.06 of this chapter shall apply to other city employees.

19.02. Policemen and firemen retirement system.

The council shall, within one year from the effective date of this Charter, adopt Act No. 345 of the Public Acts of 1937 as amended, being retirement and pension system for employees of the police and fire departments.

19.03. Service as township employee.

Service rendered as the former Sterling Township by an employee of the city shall be credited to him as city service, provided the said employee was employed by the said township within a period of one year immediately preceding the effective date of this Charter and becomes employed by the city within a period of one year from and after the effective date of this Charter.

19.04. Federal social security, old-age and survivors coverage.

The council shall, within one year from the effective date of this Charter take necessary actions to cover the eligible employees of the city under the federal social security, old-age and survivors insurance program.

19.05. Employee retirement system.

The council shall, within one year from the effective date of this Charter, adopt an ordinance, herein called the retirement ordinance, to create and establish the City of Sterling Heights employees retirement system, herein called the retirement system, for the eligible employees of the city. The said retirement ordinance shall become effective immediately upon the adoption of the retirement ordinance, notwithstanding that said effective date might be within a fiscal year.

19.06. The retirement ordinance.

The retirement ordinance shall contain such provisions as the council shall from time to time deem necessary to provide for the retirement of covered employees of the city who become superannuated because of age or total and permanent disability, to provide pensions to be paid said employees and option elections actuarially equated to said pensions; to provide pensions for certain primary dependents of employees who die from city service-connected causes; to provide pensions for certain primary dependents of employees with not less than twenty (20) years of credited service who die while in the employ of the city, from nonservice connected causes; to provide for a board of trustees to administer the retirement system; to provide that contributions be made to the retirement system by the city and the covered employees; to provide for the investments of the reserve funds of the retirement system; and to carry out the provisions of this chapter and the retirement ordinance; provided, that the retirement ordinance shall be subject to the following conditions:

(A) Provision shall be made to exclude policemen and firemen who are covered under the City of Sterling Heights policemen and firemen retirement system from membership in the City of Sterling Heights employees retirement system. Provisions may be made to exclude certain classes of city employees from membership in the retirement system; provided, that, with the exception of the city manager, such exclusions shall not extend to city employees employed in positions normally requiring one thousand (1,000) or more hours per annum.

(B) Except for his total and permanent disability, in no case shall voluntary retirement with a pension payable from funds of the retirement system be allowed any member prior to the date he (1) attains age sixty (60) years and (2) acquires at least ten (10) years of credited service.

(C) In no case shall social security taxes be paid from funds of the retirement system or from funds due to the retirement system. (As amended 11-4-75)

CHAPTER 20. MISCELLANEOUS

20.01. Definitions.

Whenever used in this Charter:

(A) The word "state" shall mean the "State of Michigan;"

(B) The word "city" shall mean the "City of Sterling Heights;"

(C) The word "council" shall mean the "city council;"

(D) Words referring to the several offices where not preceded by the word "city" shall be deemed to mean such offices of the city unless the context implies otherwise;

(E) The terms "council" and "city council" shall be construed as meaning "commission," "council," or "commission council," or "governing body" for the purpose of such general laws of the state as use one or the other of such latter terms in referring to the legislative body of the city;

(F) Words imparting the singular number only may extend to and embrace the plural number; the words, imparting the plural number may be applied and limited to the singular number; words imparting the masculine gender only may extend and be applied to those of the feminine or neuter gender;

(G) The word "person" may extend and be applied to bodies corporate as well as to individuals;

(H) The words "written" and "in writing" may be construed to include printing, engraving, typewriting, and lithographing, and to telegraphic communications except that this rule shall not apply to signatures.

(I) Wherever used in this Charter, the word "advertisement" shall mean the solicitation by any of the usual means of publication in newspapers, by posting, or by letter.

20.02. Records to be public.

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

20.03. Publications: Posting and affidavit.

When by the provisions of this Charter, or the laws of the state, notice of any matter or proceedings is required to be published in a newspaper or posted, an affidavit of the publication or posting of the same, annexed to a printed copy of such notice or proceeding, taken from the paper in which it was published, specifying the times of publication, made by the printer of the newspaper in which same was inserted, or by some person in his employ knowing the facts, if such notice was required to be by publication in a newspaper, or by the person posting the same when required to be by posting, shall be prima facie evidence of the facts therein contained. Such affidavit of publication or posting shall be filed with the city clerk.

20.04. Sundays and holidays.

Whenever the date fixed by this Charter or by ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

20.05. Books, records, city property.

When any elective or appointive officer of the city has qualified and is entitled to assume the duties of his office, his predecessor in such office or position shall surrender to him forthwith all the books, papers, records, and other city property which may be in his possession. The failure of such predecessor to comply with this provision, shall constitute a misdemeanor.

20.06. Council; claims and accounts.

The council shall pass upon all accounts and claims against the city. Every claim for tort shall, so far as possible, state in detail, the time, place and cause of alleged injury. All claims, whether arising out of contract or tort, shall be made under oath and shall be filed with the clerk for consideration by the council within sixty (60) days after the cause of action in every case has arisen. It shall be a sufficient defense to any action for the collection of any demand or claim against the city that such claim has not been filed with the clerk as hereinbefore provided.

20.07. Seal.

The council shall, as soon as possible after the adoption of this Charter, adopt an official seal of the City of Sterling Heights.

20.08. Uniform accounting.

Any system of accounts used for city or any department thereof shall conform to such uniform system as may be required by law.

20.09. Vested rights; liabilities; remedies.

On and after the time this Charter shall become effective the city shall be vested with all the real and personal property, moneys, contracts, rights, effects, records,

files, books, papers and all other property of every name and nature, belonging to the Township of Sterling. No right or liability, either in favor of or against the same township, existing at the time this Charter shall become effective, and no suit or prosecution or other legal proceedings of any kind, shall be in any manner affected by the incorporation of the township as a city, but the same shall stand or proceed as if no such change had been made. All debts and liabilities of said township shall be the debts and liabilities of the city. All taxes and special assessments levied and uncollected at the time of the change from the township to the city form of government and all fines and penalties imposed prior thereto, shall be collected by the city. All licenses, permits and franchises granted by said township, in force when this Charter takes effect, shall remain in full force and effect until the expiration of the time for which they were respectively granted. When a different remedy is given in this Charter or in any ordinance pursuant thereto which can be made applicable to any rights existing at the time this Charter becomes effective, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

20.10. Retention of present ordinances of Township of Sterling.

The valid provisions of bylaws, ordinances, resolutions, rules and regulations of the Township of Sterling which are not inconsistent with this Charter and which are in force and effect and lawfully applicable to the City of Sterling Heights at the time of the effective date of this Charter, shall continue in full force and effect and be administered by and for the city until and unless repealed or amended under provisions hereof or rendered invalid by law; provided, however, that if any such bylaw, ordinance, resolution, rule or regulation provides for the appointment by the township supervisor or the township board of the Township of Sterling of any official or member of a board or commission, future appointments of such persons shall be made as otherwise provided in this Charter.

Fees originally payable to the township under such provisions as to said territory hereafter shall be paid to the city.

Those provisions of any such bylaw, ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed as to their application to such territory.

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

20.11. Effect of illegality of any part of Charter.

Should any provision or section, or portion thereof, of this Charter be held by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holdings shall not be construed as affecting the validity of this Charter as a whole or of any remaining portion of such provision or section, it being hereby declared to be the intent of the Charter Commission and of the electors who voted thereon that such unconstitutionality or illegality shall not affect the validity of any other part of the Charter except that specifically affected by such holdings.

20.12. Headings.

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

20.13. Quorum.

A quorum of any board or commission created by or pursuant to this Charter shall be a majority of the members of such board or commission in office at the time, but not less than two (2) members.

20.14. Amendments.

This Charter may be amended at any time in the manner provided by statute. Should two (2) or more amendments, adopted at the same election, have conflicting provisions the one receiving the largest affirmative vote shall prevail as to those provisions.

CHAPTER 1: GENERAL PROVISIONS

ARTICLE I. GENERAL CODE PROVISIONS

1-1. HOW CODE DESIGNATED AND CITED.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Sterling Heights, Michigan 1992," and may be so cited. Such Code may also be cited as the "Sterling Heights City Code."

(1978 Code, § 1-1)

Charter reference:

Duty of Council to provide for compilation or codification of ordinances, see §6.08

Statutory reference:

Codification of ordinance, see M.S.A. § 5.2084(2); M.C.L. § 117.5b

1-2. APPLICATION OF CHAPTER.

This Code and all ordinances of the city shall be interpreted and construed in accordance with the following provisions of this chapter, unless such interpretation and construction would be inconsistent with the manifest intent of the City Council.

(1978 Code, § 1-2)

1-3. DEFINITIONS.

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

ACT. Public Act 236 of 1961, as amended.

AUTHORIZED CITY OFFICIAL. A police officer or other person employed by the city who is legally authorized to issue municipal civil infraction citations or municipal civil infraction notices.

CHARTER. The Charter of the City of Sterling Heights.

CITY. The City of Sterling Heights.

CIVIL INFRACTION. An act or omission that is prohibited by a law and is not a crime under that law or that is prohibited by an ordinance and is not a crime under that ordinance and for which civil sanctions may be ordered.

COUNCIL or ***CITY COUNCIL.*** The legislative body of the city.

COUNTY. The County of Macomb.

GENDER. Words importing the masculine gender shall apply to firms, associations, partnerships and corporations and may apply to females if the intent of the ordinance so requires.

JOINT AUTHORITY. All words purporting to give joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise expressly declared in the ordinance granting the authority.

MONTH. A calendar month.

MUNICIPAL CIVIL INFRACTION. A civil infraction involving a violation of a city ordinance. ***MUNICIPAL CIVIL INFRACTION*** does not include a violation described in Public Act 236 of 1961, § 113, being M.C.L.A. § 600.113(a) and 600.113(c) (i) through (vi) and (ix), as amended, or any act or omission that constitutes a crime and is punishable as a misdemeanor under this Code.

NUMBER. Words in either the singular or plural number shall include either or both numbers and may apply in any instance to a particular person or persons.

OATH or ***AFFIRMATION***; ***SWORN*** or ***AFFIRMED***. The word ***OATH*** shall be construed to include the word ***AFFIRMATION*** in all cases where by law an affirmation may be substituted for an oath; and in like cases the word ***SWORN*** shall be construed to include the word ***AFFIRMED***.

OFFICERS, DEPARTMENTS, DIVISIONS, BOARDS, COMMISSIONS. The several officers' titles mean such officers of the city. The designation of any department or division of government, or any board or commission, means such department, division, board or commission of the city.

OWNER. Applied to a building or land, shall include any part owner, land contract vendee, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

PERSON. Includes firms, joint ventures, partnerships, corporations, clubs, congregations and all associations or organizations of natural persons, either incorporated or unincorporated, however operating or named and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assigns thereof.

PRECEDING, FOLLOWING. When used by way of reference to any title, chapter or section of any ordinance of the city, shall be construed to mean the title, chapter or section next preceding or next following that in which such reference is made, unless some other title, chapter or section is expressly designated in such reference.

PROPERTY. Includes real and personal property.

PUBLIC PLACE. Any street, alley, park, cemetery, public building or any place of business or assembly, parking lot, parking area or any other premises open to the public or frequented by the public.

REPEAT OFFENSE. A second (or subsequent) municipal civil infraction violation of the same requirement or provision of this ordinance committed by a person within any six-month period for which the person admits responsibility or is determined to be responsible.

SEAL. In all cases in which the seal of any court or public office shall be required to be affixed to any paper issuing from such court or office, the word ***SEAL*** shall be construed to mean the impression of such seal on such paper alone, as well as the impression of such seal affixed thereto by means of a wafer or wax.

SHALL or ***MAY***. The word ***SHALL*** means imperative or mandatory; the word ***MAY*** means permissive.

SIGNATURE or ***SUBSCRIPTION***. Include a mark when the person cannot write.

STATE. The State of Michigan.

SUNDAYS and ***LEGAL HOLIDAYS.*** Whenever any act required to be done pursuant to the provisions of any ordinance falls on a Sunday or legal holiday, that act shall be performed on the next succeeding business day.

TENSE. Words used in the present or past tense shall be construed as including the future as well as the present or past.

TIME. Whenever time is referred to, it means Eastern Standard Time or the time officially in force in the city.

TITLES, HEADINGS, CATCHLINES. The key words used in this Code or in any ordinance as headings, titles or catchlines for chapters, sections and subsections are inserted for convenience and to facilitate the use of same, and such words shall not be construed to limit or affect the meaning of any of the provisions thereof.

WEEK. Construed to mean seven days.

WRITTEN, IN WRITING. Any form of usual reproduction or usual expression of language.

YEAR. A calendar year, and the word ***YEAR*** alone shall be equivalent to the words "year of our Lord."

(1978 Code, § 1-3; Ord. 328, § 2, 11-5-97)

1-4. OFFICERS; ACTS REQUIRED; PERFORMANCE, AUTHORITY.

Whenever in accordance with the provisions of this Code or any ordinance of the city any specific act is required to be done by any designated officer or official of the city, such act may be performed by any city employee duly authorized to perform that act by such officer or official.

(1978 Code, § 1-4)

1-5. 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 as prescribed by state statute.

(1978 Code, § 1-5)

Statutory reference:

Computing period of days, see M.S.A. § 2.217; M.C.L. § 8.6

1-6. REPEAL OF REPEALING ORDINANCE; EFFECT.

Whenever an ordinance, or any part thereof, is repealed by a subsequent ordinance, such ordinance or any part thereof so repealed shall not be revived by the repeal of such subsequent repealing ordinance.

(1978 Code, § 1-6)

1-7. REPEAL OF INCONSISTENT ORDINANCES.

Whenever an ordinance is adopted, all ordinances or parts of ordinances in conflict therewith shall, to the extent of such conflict, be repealed.

(1978 Code, § 1-7)

1-8. REPEAL OF ORDINANCE DOES NOT AFFECT PENALTY, FORFEITURE OR LIABILITY INCURRED.

The repeal of any ordinance or part thereof shall not release or relinquish any penalty, forfeiture or liability incurred under such ordinance or any part thereof, unless the repealing act shall so expressly provides and the ordinance and part thereof shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture or liability.

(1978 Code, § 1-8)

1-9. GENERAL PENALTY.

(A) *Misdemeanor*. It shall be unlawful and constitute a misdemeanor for any person to violate or fail to comply with any of the provisions of this Code, unless such violation or failure is, by state statute, declared to be a felony, or civil infraction, or is declared to be a municipal civil infraction as specified in division (C) of this section or unless otherwise specified in this code of ordinances. Every person convicted of a misdemeanor for a violation of or failure to comply with any provision of this Code or any regulation lawfully promulgated pursuant thereto shall, unless otherwise prescribed in this Code, be punished by a fine of not more than $500, by imprisonment for a period of time not to exceed 90 days or by both such fine and imprisonment. However, unless otherwise provided by law, and notwithstanding any charter provisions to the contrary, every person convicted of a misdemeanor for a violation of or failure to comply with a provision of this Code which substantially corresponds

to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days, unless otherwise prescribed in this Code, shall be punished by a fine of not more than $500, by imprisonment for a period of time not to exceed 93 days or by both such fine and imprisonment. Any person convicted of attempting to commit an offense which constitutes a misdemeanor shall be fined not more than $500, imprisoned for a jail term not to exceed 45 days or both.

(B) *Civil infraction.* It is unlawful and constitutes a civil infraction for any person to violate or fail to comply with any provision of this Code that substantially corresponds to a law that is included in Public Act 12 of 1994, being M.C.L.A. § 600.113 that is not punishable as a misdemeanor.

(C) *Municipal civil infraction.* It is unlawful and constitutes a municipal civil infraction for any person to violate or fail to comply with the following provisions of this Code:

Chapter	***Title***	***Section***
Chapter	***Title***	***Section***
5	Alcoholic Beverages	5-1(A) (first offense only, and if no prior judgments for the listed alcohol-related offenses)
7	Amusement Devices	7-4(A), (B), 7-9, 7-10, 7-12(A)(13), (14), (15), 7-12(B)(1), (2), 7-12(E), 7-12(F)
8	Animals and Fowl	8-10(A), 8-10(F), 8-11(B), 8-13, 8-20, 8-26(B), 8-28(D), 8-32(B), 8-36(A), 8-41(A), 8-41(D), 8-41(H), 8-44(B)
9	Bicycles	9-3(c), 9-4, 9-6(a), (b), 9-7, 9-8
11	Buildings and Building Regulations	Michigan Construction Code, with updates, as promulgated by the Director of Consumer and Industry Services after October 15, 1999, except for the following sections.
11	Buildings and Building Regulations	Michigan Building Code: 110.1, 110.2, 110.4, 110.5, 114.2 and 115.1
		Michigan Residential Code: R110.1, R110.2, R110.4 and R110.5
		Michigan Plumbing Code: P108.5
		Michigan Mechanical Code: M108.5
		Property Maintenance Code, except for the following: 108.1.1, 108.1.2, 108.1.3, 108.1.4, 108.2, 108.4, 108.5, 109.1, 302.8; All sections of Division 3 of Article VI of Chapter 11
12	Business Registration and Regulations	12-4(a), (b)
		Film permits: All sections except 12-160, 12-166, and 12-167
		12-21 (first offense only)
		12-47, 12-48(D), 12-50(A), 12-50(D), 12-50A (first offense only)
		12-272, 12-275(A), 12-275(D), 12-276 (first offense only)
17	Earth Changes	All sections
19	Fences	19-3, 19-5 through 19-8, 19-12, 19-15
20	Fire Prevention and Protection	All sections of the 2015 International Fire Code, except for the following: 104.11.2, 104.11.3, 104.11.4, 104.11.5, 110, 111.4 (first violation), 401.4, 2703.3; 20-117(A), 20-117(C)
20	Fire Prevention and Protection	20-101(C), 20-101(G), 20-101(H), 20-115(A) (first offense within 72 hours), 20- 115(B), 20-115(C), 20-115(E) (first offense within 72 hours), 20-115(G) (first offense within 72 hours), 20-115(I) (first offense within 72 hours), 20-117(A) (first offense only), 20-117(C) (first offense only)
21	Flood Damage Prevention	21-5, 21-6(1), 21-7
22	Food and Food Establishments	22-21 through 22-23, 22-24(a), 22-25, 22-26(a), (b), 22-39(b), 22-42 through 22-45
23	Garbage and Refuse	23-2(a), 23-3, 23-4(a) through (e), 23-5, 23-7, 23-9(a), (b), (c), 23-10(a) through (d), 23-13, 23-16(a), (b)(i), 23-17, 23-26, 23-34, 23-41, 23-51, 23-52
25	Human Relations	25-5, 25-6, 25-7, 25-8, 25-10
28	Library Thefts	28-11(b)
29	Licensing of Businesses	29-2,29-10, 29-11, 29-15(A)
33	Nuisances	33-3 (subsection 33-2(S) only)
35	Offenses and Miscellaneous P rovisions	35-6, 35-39, 35-65(A)(10) (Under 17 Only), 35-65(C), 35-65(D) (first and second offenses only), 35-65(E) (all offenses under age 18 and first and second offenses over age 17), 35-67(C)(5), (7), (8), (9), 35-67(C)(11) (first offense only), 35-67(D)(4), (6), (7), (12), 35-67(D)(8) (first offense only), 35-67(D)(14) (first offense only), 35-68, 35-81, 35-94(A) (first offense only), 35-95
36	False Alarms	36-4(D)
37	Parking and Storage of Certain Vehicles	37-14(a), (b), (c), 37-24, 37-25, 37-31, 37-52
38	Parks	38-5, 38-8, 38-13(3) through 38-13(6), 38-14, 38-15, 38-18 through 38-22, 38-27, 38-38(a), 38-42, 38-44

43	Recreational Waters	43-3, 43-5(a), (b), (c), 43-6(a), (b), 43-8, 43-9(a), (b), (c)
44	Schools	44-7(B), 44-8(A), 44-9
48	Streets and Sidewalks	48-4 through 48-6, 48-9, 48-19, 48-20, 48-22, 48-23(a), (b), (c), 48-24, 48-35, 48-36(a), 48-37
49	Traffic and Vehicle Code	49-94(A)
51	Vegetation	51-6, 51-7, 51-8(a), (b), 51-9 through 51-14, 51-16, 51-39(a), (b), (c), 51-44(a) through (e), 51-46 (a) through (d)
52	Vehicles for Hire	52-18, 52-19(c), 52-20, 52-22, 52-23(a), (b), 52-24, 52-26(b), 52-27(a), (b), 52-28 through 52-30, 52-33(a), (b), 52-34(a) through (d), 52-49, 52-65
53	Water, Sewage and Sewage Disposal	53-107 (except repeat offenders within 24 hours)

(D) *Additional remedies.* In addition to all other remedies, the city may commence and prosecute appropriate actions or proceedings in court to restrain or prevent any noncompliance with or violation of any of the provisions of this Code or to correct, remedy or abate such noncompliance or violation.

(1978 Code, § 1-3; Ord. No. 328, § 3, 1-5-97; Ord. No. 328-A, § 1, 5-18-98; Ord. No. 339, § 328B, § 2, 1-19-99; Ord. No. 349, § 1, 10-17-00; Ord. No. 367, § 12, 12-17-02; Ord. No. 368, § 2, 3-18-03; Ord. No. 374, § 2, 12-21-04; Ord. No. 376, § 2, 3-15-05; Ord. No. 378, § 3, 5-3-05; Ord. No. 384, § 2, 8-15-06; Ord. No. 388, §§ 35 - 36, 1-3-07; Ord. No. 392, § 4, 12-18-07; Ord. No. 396, § 15, 5-6-08; Ord. No. 397, § 2, 6-3-08; Ord. No. 399, § 3, 12-16-08; Ord. No. 401, § 2, 3-2-09; Ord. No. 411, § 12, 2-1-11; Ord. 413, § 17, 5-17-11; Ord. No. 419, § 2, 6-19-12; Ord. No. 425, § 3, 3-5-13; Ord. No. 430, § 2, 8-6-13; Ord. No. 431, § 3, 10-1-13; Ord. No. 435, § 3, 6-17-14; Ord. No. 436, § 3, 8-19-14; Ord. No. 437, § 1, 10-7-14; Ord. No. 439, § 6, 2-17-15; Ord. No. 450, § 2, 12-20-16; Ord. No. 453, § 2, 5-3-17; Ord. No. 452, § 4, 6-20-17; Ord. No. 454, § 4, 7-18-17; Ord. No. 209-F, § 2, 12-5-17; Ord. No. 455, § 3, 12-19-17; Ord. No. 461, § 5, 12-18-18; Ord. No. 462, § 4, 3-18-19; Ord. No. 463, § 4, 4-16-19; Ord. No. 471, § 5, 8-5-20; Ord. No. 479, § 3, 7-20-21; Ord. No. 480, § 3, 1-18-22)

Charter reference:

Authority of Council to provide punishment for violation of ordinances, see §6.04(5);

Violation of city ordinances deemed misdemeanors for arrest purposes, see §7.10

Statutory reference:

Punishment not to exceed limits set out above, see M.S.A. § 5.2082, M.C.L. §§ 117.3k, 117.4i

1-10. CONTINUING VIOLATIONS.

In addition to the penalties provided in §1-9 for any misdemeanor or municipal civil infraction, any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance shall be deemed a new and separate offense for each day that such condition continues to exist.

(1978 Code, § 1-10; Ord. No. 328, § 4, 11-5-97)

1-11. SEVERABILITY.

If any part of this Code or any ordinance, or the application thereof to any person or circumstance, shall be found to be invalid by any court, the invalidity shall not affect the remaining parts or applications of the Code or ordinance which can be given effect without the invalid part or application, provided the remaining parts are not determined by the court to be inoperable, and to this end the provisions of this Code and other ordinances are declared to be severable.

(1978 Code, § 1-11)

1-12-1-20. RESERVED.

ARTICLE II. MUNICIPAL CIVIL INFRACTIONS

1-21. DEFINITIONS.

In this article, the following words shall have the meaning ascribed to them.

BUREAU. The City of Sterling Heights Municipal Ordinance Violations Bureau, as established by this chapter.

MUNICIPAL CIVIL INFRACTION ACTION. A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

MUNICIPAL CIVIL INFRACTION CITATION. A written complaint or notice to appear in court upon which an authorized city official records the occurrence or existence of one or more municipal civil infractions by the person cited.

MUNICIPAL CIVIL INFRACTION NOTICE. A written notice prepared by an authorized city official, directing a person to appear at the City of Sterling Heights Municipal Ordinance Violations Bureau to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city.

MUNICIPAL ORDINANCE VIOLATIONS BUREAU. The Bureau established by § 1-25 of this article.

REPEAT OFFENSE. A second (or subsequent) municipal civil infraction of the same requirement or provision of this ordinance committed by a person within any six-month period for which the person admits responsibility or is determined to be responsible.

(Ord. No. 328, § 5, 11-5-97)

1-22. MUNICIPAL CIVIL INFRACTION ACTION; COMMENCEMENT.

A municipal civil infraction action may be commenced upon the issuance by an authorized city official of: (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction notice directing the alleged violator appear at the City of Sterling Heights Municipal Ordinance Violations Bureau, within ten days, to pay a civil fine if the alleged violator admits responsibility.

(Ord. No. 328, § 5, 11-5-97)

1-23. MUNICIPAL CIVIL INFRACTION CITATIONS; ISSUANCE AND SERVICE.

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

(A) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued;

(B) The place for appearance specified in a citation shall be the District Court;

(C) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the city and issued to the alleged violator as provided by § 8705 of the Act;

(D) A citation for a municipal civil infraction signed by an authorized city official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare

under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief;"

(E) An authorized city official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation;

(F) An authorized city official may issue a citation to a person if:

(1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

(2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the City Attorney approves in writing the issuance of the citation;

(G) Municipal civil infraction citations shall be served by an authorized city official as follows:

(1) Except as provided by subsection (G)(2), an authorized city official shall personally serve a copy of the citation upon the alleged violator;

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

(Ord. No. 328, § 5, 11-5-97)

1-24. MUNICIPAL CIVIL INFRACTION CITATIONS; CONTENTS.

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

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

(1) Admit responsibility for the municipal civil infraction by mail, in person or by representation at or by the time specified for appearance;

(2) Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or in person or by representation;

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

(a) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the city;

(b) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

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

(1) If the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time for a hearing, unless a hearing date is specified on the citation;

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

(3) A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the city;

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

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

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

(Ord. No. 328, § 5, 11-5-97)

1-25. MUNICIPAL ORDINANCE VIOLATIONS BUREAU.

(A) The City of Sterling Heights Municipal Ordinance Violations Bureau ("Bureau") is established as authorized by § 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction notices issued and served by authorized city officials and to collect and retain civil fines and costs as prescribed by ordinance.

(B) The Bureau shall be located at a site designated by the City Manager and shall be under the supervision and control of the City Manager. The City Manager, subject to the approval of the City Council, shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified city employee(s) to administer the Bureau.

(C) (1) The Bureau may dispose of municipal civil infractions for which a fine has been scheduled and for which a municipal civil infraction notice (as differentiated from a citation) has been issued. The Bureau may not dispose of a municipal civil infraction citation (as differentiated from a municipal civil infraction notice).

(2) Nothing in this chapter shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any action for such a violation in a court of competent jurisdiction. No person shall be required to respond to a municipal civil infraction notice at the Bureau and may instead have the violation processed as a citation so that the matter will be handled by a court of competent jurisdiction. The unwillingness of any person to respond to any municipal civil infraction notice at the Bureau shall not prejudice or diminish the person's rights, privileges and protection accorded by law.

(D) The Bureau shall only accept admissions of responsibility for municipal civil infractions for which a municipal civil infraction notice has been issued (as differentiated from a municipal civil infraction citation). The Bureau shall collect and retain civil fines and costs resulting from those admissions. The Bureau shall not accept payment of a civil fine from any person who denies responsibility for the offense or who admits responsibility only with an explanation. In no event shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to the alleged violation.

(E) Municipal civil infraction violation notices shall be issued and served by authorized city officials under the same circumstances and upon the same persons as provided for citations as provided in § 1-23(G)(1) and (2) of this Code. In addition to any other information required by this Code, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation and the consequences for failure to appear and pay the required fine within the required time.

(F) An alleged violator receiving a municipal civil infraction violation notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person or by representation.

(G) If an authorized city official issues and serves a municipal civil infraction notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violations are not paid at the Bureau within ten days from the date of issuance of the municipal civil infraction notice, a municipal civil infraction citation may be filed with the District Court and a copy of the citation may be served by first class mail upon the alleged violator at his or her last known address. The citation filed with the court shall consist of a sworn complaint containing the allegations stated in the municipal civil infraction notice and shall fairly inform the alleged violator how to respond to the citation.

(Ord. No. 328, § 5, 11-5-97)

1-26. SCHEDULE OF MUNICIPAL CIVIL INFRACTION FINES.

(A) The following schedule of civil fines payable to the Bureau of admissions of responsibility by persons served with municipal civil infraction notices shall apply, unless another penalty is specifically provided by division (B) of this section:

(1) $150 for each violation;

(2) $375 for the first repeat offense;

(3) $750 for any second or subsequent repeat offense.

(4) $1,500 for any third or subsequent repeat offense.

(B) The following specific schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with municipal ordinance violation notices shall apply to the civil infractions listed below.

Chapter Title	***Code Section***	***Fine***
Chapter Title	***Code Section***	***Fine***
Alcoholic Beverages	5-1(A)	$100 for a first offense (including no prior judgments for the listed alcohol-related offenses); subsequent violations are misdemeanors
Amusement Devices	7-4(A), (B)	$500 for each first and second violation, but reduced to $150 if license is obtained or devices are removed
Animals and Fowl	8-10(F), 8-28(D), 8-41(A)	$500 for each first violation, $750 for the first repeat offense, $1,000 for any second or subsequent repeat offense
Buildings and Building Regulations	Unless otherwise excepted in § 1-9(c), all sections of the Michigan Construction Code, with updates, as promulgated and by the Director of Consumer and Industry Services after October 15, 1999	$150 for each first violation, $375 for the first repeat offense, $750 for any second repeat offense and $1,500 for any third or subsequent repeat offense
	11-87, Section 302.15	$500 for each first violation, $750 for the first repeat offense, $1,000 for any second repeat offense, $1,500 for any third or subsequent repeat offense
	Sections 12-47, 12-48(D), 12-50(A), 12-50(D), 12-50A (first offense only)	$500 first violation; subsequent violations are misdemeanors
	Sections 12-272, and 12-275(A), 12-275(D), and 12-276 (first offense only)	$500 for first violation; subsequent violations are misdemeanors
Earth Changes	All sections of Chapter 17	$750 for the first and subsequent repeat offenses
	Except 17-19(F)(1) and (2)	
Earth Charges	17-19(F)(1)	$5,000 first violation, $7,500 for first repeat offense, and $10,000 for second and subsequent repeat offenses
Earth Changes	17-19(F)(2)	$10,000 for first violation, $15,000 for first repeat offense, and $20,000 for second and subsequent repeat offenses
Fire Prevention and Protection	2015 International Fire Code Section 111.4 (local amendment)	$100 first violation; subsequent violations are misdemeanors
Fire Prevention and Protection	20-101(C), 20-101(G), 20-101(I)	20-101(C): $200 20-101(G): $500 20-101(I): $500 (first offense) 20-101(I): $1,000 (second or subsequent offense)
Fire Prevention and Protection	20-115(A), 20-115(B), 20-115(C), 20-115(E)	20-115(A): $500 20-115(B): $1,000 20-115(C): $1,000 20-115(E): $1,000
Garbage and Refuse	23-9(a)	$25 first violation, $50 for first repeat offense, and $300 for second and subsequent repeat offenses
Human Relations	25-5, 25-6, 25-7, 25-8, 25-10	$500 for each violation
Library	28-11	$75 first violation and $150 for first repeat offense and $300 for second and subsequent repeat offenses

Nuisances	33-3 (subsection 33-2(S) only)	$500 for each first violation, $750 for the first repeat offense, $1,000 for any second repeat offense, $1,500 for any third or subsequent repeat offense
Offenses and Miscellaneous Provisions	35-65(A)(10)	Under 17 years of age: $500 or $100 after completion of class
Offenses and Miscellaneous Provisions	35-65(C)	$100
Offenses and Miscellaneous Provisions	35-65(D)	$500 first violation $1,000 second violation
Offenses and Miscellaneous Provisions	35-65(E)	$100 first violation $500 second violation $1,000 third violation (under 18)
Offenses and Miscellaneous Provisions	35-81 (youth curfews)	$25 first violation and $50 for first repeat offense and $100 for second and subsequent repeat offenses
Offenses and Miscellaneous Provisions	35-94 (A)	First offense: $500 but reduced to $50 if the offender completes the approved health program; subsequent violations are misdemeanors
Offenses and Miscellaneous Provisions	35-95	$500 but reduced to $50 if the offender completes the approved health program
Parking and Storage	All sections of Article V (Snow Emergencies) of Chapter 37	$75 first violation, $100 for first repeat offense, and $125 for second and subsequent repeat offenses
Parks	38-14	$10 first violation, $25 for first repeat offense, and $50 for second and subsequent repeat offenses
Water	53-107 (except repeat offenders within 24 hours	$25 first violation, $50 for the first repeat offense and $100 for second and subsequent repeat offenses

(C) A copy of the schedule, as amended from time to time, shall be posted at the Bureau.

(Ord. No. 328, § 5, 11-5-97; Ord. No. 328-A, § 2, 5-18-98; Ord. No. 349, § 2, 10-17-00; Ord. No. 352, § 19; Ord. No. 367, § 13, 12-17-02; Ord. No. 384, § 3, 8-15-06; Ord. No. 388, § 1, 1-3-07; Ord. No. 391 § 3, 4-17-07; Ord. No. 396, § 16, 5-6-08; Ord. No. 397, § 3, 6-3-08; Ord. No. 411, § 13, 2-1-11; Ord. No. 413, § 18, 5-17-11; Ord. No. 419, § 3, 6-19-12; Ord. No. 430, § 3, 8-6-13; Ord. No. 435, § 4, 6-17-14; Ord. No. 437, § 1, 10-7-14; Ord. No. 439, § 7, 2-17-15; Ord. No. 450, § 3, 12-20-16; Ord. No. 453, § 3, 5-3-17; Ord. No. 454, § 5, 7-18-17; Ord. No. 209-F, § 3, 12-5-17; Ord. 455, § 4, 12-19-17; Ord. No. 461, § 6, 12-18-18; Ord. No. 462, § 5, 3-18-19; Ord. No. 463, § 5, 4-16-19; Ord. No. 479, §§ 4, 5, 7-20-21; Ord. No. 480, § 4, 1-18-22)

CHAPTER 2: ADMINISTRATION

ARTICLE I. IN GENERAL

2-1. ECONOMIC DEVELOPMENT CORPORATION.

(A) The application dated March 4, 1977 and the articles of incorporation of the Economic Development Corporation of the City of Sterling Heights are approved and adopted.

(B) A certified copy of the ordinance from which this section is derived is directed to be filed with the Secretary of State of the State of Michigan in accordance with Public Act 338 of 1974, § 5, being M.C.L.A. § 125.1605, as amended, and the applicants in said application dated March 4, 1977 are thereafter authorized to incorporate the Economic Development Corporation of the City of Sterling Heights as a public corporation pursuant to Public Act 338 of 1974, as amended.

(C) The articles of incorporation of the Economic Development Corporation of the City of Sterling Heights, as approved in this section, may be amended from time to time by amendatory ordinance, which amendments shall be filed with the Secretary of State of the State of Michigan.

(D) The articles of incorporation shall be executed in duplicate and delivered to the Clerk of the County of Macomb, who shall file one copy in his or her office and the other with the recording officer of the Economic Development Corporation of the City of Sterling Heights, when such an officer is selected. The Clerk of the City of Sterling Heights shall cause a copy of the articles of incorporation to be published once in the Advisor Newspaper of Utica, Michigan, accompanied by a statement that the right exists to question the incorporation in court, as provided in Public Act 338 of 1974, § 31, being M.C.L.A. § 125.1631, as amended.

(1978 Code, § 2-1)

Statutory reference:

The act referred to above is codified in M.S.A. §§ 5.3520(1) et seq.; M.C.L. § 125.1601

2-2. FORFEITURE OF EXPIRED OR UNUSED BONDS AND DEPOSITS.

All cash deposits or cash bonds heretofore deposited or posted with the various departments of the City of Sterling Heights pursuant to ordinances or resolutions of the city, which have been held by the city for a period of two years after the sum is deemed to be refundable by the city and which have not been used for the purpose intended, shall be declared canceled and forfeited and transferred from the fund in which it may have been deposited to the city's General Fund; provided, however, that prior to the transfer, the City Treasurer shall, by certified mail, send a notification to the depositor and/or its principals at their last known address, notifying them that unless the cash deposit or bond is claimed within 30 days from the date of mailing of the notice, the deposit or bond shall be canceled and/or forfeited and the funds shall be transferred to the city's General Fund.

All cash deposits or bonds hereafter deposited with the City of Sterling Heights to guarantee performance required under various ordinances, which have not been refunded by the department requiring the deposit or bond or which have not been used for the purpose intended, shall be forfeited two years after the sum is deemed to be refundable by the city, unless the depositor has previously made a written request for refund. Notice of the forfeiture shall be given by the City Treasurer by certified mail to the depositor or its principals at their last known address, notifying them that a claim must be filed within 30 days from the mailing of the notice. All such forfeitures shall be deposited in the city's General Fund.

After the expiration of the 30 day period, all claims by the principal or surety, their successors and/or assigns shall be invalid and unenforceable.

(1978 Code, § 2-2; Ord. No. 205, §§ 1, 2, 3-7-79)

Cross reference:

Building regulations, see Ch. 11;

Water and sewers, see Ch. 53

2-3-2-15. RESERVED.

ARTICLE II. ADMINISTRATIVE SERVICE

2-16. TITLE.

This article shall be known and may be cited as the "Administrative Service Ordinance."

(1978 Code, § 2-16; Ord. No. 201C, § 1, 12-16-86)

2-17. ADMINISTRATIVE DEPARTMENTS.

The administrative service of the city shall consist of the following departments:

(A) City Administration;

(B) City Development;

(C) Community Relations;

(D) Fire;

(E) Public Library;

(F) Parks and Recreation;

(G) Police;

(H) Public Works.

(1968 Code, § 2-17; Ord. No. 201-C, § 1, 12-16-86; Ord. No. 201-D, § 1, 6-21-88; Ord. No. 201E, § 1, 10-31-88; Ord. No. 201-F, § 1, 5-2-89; Ord. No. 201-G, § 1, 12-19-89; Ord. No. 201-H, § 1, 6-7-94; Ord. No. 201-J, § 1, 4-18-95; Ord. No. 201-K, § 1, 8-17-99; Ord. No. 357, § 1, 12-18-01; Ord. No. 415, § 1, 7-5-11; Ord. No. 420, § 1, 10-16-12; Ord. No. 444, § 1, 2-2-16)

2-18. CHARTER-CREATED ADMINISTRATIVE OFFICERS.

The charter-created administrative officers of the city are the City Manager, Clerk, Treasurer, Assessor, Director of Finance, Chief of Police, Fire Chief, Superintendent of Public Works, and Director of Parks and Recreation. In the Administrative Code, Clerk is renamed City Clerk, Director of Finance is renamed Finance and Budget Director, Superintendent of Public Works is renamed Public Works Director, and Director of Parks and Recreation is renamed Parks and Recreation Director.

(1968 Code, § 2-18; Ord. No. 201-C, § 1, 12-16-86; Ord. No. 201-K, § 1, 8-17-99; Ord. No. 357, § 1, 12-18-01; Ord. No. 389 § 1, 4-3-07; Ord. No. 415 § 2, 7-5-11; Ord. No. 432 § 1, 11-6-13; Ord. No. 444, § 2, 2-2-16; Ord. No. 457, § 1, 6-19-18)

2-19. CREATION OF ADDITIONAL ADMINISTRATIVE OFFICERS.

The following additional administrative officers are created in accordance with §7.01(A) of the City Charter: Public Library Director, City Development Director, Building Official, City Engineer, City Planner/City Development Manager, Community Relations Director, Controller, Assistant City Manager and Human Resources Director, Information Technology Director, Purchasing and Facilities Maintenance Manager, and Human Resources and Benefits Manager.

(1978 Code, § 2-19; Ord. No. 201-C, § 1, 12-6-86; Ord. No. 201-D, § 2, 6-21-88; Ord. No. 201E, § 2, 10-31-88; Ord. No. 201-F, § 2, 5-2-89; Ord. No. 201-G, § 2, 12-19-89; Ord. No. 288, § 1, 12-11-90; Ord. No. 201-H, § 1, 6-7-94; Ord. No. 201-J, § 1, 4-18-95; Ord. No. 201-K, § 1, 8-17-99; Ord. No. 357, § 1, 12-18-01; Ord. No. 389 § 2, 4-3-07; Ord. No. 415 § 3, 7-5-11; Ord. No. 420, § 2, 10-16-12; Ord. No. 432 § 2, 11-6-13; Ord. No. 444, § 3, 2-2-16; Ord. No. 457, § 2, 6-19-18)

2-20. APPOINTMENT AND DUTIES OF ADMINISTRATIVE OFFICERS.

(A) All administrative officers of the city shall be appointed, compensated and discharged in accordance with the City Charter or applicable collective bargaining agreement. All administrative officers shall be department heads for the purposes of § 8.10 of the City Charter.

(B) The City Manager shall promptly file with the City Clerk an administrative code (plan) and subsequent amendments thereto, all subject to approval by the City Council, setting forth the departmental organization and the duties and functions of the administrative officers, additional administrative officers, deputy administrative officers and their subordinates of the city in accordance with §§ 7.02(C)(8) and 7.14 of the City Charter. The administrative code (plan) shall include an organizational chart describing the lines of authority and reporting responsibilities of each administrative officer, deputy administrative officer and their subordinates.

(1978 Code, § 2-20; Ord. No. 201-C, § 1, 12-16-86; Ord. No. 357, § 1, 12-18-01)

2-21-2-94. RESERVED.

ARTICLE III. BOARDS AND COMMISSIONS GENERALLY

DIVISION 1. GENERALLY

2-95. COMPENSATION OF MEMBERS.

(A) *Compensation*. Unless otherwise established by law or specifically set forth elsewhere in the city code, members of the boards and commissions of the City of Sterling Heights shall only be compensated in accordance with the amounts set forth in the city's annual appropriations ordinance.

(B) *Reimbursement of expenses*. Appointed members of all boards and commissions of the city shall be reimbursed for all reasonable expenses and costs incurred in the performance of their duties, when such costs and expenses have received prior approval and authorization in accordance with normal procedures of the city.

(1978 Code, § 2-95; Ord. No. 187-C, § 1, 11-21-89; Ord. No. 187-E, § I, 8-6-91; Ord. No. 187-F, § 1, 10-15-91; Ord. No. 187-G, § 1, 6-18-96; Ord. No. 187-H, 8-7-96; Ord. No. 187-I, § 1, 6-1-99; Ord. No. 478, § 1, 6-15-21)

Charter reference:

Compensation of members of boards and commissions to be established by ordinance, see §4.10

2-96-2-100. RESERVED.

DIVISION 2. PLANNING COMMISSION

2-101. CREATED; COMPOSITION; APPOINTMENT; TERMS OF MEMBERS; COMPENSATION AND REMOVAL.

There is created a Planning Commission for the city. The Planning Commission shall consist of nine members. The membership of the Commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the city, in accordance with the major interests as they exist in the city, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the city to the extent practicable. The members shall be appointed by the Mayor. Appointment shall be subject to the approval by a majority vote of the members elect of the City Council. All members of the Planning Commission may be compensated at a rate to be determined by the City Council and may hold other appointive municipal offices, except that only one of the members may be a member of the Zoning Board of Appeals, and members may not serve on the Board of Ordinance Appeals, the Corridor Improvement Authority, or the Board of Review. The term of office of each member of the Planning Commission shall be three years, except that three members of the first commission to be appointed shall serve for a term of one year, three for a term of two years, and three for a term of three years. All members shall hold office until their successors are appointed. A member may be removed by the City Council for misfeasance, malfeasance, or nonfeasance in office upon written charges after a public hearing.

(1978 Code, § 2-101; Ord. No. 346, § 1, 4-4-00; Ord. No. 346-A, § 1, 6-5-01; Ord. No. 346-B, § 1, 1-2-02; Ord. No. 400, § 1, 1-6-09; Ord. No. 472, § 1, 8-18-20)

Statutory reference:

Local planning commissions, see M.C.L. §§ 125.3801 et seq.; M.C.L. § 125.3815

2-102. POWERS AND DUTIES.

(A) The Planning Commission shall possess and exercise all of the powers and functions of planning commissions under the provisions of Public Act 33 of 2008, being M.C.L. § 125.3801 et seq. and such amendments and superseding acts as may be enacted.

(B) Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. The member is disqualified from voting on the matter if so provided by the bylaws of the Planning Commission or by majority vote of the remaining members of the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office. The Planning Commission shall define conflict of interest for purposes of this subsection if the City Council does not do so by ordinance.

(1978 Code, § 2-102) (Ord. 400, § 2, 1-6-09; Ord. No. 472, § 1, 8-18-20)

Statutory reference:

Local planning commissions, see M.C.L. § 125.3815, M.C.L. § 125.3881

2-103-2-107. RESERVED.

DIVISION 3. HISTORICAL COMMISSION

2-108. CREATED.

There is created and established in and for the city a commission hereafter to be known as the City Historical Commission.

(1978 Code, § 2-108)

Statutory reference:

Authority to create historical commission, provide for its appointment and prescribe its functions,see M.S.A. § 5.3396; M.C.L. § 399.172

2-109. COMPOSITION; APPOINTMENT AND QUALIFICATIONS OF MEMBERS.

The Historical Commission shall consist of seven members to be appointed by the City Council. No person shall be eligible to appointment who has not been a registered elector of the city continuously for at least two years immediately preceding his or her appointment.

(1978 Code, § 2-109)

2-110. TERMS OF MEMBERS.

Members of the Historical Commission shall hold office for terms of three years, except that, in the first instance, three members shall hold office for one year, two members shall hold office for two years and two members shall hold office for three years.

(1978 Code, § 2-110)

2-111. ELECTION OF OFFICERS; MEETINGS; RULES OF PROCEDURE AND RECORDS; QUORUM.

The Historical Commission shall each year elect one of its members as Chairperson and shall elect such other officers from its membership as it may deem necessary. The Commission shall hold meetings regularly, at least once in each three months, and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of its proceedings. Four members shall constitute a quorum for the transaction of business.

(1978 Code, § 2-111)

2-112. FUNCTIONS.

The functions of the Historical Commission shall be to further public interest in all matters relating to the history of the city.

(1978 Code, § 2-112)

2-113. POWERS AND DUTIES.

The powers and duties of the Historical Commission shall be as follows:

(1) With the approval of the City Council and in the name of the city, to acquire, take and hold, by purchase, gift, devise, bequest or otherwise, such real and personal property as may be proper for carrying out the objects and functions for which it is established, and any property, real or personal, received in trust shall be held in the name of the city but in conformity with the terms of the trust.

(2) With the approval of the City Council and in the name of the city, to acquire, collect, own and exhibit articles of historical interest or value which pertain to the history of the city.

(3) To otherwise promote public interest in, and to preserve, the history of the city and its environs; provided, however, that nothing herein shall be construed to abridge, invade, supplant or change the powers and duties of the other commissions, departments, boards and agencies of the city.

(1978 Code, § 2-113)

2-114-2-118. RESERVED.

DIVISION 4. BEAUTIFICATION COMMISSION

2-119. ESTABLISHED; TO SERVE IN ADVISORY CAPACITY.

A Beautification Commission is established which shall serve in an advisory capacity to the City Council and shall be known as the City Beautification Commission.

(1978 Code, § 2-119)

2-120. COMPOSITION; APPOINTMENT OF MEMBERS.

(A) The Beautification Commission shall consist of 12 members to be appointed by the majority vote of the members of the City Council. Presently, five members hold office for a term expiring June 30, 2000. The City Council shall extend the term of one of the members to expire June 30, 2001. Thereafter, each member shall hold office for a full three year term.

(B) The Beautification Commission shall consist of the following ex officio members who shall have no voting powers on the Commission: one representative from the Office of Parks and Recreation, one representative from the Planning Commission and one representative from the City Council.

(1978 Code, § 2-120; Ord. No. 145-A, § 1, 12-8-81; Ord. No. 145-B, § 1, 9-15-98)

2-121. TERMS OF MEMBERS; ELECTION OF OFFICERS; FILLING OF VACANCIES.

Members of the Beautification Commission shall hold office for terms of three years, except that four members shall hold office for a term to expire June 30, 1999, four members shall hold office for a term to expire June 30, 2000 and four members shall hold office for a term to expire June 30, 2001. Thereafter, each member shall hold office for a full three year term. The Commission shall, each year, elect one of its members as Chairperson and shall elect such other officers as it may deem necessary. Any vacancy shall be filled by the City Council for the remainder of the unexpired term.

(1978 Code, § 2-121; Ord. No. 145-A, § 2, 12-8-81; Ord. No. 145-B, § 1, 9-15-98)

2-122. DUTIES, OBJECTIVES AND PURPOSES.

The Beautification Commission shall have the following duties, objectives and purposes:

(1) To promote public education against the discarding of litter in city streets, alleys, sidewalks, parks and recreation areas and other public places;

(2) To encourage all residents and owners of property within the city to accept basic responsibilities of preserving and enhancing the beauty of public and private properties;

(3) To encourage and recommend the placing, planting and preservation of trees, flowers, plants, shrubbery and other objects of ornamentation in the city;

(4) To sponsor, plan, promote, coordinate and carry out activities for the restoration, preservation and enhancement of the beauty of the city; and

(5) To otherwise promote public interest in the general improvement of the appearance of the city; provided, however, that nothing herein shall be construed to abridge, invade, supplant or change the powers and duties of the other commissions, departments, boards and agencies of the city.

(1978 Code, § 2-122)

Cross reference:

Anti-litter ordinance, see §§ 23-31 et seq.;

Trees and other vegetation, see Ch. 51

2-123-2-127. RESERVED.

DIVISION 5. HOUSING COMMISSION

2-128. CREATED.

Pursuant to Public Act 18 of 1933, (Extra Session), being M.C.L.A. §§ 125.641 et seq., as amended, a commission is created to be known as the Housing Commission.

(1978 Code, § 2-128)

Statutory reference:

The act referred to above is codified in M.S.A. §§ 5.3011 et seq.; M.C.L. §§ 125.651 et seq.

2-129. COMPOSITION; APPOINTMENT OF MEMBERS.

The Housing Commission shall be composed of five members appointed by the City Council.

(1978 Code, § 2-129; Ord. No. 282, § 1, 4-3-90)

2-130. TERMS AND REMOVAL OF MEMBERS; FILLING OF VACANCIES.

The term of office of members of the Housing Commission shall be five years. Members of the first Housing Commission existing hereunder shall be appointed for the terms of one year, two years, three years, four years and five years respectively; and annually thereafter one member shall be appointed for the term of five years. Members of the Housing Commission may be removed from office by the City Council. Any vacancy in office shall be filled in the same manner as provided in the original appointment for the remainder of the unexpired term.

(1978 Code, § 2-130; Ord. No. 282, § 1, 4-3-90)

2-131. MEETINGS; RULES OF PROCEDURE AND RECORDS; QUORUM; OFFICERS AND EMPLOYEES.

The Housing Commission shall meet at regular intervals and the meetings shall be open to the public. The Commission shall adopt its own rules of procedure and shall keep a record of the proceedings. Three members shall constitute a quorum in the transaction of business. A President and Vice-President shall be elected by the Housing Commission. The Housing Commission may appoint a Director who may also serve as Secretary and such other employees or officers as shall be necessary. The Housing Commission shall prescribe the duties of all of its officers and employees and may, with the approval of the City Council, fix their compensation. The Housing Commission may, from time to time, as necessary, employ engineers, architects and consultants.

(1978 Code, § 2-131; Ord. No. 282, § 1, 4-3-90)

2-132. POWERS AND DUTIES.

The Housing Commission shall have all the powers and duties vested or permitted to be vested in housing commissions by Public Act 18 of 1933, (Extra Session), being M.C.L.A. §§ 125.651 et seq., and acts heretofore or hereafter enacted which are supplemental thereto, it being the intention of this section to vest in the Housing Commission all powers and duties permitted by law.

(1978 Code, § 2-132)

Statutory reference:

The act referred to above is codified in M.S.A. §§ 5.3011 et seq.; M.C.L. §§ 125.651 et seq.

2-133-2-137. RESERVED.

DIVISION 6. ARTS COMMISSION

2-138. ESTABLISHED; TO ACT IN ADVISORY CAPACITY.

There is established a cultural commission of the city, which commission shall be known as the "Sterling Heights Arts Commission" and shall act solely in an advisory capacity, whose functions, duties and powers are as hereinafter set forth.

(1978 Code, § 2-138; Ord. No. 440, § 1, 3-3-15)

2-139. COMPOSITION; APPOINTMENT, TERMS AND QUALIFICATIONS OF MEMBERS; FILLING OF VACANCIES.

The Commission shall consist of 12 members who shall be appointed by the City Council. All appointments to the Commission shall be for a four year term, with the term of office for three members of the Commission expiring on June 30 of each year. Vacancies on the Commission occurring before the expiration of any term shall be filled by appointment as set forth above for the unexpired terms. Members of the Commission shall be registered electors of the city upon appointment and shall remain so during their term of office.

(1978 Code, § 2-139; Ord. No. 154-A, § 1, 11-25-75; Ord. No. 440, § 1, 3-3-15)

2-140. ELECTION OF OFFICERS; ADOPTION OF BYLAWS; MEETINGS.

The Commission shall, immediately after appointment, meet and organize by the election of one of its members as Chairperson and by the election of such other officers as it deems necessary. The Commission will adopt bylaws for the orderly conduct of its meetings and for the proper process of its functions. Regular meetings of the Commission shall be held monthly or as often as may be deemed necessary by the Commission.

(1978 Code, § 2-140; Ord. No. 440, § 1, 3-3-15)

2-141. DUTIES.

The Commission shall:

(1) Act as an advisory commission to the City Council;

(2) Consider, study and recommend plans for the development of city-wide cultural programs;

(3) Promote, coordinate and develop the performing and creative arts by making recommendations for programs for cultural opportunities and experiences for the citizens of the city and further to facilitate communications with the State Council for Arts and Cultural Affairs.

(1978 Code, § 2-141; Ord. No. 440, § 1, 3-3-15)

2-142. EXPENDITURES.

The Commission, or any of its members, shall not incur any expense or create any obligation or liability upon the city. In the event any expenditure of city funds may be required in connection with the functioning of the Commission, prior approval of the expenditures shall first be obtained from the City Council.

(1978 Code, § 2-142; Ord. No. 440, § 1, 3-3-15)

DIVISION 7. ELECTED OFFICIALS' COMPENSATION COMMISSION

2-143. ESTABLISHMENT AND PURPOSE.

There is established a local officers' compensation commission which shall establish the salaries of all local elected officials of the City of Sterling Heights.

(1978 Code, § 2-143; Ord. No. 214, § 1.01, 12-11-79)

2-144. MEMBERS, NUMBERS, QUALIFICATIONS, APPOINTMENT, TERM, REMOVAL AND VACANCIES.

The Commission shall consist of seven members who shall be appointed by the Mayor, subject to confirmation by a majority of the members elected and serving on the City Council. No member or employee of the legislative, judicial or executive branch of any level of government or members of the immediate family of such member or employee shall be eligible to be a member of the Commission. All appointments to the Commission shall be for a term of seven years, except that of the members first appointed, one each shall be appointed for terms of one, two, three, four, five, six and seven years.

The first member of the Commission shall be appointed within 30 days after the effective date of this division. Thereafter, members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of the unexpired term.

(1978 Code, § 2-144; Ord. No. 214, § 2.01, 12-11-79)

2-145. ORGANIZATION, MEETINGS, SALARIES.

The Commission shall immediately after appointment meet and organize by the election of one of their members as Chairperson and such other officers as they may deem necessary. The Commission shall meet for not more than 15 session days in each odd numbered year and shall make its determination within 45 calendar days of its first meeting. A majority of the members of the Commission constitues a quorum for conducting the business of the commission. The commission shall not take action or make a determination without a concurrence of a majority of the members appointed and serving on the Commission. As used in this section, ***SESSION DAY*** means a calendar day on which the Commission meets and a quorum is present. The members of the Commission shall not receive compensation but shall be entitled to actual and necessary expenses incurred in the performance of official duties.

(1978 Code, § 2-145; Ord. No. 214, § 3.01, 12-11-79)

2-146. DETERMINATION OF SALARIES.

The Commission shall determine the salary of each local elected official which determination shall be the salary unless the legislative body, by resolution adopted by two-thirds of the members elected to and serving on the legislative body, rejects it. The determination of the Commission shall be effective 30 days following its filing with the City Clerk, unless rejected by the legislative body. If the determination is rejected, the existing salary shall prevail. The expense allowance or reimbursement paid to elected officials in addition to salary shall be for expenses incurred in the course of city business and accounted for to the city.

(1978 Code, § 2-146; Ord. No. 214, § 4.01, 12-11-79)

2-147. MEETINGS TO BE IN ACCORDANCE WITH STATE LAW.

The business which the Commission may perform shall be conducted at a public meeting of the Commission held in compliance with Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275. Public notice of the time, date and place of meeting of the Commission shall be given in the manner required by Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275.

(1978 Code, § 2-147; Ord. No. 214, § 5.01, 12-11-79)

2-148. DOCUMENTS TO BE PUBLIC.

A writing prepared, owned, used, in the possession of or retained by the Commission in the performance of an official function shall be made available to the public in compliance with Public Act 442 of 1976, being M.C.L.A. §§ 15.231 through 15.246.

(1978 Code, § 2-148; Ord. No. 214, § 6.01, 12-11-79)

2-149. PROCEDURE SUBJECT TO CHANGE AFTER ONE YEAR.

The governing body shall implement this division by resolution. After one year following the date the division goes into effect, the procedure for establishing the compensation of elected officials may be changed by charter amendment or revision.

(1978 Code, § 2-149; Ord. No. 214, § 7.01, 12-11-79)

DIVISION 8. CORRIDOR IMPROVEMENT AUTHORITY.

2-150. PURPOSE AND INTENT.

(A) The City Council (the "Council") of the city is strongly committed to the revitalization and redevelopment of commercial properties that have historically developed along the city's major arterial roadways ("commercial corridors"). The Council believes that revitalization and redevelopment of existing commercial corridors in maturing communities is preferable to the negative effects associated with the continual consumption of vacant land for commercial purposes in growth communities.

(B) There presently exist within the city a number of commercial corridors which could greatly benefit from the new Corridor Improvement Authority Act, Public Act 280 of 2005 (the "Act"), through analysis, short and long-term planning, construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, and reconstruction of buildings and facilities. Tax incremental financing is one of many tools available to finance these activities under the Act.

(C) The Council, having heard and considered testimony regarding the public need and potential benefits that are to be realized through the Act; and, having determined that it is necessary for the best interests of the public to redevelop and promote economic growth within commercial corridors; resolves to proceed with the creation and provide for the operation of a corridor improvement authority ("authority") within the city pursuant to and in accordance with the provisions of the Act.

(Ord. No. 385, § 1, 8-15-06)

2-150.1. TITLE.

This division shall be known as "The City of Sterling Heights Corridor Improvement Authority Ordinance."

(Ord. No. 385, § 1, 8-15-06)

2-150.2. CREATION OF AUTHORITY.

There is created pursuant to the Act a corridor improvement authority for the city. The authority shall be known and exercise its powers under the name "Corridor Improvement Authority of the City of Sterling Heights." The authority shall posses all of the powers provided within this division and the Act. The enumeration of a power in this division or in the Act shall not be construed as a limitation upon the general powers of the authority.

(Ord. No. 385, § 1, 8-15-06)

2-150.3. BOARD.

(A) The authority shall be under the supervision and control of a seven member Board consisting of the Mayor or his or her designee and six members who shall be appointed by the Mayor, subject to approval by the Council. Not less than a majority of the members shall be persons having an ownership or business interest in property located in the development area. At least one of the members shall be a resident of the development area or of an area within one-half mile of any part of the development area. The Board shall elect a chairperson from among its members.

(B) Of the members first appointed, two members shall be appointed for a term of one year, two members for a term of two years, one member for a term of three years, and one member for a term of four years. After the initial appointment terms, each member appointed in the manner provided by this section shall serve for a term of four years. Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office. A member shall hold office until the member's successor is appointed. An appointment to fill a vacancy shall be made by the Mayor for the unexpired term only. After having been given notice and an opportunity to be heard, a member of the Board may be removed for cause by the Council.

(C) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

(Ord. No. 385, § 1, 8-15-06)

2-150.4. DESIGNATION OF DEVELOPMENT AREA.

The authority shall exercise its powers within the "Development Area," designated as the real property particularly described on Exhibit A, and as depicted in the map on Exhibit B, attached to the city Corridor Improvement Authority Ordinance and made a part hereof, subject to such amendments as may be made in accordance with this Division and the Act. Exhibits A and B shall be available for inspection at the Office of the City Clerk during normal business hours.

(Ord. No. 385, § 1, 8-15-06)

2-150.5. OPEN MEETINGS ACT.

The proceedings and rules of procedure of the Board are subject to the Open Meetings Act, Public Act 267 of 1976, MCL 15.261 to 15.275, as amended. The Board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the Council. Special meetings may be held if called in the manner provided in the approved rules of procedure.

(Ord. No. 385, § 1, 8-15-06)

2-150.6. FREEDOM OF INFORMATION ACT.

A writing prepared, owned, used, in the possession of, or retained by the Board in the performance of an official function is subject to the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231 to 15.246, as amended. All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(Ord. No. 385, § 1, 8-15-06)

2-150.7. FILING ORDINANCE WITH SECRETARY OF STATE; PUBLICATION.

The City of Sterling Heights Corridor Improvement Authority Ordinance and any amendments and exhibits shall be filed with the Secretary of State promptly after adoption and shall be published at least once in a newspaper of general circulation within the city.

(Ord. No. 385, § 1, 8-15-06)

2-150.8. APPROVAL OF BUDGET.

The Board shall prepare annually a budget, in the same manner and containing the same information required of all other city departments, and shall submit it to the Council for approval. The Board shall not adopt a budget for any fiscal year until the Council has approved the budget. Unless authorized by the Council, funds of the city shall not be included in the budget of the authority. The city may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed, which shall be paid annually by the Board pursuant to an appropriate item in its budget.

(Ord. No. 385, § 1, 8-15-06)

2-150.9. DISSOLUTION.

Upon completion of its purposes for which it was organized, the authority shall be dissolved by ordinance of the Council. The property and assets of the authority remaining after the satisfaction of the obligations of the authority shall revert to the city.

(Ord. No. 385, § 1, 8-15-06)

2-150.9A. DETERMINATION AND FINDINGS.

Having provided notice of and conducted a public hearing in accordance with the requirements of Section 22 of the Act; and, having provided through this hearing the fullest opportunity for expression of opinion, for argument on the merits, and for consideration of documentary evidence pertinent to a proposed First Amended and Restated Development Plan and Tax Increment Financing Plan as recommended by the authority; and, having considered all the information presented in the course of the public hearing; the Council has determined that the First Amended and Restated Development Plan and Tax Increment Financing Plan constitute a public purpose; and, the Council further finds that:

(A) The methods of financing the proposed improvements within the development area are feasible and the authority has the ability to arrange the financing;

(B) The proposed improvements within the development area are reasonable and necessary to carry out the purposes of the Act;

(C) The land included within the development area to be acquired, if any, is reasonably necessary to carry out the public purposes of the First Amended and Restated Development Plan and the Act in an efficient and economically satisfactory manner;

(D) The First Amended and Restated Development Plan is in reasonable accord with the master land use plan of the city;

(E) Public services, such as fire and police protection and public utilities are and will be adequate to service the development area; and,

(F) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the city and the development area situated therein.

(Ord. No. 387 § 1, 12-19-06; Ord. No. 434, § 1, 5-20-14)

2-150.9B. APPROVAL OF DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN.

A First Amended and Restated Development Plan and Tax Increment Financing Plan for the authority is approved and incorporated by reference into the ordinances of the city as if fully set forth here. A copy shall be maintained at the office of the City Clerk for inspection by members of the public.

(Ord. No. 387 § 1, 12-19-06; Ord. No. 434, § 1, 5-20-14)

DIVISION 9. BOARD OF REVIEW

2-150.10. BOARD OF REVIEW.

(A) *Created; composition.* A Board of Review is created, composed of six members who shall be registered electors of the city, who may have the qualifications for holding office in the city as set forth in the City Charter and are owners of property assessed for taxation in the city.

(B) *Appointment of members.* The members of the Board of Review shall be appointed by the Council.

(C) *Terms of members.* Those four members under this section whose terms expire after June 30, 2002 may continue to serve until their respective terms expire. They may be reappointed under the terms of this division. The Council shall appoint two members for a term expiring on June 30, 2005; thereafter two members shall be appointed by the Council in the month of May of each year for a term of three years, commencing on the following July 1. Any vacancies may be filled for the unexpired term by the Council.

(D) *Organization, meetings and quorum generally.* The Board shall, annually on the first day of the meeting, select one of its members Chairperson and one of its members clerk for the ensuing year; the Assessor shall attend all meetings of the Board of Review, shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question before the Board. The membership of the Board of Review shall be divided into Board of Review Committees consisting of three members each for the purpose of hearing and deciding issues protested under Public Act 206 of 1893, § 30, as amended. Two of the three members of a Board of Review Committee shall constitute a quorum for the transaction of the business of the Committee. All meetings of the members of the Board of Review and committees shall be held during the same hours of the same day and at the same location.

(E) *Compensation.* The members of the Board of Review shall be paid such compensation as the Council may determine on a per diem basis.

(1978 Code, § 2-150.10; Ord. No. 272, § 1, 3-7-89; Ord. No. 272-A, §§ 1, 2, 3-16-93; Ord. No. 362, §§ 1,2, 6-4-02)

2-150.11. DUTIES AND FUNCTIONS OF BOARD OF REVIEW AND COMMITTEE.

For the purpose of revising and correcting assessments, the Board of Review and Committees shall have the same powers and perform like duties in all respects as are by law conferred upon and required of boards of review in townships, except as otherwise provided in the Charter and this division. At the time and in the manner provided in the following section, it shall hear the complaints of all persons considering themselves aggrieved by assessment. If it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board or Committee shall correct the roll in such manner as it deems just. Except as otherwise provided by law, no person other than the Board of Review and committees shall authorize any change upon, or addition to, or correction to the assessment roll. The Clerk of the Board of Review shall keep a permanent record of all proceedings of the Board and enter therein all resolutions and decisions of the Board. The record shall be filed with the City Clerk on or before April 15 following the meeting of the Board of Review.

(1978 Code, § 2-150.11; Ord. No. 272, § 1, 3-7-89)

2-150.12. MEETINGS; QUORUM.

(A) The Board of Review shall convene on the third Monday in March in each year or on such date as may subsequently be required by law for the meeting of boards of review in cities at such places as shall be designated by the Council at its first regular meetings in February and shall sit for no less than three calendar days; provided however, that if the Council does not so designate a place for the meeting of the Board of Review, it shall meet in the Council chambers. A majority of the members of the Board of Review shall constitute a quorum for the transaction of its business.

(B) The Board of Review may examine on oath any person appearing before it respecting assessment property or properties on the assessment roll. Any member of the Board may administer such oath.

(1978 Code, § 2-150.12; Ord. No. 272, § 1, 3-7-89)

2-150.13. NOTICE OF MEETING.

Notice of the time and place of the meetings of the Board of Review shall be published by the City Clerk in the official newspaper of the city not less than ten days prior to the first meeting thereof.

(1978 Code, § 2-150.13; Ord. No. 272, § 1, 3-7-89)

2-150.14. ENDORSEMENT OF ROLL.

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

(1978 Code, § 2-150.14; Ord. No. 272, § 1, 3-7-89)

2-150.15-2-150.20. RESERVED.

DIVISION 10. SOLID WASTE MANAGEMENT COMMISSION

2-150.21. ESTABLISHMENT.

A solid waste management commission is established which shall serve in an advisory capacity to the City Council and shall be known as the Solid Waste Management Commission.

(1978 Code, § 2-150.21; Ord. No. 273, § 1, 3-7-89)

2-150.22. COMPOSITION; COMPENSATION; APPOINTMENT, TERMS AND QUALIFICATIONS OF MEMBERS; FILLING A VACANCY.

The Solid Waste Management Commission shall consist of five members who shall be appointed by the Council. The term of office shall be for three years, except that in the first instance two members shall hold office for a term expiring June 30, 1992, two members shall hold office for a term expiring June 30, 1991 and one member shall hold office for a term expiring June 30, 1990. Vacancies on the Commission shall be filled by appointment as set forth above for the unexpired term of office. One representative of each solid waste hauler licensed under § 15-16 of this Code shall serve without vote as an ex officio member of the Commission.

Additional ex officio members of the Commission may be appointed to serve at the pleasure of the Council for renewable terms ending on June 30 following appointment. Members of the Commission shall serve without compensation.

(1978 Code, § 2-150.22; Ord. No. 273, § 2, 3-7-89; Ord. No. 273-A, § 1, 8-8-90)

Cross reference:

Garbage and refuse, see Ch. 23

Private refuse collector's licenses, see §23-11

2-150.23. ELECTION OF OFFICERS, ADOPTION OF BY-LAWS, MEETINGS.

(A) The Commission shall, immediately after appointment, meet and organize by the election of one of its members as Chairperson and by the election of such other officers as it deems necessary. The Commission will adopt by-laws for the orderly conduct of its meetings and for the proper process of its function.

(B) The business which the Commission may perform shall be conducted at public meetings held in compliance with Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275.

(1978 Code, § 2-150.23; Ord. No. 273, § 3, 3-7-89)

2-150.24. DUTIES; OBJECTIVES; PURPOSE.

The Solid Waste Management Commission shall have the following duties, objectives and purposes:

(1) To promote public education regarding solid waste disposal issues and review solid waste refuse pickup contract responsibilities as well as potentially hazardous materials and safe disposal processes;

(2) To recommend goals and objectives regarding landfill usage, solid waste recycling, composting programs and waste to energy facilities as well as to work with the solid waste contractor(s) and solid waste consultant(s) as may be selected by the City Council; to promote effective recycling and composting programs and to advise the City Council on such programs;

(3) To continually review and update the city's position regarding solid waste disposal activities in conjunction with the County Solid Waste Planning Committee and the State Department of Natural Resources;

(4) To recommend, plan, promote and assist in the coordination of the city's involvement with alternative refuse disposal methods;

(5) To promote environmental maintenance programs and promote public interest in the general improvement of systems for the disposal of solid waste.

(1978 Code, § 2-150.24; Ord. No. 273, § 4, 3-7-89)

2-150.25-2-150.29. RESERVED.

DIVISION 11. BOARD OF ORDINANCE APPEALS

2-150.30. CREATION; PURPOSE.

A Board of Ordinance Appeals is established to perform the functions of the appeal board under the International Property Maintenance Code, the functions of the hearing body under Chapter 33: Nuisances of this Code, and to consider any other petitions, appeals, requests for variance from requirements of an ordinance or code, and modification of ordinances or codes, as authorized in this Code. Effective March 1, 2011, a second Board is established and may be empaneled in accordance with this division.

(1978 Code, § 2-150.30; Ord. No. 279, § 1, 10-3-89; Ord. No. 367, § 1, 12-17-02; Ord. No. 411, § 10, 2-1-11)

2-150.31. TERMS OF OFFICE; FILLING OF VACANCIES; ALTERNATE MEMBERS.

(A) The Board of Ordinance Appeals shall consist of five members who shall be appointed by the City Council for staggered three year terms, or until a successor has been appointed. The staggered terms shall continue to be structured so that the term of one member expires each year. The members should have varying backgrounds, and one or more of the members should have experience or training related to construction or property and building maintenance. Vacancies on the Board shall be filled by appointment as set forth above for the unexpired term of office.

(B) The City Council may appoint nor more than two alternate members to the Board of Ordinance Appeals who may be called by the chairperson to participate in hearings, appeals, and variance hearings of the Board during the absence or disqualification of a member.

(1978 Code, § 2-150.31; Ord. No. 279, § 1, 10-3-89; Ord. No. 367, § 2, 12-17-02)

2-150.32. ELECTION OF OFFICERS, ADOPTION OF BYLAWS, MEETINGS.

(A) The Board shall immediately after appointment meet and organize by the election of one of its members as Chairperson and by the election of such other officers as the Board deems necessary. The Board may adopt bylaws for the orderly conduct of business at its meetings.

(B) All meetings of the Board of Ordinance Appeals shall be conducted in accordance with the Open Meetings Act, Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, as amended.

(1978 Code, § 2-150.32; Ord. No. 279, § 1, 10-3-89)

2-150.33. COMPENSATION.

Members of the Board of Ordinance Appeals shall be compensated as set forth in Division 1 of this article.

(1978 Code, § 2-150.33; Ord. No. 279, § 1, 10-3-89; Ord. No. 478, § 2, 6-15-21)

Cross reference:

Compensation of Board of Ordinance Appeals members, see §2-95(b)(7)

2-150.34. DUTIES; STANDARDS OF REVIEW.

The Board of Ordinance Appeals shall hold hearings on nuisance abatement, consider appeals, review requests for variance, and hold hearing on animal control matters as authorized by this Code. The applicable standard for making a decision relating to a hearing, appeal, review and/or variance shall be set forth in the chapter of this Code relating to the matter being considered. The City Manger shall implement administrative procedures to guide City officials regarding the process for assignment of hearings.

(1978 Code, § 2-150.34; Ord. No. 279, § 1, 10-3-89; Ord. No. 367, § 3, 12-17-02; Ord. No. 411, § 11, 2-1-11)

2-150.35. APPEAL PROCEDURE GENERALLY.

(A) Notice of the hearing at which the matter, appeal, or request for variance will be considered shall be given as set forth in the chapter of this Code relating to the matter to be considered. At a minimum, the notice shall be delivered personally or by first class mail and shall state the date, time, and location of the hearing, and that the property owner or any interested person, or his or her representative, shall be given an opportunity to be heard and present evidence.

(B) The decision of the Board of Ordinance Appeals shall be based on findings of fact as set forth in the record and shall be supported by competent and material evidence.

(C) The decision of the Board of Ordinance Appeals shall be final when written notice of the decision of the Board is provided or mailed to the person whose matter is before the Board or when the minutes of the meeting at which the decision was made are approved, whichever occurs first, unless a different time is specified in the chapter of this Code relating to the matter being considered.

(1978 Code, § 2-150.35; Ord. No. 279, § 1, 10-3-89; Ord. No. § 4, 12-17-02)

2-150.36-2-150.39. RESERVED.

DIVISION 12. BOARD OF CODE APPEALS

2-150.40. CREATION; PURPOSE.

A Board of Code Appeals is established to handle the functions of the appeal board under the current Michigan Building Code, the Michigan Residential Code, Michigan Plumbing Code, Michigan Electrical Code, Michigan Mechanical Code and the International Fire Prevention Code, and any other functions delegated by the City Council.

(Ord. No. 279-A, § 1, 7-2-96; Ord. No. 367, § 5, 12-17-02)

2-150.41. TERMS OF OFFICE; FILLING OF VACANCIES.

(A) The Board of Code Appeals shall consist of five members appointed by the City Council for staggered five year terms, or until a successor has been appointed. The staggered terms shall continue to be structured so that the term of one member expires each year. The members should have varying backgrounds, and one or more of the members should have experience or training related to construction, property maintenance, fire prevention, and other technical code issues as prescribed in the Michigan Construction Code, Public Act 230 of 1972, as amended.

(B) The City Council may appoint not more than two alternate members to the Board of Code Appeals who may be called by the chairperson to hear appeals before the Board during the absence or disqualification of a member.

(Ord. No. 279-A, § 1, 7-2-96; Ord. No. 367, § 6, 12-17-02)

2-150.42. ELECTION OF OFFICERS, ADOPTION OF BYLAWS, MEETINGS.

(A) The Board shall immediately after appointment meet and organize by the election of one of its members as Chairperson and by the election of such other officers as the Board deems necessary. The Board may adopt bylaws for the orderly conduct of business at its meetings.

(B) All meetings of the Board of Code Appeals shall be conducted in accordance with the Open Meetings Act, Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, as amended.

(Ord. No. 279-A, § 1, 7-2-96)

2-150.43. COMPENSATION.

Members of the Board of Code Appeals shall be compensated as set forth in Division 1 of this article.

(Ord. No. 279-A, § 1, 7-2-96; Ord. No. 478, § 3, 6-14-21)

2-150.44. DUTIES; STANDARDS OF REVIEW.

The Board of Code Appeals shall consider appeals and other matters as authorized by the City Council. The criteria for appeal, review and/or variance of a particular requirement shall be as set forth in the applicable chapter of this Code.

(Ord. No. 279-A, § 1, 7-2-96; Ord. No. 367, § 7, 12-17-02)

2-150.45. APPEAL PROCEDURE GENERALLY.

(A) Notice of the hearing at which the appeal or request for variance shall be heard shall be given as set forth in the chapter relating to the requirements which are being appealed or from which a variance is sought. At a minimum, the notice shall be delivered personally or by first class mail and shall state the date, time, and location of the hearing, and that the property owner or any interested person, or his or her representative, shall be given an opportunity to be heard and present evidence.

(B) The decision of the Board of Code Appeals shall be based upon findings of fact as set forth in the record and shall be supported by competent and material evidence.

(C) The decision of the Board of Code Appeals shall be final when written notice of the decision of the Board is provided or mailed to the person whose matter is before the Board or when the minutes of the meeting at which the decision was made are approved, whichever occurs first, unless a different time is specified in the chapter of this Code relating to the matter being considered.

(Ord. No. 279-A, § 1, 7-2-96; Ord. No. 367, § 8, 12-17-02)

2-150.46 - 2-150.49. RESERVED.

DIVISION 13. YOUTH ADVISORY BOARD

2-150.50. PURPOSE AND FINDINGS; CREATION.

(A) Pursuant to the City Charter, the City Council has the authority to establish advisory boards and commissions, and the City Council has determined that establishing a Youth Advisory Board for young community members who wish to become more involved in community issues and learn about local government will be beneficial to the city.

(B) The City Council desires to establish a Youth Advisory Board for the following purposes:

(1) To facilitate the involvement of young people of the community in the government process;

(2) To provide insight, feedback, advice, and recommendations from a youth perspective to City Council and City Administration on issues of interest to youth in the city;

(3) To educate the youth of the city about city government;

(4) To enable youth to participate in improving the quality of life in the community; and

(5) To facilitate community outreach.

(C) Therefore, the Youth Advisory Board of the City of Sterling Heights is hereby established.

(Ord. No. 465, § 1, 8-6-19)

Charter reference:

Establishing advisory boards or commissions, Section 7.20(B)

2-150.51. MEMBERSHIP; APPOINTMENT; TERMS; OFFICERS.

(A) The Youth Advisory Board shall consist of 20 members appointed by the City Council at a meeting in June.

(B) The members of the Board shall be no younger than 14 years of age and no older than 18 years of age at the time of appointment. The City Council shall appoint a diverse group of members, from a range of backgrounds and interests. Members must be maintaining, at the time of appointment, a minimum 2.5 grade point average (GPA) or middle school equivalent for incoming freshmen, and may not have any long-term suspensions or expulsions in their school records.

(C) (1) Members shall serve without compensation. Terms for each member shall begin on July 1 and end at the conclusion of June 30 each year. Members may begin serving after providing a written and signed release form from the member's parent(s)/guardian(s) and upon taking and subscribing to the constitutional oath of office. Each member's service shall end, and a vacancy shall exist, upon the occurrence of any of the following:

(a) Written resignation of the member, effective upon acceptance by the City Council;

(b) Departure, long-term suspension (more than ten days), multiple suspensions, or expulsion from high school;

(c) Change of residency to a location outside of the city;

(d) The member reaching the age of 19; or

(e) Removal of the member by the City Manager, after a hearing conducted by the City Manager's designated hearing officer(s), for misconduct, nonperformance of duty, and/or behavior that jeopardized/jeopardizes the safety, credibility, or integrity of, or the orderly conducting of business by, the Board or any of its members, either directly or indirectly.

(2) Members may be reappointed to the Board for consecutive terms, or the City Council may appoint a new member after a member's term expires.

(D) (1) The Board shall elect at its first meeting prior to or during the school year for which the members were appointed, by a majority of its members appointed and serving, three of its members to serve as chair, vice chair, and secretary, respectively. A member may not hold the same office for two consecutive years. When any officer's appointment to the Board expires or becomes vacant, the Board shall elect a new officer for that position. The Board shall determine the duties of each officer position, except:

(a) The chair shall preside over all meetings and may appoint committees to research issues;

(b) The vice chair shall assume the duties of the chair in the chair's absence, and shall prepare an annual report with assistance from other members and the adult advisors summarizing the activities of the Board for delivery to the City Council in May; and

(c) The secretary shall call the roll for attendance and roll call votes, prepare and receive correspondence, and assist with creation of the meeting minutes.

(2) City staff shall publish any required notices and shall prepare the formal minutes of the meetings with assistance from the secretary. Because the Board is advisory in nature, its minutes shall include the substance of its discussions and recommendations, rather than be cursory in nature.

(E) The Community Relations Director, or designee of that department, shall serve as an advisor and staff liaison to the Board.

(F) All Youth Advisory Board members shall be selected via an open application process developed by the City Manager and Community Relations Director or their designees. Applications must be submitted through the Community Relations Department, which will establish the deadlines for submission. The Community Relations Director, City Manager, and/or their designees, as well as any sub-quorum number of designated members of the City Council, shall interview applicants wishing to serve on the Board. The applicants shall be ranked based upon the strength of the candidate's application and letter(s) of recommendation, schedule and availability, willingness to commit the time and effort required for meaningful participation, and performance in the interview.

(Ord. No. 465, § 1, 8-6-19)

2-150.52. MEETINGS; QUORUM; ATTENDANCE.

(A) The Youth Advisory Board shall hold meetings a minimum of once each month throughout the school year. The time and date of each meeting shall be determined by the Youth Advisory Board. Special meetings may be called by the chair after providing written notice to each member a minimum of 48 hours in advance. Unless good cause exists for an exception, meetings shall be held at City Hall or other city facility so that city staff may assist with organizational needs, drafting resolutions and recommendations, and creating minutes. One-third of the members appointed and serving shall constitute a quorum for the transaction of business. Meetings shall be conducted in accordance with Robert's Rules of Order or such other rules as may be enacted or adopted by the Board, except that all votes on matters for transmittal to the City Council shall be by roll call vote.

(B) The chair of the Youth Advisory Board is authorized to excuse any member from attendance at a meeting, provided that the member requested to be excused prior to the meeting or the chair excuses the absence after the meeting upon learning that an emergency necessitated the absence. Any member who is absent, without being excused, from three regular meetings in a calendar year, or six regular meetings in a school year regardless of having been excused, shall automatically forfeit the office. The chair shall promptly notify the City Council of the vacancy.

(C) The Youth Advisory Board may, from time to time, form sub-committees to study issues and make recommendations to the full Youth Advisory Board for the Youth Advisory Board's consideration and recommendation to the City Council.

(D) The Youth Advisory Board shall prepare and maintain permanent minutes of the meetings, including actions taken, and shall submit the draft minutes to the City Council within five business days. After final minutes are approved, the minutes shall be submitted to the City Clerk for retention and archiving.

(E) Because the Youth Advisory Board is solely an advisory body, with no authority to deliberate on, or make decisions on, matters of public policy, its meetings are not subject to the requirements of the Open Meetings Act. The Board may determine whether, and when, to hold meetings open to the public, as well as the format and rules for such meetings. The Board shall hold, at a minimum, one public meeting in April, May, or June each school year to review its accomplishments and ideas during that school year, and shall present a summary of its events and accomplishments to the City Council in June or July. At the public meeting, members of the community shall be permitted to speak about and showcase issues pertaining to the betterment of community youth during a public comment period.

(Ord. No. 465, § 1, 8-6-19)

2-150.53. DUTIES AND RESPONSIBILITIES.

(A) Members of the Youth Advisory Board are expected to take their appointment seriously through display of leadership, courtesy, punctuality, and consistent attendance and participation. In addition, the Youth Advisory Board:

(1) Shall act in an advisory capacity and make recommendations to the City Council and City Manager on all matters pertaining to youth and youth-related issues, including matters referred to the Board for study as well as matters initiated by the Board of its own accord.

(2) Shall research initiatives outside of the city to determine how other communities are involving their youth in the development of the community.

(3) Shall identify, assist with, and advocate for public interest projects that the Board deems important to provide a public benefit to future generations.

(4) Shall assist city staff with the engagement of the city's youth and offer recommendations for youth programming.

(5) Shall periodically attend City Council and other Board and Commission meetings to better understand local government operations.

(6) Shall monitor municipal programs and Board/Commission topics for their impact on youth in the city.

(7) Shall provide access for comment and input from the youth in the city.

(8) Shall, through its individual members, report to the student councils and/or student body of the member's school at least once each quarter regarding the actions of the Board. Input from the school shall be brought to the Board for discussion.

(9) Shall develop, by the end of its first year of existence, and thereafter update and maintain a three-year plan of action that outlines specific areas for City Council study and the Board's recommendations relating to those areas.

(10) Shall have no authority to make any expenditure on behalf of the city, or to obligate the city for the payment of any sums of money, but may request funding from the City Council for events or training.

(B) All recommendations and requests made by the Board shall be submitted in writing. All recommendations to the City Council must first be approved by a two-thirds majority of the members appointed and serving, and all requests submitted to the City Council must first be approved by a majority vote of the members appointed and serving.

(Ord. No. 465, § 1, 8-6-19)

2-150.54. VACANCIES.

Any vacancy in a position on the Youth Advisory Board may be filled by the City Council for the unexpired portion of the term of the member whose position becomes vacant.

(Ord. No. 465, § 1, 8-6-19)

2-150.55 - 2-150.59. RESERVED.

DIVISION 14. SUSTAINABILITY COMMISSION

2-150.60. PURPOSES AND FINDINGS; CREATION.

(A) The City of Sterling Heights recognizes that sustainability is essential for the continued livability of the planet. While a global concern, solutions at the local level are critical. The city recognizes its responsibility to:

(1) Provide efficient, equitable, and responsible access to and use of social, economic, and natural resources;

(2) Use resources cost-effectively while ensuring they are used no faster than they can be replenished through natural systems;

(3) Assure that the benefits and costs of society are equitably distributed throughout the community;

(4) Consider the long-term environmental, economic, and social impacts of our actions;

(5) Promote education and awareness of the benefits of sustainable practices to enhance the community;

(6) Support citizens, organizations, businesses, and neighborhoods, both within and outside the community, to invest in sustainability and continually improve their practices and environments;

(7) Prioritize long-term needs over short-term gains to ensure that the resources necessary to sustain life are available now and in the future.

(B) Therefore, pursuant to its City Charter authority to establish advisory boards and commissions, the City Council has determined that establishing a sustainability commission for the following purposes will serve and support the city's sustainability responsibilities and be beneficial for the City of Sterling Heights:

(1) To advise and make recommendations to the City Council and City Manager on the city's long-range goals, policies, and programs on all matters pertaining to sustainability, including matters referred to the Commission for study as well as matters initiated by the Commission of its own accord;

(2) To develop and advise the City Council on implementation of community-wide strategies regarding waste reduction, recycling, and sustainable growth and development;

(3) To create a model of sustainability through efforts to advocate, educate, and promote the social, economic, and environmental health of the community, now and into the future;

(4) To develop and implement public recognition programs promoting individual property and neighborhood level sustainability projects;

(5) To develop educational materials and/or public campaigns regarding litter reduction, recycling, and sustainable yard and property enhancements;

(6) To work in collaboration with city staff, officials, and existing city nonprofit partners to determine annual city and community priorities, projects, and resources relative to sustainability issues that improve the environment, save the city money, or reduce the city's carbon footprint;

(7) To assist city staff with the engagement of the city's residents and businesses in sustainability initiatives;

(8) To broaden the lens and scope of energy and environmental needs in the future such as wind, solar, clean air, water, and improving infrastructure;

(9) To study and propose climate action planning, reduction of municipal energy consumption, increasing alternative energy use, and encouraging residential cultural change to embrace individual actions to help the city attain its long-term sustainability goals;

(10) To recognize natural resources as chief assets of the city and encourage responsible stewardship of these assets;

(11) To collaborate with state, county, and local officials, businesses, community organizations, developers, residents, educational agencies, and experts to complete studies, develop educational programs, establish volunteer programs, and identify grants;

(12) To research initiatives outside of the city to determine how other communities are addressing sustainability;

(13) To review the city's current plans and policies, and assist with planning, implementation, community engagement, goal setting, and progress monitoring;

(14) To provide access for comment and input from residents and businesses in the city;

(15) To offer recommendations for policy updates and revisions;

(16) To educate and inform residents and facilitate sustainable practices that enable smart choices for the city and its residents which lead to a reduction of the city's carbon footprint while promoting, through education, outreach, and awareness efforts, the conservation of energy, water, and fuel; improvement of air, climate, and water quality; investment in renewable energy; reduction of waste; and protecting and restoring the community's natural resources;

(17) To prioritize sustainability policies;

(18) To create a Sustainability Plan by the end of its first year of existence, and thereafter update and maintain a three-year sustainability plan that outlines specific areas for City Council to study and the Commission's recommendations relating to those areas; and

(19) To advise the City Council on any other issues and best practices related to sustainability as deemed appropriate by the Commission.

(C) Therefore, the Sustainability Commission of the City of Sterling Heights is hereby established.

(D) Members of the Sustainability Commission are expected to take their appointment seriously through display of leadership, courtesy, punctuality, and consistent attendance and participation.

(E) The Commission shall have no authority to make any expenditure on behalf of the city, or to obligate the city for the payment of any sums of money, but may request funding from the City Council for events or training.

(F) All recommendations and requests made by the Commission shall be submitted in writing. All recommendations to the City Council must first be approved by a two-thirds majority of the voting members appointed and serving, and all requests submitted to the City Council must first be approved by a majority vote of the voting members appointed and serving.

(Ord. No. 469, § 1, 3-17-20)

Charter reference:

Establishing advisory boards or commissions, Section 7.20(B)

2-150.61. MEANING OF SUSTAINABILITY.

(A) Sustainability means balancing environmental, economic, and social demands to adopt strategies and activities for the use of resources that meet the needs of the city and its stakeholders today while protecting, sustaining, and enhancing the human and natural resources that will be needed in the future. A sustainable community seeks to enhance the socio-environmental-economic well-being of the community while taking precautions not to compromise the quality of life of future generations. Toward that end, it reduces its use of nonrenewable natural resources and its production of wastes, while at the same time improving livability.

(B) As defined by the World Commission on Environment and Development (a/k/a the 1987 Brundtland Commission), sustainability means meeting the needs of the present generation without compromising the ability of future generations to meet their needs.

(C) Sustainability is an evolving concept and the definition will evolve over time. The Sustainability Commission may create and utilize a new definition from time to time in order to ensure its work remains modern and relevant.

(Ord. No. 469, § 1, 3-17-20)

2-150.62. MEMBERSHIP; APPOINTMENT; TERMS; OFFICERS.

(A) The Sustainability Commission shall consist of five voting members appointed by and serving at the pleasure of the City Council, who shall serve for three years or until the member's successor is appointed and takes office.

(B) The City Council shall appoint a diverse group of members, from a range of backgrounds and interests. At least three members shall have expertise and/or demonstrated interest in sustainability and issues related thereto, including but not limited to suburban sustainability, responsible environmental policies and practices, water quality, water use efficiency, water conservation, air quality, energy conservation and/or clean energy alternatives, materials management, local and regional ecology, mobility, land use/stewardship, green site planning and building, waste management, human health, and community and regional economics/finance.

(C) At all times, at least four of the five members serving on the Commission shall be residents of the city.

(D) The City Council may also appoint nonvoting ex officio members from local school districts, county government, state government, federal government, intergovernmental agencies, local businesses, local colleges and universities, other boards and commissions, local youth, nonprofit organizations, and any other category it deems beneficial to the Commission's goals and purposes. Ex officio members shall not vote on questions arising during Commission meetings and hearings, but may fully participate in meetings and hearing discussions, and may serve on, chair, and vote on issues coming before Commission committees to which they have been appointed.

(E) Members shall serve without compensation.

(F) Terms for each member shall begin on July 1. Initial appointments shall be for three years (two members), two years (two members), and one year (one member), so that terms remain staggered. Members may be reappointed to the Commission for consecutive terms, or the City Council may appoint a new member after a member's term expires. Ex officio terms need not be staggered and shall run for three years beginning on July 1.

(G) The Commission shall elect at its first meeting of each fiscal year, by a majority of its members appointed and serving, three of its members to serve as chair, vice chair, and secretary, respectively. Each officer shall serve in the position for one year, or until a successor is elected. When any officer's appointment to the Commission expires or becomes vacant, the Commission shall elect a new officer for that position. The Commission shall determine the duties of each officer position, except:

(1) The chair shall preside over all meetings and may appoint committees to research issues;

(2) The vice chair shall assume the duties of the chair in the chair's absence, and shall prepare an annual report with assistance from other members summarizing the activities of the Commission for delivery to the City Council in May; and

(3) The secretary shall call the roll for attendance and roll call votes, prepare and receive correspondence, and assist with creation of the meeting minutes.

City staff shall publish any required notices and shall prepare the formal minutes of the meetings with assistance from the secretary. Because the Commission is advisory in nature, its minutes shall include the substance of its discussions and recommendations, rather than be cursory in nature.

(H) The City Planner, or designee, shall assist the Commission as an advisor and staff liaison. The City Manager may designate additional advisors and staff liaisons to the Commission upon a request from the Commission for additional guidance and support from city departments.

(I) All Sustainability Commission members shall be selected via an open application process developed by the City Clerk. Applications must be submitted through the Office of the City Clerk, which will establish the deadlines for submission and will forward the applications to City Council for consideration.

(J) Any vacancy in a position on the Sustainability Commission may be filled by the City Council for the unexpired portion of the term of the member whose position becomes vacant.

(Ord. No. 469, § 1, 3-17-20)

2-150.63. MEETINGS; QUORUM; ATTENDANCE.

(A) The Commission shall hold a minimum of six meetings each year. The time and date of each meeting shall be determined by the Commission. Special meetings may be called by the chair after providing written notice to each member a minimum of 48 hours in advance. Unless good cause exists for an exception, meetings shall be held at City Hall or other city facility so that city staff may assist with organizational needs, drafting resolutions and recommendations, and creating minutes. A majority of the voting members appointed and serving shall constitute a quorum for the transaction of business. Meetings shall be conducted in accordance with Robert's Rules of Order or such other rules as may be enacted or adopted by the Commission, except that all votes on matters for transmittal to the City Council shall be by roll call vote.

(B) The Commission may, from time to time, form sub-committees to study issues and make recommendations to the full Sustainability Commission for its consideration and recommendation to the City Council.

(C) The Commission shall prepare and maintain permanent minutes of its meetings, including actions taken, and shall submit the draft minutes to the City Council within five business days. After final minutes are approved, the minutes shall be submitted to the City Clerk for retention and archiving.

(D) Because the Commission is solely an advisory body, with no authority to deliberate on, or make decisions on, matters of public policy, its meetings are not subject to the requirements of the Open Meetings Act. The Commission may determine whether, and when, to hold meetings open to the public, as well as the format and rules for such meetings. The Commission shall hold, at a minimum, one public meeting in April, May, or June each year to review its accomplishments and ideas during that fiscal year and preceding years, and shall present a summary of its events and accomplishments to the City Council each year in June or July. At the public meeting, members of the community shall be permitted to speak about and showcase issues pertaining to sustainability during a public comment period.

(Ord. No. 469, § 1, 3-17-20)

2-150.64 - 2-150.69. RESERVED.

DIVISION 15. commUNITY alliance COMMISSION

2-150.70. MISSION; CREATION.

Pursuant to the City Charter, the City Council has the authority and has determined it advisable to create the commUNITY alliance advisory commission, to be charged with the following mission:

The mission of the commUNITY alliance is to unify Sterling Heights and make the bonds of living together strong. Together, we can break through the barriers of prejudice, bias, and divisiveness to realize our vision of a vibrant, inclusive community with an exceptional quality of life. This will not be a reality until every resident feels welcome, accepted, respected, and safe.

(Ord. No. 473, § 1, 10-20-20)

Charter reference:

Establishing advisory boards or commissions, Section 7.20(B).

2-150.71. MEMBERSHIP; APPOINTMENT; TERMS; OFFICERS.

(A) The commUNITY alliance shall consist of seven members appointed by the City Council.

(B) The City Council shall appoint a diverse group of residents who are passionate about, and committed to, the purposes set forth in this division, each of whom shall be from a varied range of backgrounds and interests.

(C) Members shall serve without compensation.

(D) With the exception of initial terms upon creation of the commUNITY alliance, terms for members shall begin on July 1 for three years, and terms shall be staggered so that two expire in one year, three expire in two years, and two expire in three years.

(E) Each member's service shall end, and a vacancy shall exist, upon the occurrence of any of the following:

(1) Written resignation of the member, effective upon acceptance by the City Council;

(2) Change of residency to a location outside of the city;

(3) Unexcused absences from three regular meetings in a one year period beginning July 1;

(4) Absence from six regular meetings in a one year period beginning July 1;

(5) Removal of the member by the City Manager, after a hearing conducted by the City Manager's designated hearing officer(s), for misconduct, nonperformance of duty, and/or behavior that jeopardized/jeopardizes the safety, credibility, or integrity of, or the orderly conducting of business by, the Commission or any of its members, either directly or indirectly; or

(6) Removal in accordance with the City Charter or City Code.

(F) Members may be reappointed for consecutive terms, or the City Council may appoint a new member after a member's term expires. Upon expiration of their term, members may continue serving until they are re-appointed or a new member is appointed and qualified to assume their position on the commUNITY alliance.

(G) The Commission shall elect at its first meeting, by a majority of its members appointed and serving, three of its members to serve as chair, vice chair, and secretary, respectively. A member may not hold the same office for two consecutive years. When any officer's appointment to the Commission expires or becomes vacant, the Commission shall elect a new officer for that position if the officer is not reappointed. The Commission shall determine the duties of each officer position, except:

(1) The chair shall preside over all meetings and may appoint committees to research issues;

(2) The vice chair shall assume the duties of the chair in the chair's absence, and shall prepare an annual report with assistance from other members summarizing the activities of the Commission for delivery to the City Council annually; and

(3) The secretary shall call the roll for attendance and roll call votes, prepare and receive correspondence, and assist with creation of the meeting minutes.

(H) The Community Relations Director, or designee of that department, shall serve as an advisor and staff liaison to the commUNITY alliance. City staff shall publish any required notices and shall prepare the formal minutes of the meetings with assistance from the secretary. Because the commUNITY alliance is advisory in nature, its minutes shall include the substance of its discussions and recommendations, rather than be cursory in nature.

(Ord. No. 473, § 1, 10-20-20)

2-150.72. MEETINGS; QUORUM; ATTENDANCE.

(A) The commUNITY alliance shall hold a minimum of nine meetings throughout the year. The time and date of each meeting shall be determined by the members. Special meetings may be called by the chair after providing written notice to each member a minimum of 48 hours in advance. Unless good cause exists for an exception, meetings shall be held at City Hall or other city facility so that city staff may assist with organizational needs, drafting resolutions and recommendations, and creating minutes. A majority of the members appointed and serving shall constitute a quorum for the transaction of business. Meetings shall be conducted in accordance with *Robert's Rules of Order* or such other rules as may be enacted or adopted by the members.

(B) The chair of the Commission is authorized to excuse any member from attendance at a meeting, provided that the member requested to be excused prior to the meeting or the chair excuses the absence after the meeting upon learning that an emergency necessitated the absence. If a vacancy exists pursuant to this chapter for absenteeism, the chair shall promptly notify the City Council of the vacancy.

(C) As an advisory body, the commUNITY alliance's meetings are not subject to the requirements of the Open Meetings Act. Nevertheless, the members may hold public meetings when deemed advisable to fulfill its mission. At the public meetings of the commUNITY alliance, members of the community shall be permitted to speak about and showcase information pertaining to diversity, inclusion, culture, ethnicity, and human relations during a public comment period.

(D) The commUNITY alliance shall at least annually provide a report on its events and accomplishments to the City Council.

(Ord. No. 473, § 1, 10-20-20)

2-150.73 - 2-150.79. RESERVED.

ARTICLE IV. CODE OF ETHICS FOR PUBLIC OFFICIALS AND EMPLOYEES

2-151. TITLE.

This article may be known as the “Code of Ethics for Public Officials and Employees of the City of Sterling Heights.”

(1978 Code, § 2-151)

2-152. DEFINITIONS.

Whenever in this article the following terms are used, they shall have the meanings respectively described to them in this section.

BUSINESS ENTITY. A business entity includes a corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association, real estate investment trust or other business trust.

INTEREST. Any interest, either personal, financial, legal or equitable, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, directly or indirectly, at any time during the calendar year. ***INTEREST*** shall also include any stock or similar security, investment contract, voting trust certificate, limited or general partnership or joint venture, business trust or certificate of interest or participation in a profit sharing agreement or in oil, gas or other mineral royalty or lease or any other equity interest, however evidenced, which entitled the owner or holder thereof, directly or indirectly, to receive or direct any part of the profit fund or to exercise any part of the control over a business entity as well as any interest which, conditionally or unconditionally, with or without consideration, is convertible thereto and interest in a note, bond, debenture or any other evidence of a creditor interest.

OFFICIAL or ***EMPLOYEE***. Any person elected or appointed to, or employed by, any public office or public body of the city.

PUBLIC BODY. An agency, board, body, commission, committee, department or office of the city.

(1978 Code, § 2-152)

2-153. FAIR AND EQUAL TREATMENT.

No official or employee of the city shall request, use or permit the use of any consideration, treatment, advantage or favor beyond that which is the general practice to grant or make available to the public at large. All officials or employees of the city shall treat all citizens of the city with courtesy, impartiality, fairness and equality under the law.

(1978 Code, § 2-153)

2-154. USE OF PUBLIC PROPERTY.

No official or employee of the city shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, material, labor or service for the personal convenience or the private advantage of himself or herself or of any other person. This rule shall not be deemed to prevent any official or employee from requesting, using or permitting the use of such publicly owned or publicly supplied property, vehicle, equipment, material, labor or service which is made available by general practice, to the public at large or which is provided, as a matter of stated public policy, for the use of officials and employees in the conduct of official business.

(1978 Code, § 2-154)

2-155. CONFLICT OF INTEREST; CONFIDENTIAL INFORMATION.

The following regulations are established to avoid both actual and potential conflict between the private self-interest and the public interest of officials and employees of the city.

(1) *Financial or personal interest.* No official or employee of the city, either on his or her own behalf or on behalf of any other person, shall have any financial or personal interest in any business transaction with any public body of the city, unless he or she shall first make full public disclosure of the nature and extent of such interest.

(2) *Disclosure and disqualification.* Whenever the performance of his or her official duties shall require any official or employee of the city to deliberate and vote on any matter involving his or her financial or personal interest, he or she shall publicly disclose the nature and extent of such interest and disqualify himself or herself from participating in the deliberations as well as in the voting.

(3) *Incompatible employment.* No official or employee of the city shall engage in private employment with, or render service for, any private person who has business transactions with any public body of the city without first making a full public disclosure of the nature and extent of such employment or services.

(4) *Representation of private persons.* No official or employee of the city shall use or attempt to use his or her official position to secure special privileges or exemptions for himself, herself or others, except as may be otherwise provided by law.

(5) *Confidential information.* No official or employee shall, without prior formal authorization of the public body having jurisdiction, disclose any confidential information concerning any other official or employee of the city or any other person or any property or governmental affairs of the city. Whether or not it shall involve disclosure, no official or employee shall use or permit the use of any such confidential information to advance a financial or personal interest of himself, herself or any other person.

(1978 Code, § 2-155)

2-156. CONTENTS OF FINANCIAL DISCLOSURE STATEMENT.

Whenever a disclosure is required by this article, the following information shall be included in each financial disclosure statement: the identity of all persons involved in the outside interest and the source and amount of income derived from the outside interest that may be considered as resulting from employment, investment or gift.

(1978 Code, § 2-156)

2-157. VERIFICATION OF FINANCIAL DISCLOSURE STATEMENT.

Any person required to file a financial disclosure statement in accordance with the provisions of this article must verify, in writing, under penalty of perjury, that the information in the statement is true and complete as far as he or she knows.

(1978 Code, § 2-157)

2-158. DUTIES OF CITY CLERK UNDER ARTICLE.

The City Clerk shall develop the forms necessary for the implementation of this article in conjunction and with the advice of the City Attorney. The City Clerk shall furnish written instructions explaining the duties of persons required to file under this article. The City Clerk shall examine all financial statements filed pursuant to this article and report irregularities immediately to the person filing the statement and to the City Attorney. Acceptance of the statement by the City Clerk shall not constitute approval of the statement. The City Clerk shall maintain a current list of all financial statements required to be available for public disclosure on file in his or her office. The City Clerk shall preserve all financial statements for at least three years after the date on which they are filed. The City Clerk shall make the statement required to be publicly available for inspection during regular business hours. The City Clerk shall supply appropriate forms to anyone required under this article to file a financial disclosure statement.

(1978 Code, § 2-158)

2-159. VIOLATIONS OF ARTICLE.

Any person violating any of the provisions of this article shall, upon conviction, be punished as prescribed in §1-9 of this Code. The penalty or penalties imposed are not exclusive remedies under this article and any and all statutory and Charter penalties or forfeitures may also be enforced. Any person convicted under the provisions of this article shall be deemed guilty of misconduct.

(1978 Code, § 2-159)

2-160-2-169. RESERVED.

ARTICLE V. PERSONNEL POLICIES AND PROCEDURES FOR EMPLOYEES OF 41-A DISTRICT COURT

2-170. INTENT AND PURPOSE.

Public Act 388 of 1996 provides that a district funding unit is the employer of the locally-funded employees of the District Court within that district. The City of Sterling Heights is the district funding unit of the 41-A District Court, Sterling Heights Division. Pursuant to Public Act 388 of 1996, the City of Sterling Heights, in concurrence with the Chief Judge of the District Court, has the following authority:

(A) To establish personnel policies and procedures, including but not limited to policies and procedures relating to compensation, fringe benefits, pensions, holidays, leave, work schedules, discipline, grievances, personnel records, probation and hiring and termination practices;

(B) To make and enter into collective bargaining agreements with representatives of the locally-funded employees of the District.

(Ord. No. 327, § 1, 8-5-97)

2-171. DEFINITIONS.

The terms, words and phrases listed in this section, whenever used in this article, shall have the following meanings.

ACT 388. Public Act 388 of 1996, as amended.

CHIEF JUDGE. The Chief Judge of the 41-A District Court of the 41-A District Court.

LOCALLY-FUNDED EMPLOYEES. Persons employed in the 41-A District Court who receive any compensation as a direct result of an annual budgeted appropriation approved by the City Council of the City of Sterling Heights but does not include a judge of the 41-A District Court.

EMPLOYEES. Those locally funded employees assigned to the 41-A District Court who are not members of a collective bargaining unit.

JUDGE. Those judges elected to the 41-A District Court who regularly hold court in the City of Sterling Heights.

(Ord. No. 327, § 1, 8-5-97)

2-172. WORK WEEK DEFINED.

The normal work week shall be seven hours per day, 35 hours per week. The normal work week shall be five days, Monday through Friday, with normal work hours of 8:30 a.m. to 4:30 p.m.

(Ord. No. 327, § 1, 8-5-97)

2-173. HOLIDAYS.

Paid holidays for the employees and judges of the 41-A District Court are designated as follows.

New Year's Day Martin Luther King, Jr. Day President's Day

Good Friday Memorial Day Fourth of July

Labor Day Veteran's Day Columbus Day

Thanksgiving Day Friday following Thanksgiving Day December 24

Christmas Day Presidential Election Day December 31 Employee's Birthday

(A) The employee's birthday must be taken within 20 calendar days, before or after the employee's birth date, unless the court and employee agree to extend the period of time in which that holiday may be taken. If the employee does not take the birthday holiday within that designated period of time, the employee shall forfeit that holiday.

(B) The employee must work or be on paid leave the day before a holiday and the succeeding work day after a holiday in order to receive the holiday pay.

(C) Employees working on an approved holiday will be paid for hours worked at the rate of two times the normal pay rate plus holiday pay.

(D) Should a full paid holiday fall on Saturday, then the Friday preceding that day will be taken as the paid holiday; if the full paid holiday falls on a Sunday, then the Monday following shall be taken as a paid holiday. When Christmas Eve or New Year's Eve (December 31) falls on a Friday, the preceding Thursday shall be taken as the paid holiday. When Christmas Eve or New Year's Eve falls on Saturday or Sunday, the preceding Friday shall be taken as the paid holiday.

(E) Holidays, as listed above, that fall within an employee's vacation period will not be considered as part of a vacation and shall be taken by extending the vacation period one day for each such holiday or crediting an additional day at the discretion of the Chief Judge.

(Ord. No. 327, § 1, 8-5-97; Ord. No. 373, § 1, 10-19-04; Ord. No. 416, § 1, 7-05-11; Ord. No. 459, § 1, 9-18-18)

2-174. LEAVE.

(A) All full-time employees hired prior to July 1, 2008 shall be entitled to paid vacation leave under the following schedule:

(1) Employees who have completed one year of service shall be granted ten work days vacation without loss of pay;

(2) Employees who have completed five years of service shall be granted 19 work days vacation without loss of pay;

(3) Employees who have completed ten years of service shall be granted 20 work days vacation without loss of pay;

(4) Employees who have completed 20 years of service shall be granted 22 work days vacation without loss of pay.

(B) All full-time employees hired after July 1, 2008 shall be entitled to paid vacation leave under the following schedule:

(1) Employees who have completed one to nine years of service shall be granted ten work days vacation without loss of pay;

(2) Employees who have completed ten or more years of service shall be granted an additional work day for each year of completed service up to a maximum of 20 work days vacation without loss of pay.

(C) Employees who lose time due to on-the-job disability under worker's compensation up to a maximum of one year shall receive their vacation as though the time was worked;

(D) Vacation days can only be accumulated in the amount not exceed 30 days, except that employees will have the following year to use the vacation credited for the year just earned;

(E) In case of retirement, resignation in good standing or death of an employee, the employee or their estate will be paid for all vacation days which have accumulated to their credit;

(F) Vacation selection shall be year around and can be taken on a per day basis if approved by the court. In case of illness, employees can use their vacation time, if needed, after all sick time and benefits are exhausted;

(G) Employees absent for more than one month, for other than worker's compensation disability, will not earn vacation pay.

(Ord. No. 327, § 1, 8-5-97; Ord. No. 370-A, § 1, 1-06-09)

2-175. SICK LEAVE.

Sick leave will be available to employees subject to the following terms.

All employees will accrue sick leave at the rate of one day for each full month paid status of employment. Maximum sick leave earned per year shall be 12 days. Sick leave days shall be accumulated to a maximum of 19 days at the end of the fiscal year.

At the end of the fiscal year, employees may convert up to three sick days from their sick leave bank to be used as personal days during the next fiscal year. Converted days not used within that year will be lost.

As of June 30 of each year, all employees in excess of seven days in their sick bank will have an option of receiving compensation computed on the basis of 50% of the regular hourly rate as of that date for all sick leave in excess of seven days or may receive the equivalent in "personal time" with pay during the next subsequent fiscal year.

The use of "personal time" is subject to approval in advance, but may be requested for use for any reason by the employee. Personal time shall be available for use by the employee in units of one hour or more.

Should an employee fail to use the "personal time" during the next fiscal year, said "personal time" would be lost to the employee.

The steps outlined above will continue each year with payment for choice of "personal time" to be calculated and paid after the first pay period that ends in June.

Accumulated sick leave may be used because of the following:

(A) Acute personal illness or incapacity over which the employee has no reasonable control;

(B) Absence from work because of exposure to a contagious disease which, according to public health standards, would constitute a danger to the health of others by the employee's attendance at work;

(C) Sick leave shall be available for use by employees in units of one hour or more, except when an employee gets sick while on the job or has a doctor or dental appointment requested in advance then they may utilize sick time in one-quarter hour units;

The employee will be required to provide verification from the doctor or dentist upon request of the court.

Employees using sick leave during a period that includes a scheduled holiday will be paid for the holiday. The employee cannot be paid for both on the same day, nor will the employee be charged for a day of sick leave.

An employee absent for more than one month, with the exception of paid vacation and paid leave of absence, will earn a sick leave day for the first month only.

Employees off on sick leave shall be required to bring in a doctor's slip if the court requests it. The court may require an examination of the employee following an illness or injury by a doctor of the court's choice on court time and at court expense.

The printed application for leave form must be filled out completely and properly signed and submitted by the employee for sick leave absences.

Upon the employee's death, retirement or resignation in good standing, the court will pay 50% of the accumulated unused sick leave.

(Ord. No. 327, § 1, 8-5-97)

2-176. PERSONAL LEAVE.

Employees shall be entitled to two personal business days for each fiscal year. Personal business days may not be accumulated from one fiscal year to another. The use of personal time is subject to approval by the court, but may be requested for use for any reason by the employee. Personal time shall be available for use by the employee in units of 15 minutes or more.

(Ord. No. 327, § 1, 8-5-97)

2-177. BEREAVEMENT LEAVE.

Bereavement leave shall be available to employees on the following terms:

(A) Employees will be paid up to five days absence in the case of a death in his or her immediate family. Immediate family is defined as father, mother, brother, sister, child, wife or husband, mother-in-law, father-in-law, stepmother, stepfather or stepchild, grandparents or grandchildren. Employees, in order to be paid, must attend the services.

(B) Employees will be paid up to three days absence in the case of death of a sister-in-law, brother-in-law, daughter-in-law, son-in-law. Employees, in order to be paid, must attend the services. If the funeral for the above is to be held more than 250 miles from the Metropolitan Detroit area, funeral leave must be extended from three days to five days.

(Ord. No. 327, § 1, 8-5-97)

2-178. OTHER LEAVE.

Any employee that is required to serve on jury duty will suffer no loss of pay but rather will be paid the difference between the jury pay, subpoena pay and their regular pay.

(Ord. No. 327, § 1, 8-5-97)

2-179. COMPENSATORY TIME.

There shall be compensatory time for the employees to be computed at one and one-half times the hours worked in excess of 35 hours in any particular week.

For the magistrate/court administrator position, only, compensatory time may be accumulated to a maximum of 235 hours with a buy-back maximum of 130 hours and time off maximum of 105 hours.

For the Clerk of the Court position, only, compensatory time may be accumulated to a maximum of 210 hours with a buy-back maximum of 105 hours and time off maximum of 105 hours.

For all other employees, compensatory time may be accumulated to a maximum of 149 hours with a buy-back maximum of 44 hours and time off maximum of 105 hours.

(Ord. No. 327, § 1, 8-5-97; Ord. No. 423, § 1, 1-2-13; Ord. No. 459, § 2, 9-18-18)

2-180. INJURY OR ILLNESS ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT.

(A) For loss of time on account of injury or illness arising out of and in the course of employment, an employee shall receive full pay for up to one full week, five work days, without drawing on his or her sick leave accumulation for any one injury or illness, but shall not be allowed on reoccurrence of same injury or illness. An employee who continues on worker's compensation may be paid the difference between his or her regular wages and payment under the provisions of the Worker's Compensation Act. At the employee's option, the difference between the regular wages and worker's compensation will be offset by a reduction of accumulated sick leave on a relative ratio of the regular base weekly wage as it is to the worker's compensation weekly rate. In no case shall an employee be compensated by a combination of worker's compensation and pro-rated sick leave which will exceed the standard weekly income. If sick leave accumulation is not available for the supplement to the worker's compensation, other available leave may be approved for utilization in the sole discretion of the court.

(B) During the first 12 months of a duty-connected disability, the employer will continue to provide hospitalization insurance, life insurance and dental insurance at no cost to the employee. Sick leave will be earned only during the first month per § 2-175.

If an employee is unable to return to work after 12 months from the date of the duty-connected disability, the employer shall cease to provide the individual the benefits outlined in the paragraph above. If there is leave time remaining, the leave time shall be paid to the employee calculated on the employee's appropriate hourly pay rate. The remaining unused sick leave will be computed at 50%. Accrued vacation and, if appropriate, personal time will be compensated at 100%.

If the employee's worker's compensation claim is contested, the benefits of subsection (A) will not be operative until the claim is settled and is found to be in favor of the employee. However, during this period, the non-duty disability insurance would be available based upon the terms and conditions of the policy.

(C) An employee who loses time on account of injury or illness arising out of and in the course of employment with the 41-A District Court shall continue as a seniority employee for a period of two years from the date of the disability. An employee who is unable to return to work at the end of the two year period shall cease to be a seniority employee.

(D) Employees, if requested, will be required to provide a report from a doctor to support the employee's request for sick leave and an authorization from the doctor of his or her ability to return to work.

(E) Employees who lose time due to on-the-job disability under worker's compensation up to a maximum of one year shall receive their vacation as though the time was worked.

(F) No loss of wages for follow-up doctor visits related to on-the job injuries when the appointments are required by a medical doctor or a doctor of osteopathic medicine; when these visits can be only scheduled during working hours, a maximum of 12 hours will be allowed for follow-up visits.

(G) An injured employee sent to a medical facility by the employer during their scheduled work shift, who must await such medical treatment beyond their scheduled work shift, shall be paid straight time up to a maximum of two hours for that time seeking medical treatment.

(H) Where the injury or occupational disease for which compensation is payable under the provision of the contract was caused under circumstances creating a

legal liability in some person other than a natural person in the same employ of the employer to pay damages in respect thereof, the acceptance of benefits or the taking of proceedings to enforce payment shall not act as an election of remedies, but the injured employee or his or her dependents or their personal representative may also proceed to enforce the liability of the third party for damages in accordance with the provisions of this section. If the injured employee or his or her dependents or personal representative does not commence such action within one year after the occurrence of the personal injury or occupational disease, then the employer or its worker's compensation insurance carrier or other insurance carrier may, within the period of time for the commencement of actions prescribed by statute, enforce the liability of such other person in the name of that person. Not less than 30 days before the commencement of suit by any party under this section, the party shall notify, by registered mail at their last known address, the injured employee or, in the event of his or her death, his or her known dependents or personal representative or his or her known next of kin and his or her employer. Any party in interest shall have a right to join in said suit.

(I) Prior to the entry of judgment, either the employer or its insurance carrier or the employee or his or her personal representative may settle their claims as their interest shall appear and may execute releases therefor. The settlement and release by the employee shall not be a bar to action by the employer or its compensation insurance carrier to proceed against the third party for any interest or claim it might have.

(J) In the event the injured or his or her dependents or personal representative shall settle their claim for injury or death or commence proceeding thereon against the third party before the payment of benefits, the recovery or commencement of proceedings shall not act as an election of remedies and any monies so recovered shall be applied as herein provided.

(K) In an action to enforce the liability of a third party, the plaintiff may recover any amount which the employee or his or her dependents or personal representative would be entitled to recover in an action in tort. Any recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, shall first reimburse the employer or its insurance carrier for any amounts paid or payable under the provisions of this section to the date of recovery and the balance shall be forthwith paid to the employee or his or her dependents or his or her personal representative and shall be treated as an advance payment by the employer on account of any future payment of benefits.

(L) Expenses of recovery shall be the reasonable expenditures, including attorney fees, incurred in effecting the recovery. Attorney fees, unless otherwise agreed upon, shall be divided among the attorneys for the plaintiff as directed by the court. The expenses of recovery above mentioned shall be apportioned by the court between the parties as their interests appear at the time of said recovery.

(Ord. No. 327, § 1, 8-5-97)

2-181. INJURY OR ILLNESS OUTSIDE THE SCOPE OF EMPLOYMENT.

(A) At no cost to the full-time regular employee, the employer shall provide non-duty disability insurance coverage as follows:

Short Term Disability Insurance

Short Term Disability Income Benefit 60%

Elimination (Waiting) Period 7 days accident

Maximum Duration 26 weeks

Long Term Disability Income Benefit

Long Term Disability Income Benefit 60%

Elimination (Waiting) Period 180 days

Maximum Duration Sickness to 65, Accident to 65

Employees who lose time from work on account of non-duty injury or illness may utilize their available sick leave bank during the short-term disability waiting period of seven days. (Vacation time may be approved for utilization upon exhausting available sick time based upon the sole discretion of the court.)

During the first four months of a non-duty connected disability, the employer will continue to provide hospitalization insurance, life insurance and dental insurance. Sick leave and vacation leave will be earned only during the first month of non-duty connected disability.

(B) The 41-A District Court will continue a non-duty disabled employee's health coverage, when they have filed a disputed worker's compensation claim, for 12 months or until the disputed claim is decided. Should the injury be determined to be not work related, then arrangements will be made for the employee to pay the cost for those excess months of coverage back to the 41-A District Court.

(C) If an employee is unable to return to work after four months from the date of the non-duty connected disability, the employer shall cease payment for the fringe benefits outlined in the paragraph above. Thereafter, employees will be afforded their rights under (C.O.B.R.A) the Consolidated Omnibus Budget Reconciliation Act.

(D) If an employee is unable to return to work after six months from the date of the non-duty connected disability, all remaining leave time shall be paid to the employee based upon the appropriate hourly rate. The remaining unused sick leave will be computed at 50%. Accrued vacation and if appropriate, personal time will be compensated at 100%.

(E) An employee who is unable to return to work after 12 months from the date of the non-duty connected disability shall cease to be a seniority employee. He or she shall be given consideration for future employment.

(Ord. No. 327, § 1, 8-5-97)

2-182. LIFE INSURANCE.

For employees hired prior to July 1, 2008,life insurance shall be carried for employees at no cost to the employee in an amount equal to one and one-half times the employee's base salary. Retirees will also be provided with term life insurance in the amount of $20,000, until age 70. For employees hired after July 1, 2008, life insurance shall be carried for employees at no cost to the employee in an amount equal to one and one-half times the employee's base salary to a maximum of $100,000. Retirees will also be provided with term life insurance in the amount of $10,000, until age 70. Only employees meeting the definition of "retiree" in § 2-187 of this article are eligible for retiree term life insurance.

(Ord. No. 327, § 1, 8-5-97; Ord. No. 370, § 1, 1-20-04; Ord. No. 370-A, § 2, 1-06-09; Ord. No. 459, § 3, 9-18-18)

2-183. MEDICAL AND HOSPITALIZATION BENEFITS.

(A) The basic medical and hospitalization coverage plan for all members as of January 1, 2019 shall be Simply Blue 2000 High Deductible Plan, with a prescription drug benefit plan, and annual health savings account (HSA) contributions by the City of $2,400 (two-person or family) and $1,200 (single person). Employees will pay the following percentages of the health insurance premium using the BCBS illustrative rate for medical and prescription drugs (not adjusted by the City) and the City's Health Savings Account contributions.

January 1, 2019 to December 31, 2019 – 0%

January 1, 2020 to December 31, 2020 – 0%

January 1, 2021 to December 31, 2021 – 5%

After January 1, 2022 - 10%

Any deductions for premium sharing made by employees shall be on a pre-tax basis in accordance with Internal Revenue regulations.

The maximum city cost for the provision of the basic medical and hospitalization coverage plan, prescription drug benefit, and Health Savings account employer funding is the Hard Cap from Public Act 152 of 2011. Employees are financially responsible for any costs in excess of the Hard Cap from Public Act 152.

(B) The employer has a program to coordinate and to eliminate overlapping health care coverage. Each full-time employee or retiree who chooses not to enroll in the city-sponsored health care plan and whose spouse or parent provides coverage shall be paid $3,000 each calendar year that the spouse or parent has coverage.

The annual allowance amount will be prorated and paid monthly for every month that the employee is eligible. Payments to retirees will be made annually, in December, to each retiree who has not been enrolled in any city-sponsored health care plan, except that payments will be prorated monthly to meet the dates in this plan.

Employees or retirees shall be required to show proof that a spouse or parent has health care coverage that includes the employee and retiree and their dependents before said employee will be declared eligible to receive the annual allowance amount.

(C) The city reserves the privilege to offer enrollment in alternative medical and hospitalization coverages to employees on a voluntary basis.

(Ord. No. 327, § 1, 8-5-97; Ord. No. 370, § 2, 1-20-04; Ord. No. 370-A, § 3, 1-06-09; Ord. No. 423, § 2, 1-2-13; Ord. No. 459, § 4, 9-18-18)

2-184. DENTAL INSURANCE.

The court shall provide at no cost to the employee the Blue Cross/Blue Shield DENTAL Program as outlined as follows:

Blue Cross/Blue Shield Dental Plan

Coverage Description and Limits:

Class I: Diagnostic services, preventive service and palliative treatment are covered at 75% of reasonable charges.

Class II: Restorative endodontic periodontic services, oral surgery, repairs, adjustments and relining of dentures and bridges and adjunctive general services are covered at 75% of reasonable charges.

Class III: Construction and replacement of dentures and bridges are covered at 75% of reasonable charges.

Class IV: Orthodontic services are covered at 50% of reasonable charges.

Each member is entitled to maximum benefits of $1,000 every contract year.

Each member, up to age 19, has a lifetime maximum benefit of $1,000 available for orthodontic services.

(Ord. No. 327, § 1, 8-5-97)

2-185. OPTICAL INSURANCE.

The City will provide a maximum reimbursement of $150 to each employee (not spouse or dependents) for eye examinations and prescription eyewear each fiscal year. Receipts must be provided to the employer for processing the reimbursement.

(Ord. No. 327, § 1, 8-5-97; Ord. No. 370-A, § 4, 1-06-09; Ord. No. 459, § 5, 9-18-18)

2-186. RETIREMENT PROGRAM.

A retirement program for the employees of the 41-A Judicial District Court, which has as its District Control Unit, the City of Sterling Heights, Michigan, was created and established on July 1, 1969.

This retirement system was enacted to attract and retain competent employees to the 41-A District Court through a deferred benefit plan which permits the employees to participate in the plan by entering into an agreement with the employer, the City of Sterling Heights, whereby a portion of the employee's salary will be deferred for the purpose of providing other retirement benefits or death benefits in the event of death prior to retirement.

The pension program for employees hired before July 1, 1996 shall remain as provided in the City Charter and Code of Ordinances, except as modified below:

For service earned prior to July 1, 2013, the factor used to determine an employee's pension shall be 2.3% multiplied by the number of years of service, in turn, multiplied by the final average compensation. The factor shall be 2% times the number of years of service earned on and after July 1, 2013 times the final average compensation. Final average compensation shall be based on the best three years of the last ten years.

All taxable income earned shall be used in computing the employee contribution and final average compensation and shall include income paid into any deferred compensation plan. Pension shall be fully vested after five years service.

Employees shall be allowed the option of retiring after completion of years of service plus age totaling 75 or more or after completion of 30 years at any age. The employee's contribution to the retirement system shall be 8% of their annual compensation.

A full-time employee who is eligible for a deferred retirement as defined by §41-29 of Chapter 41 of the City Code may continue full-time employment while receiving deferred retirement benefits.

Effective July 1, 1996, all new court employees shall receive retirement benefits through a defined contribution pension plan established by the City of Sterling Heights. The city contribution to a new court employees defined contribution pension plan account shall be 4% of base salary. The new court employees will not be entitled to the retirement benefits provided pursuant to Chapter 41 of the Sterling Heights Code of Ordinances.

The defined contribution plan benefits will be in lieu of all Sterling Heights Charter and/or ordinance pension entitlements. While the defined contribution plan benefits are mandatory for new hires, there may also be an option for existing employees who may choose such benefits in lieu of those provided by the Sterling Heights Charter or in the Code of Ordinances.

(Ord. No. 327, § 1, 8-5-97; Ord. No. 327A, § 1, 12-7-99; Ord. No. 370, § 3, 1-20-04; Ord. No. 416, § 4, 7-5-11; Ord. No. 423, § 3, 1-2-13; Ord. No. 428, § 1, 6-18-13)

2-187. MEDICAL COVERAGE FOR RETIREES.

Employees hired after July 1, 2012 shall not receive medical, hospitalization, and prescription coverage (collectively "retiree medical coverage") upon retirement.

Employees hired by the city prior to July 1, 2012 and qualifying as a retiree shall receive retiree medical coverage under the following terms and conditions:

Employer will provide the retired employee/spouse medical, hospitalization, and prescription coverage.

The retiree medical coverage for an eligible employee retiring after July 1, 2018 will be the Simply Blue 2000 High Deductible Medical and Prescription Drug Plan, and annual health savings account (HSA) contributions by the City of $2,400 (two-person or family) and $1,200 (single person). The combined Medical, Prescription Drug, and Health Savings Account costs are subject to a 10% premium share; however, the retiree medical coverage benefits will be subject to changes as determined by amendments to the medical and hospitalization benefits provided to current employees. Changes in the retiree medical coverage benefits shall be limited to two amendments in retirement. In the event that either of the two post-retirement amendments results in no medical, hospitalization, and prescription coverages for current employees, the retiree's retiree medical coverage benefits will continue with the benefits applicable at the time the change to no medical benefits for current employees takes effect.

Employees hired between July 1, 2008 and June 30, 2012 shall be required to pay 50% of the premium for retiree medical coverage upon retirement. If an employee is responsible to pay a percentage of the premium for retiree medical coverage based upon his or her city hire date at the time of promoting to a position covered by the provisions of Article V, the financial obligation shall continue for the employee upon retirement. The 50% premium share is inclusive of the 10% premium share applicable to all employees upon retirement. Payments in satisfaction of the employee's percentage share of the retiree medical coverage in retirement will be invoiced by the City on a monthly basis for the proceeding month. If payment is not made by the 15th of the month coverage shall be canceled effective the 1st of the following month.

The spouse of a deceased retiree shall continue to receive retiree medical coverage as long as he or she does not remarry and: (a) continues to receive a pension from the city; or, (b) is the surviving spouse of a District Court Judge who qualified for retiree medical coverage as a retiree in accordance with this section. The spouse of a deceased retiree that received defined contribution pension benefits shall continue to receive retiree medical coverage so long as the surviving spouse does not remarry.

Upon reaching Medicare eligibility due to age or disability, the retiree and/or spouse must apply for Medicare coverage. When a retiree ages into Medicare, the city will provide a plan that is comparable to the retiree medical coverage in force prior to Medicare. Retirees are responsible for paying any costs associated with Medicare coverages.

In the event a retired employee or their spouse obtains employment and the subsequent employer provides hospitalization and medical insurance, they shall not be eligible for retiree medical coverage for the duration of the employment.

For the purposes of qualifying for retiree medical coverage under this section, the term ***RETIREE*** is defined as:

(a) Any employee who retires by virtue of fulfilling both the age and service requirement for full retirement (for example, years of service plus age totaling 75 or more, 30 years of service at any age);

(b) Any of the preceding employees who retires as the result of a duty-connected disability;

(c) A District Court Judge who retires and is eligible for a full state judicial pension; or

(d) A District Court Judge elected prior to July 1, 2012 who has served 15 or more continuous years.

(Ord. No. 327, § 1, 8-5-97; Ord. No. 327-A, § 1, 12-7-99; Ord. No. 370, § 4, 1-20-04; Ord. No. 370-A, § 5, 1-06-09; Ord. No. 423, § 4, 1-2-13; Ord. No. 459, § 6, 9-18-18)

2-188. MILITARY SERVICE CREDIT.

An employee participating in the defined benefit pension program shall be given service credit for not more than four years of active military service to the United States Government who is employed subsequent to this military service upon payment to the retirement system of 5% of their full time or equated full time compensation for the fiscal year in which payment is made, multiplied by the years of service that the member elects to purchase up to the maximum. Service shall not be creditable if it is or would be creditable under any other federal, state or locally publicly supported retirement system. Purchase for this time may be accomplished in increments of not less than one year at a time (or fraction of a year, if there is less than a year to purchase left).

(Ord. No. 327, § 1, 8-5-97)

2-189. LONGEVITY PAYMENTS.

(A) *District Court Judges.*

(1) Effective July 1, 2018, District Court Judges will receive longevity payments on the following basis:

(a) 4% of base pay after 12 years of continuous service;

(b) 6% of base pay after 18 years of continuous service;

(c) 8% of base pay after 15 years of continuous service;

(d) 10% of base pay after 20 or more years of continuous service.

(B) *Other employees.* Effective July 1, 2018, all other employees will receive longevity payments on the following basis:

(1) .67% of base pay after two years of continuous service;

(2) 1.33% of base pay after five years of continuous service;

(3) 2.67% of base pay after ten years of continuous service;

(4) 4% of base pay after 15 years of continuous service;

(5) 5.34% of base pay after 20 years of continuous service;

(6) 6.67% of base pay after 25 years of continuous service.

Longevity pay shall be based upon the total number of continuous, completed full years as of the employee's anniversary date and shall be paid in July of each year following the anniversary date. Upon the death or retirement of an employee, the employee or the estate will be paid at a prorated amount of longevity.

(Ord. No. 327, § 1, 8-5-97 1-20-04; Ord. No. 416, § 5, 7-5-11; Ord. No. 423, § 5, 1-2-13; Ord. No. 459, § 7, 9-18-18)

2-190. WAGES FOR REHIRES.

(A) Notwithstanding City Code § 41-30 or any other provision of the City Code, an employee who retires and is a participant in the General Employee Retirement System may be re-employed, after separation from employment for a minimum of 30 calendar days, in the same position with the 41A District Court on the following terms:

(1) The salary paid to a retiree rehired pursuant to this section will be the equivalent of 60% of the base annual salary previously being earned at the time of retirement; provided, that the calculation of salary will be adjusted to match that provided to retired non-police and fire members of the MAPE Executive Group upon re-employment.

(2) The retiree rehired pursuant to this section shall, at a minimum, work the court calendar and normal hours of work established for the 41-A District Court. On the date of rehire, and annually on this date thereafter, a re-employed retiree will be credited with vacation days in a number equivalent to the number of days the retiree would have been allocated for the retiree's next continuous year of service had the retiree not retired. Unused vacation days do not accrue and are lost if not utilized by the re-employed retiree's re-hire anniversary date annually. There is no payout of unused vacation time upon any separation from employment. Other than salary and vacation time, a retiree rehired pursuant to this section shall not receive any other wages or benefits provided to current employees pursuant to this chapter. The pension and retirement benefits of a retiree rehired pursuant to this section shall not be suspended during the term of re-employment.

(3) The term of re-employment of a retiree is limited to two years unless extended in the discretion of the Chief Judge.

(Ord. No. 423, § 7, 1-2-13; Ord. No. 428, § 2, 6-18-13)

2-191. JUDGES.

This article shall not be applicable to the judges, except for §2-180, injury or illness arising out of and in the course of employment, §2-181, injury or illness outside the scope of employment, § 2-182, life insurance, § 2-183, medical and hospitalization benefits, §2-184, dental insurance, § 2-185, optical insurance, § 2-186, retirement program (as eligible), § 2-187, medical coverage for retirees and § 2-189, longevity payments.

(Ord. No. 327, § 1, 8-5-97; Ord. No. 423, § 6, 1-2-13)

2-192-2-202. RESERVED.

ARTICLE VI. PURCHASING

2-203. TITLE.

This article shall be known and may be cited as the "Purchasing Ordinance of the City of Sterling Heights."

(Ord. No. 404, § 1, 6-16-09)

2-204. INTENT.

It is the intent of this article to maximize the purchasing power and value of public funds through purchase procedures and policies that maintain a system of quality and integrity and promote efficiency, effectiveness, and fairness in public purchasing. It is the goal of this article to acknowledge the obligation to city taxpayers to maximize the purchasing power of public funds to gain the best value for its residents and businesses.

(Ord. No. 404, § 1, 6-16-09)

2-205. DEFINITIONS.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings given in this section.

APPROPRIATION. An authorization by the City Council to expend a specified amount of public funds for a specific purpose.

CHANGE ORDER. A mutually agreeable alteration of an original business or construction contract relating to goods and services. It often details a new plan, including changes in services, materials, and designs that the city and contractor or vendor have mutually agreed upon.

CONTRACTUAL SERVICES. The rental, repair or maintenance of equipment, machinery, and other city-owned or leased property. The term shall not include professional, insurance and personal services or other contractual services which are in their nature unique and not subject to competition.

COOPERATIVE PURCHASING. An agreement to purchase supplies or services with the State of Michigan or another public entity, including but not limited to a city, county, village, school district, or an association, group, or trade network of public entities.

CONTRACT. Any agreement entered into by the city with an individual or firm for the purchase of supplies, materials, equipment, contractual services or construction, including a purchase order, but not including a collective bargaining agreement.

COMPETITIVE BIDS. A method of acquiring supplies, services, or construction for public use where the award is made to the lowest responsive and responsible bidder whose bid meets the bid specifications established by the city for the goods, services, or construction sought that does not include discussions or negotiations with bidders. Except for competitive bids electronically submitted, competitive bids must be sealed.

ELECTRONIC. Electrical, digital, magnetic, wireless, optical, electromagnetic, or similar technology.

EMERGENCY PURCHASE. A purchase of supplies or services during or in response to an emergency which is authorized by the City Manager or his or her designee, or Purchasing Manager under the City Code.

INVITATION TO BID. A solicitation to prospective bidders to submit a competitive bid with respect to the purchase of supplies, services, or construction items which are sought to be purchased by the city by means of the competitive bid process.

PETTY EXPENDITURE FUND. A revolving fund established in the City Treasury from which incidental purchases not exceeding $50.00 established by the Purchasing Manager may be made by authorized employees.

PROFESSIONAL SERVICES. Types of personal services rendered to the public by members of a recognized profession which involve extended analysis, exercise of discretion, and independent judgment in their performance and an advanced, specialized type of knowledge, expertise or training customarily acquired either by a prolonged course of study or equivalent experience in the field, making such services unique and not subject to price competition in the ordinary sense. Professional services include, but are not limited to, those that require as a condition precedent to the rendering of the services the obtaining of a license or other legal authorization.

PUBLIC IMPROVEMENTS. All city public works, including street, sidewalk, sewer, water, drain, park, recreation and building projects.

PURCHASING CARDS. A method by which authorized users may make small purchases or acquire services not exceeding specified dollar limitations established by the Purchasing Manager through use of a commercial credit card or other card issued by a participating store or vendor.

REQUEST FOR INFORMATION. A written request issued by the Purchasing Manager or other requesting department to obtain information necessary to prepare specifications that may be included in a future invitation to bid or request for proposals, or a written request from a prospective contractor, vendor or professional to clarify a bid document or request for proposal document.

REQUEST FOR PROPOSALS. A written solicitation to prospective contractors, vendors, or professionals issued by the Purchasing Manager or other requesting department where other factors besides price will be considered in the selection of contractor, vendor, or professional, or where negotiations with one or more contractors, vendors, or professionals are anticipated or required to reach a final contract with the contractor, vendor, or professional. While a request for proposals is a method of soliciting competitive prices for supplies, services, or construction items intended to achieve the same objective as competitive bids, a request for proposals may not be used where competitive sealed bids are required by law.

REQUEST FOR QUOTATIONS. A request made by the Purchasing Manager to prospective contractors or vendors by telephone, facsimile, or electronic mail to obtain prices for contracts estimated to be not more than $10,000.00 for specifically described supplies or services sought to be purchased for public use where the described supplies or services are readily available on the open market and where price is the primary factor in selecting a contractor or vendor.

RESPONSIBLE BIDDER. A prospective contractor, vendor, or professional which has the capacity in all respects to fully perform the contract requirements, and the experience, integrity, perseverance, reliability, capacity, facilities, equipment, and financial resources and credit which will maximize the likelihood of satisfactory performance.

RESPONSIVE BIDDER. A prospective contractor, vendor, or professional which has submitted a bid which conforms in all material respects to the requirements set forth in the invitation for bids issued by the city.

SUPPLIES. All supplies, materials and equipment.

TIE BIDS. Responsive bids from responsible and responsive bidders that are identical in price, terms, and conditions.

(Ord. No. 404, § 1, 6-16-09)

2-206. PURCHASES AND CONTRACTS TO BE MADE THROUGH OFFICE OF PURCHASING.

(A) Except as otherwise provided in this article or other provisions of the City Code, the purchase of any supplies or contractual services within the purview of this article shall be made through the office of purchasing, and any agreement to purchase supplies or contractual services contrary to the provisions of this article shall not be approved by the city officials and shall not be binding upon the city.

(B) All contracts for construction of public improvements shall be administered through the office of engineering, unless otherwise directed by the City Manager or City Council.

(C) All purchases of supplies, services or construction items on behalf of the city or its departments shall be made in accordance with the provisions of this article, including the purchase of supplies, services or construction utilizing funds donated to the city.

(Ord. No. 404, § 1, 6-16-09)

2-207. PURCHASE REQUISITIONS AND ESTIMATES.

(A) All departments purchasing supplies or contractual services, either by or with the authorization of its supervisor, manager or director, shall file with the Purchasing Manager detailed purchase requisitions or estimates of their requirements in supplies and contractual services in such manner at such times and for such future periods as the Purchasing Manager shall establish. A department shall not be prevented from filing in the same manner with the Purchasing Manager, at any time, a purchase requisition or estimate for any supplies and contractual services, the need for which was not foreseen when the detailed estimates were filed.

(B) The Purchasing Manager shall examine each purchase requisition or estimate and shall have the authority to revise it as to quantity, quality or estimated cost, but revisions as to quality shall be in accordance with the standards, rules and regulations established pursuant to this article.

(Ord. No. 404, § 1, 6-16-09)

2-208. REQUIREMENT FOR APPROPRIATION; REQUIREMENT FOR ISSUANCE OF PURCHASE ORDER.

(A) No contract for the purchase of supplies, contractual services, construction items or professional services, with the exception of emergency services under Section 15-10 of the City Code, shall be entered into unless there has been a determination by the Finance and Budget Director that there is a sufficient unencumbered balance in the allotment or appropriation against which the charge for the purchase has been made.

(B) A purchase order or contract shall be issued for every purchase of supplies or contractual services prior to any supplies or contractual services being furnished.

(Ord. No. 404, § 1, 6-16-09)

2-209. METHODS OF PURCHASING SUPPLIES AND SERVICES.

The following methods of purchasing shall be used to acquire supplies and services for the city in the ordinary course of business except as otherwise provided in this article:

(A) Competitive bids.

(B) Request for proposals.

(C) Request for quotation.

(D) Purchasing cards.

(E) Petty expenditure fund.

(Ord. No. 404, § 1, 6-16-09)

2-210. COMPETITIVE BIDS.

(A) All purchases of and contracts for supplies and contractual services, and contracts for construction of public improvements when the estimated cost exceeds $10,000 shall be purchased by written contract from the lowest responsible, responsive bidder following the competitive bid process set forth in this article wherever possible, except as otherwise specifically provided in this article.

(B) The department seeking to purchase supplies or contractual services shall furnish the Purchasing Manager with itemized details or specifications of the supplies or contractual services which shall be incorporated into an invitation to bid and bid specifications.

(C) The Purchasing Manager shall give notice of any invitation to bid with respect to purchasing supplies, contractual services, or contracts for construction of public improvements as required by law. The Purchasing Manager may give additional notice, such as public postings, cable television postings or broadcasts, mailed or electronic notice to prospective contractors or vendors on the city's bidders' list or their trade associations, postings on electronic bidding networks or bulletin boards, advertisings in a print or electronic version of a newspaper generally available within the city, or by any other means likely to reach prospective contractors or vendors.

(D) An invitation for bids, a request for proposals, or other solicitation may be cancelled when such action is for good cause and in the best interest of the city. The reasons shall be made part of the contract file and shall be available for inspection. Notice of cancellation shall be sent to all businesses from which bids or requests for proposals were solicited if cancellation occurs prior to the date designated for responses to be opened. If cancellation occurs on or after the designated opening date, only those businesses that responded to the solicitation shall be notified of the cancellation.

(E) The Purchasing Manager shall issue addenda to the bid specifications when there is a change to the bid specifications, and shall notify prospective bidders of the addenda as required by law. Notification of the addenda may be given electronically, including but not limited to posting on an electronic bid network, if such network was used to give notice of the original invitation to bid.

(Ord. No. 404, § 1, 6-16-09)

2-211. COMPETITIVE BIDS - COMMUNICATION WITH BIDDERS.

During the competitive bid process, there shall be no communication between prospective bidders and city officers or employees relating to the competitive bids except through the Purchasing Manager, unless it takes place at a public pre-bid meeting or conference. The Purchasing Manager may issue written responses to any questions or requests for clarification to all businesses from which bids or requests for proposal were solicited, which were on the city's bidder list for the supply or service sought, or which have been requested to be notified.

(Ord. No. 404, § 1, 6-16-09)

2-212. COMPETITIVE BIDS - WITHDRAWAL AND CORRECTION OF BIDS.

(A) A bidder may withdraw its bid at any time prior to the public opening of the bids if the request for withdrawal is received electronically or in writing at the location designated in the invitation for bids for receipt of bids before the public bid opening.

(B) A bidder may correct its bid and resubmit it if it takes such action prior to the public bid opening. A bidder may not correct its bid after the bids are opened.

(Ord. No. 404, § 1, 6-16-09)

2-213. COMPETITIVE BIDS - BID DEPOSITS.

Where determined to be appropriate by the Purchasing Manager or where required by law, the Purchasing Manager may require a bid deposit or bid bond in the amount specified in the specifications to be furnished with submission of the competitive bid to ensure that the successful bidder executes a written contract and complies with the insurance and other legal requirements of the bid specifications within the prescribed time period. A bidder who fails to execute a written contract or comply with the legal requirements to begin work shall be subject to forfeiture of its bid deposit or bid bond.

(Ord. No. 404, § 1, 6-16-09)

2-214. COMPETITIVE BIDS - BID SUBMISSION, OPENING AND TABULATION, AND RECOMMENDATIONS TO CITY MANAGER AND CITY COUNCIL.

(A) Bids shall be submitted sealed to the City Clerk and shall be identified as bids with the name of the bidding project clearly identified on the envelope, or may be submitted by other means if authorized by law, including electronic submissions. The City Clerk shall time-stamp all bid envelopes when received. The Purchasing Manager shall retain a record of the time that all electronic bids are received. The city may require that all bids be submitted electronically if permitted by law and specified in the invitation for bids and bid specifications.

(B) Bids shall be opened in public at the time and place stated in the public notices, and the person opening the bids shall, at a minimum, announce the names of the bidders. Electronic bid opening and posting of the required information shall satisfy this public opening requirement.

(C) A tabulation of all bids received shall be available for public inspection or be posted within a reasonable time period after execution of a contract by the successful bidder.

(D) After opening and tabulating all bids received, the Purchasing Manager shall submit his or her recommendation concerning the award of contract to the City Manager, who shall review the bid and recommendation by the Purchasing Manager and then forward the recommendation to the City Council. The Purchasing Manager shall not recommend award of a contract to a contractor or vendor which is in default with respect to any obligations to the city, including but not limited to breaches of contract and non-payment of taxes, utility charges, fees, or other charges owed the city.

(Ord. No. 404, § 1, 6-16-09)

2-215. LATE BIDS.

Late bids shall not be considered for award of a contract. A bid is late if it is received at the location designated in the invitation for bid for receipt of bids after the time and date set for bid opening. An electronically submitted bid is late if it is received electronically after the bid submission deadline. Bidders submitting bids that are late shall be notified as soon as practicable. The Purchasing Manager shall retain documentation concerning late bids.

(Ord. No. 404, § 1, 6-16-09)

2-216. AWARD OF CONTRACT; DETERMINATION OF LOWEST RESPONSIBLE AND RESPONSIVE BIDDER; AWARD OF CONTRACT; TIE BID.

(A) The Purchasing Manager or City Manager shall have the authority to award contracts within the purview of this article when competitive bids are not required and the amount of the contract does not exceed $10,000.00. When competitive bids are required, or when the amount exceeds the dollar amounts authorized to be awarded by the Purchasing Manager, the City Council shall have the authority to award contracts within the purview of this article.

(B) In determining the lowest responsible and responsive bidder, in addition to price, the Purchasing Manager, City Manager, and City Council shall consider:

(1) The ability, capacity and skill of the bidder to perform the contract or provide the service required, and the bidder's prior performance of previous contracts or services and compliance with applicable laws and ordinances relating to similar contracts or services;

(2) Whether the bidder can perform the contract or provide the services promptly, or within the time specified, without delay or interference;

(3) Whether the bid complies in all material respects with the bid specifications;

(4) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(5) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

(6) The quality, availability and adaptability of the supplies or contractual services to the particular use required;

(7) The ability of the bidder to provide future maintenance and service for the use of the supplies or services which are the subject of the contract; and

(8) The number and scope of conditions attached to the bid.

(C) The City Council shall award the contract to the lowest responsible and responsive bidder unless it determines that it is in the best interest of the city to award the contract to another bidder.

(D) When the award is not given to the lowest responsible and responsive bidder, a full and complete statement of the reasons for awarding the contract elsewhere shall be prepared by the Purchasing Manager and filed with the other documents relating to the bid.

(E) If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a bidder whose business is based in Sterling Heights, or if there is no Sterling Heights-based bidder, then to a Michigan-based bidder; otherwise, in the case of tie bids, the Purchasing Manager shall award the contract to one of the tie bidders by a drawing conducted in public in the presence of at least one witness.

(F) The City Council may award multiple contracts or divide the contract award if deemed in the best interest of the city and if the specifications authorize multiple awards.

(G) The City Council shall have the authority to reject all bids, parts of all bids or all bids for any one or more items that are part of the supplies or contractual services included in the proposed contract, and waive any and all defects or irregularities in the bids when the public interest will be served by such an action, provided that no such waiver shall be made of a defect that would affect the relative standing of the bidders.

(H) After the City Council has awarded the contract, the Purchasing Manager shall notify the successful bidder, which shall sign the contract (if required) and take all other actions necessary to the formation of a contract in accordance with the invitation for bids, including the posting of performance security, submission of proof of insurance, and execution and delivery of any affidavits or other documents.

(I) The city reserves the right to purchase additional goods or services after the award of the contract if the purchase is substantially identical to those previously purchased, and if the Purchasing Manager makes diligent inquiry as to the current market price and is reliably informed that the price has not declined since the prior purchase.

(Ord. No. 404, § 1, 6-16-09)

2-217. EXEMPTIONS FROM COMPETITIVE BIDS.

(A) Competitive bids shall not be required with respect to the following purchases unless otherwise required by law:

(1) Purchases of supplies, services, or construction items with an estimated cost not more than $10,000.00.

(2) Equipment maintenance agreements and billings, utility services and billings, contracted services invoices, insurance payments, or similar services.

(3) Professional and consultant services (including legal, accounting, architectural, engineering, surveying, construction management, insurance, investment, advertising, marketing, fundraising, lobbying, insurance and health care administration, and information technology and energy efficiency consulting).

(4) Services to be provided to members of the public, such as recreation or community education services where the entire cost is to be reimbursed to the city by the members of the public who receive the services or instruction (no payment to be made until contract amount has been received from members of public.

(5) Sole source supplies and services.

(6) Contractual services, supplies, materials, and equipment where the overriding consideration in purchasing is compatibility with existing contractual services, supplies, materials or equipment.

(7) Intergovernmental contracts and cooperative purchases.

(8) Services to be performed by city personnel as authorized by the Charter and City Code.

(9) Purchases where a 5/7 majority of the City Council has determined that one of the following situation exists and that competitive bids should be waived and is in the best interest of the city, applying the standards of Section 2-216(B)(1) - (8):

(a) Time constraints do not allow for the normal bid procedures;

(b) Past experience indicates that, for the subject of the acquisition or sale, cost variances are negligible, and, therefore, the bid procedure is not economically merited; or

(c) The subject of the acquisition is unique and can only be obtained from a single vendor and the price is reasonable. The requirements of Section 2-223 shall apply to such sole source purchases.

(B) The Purchasing Manager may choose to use an alternate method of obtaining competitive prices other than competitive bids (such as a request for proposals) if deemed to be in the best interest of the city unless competitive bids are required by law.

(C) The City Manager and City Council may use another competitive solicitation process, such as a request for proposals, to obtain competitive prices for supplies or services even though such supplies or services are exempt from the competitive bid requirements of this article. Exemption from the requirements of competitive bids shall not preclude the Purchasing Manager, City Manager or City Council from using the competitive bid procedure to purchase exempt supplies, services, or construction items.

(Ord. No. 404, § 1, 6-16-09)

2-218. CONSTRUCTION CONTRACTS.

(A) All construction contracts for services with an estimated cost exceeding $10,000.00 shall be awarded using the competitive bid process.

(B) The office of engineering shall prepare bid specifications and an invitation for bids for the proposed project.

(C) Notice of the invitation to bid shall be given as required by law and as set forth in the competitive bid section of this article.

The procedures of competitive bids as set forth in this article shall be followed with respect to awards of construction contracts, except the administrative functions performed by the Purchasing Manager with respect to other types of competitively bid contracts shall be performed by the city engineer for construction contracts.

(Ord. No. 404, § 1, 6-16-09)

2-219. PERFORMANCE BONDS AND PAYMENT BONDS FOR CONSTRUCTION CONTRACTS.

(A) When a construction contract is awarded in an amount equal to or more than the amount specified by law, the following bonds shall be delivered to the city at or before the signing of the contract by the city officials:

(1) A performance bond, satisfactory to the city and executed by a surety company authorized to do business in the State, or otherwise secured in a manner satisfactory to the city, in an amount equal to 100% of the price specified in the contract;

(2) A payment bond, satisfactory to the city and executed by a surety authorized to do business in the State, or otherwise secured in a manner satisfactory to the city, for the protection of all persons supplying labor and materials to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100 percent of the price specified in the contract.

(B) This section shall not be construed to limit the authority of the city engineer to require a performance bond, payment bond or other security, in addition to the bonds required in subsection (A) in circumstances other than those specified in subsection (A).

(C) The bid specifications or request for proposals may provide for alternate or additional performance guarantees, or for the waiver of such requirements where deemed in the best interest of the city.

(D) A change order may be executed without further competitive bids and without City Council approval if there are available unencumbered funds in the project budget to cover the cost of the change order, and if the amount of the change order does not exceed 10% of the original contract awarded to such bidder. Change orders not meeting the requirements of this subsection or which exceed $10,000.00 shall require City Council approval.

(Ord. No. 404, § 1, 6-16-09)

2-220. REQUEST FOR QUALIFICATIONS AND REQUESTS FOR PROPOSALS.

When the Purchasing Manager or City Manager determines that competitive bids are not practical or advantageous to the city with respect to a purchase estimated to cost no more than $10,000.00, the Purchasing Manager or the City Manager may award a contract by use of a request for qualifications or request for proposals. With respect to a purchase where the estimated cost exceeds $10,000.00, the City Council may award a contract by use of a request for qualifications or request for proposals.

(Ord. No. 404, § 1, 6-16-09)

2-221. EMERGENCY PURCHASES.

(A) In case of an apparent emergency which requires immediate purchase of supplies or contractual services, the City Manager shall be empowered to authorize the Purchasing Manager to secure by the request for quotations method as set forth in this article any supplies or contractual services, regardless of the amount of the expenditure at the lowest obtainable price.

(B) A full report of the circumstances of an emergency purchase shall be filed by the Purchasing Manager with the City Council and shall be entered in the minutes of the Council and shall be open to public inspection.

(C) The Purchasing Manager may prescribe, by rules and regulations, the procedure under which emergency purchases by directors, managers, and supervisors of departments may be made, which promptly shall be filed with the City Clerk.

(Ord. No. 404, § 1, 6-16-09)

2-222. PETTY EXPENDITURES REVOLVING FUND.

There is established in the City Treasury a Petty Expenditures Fund, from which incidental purchases not exceeding $50.00 may be made by the head of a department needing such supplies or services. The Purchasing Manager may promulgate rules and regulations for the use of the Petty Expenditures Revolving Fund, which promptly shall be filed with the City Clerk.

(Ord. No. 404, § 1, 6-16-09)

2-223. SOLE SOURCE PURCHASES.

(A) A contract for supplies, services or construction items where the estimated cost is expected to be not more than $10,000.00 may be awarded by the Purchasing Manager or the City Manager without competitive bids when the Purchasing Manager or City Manager determines, after conducting a good faith review of available sources, that there is only one source for supplying the requested supply, service or construction item and that the price is reasonable. With respect to purchases of supplies, services or construction items where the estimated cost is expected to be more than $10,000.00, the City Council may award a contract after determining by a 5/7th majority that there is only one contractor or vendor for the requested purchase and that the price is reasonable. Documentation shall be furnished that supports the sole source determination. The written documentation shall be available for public inspection in the office of purchasing. The Purchasing Manager, along with a representative from the requesting department, shall conduct negotiations as appropriate.

(B) A sole source purchase shall be made at the lowest obtainable price. With respect to purchases of supplies, services or construction items with an estimated cost of more than $10,000.00, the Purchasing Manager shall submit a report prior to approval of the City Council identifying the basis for the determinations that the proposed successful contractor or vendor is the sole source for the supplies, services or construction item sought to be purchased and that the price is reasonable.

(Ord. No. 404, § 1, 6-16-09)

2-224. REQUESTS FOR INFORMATION.

(A) The Purchasing Manager or department seeking to make a purchase of supplies or services of a nature that requires the preparation of detailed, complex specifications in order to obtain the best supplies or services to serve the long-term needs of the city may issue a request for information requesting individuals or firms with experience and expertise in the area which is the subject of the purchase to assist in providing information that will enable the city to prepare specifications for the purchase of such supplies and services.

(B) A prospective contractor or vendor may submit a written request for information seeking clarification of a bid document, request for proposal or request for quotation. The Purchasing Manager shall respond in writing to a request for information submitted by a prospective contractor or vendor requesting clarification of the bid specifications or request for proposal by notifying all known prospective contractors or vendors which have expressed interest in submitting a bid or proposal.

(Ord. No. 404, § 1, 6-16-09)

2-225. PURCHASING CARDS.

(A) The Purchasing Manager, with the approval of the City Manager, may establish or participate in a purchasing card program established by a vendor or approved financial institution offering such services to enable city employees authorized by the Purchasing Manager to make small purchases of supplies or services needed for official city business in amounts not exceeding limits established by City Council resolution without utilizing the petty expenditure fund or obtaining a purchase order.

(B) The purchasing card program shall require the vendor or financial institution offering the program to provide to the city on a monthly basis a written, itemized

statement including the date of each purchase, the amount of each purchase, a description of the item or service purchased and the person making the purchase.

(C) The City Manager shall determine which city employees shall be issued purchasing cards and the restrictions which should be imposed on the amount and types and categories of items or services upon the employee authorized to use the purchasing card to ensure that purchases are made only for items or services within the scope of the employee's duties. The City Manager or his or her designee shall be responsible for the general oversight of the purchasing card policy.

(D) The Purchasing Manager, with the concurrence of the City Manager, shall develop and implement policies and procedures to ensure that the authorized employees recognize their responsibilities with respect to use, care, custody and surrender of purchasing cards and may require employees using the cards to sign agreements acknowledging their responsibilities for the proper use and custody of the cards.

(E) The Purchasing Manager shall require the employee using the card to submit documentation within a designated time period prior to approval of payment of the bill specifying the official city business for which the purchase of supplies or services was made.

(F) The purchasing card of an authorized employee shall be subject to the purchase limitations established by the Purchasing Manager which have been approved by the City Manager. An employee shall not divide a purchase into parts in order to circumvent the spending limitation imposed upon the employee's card.

(G) The purchasing card shall not be used for personal use or for unauthorized city business.

(Ord. No. 404, § 1, 6-16-09)

2-226. COOPERATIVE PURCHASING.

The City Council shall have the authority to join with other units of government in cooperative purchasing plans when it is in the best interests of the city. The cooperative purchasing may include but is not limited to joint or multiparty contracts between public purchasing units and open-ended state or federal public purchasing unit contracts which are made available to the city, notwithstanding any other provisions of this article. The city may also utilize cooperative purchasing organizations, including those using electronic bidding, to purchase supplies and services when deemed by the Purchasing Manager, City Manager, or City Council to be in the best interest of the city.

(Ord. No. 404, § 1, 6-16-09)

2-227. OFFICERS AND EMPLOYEES NOT TO HAVE INTEREST IN PURCHASE ORDERS OR CONTRACTS; ACCEPTANCE OF REBATES, GIFTS AND THE LIKE.

(A) Any purchase order or contract within the purview of this article in which the Purchasing Manager or any officer or employee of the city is financially interested, directly or indirectly, shall be void, unless the City Council determines by a 5/7 majority vote before the execution of a purchase order or contract that such action is in the best interest of the city, subject to Chapter 2, Article IV of this Code.

(B) The Purchasing Manager and every officer and employee of the city are expressly prohibited from accepting, directly or indirectly, from any person to whom any purchase order or contract is or might be awarded any rebate, gift, money or anything of value whatsoever, except as permitted by the administrative orders or policies relating to same, or where given for the use and benefit of the city.

(Ord. No. 404, § 1, 6-16-09)

2-228. PROHIBITION AGAINST AWARD OF CONTRACT TO PERSON IN DEFAULT WITH RESPECT TO OBLIGATIONS TO THE CITY.

No contract shall be made with any individual or firm which is in default with respect to its obligations to the city, including but not limited to breaches of contract and non-payment of taxes, utility charges, fees, or other charges owed the city.

(Ord. No. 404, § 1, 6-16-09)

2-229. PROHIBITION AGAINST SUBDIVISION.

No contract or purchase of supplies or services shall be subdivided to avoid the requirements of this article, or any dollar limitation established by resolution or ordinance adopted by the City Council.

(Ord. No. 404, § 1, 6-16-09)

2-230. SALE OR DISPOSITION OF OBSOLETE OR SURPLUS CITY PERSONAL PROPERTY.

The Purchasing Manager is authorized to sell supplies or equipment which have become unsuitable for use by the city or its departments due to obsolescence, or any other reason, or may exchange such property for, or trade in such property on, new supplies or equipment. Surplus supplies or equipment shall be sold by the competitive bid method or at a competitive auction to the highest responsible, responsive bidder if the estimated value exceeds $5,000.00, or in a manner approved by the City Manager if the estimated value is $5,000.00 or less. If the Purchasing Manager and department believe in good faith that the property has no market value based upon an appraisal by a reliable individual or firm, or upon the inability to sell it at a public auction, the city may dispose of such property as it sees fit, including donating it to a charitable organization.

(Ord. No. 404, § 1, 6-16-09)

2-231-2-249. RESERVED.

ARTICLE VII. AUTHORITY TO ISSUE MUNICIPAL CIVIL INFRACTION VIOLATIONS, CITATIONS AND APPEARANCE TICKETS

2-250. AUTHORITY TO ISSUE MUNICIPAL CIVIL INFRACTION NOTICES AND CITATIONS.

The City Manager, City Engineer, Building Official, Code Enforcement Official, police officers and such other officers, employees and other public servants designated by the City Manager are authorized to issue and serve municipal civil infraction notices and citations as authorized by Public Act 236 of 1961, as amended.

(Ord. No. 328, § 8, 11-5-97)

2-251. AUTHORITY TO ISSUE APPEARANCE TICKETS.

The City Manager, City Engineer, Building Official, Code Enforcement Official, police officers and such other officers, employees and other public servants designated by the City Manager are authorized to issue and serve appearance tickets as provided by Pubic Act 175 of 1927, Ch. IV, being M.C.L.A. §§ >764.1 et seq., as amended.

(1978 Code, § 2-250; Ord. No. 201-C, § 3, 12-16-86; Ord. No. 201-I, § 1, 6-7-94; Ord. No. 328, § 8, 11-5-97)

CHAPTER 3: ADVERTISING

ARTICLE I. IN GENERAL

3-1-3-15. Reserved.

ARTICLE II. POSTING

3-16. TITLE.

This article shall be known and cited as the "Posting Ordinance."

(1978 Code, § 3-16)

3-17. ENFORCEMENT OF ARTICLE.

It shall be the responsibility of the Police Department to enforce the provisions of this article, with full power, authority and duty to accomplish this purpose.

(1978 Code, § 3-17)

3-18. UNLAWFUL POSTING.

(A) It shall be unlawful for any person to hang, post, place, paste, attach, print, paint, staple or stamp any handbill, bill, notice, advertisement, sign, placard, card or circular or any other advertising device or matter of any description whatsoever, except such as may be expressly authorized by law, on any street or sidewalk, upon any election booth or other public place or upon any place or object, with the exception of billboards, in the city, or upon any fence, building or property belonging to the city, or upon any telephone pole, telegraph pole, electric light pole or tower now erected or which shall be erected hereafter, except signs by any government authority.

(B) It shall be unlawful for any person, except a public officer or employee in the performance of a public duty, or a private person in getting a legal notice, to paste, post, paint, print, nail, glue, attach or otherwise fasten any sign, poster, advertisement or notice of any kind upon any property, public or private, or cause or authorize the same to be done, without the consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee thereof; provided, however, that this provision shall not apply to the distribution of handbills, advertisements or other printed matter that are not securely affixed to the premises.

(Comp. Ords. 1973, § 5-202) Penalty, see§ 1-9

Cross reference:

Advertising in parks, see § 38-27;

Attachment of advertising matter to taxicabs, see§ 52-21;

Posting advertising matter in parks, see § 38-27;

Posting signs or other articles on trees located in public ways, see§ 51-11;

Sign regulations of zoning ordinances, see zoning ordinance §28.13

3-19-3-28. Reserved.

ARTICLE III. HANDBILLS

3-29. TITLE.

This article shall be known and may be cited as the "Handbill Distribution Ordinance."

(1978 Code, § 3-29)

3-30. PURPOSE.

To protect the people against the nuisance of and incident to the promiscuous distribution of handbills and circulars, particularly commercial handbills, as defined in this article, with the resulting detriment and danger to public health and safety, the public interest, convenience and necessity require the regulation thereof and to that end the purposes of this article are specifically declared to be as follows:

(1) To protect local residents against trespassing by solicitors, canvassers or handbill distributors upon the private property of such residents, if they have been given reasonable notice that such residents do not wish to be solicited by such persons or do not desire to receive handbills or advertising matter;

(2) To protect the people against the health and safety menace and the expense incidental to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial handbills;

(3) To preserve to the people their constitutional right to receive and disseminate information not restricted under the ordinary rules of decency and good morals and public order by distinguishing between the nuisance created by the promiscuous distribution of advertising and commercial handbills and the right to deliver noncommercial handbills to all who are willing to receive the same.

(1978 Code, § 3-30)

3-31. DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings hereinafter ascribed to them, except where the context clearly indicates a different meaning:

COMMERCIAL HANDBILL. Any printed or written matter and sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature:

(1) Which advertises for sale any merchandise, product, commodity or thing;

(2) Which directs attention to any business or mercantile or commercial establishment or other activity for the purpose of, either directly or indirectly, promoting the interests thereof by sales; or

(3) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

NEWSPAPER. Any newspaper of general circulation, as defined by general law, any newspaper duly entered with the postal service of the United States in accordance with federal statute or regulation and any newspaper filed and recorded with any recording officer, as provided by general law. In addition thereto, such term shall mean and include any periodical or current magazine regularly published, with not less than four issues per year, and sold to the public.

NONCOMMERCIAL HANDBILL. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature not included in the aforesaid definition of a commercial handbill or a newspaper, with the exception of political and religious literature.

PRIVATE PREMISES. Any dwelling, house, building or other structure designed or used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to the dwelling, house, building or other structure.

PUBLIC PLACE. Any and all streets, boulevards, avenues, lanes, alleys or other public ways and any and all public parks, squares, plazas, grounds and buildings.

(1978 Code, § 3-31)

3-32. EXEMPTIONS FROM ARTICLE.

The provisions of this article shall not be deemed to apply to the distribution of mail by the United States, nor to newspapers, as defined in this article.

(1978 Code, § 3-32)

3-33. REQUIRED IDENTIFICATION.

It shall be unlawful for any person to distribute, deposit, scatter, hand out or circulate any commercial or noncommercial handbill in any place under any circumstances which does not have printed on the cover, front or back thereof the name and address of the following:

(1) The person who printed, wrote, compiled or manufactured the same; and

(2) The person who caused the same to be distributed.

In the case of a fictitious person or club, in addition to such fictitious name, the true names and addresses of the owners, managers or agents of the person sponsoring the handbill shall also appear thereon.

(1978 Code, § 3-33) Penalty, see § 1-9

3-34. DEPOSIT OR DISTRIBUTION IN OR ON PUBLIC PLACES.

It shall be unlawful for any person to deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any public place within the city. It shall also be unlawful for any person to hand out, distribute or sell any commercial or noncommercial handbill in any public place to any person not willing to accept such handbill.

(1978 Code, § 3-34) Penalty, see § 1-9

Cross reference:

Anti-litter ordinance, see §§ 23-31 et seq.

3-35. DEPOSIT IN OR ON VEHICLES.

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any automobile or other vehicle within the city. The provisions of this section shall not be deemed to prohibit the handling, transmitting or distributing of any commercial or noncommercial handbill to the driver or other occupant of any automobile or other vehicle who is willing to accept the same.

(1978 Code, § 3-35) Penalty, see § 1-9

3-36. DISTRIBUTION OR DEPOSIT ON PRIVATE PREMISES GENERALLY.

No person shall distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or any other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted as provided in this article, the person may place or deposit any such handbill in or upon such inhabited private premises, unless requested by anyone upon such premises not to do so, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, except that mailboxes may not be used when so prohibited by federal postal laws or regulations.

(1978 Code, § 3-36) Penalty, see § 1-9

3-37. DEPOSIT IN OR ON VACANT PREMISES.

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(1978 Code, § 3-37) Penalty, see § 1-9

3-38. DISTRIBUTION OR DEPOSIT ON POSTED PREMISES.

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill upon any premises, if requested by anyone thereon not to do so or if there is placed on the premises, in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested, to have their right of privacy disturbed or to have any such handbills left upon the premises; provided, however, that it shall be the duty of the owner, landlord or person in control of any premises remaining vacant for a period of more than five days to post, in a conspicuous position on the premises, the sign as is indicated by this section. The term vacant, as used herein, shall not be deemed to include temporary absences from the premises by its regular occupants.

(1978 Code, § 3-38) Penalty, see § 1-9

3-39. OFFENSIVE HANDBILLS.

It shall be unlawful for any person to post, hand out, distribute or transmit in any manner any commercial or noncommercial handbill:

(1) Which may reasonably tend to incite riot or other public disorder, which advocates disloyalty to or the overthrow of the government of the United States or this state by means of any artifice, scheme or violence, which urges any unlawful conduct or which encourages or tends to encourage a breach of the public peace or good order of the community; or

(2) Which is offensive to public morals or decency or which contains defamatory, blasphemous, obscene, libelous or scurrilous language.

(1978 Code, § 3-39) Penalty, see § 1-9

Cross reference:

Obscenity, see Ch. 34;

Public offenses, see §§ 35-14 et seq.

CHAPTER 4: AIR POLLUTION CONTROL

ARTICLE I. IN GENERAL

4-1-4-20. RESERVED.

ARTICLE II. COMMERCIAL INCINERATORS

4-21. PURPOSE OF ARTICLE.

The purpose of this article is to preserve the public health, safety and welfare of the city by the prevention of nuisances and hazards resulting from the creation of hazardous or noxious conditions or the emission of pollutants into the atmosphere.

(1978 Code, § 4-21)

4-22. ENFORCEMENT OF ARTICLE.

It shall be the responsibility of the Office of Building Services to enforce the provisions of this article with all power, authority and duty to accomplish the purpose set forth in § 4-21.

(1978 Code, § 4-22)

4-23. DEFINITION.

The term ***COMMERCIAL INCINERATOR***, as used in this article, is defined as any equipment, device or contrivance used for the destruction of garbage, rubbish or other waste by burning and all appurtenances thereto, operated by any commercial, industrial or business establishment and by any apartment, condominium or cooperative residence complex.

(1978 Code, § 4-23)

4-24. PROHIBITED; EXCEPTION.

(A) It shall be unlawful to construct, maintain, install or operate any commercial incinerator within the city.

(B) Any commercial incinerator completed and in operation, with all necessary approvals and permits, by June 1, 1972, shall be specifically entitled to continue operation; provided, however, that any such existing incinerator shall not be enlarged or expanded after June 1, 1972; and provided further, that all applicable city, county, state and federal regulations regarding the operation of commercial incinerators are observed.

(1978 Code, § 4-24) Penalty, see § 1-9

CHAPTER 5: ALCOHOLIC BEVERAGES

ARTICLE I. IN GENERAL

5-1. PERSONS UNDER 21, UNLAWFUL PURPOSE, CONSUMPTION OR POSSESSION OR ANY BODILY ALCOHOL CONTENT; FIRST OFFENDER DISCHARGE AND DISMISSAL; FRAUDULENT IDENTIFICATION; ARREST BASED UPON REASONABLE CAUSE OR UPON RESULTS OF PRELIMINARY CHEMICAL BREATH ANALYSIS; PARENTAL NOTIFICATION; PARTICIPATION IN UNDERCOVER PROGRAMS.

(A) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. A minor who violates this subsection is responsible for a municipal civil infraction or guilty of a misdemeanor punishable by the following fines and sanctions:

(1) For the first violation, the minor is responsible for a municipal civil infraction and shall be fined not more than $100. The court may order the minor to participate in substance use disorder services as defined in Section 6230 of the Public Health Code, Public Act 368 of 1978, being M.C.L. § 333.6230, and designated by the administrator of the office of substance abuse services, and may order the minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (E). A minor may be found responsible or admit responsibility only once under this subdivision.

(2) If a violation of this subdivision occurs after one prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than $200, or both. A court may order a minor under this subdivision to participate in substance use disorder services as defined in Section 6230 of the Public Health Code, Public Act 368 of 1978, being M.C.L.A. § 333.6230, and designated by the state administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (E).

(3) If a violation of this subdivision occurs after two or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 60 days, if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than $500, or both, as applicable. A court may order a minor under this subdivision to participate in substance use disorder services as defined in Section 6230 of the Public Health Code, Public Act 368 of 1978, being M.C.L. § 333.6230, and designated by the state administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (E).

(B) An individual who furnishes fraudulent identification to a minor, or notwithstanding subsection (A), a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100, or both.

(C) If an individual pleads guilty to a misdemeanor violation of subsection (A)(2) or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of subsection (A)(2), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions set forth in subsection (A)(3), payment of the costs including minimum state costs as provided for in section 18m of chapter XIIA of the probate code of 1939, 1939 PA 288, M.C.L. § 712A.18m, and section 1j of chapter IX of the Code of Criminal Procedure, 1927 PA 175, M.C.L. § 769.1j, and the costs of probation as prescribed in section 3 of chapter XI of the Code of Criminal Procedure, 1927 PA 175, M.C.L. § 771.3. If a court finds that an individual violated a term or condition of probation or that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed an offense, and proceed as otherwise provided by law. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. A discharge and dismissal under this subsection is without adjudication of guilt and without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction for purposes of disqualifications or disabilities imposed by law on conviction of a crime. An individual may obtain only one discharge and dismissal under this subsection. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection.

(D) A misdemeanor violation of subsection (A) successfully deferred, discharged, and dismissed under subsection (C) is considered a prior judgment for the purposes of subsection (A)(3).

(E) A court may order an individual found responsible for or convicted of violating subsection (A) to undergo screening and assessment by a person or agency as designated by the state-designated community mental health entity as defined in Section 100a of the Mental Health Code, Public Act 258 of 1974, being M.C.L. § 330.1100a, to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. A court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (A) to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a minor who is less than 18 years of age and not emancipated under 1968 PA 293, M.C.L. §§ 722.1 to 722.6, may request a random or regular preliminary chemical breath analysis as part of the probation.

(F) The Secretary of State shall suspend the operator's or chauffeur's license of an individual convicted of a second or subsequent violation of subsection (A) or of violating subsection (B) as provided in Section 319 of the Michigan Vehicle Code, Public Act 300 of 1949, being M.C.L. § 257.319.

(G) A police officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a police officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a municipal civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(H) The Police Department, on determining that an individual who is less than 18 years of age and not emancipated under Public Act 293 of 1968, M.C.L. §§ 722.1 through 722.6, allegedly consumed, possessed, purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (A) shall notify the parent or parents, custodian, or guardian of the individual as to the nature of the violation if the name of a parent,

guardian, or custodian is reasonably ascertainable by the Police Department. The Police Department shall notify the parent, guardian, or custodian not later than 48 hours after the Police Department determines that the individual who allegedly violated subsection (A) is less than 18 years of age and not emancipated under Public Act 293 of 1968, M.C.L. §§ 722.1 through 722.6. The Police Department may notify the parent, guardian, or custodian by any means reasonably calculated to give prompt actual notice, including but not limited to notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection (A), his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(I) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by the Liquor Control Code, by the Liquor Control Commission, or by an agent of the Liquor Control Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(J) The following individuals are not considered to be in violation of subsection (A):

(1) A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b through 520g of the Michigan Penal Code, Public Act 328 of 1931, M.C.L. §§ 750.520b through 750.520g, committed against a minor.

(2) A minor who accompanies an individual who meets both of the following criteria:

(a) Has consumed alcoholic liquor.

(b) Voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b through 520g of the Michigan Penal Code, Public Act 328 of 1931, M.C.L. §§ 750.520b through 750.520g, committed against a minor.

(c) A minor who initiates contact with a police officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.

(K) If a minor who is less than 18 years of age and who is not emancipated under Public Act 293 of 1968, M.C.L. §§ 722.1 through 722.6, voluntarily presents himself or herself to a health facility or agency for treatment or for observation as provided under subsection (J), the health facility or agency shall notify the parent or parents, guardian, or custodian of the individual as to the nature of the treatment or observation if the name of a parent, guardian, or custodian is reasonably ascertainable by the health facility or agency.

(L) This section does not limit the civil or criminal liability of a vendor or the vendor's clerk, servant, agent, or employee for a violation of this chapter.

(M) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited post-secondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this chapter if the purpose of the consumption is solely educational and is a requirement of the course.

(N) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this chapter.

(O) Subsection (A) does not apply to a minor who participates in either or both of the following:

(1) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's or city attorney's office as part of an employer-sponsored internal enforcement action;

(2) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the State Police, the Liquor Control Commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the State Police, the Liquor Control Commission, or the local police agency and was not part of the undercover operation.

(P) The State Police, the Liquor Control Commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (A), Section 701(1) of the Liquor Control Code, or Section 801(2) of the Liquor Control Code.

(Q) In a prosecution for the violation of subsection (A) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

(R) As used in this section:

(1) "Any bodily alcohol content" means either of the following:

(a) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(2) "Emergency medical services personnel" means that term as defined in Section 20904 of the Public Health Code, Public Act 368 of 1978, M.C.L. § 333.20904.

(3) "Health facility or agency" means that term as defined in Section 20106 of the Public Health Code, Public Act 368 of 1978, M.C.L. § 333.20106.

(4) "Prior judgment" means a conviction, juvenile adjudication, finding of responsibility, or admission of responsibility for any of the following, whether under a law of the State of Michigan, a local ordinance substantially corresponding to a law of the State of Michigan, a law of the United States substantially corresponding to a law of the State of Michigan, or a law of another state substantially corresponding to a law of the State of Michigan:

(a) This section or Section 701 or 707 of the Michigan Liquor Control Code, Public Act 58 of 1998, M.C.L. § 436.701 or § 436.707 (commonly known as selling or furnishing alcohol to a minor).

(b) Section 624a, 624b, or 625 of the Michigan Vehicle Code, Public Act 300 of 1949, M.C.L. § 257.624a, § 257.624b, and § 257.625 (commonly known as Open Intox, Transport by a Minor, and Operating While Intoxicated, respectively).

(c) Section 80176, 81134, or 82127 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, M.C.L. § 324.80176, § 324.81134, and § 324.82127 (commonly known as Operating a Motorboat, ORV, or Snowmobile While Under the Influence, respectively).

(d) Section 167a or 237 of the Michigan Penal Code, Public Act 328 of 1939, M.C.L. § 750.167a and § 750.237 (commonly known as Hunting While Intoxicated and Possess/Use Firearm While Under the Influence, respectively).

(1978 Code, § 5-1; Ord. No. 179-B, § 1, 1-2-79; Ord. No. 209, § 1, 7-2-79; Ord. No. 209-B, § 1, 3-5-87; Ord. No. 179-K and 209-D, § 1, 6-18-96; Ord. No. 350, § 1, 10-17-00; Ord. No. 372, § 1, passed 10-19-04; Ord. No. 407, § 1, 7-21-09; Ord. No. 209-F, § 1, 12-5-17)

Statutory reference:

Similar provisions, see M.C.L. § 436.1703

5-2. SALES TO MINORS PROHIBITED; PENALTIES; DETENTION BY OFFICERS.

(A) Alcoholic liquor shall not be sold or furnished to a minor. A person who knowingly sells or furnishes alcoholic liquor to a minor, or who fails to make diligent inquiry as to whether the person is a minor, is guilty of a misdemeanor. A person who is not a retail licensee or a retail licensee's clerk, agent or employee and who violates this subsection shall be fined $500 and may be sentenced to imprisonment for up to 60 days for a first offense, shall be fined $500 and shall be sentenced to imprisonment for up to 90 days for a second or subsequent offense and may be ordered to perform community service. A suitable sign describing the content of this section and the penalties for its violation shall be posted in a conspicuous place in each room where alcoholic liquor is sold. The signs shall be approved and furnished by the Liquor Control Commission.

(B) In an action for the violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a minor, a motor vehicle operator's or chauffeur's license, a military identification card , or other bona fide documentary evidence of the age and identity of that person, shall be a defense to an action brought under this section.

(C) As used in this section, ***DILIGENT INQUIRY*** means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator's or chauffeur's license, an official Michigan personal identification card, a military identification card, or any other bona fide picture identification which establishes the identity and age of the person.

(D) A police officer who witnesses a violation of §5-1 may stop and detain a person and obtain satisfactory identification, seize illegally possessed alcoholic liquor and issue an appearance ticket as prescribed in the Code of Criminal Procedure, Chapter IV, § 9b, Public Act 175 of 1927, being M.C.L.A. §§ 764.1 et seq., M.C.L. § 764.9b.

(1978 Code, § 5-2; Ord. No. 179, § 5.02, 2-24-76; Ord. No. 179-B, § 1, 1-2-79; Ord. No. 209, § 1, 7-29-79; Ord. No. 209-A, § 1, 9-20-83; Ord. No. 179-K and 209-D, § 2, 6-18-96; Ord. No. 350, § 2, 10-17-00; Ord. No. 407, §§ 2, 3, 7-21-09)

Statutory reference:

Similar provisions, see M.C.L. § 436.1701 and M.C.L. § 436.1705

5-3. BRINGING ALCOHOLIC BEVERAGES INTO ESTABLISHMENT LICENSED TO SELL SAME.

No person shall bring any alcoholic beverage into any establishment licensed to sell alcoholic beverages.

(1978 Code, § 5-3; Ord. No. 179-B, § 1, 1-29-79; Ord. No. 209, § 1, 7-2-79)

5-4. SELLING, SERVING, OR FURNISHING ALCOHOL; PROHIBITIONS.

(A) No person shall sell, serve, or furnish any alcoholic liquor to any person in an intoxicated condition.

(B) A licensee shall not allow a person who is in an intoxicated condition to consume alcoholic liquor on the licensed premises.

(C) A licensee, or clerk, servant, agent, or employee of the licensee, shall not be in an intoxicated condition on the licensed premises.

(D) A licensee shall not allow an intoxicated person to frequent or loiter on the licensed premises except where the intoxicated person has been refused service of further alcoholic liquor and continues to remain on the premises for the purpose of eating food, seeking medical attention, arranging transportation that does not involve driving himself or herself, or any other circumstances where requiring the person to vacate the premises immediately would be considered dangerous to that person or to the public.

(E) A licensee shall not allow a minor to consume alcoholic liquor or to possess alcoholic liquor for personal consumption on the licensed premises.

(F) A licensee shall not allow any person less than 18 years of age to sell or serve alcoholic liquor.

(G) A licensee shall not allow any person less than 18 years of age to work or entertain on a paid or voluntary basis on the licensed premises unless the person is employed in compliance with the youth employment standards act, 1978 PA 90, MCL 409.101 to 409.124. This subsection does not apply to an entertainer under the direct supervision and control of his or her parent or legal guardian.

(H) For purposes of this section, the term "licensee" means any person, entity, or business that is licensed by the Michigan Liquor Control Commission for purposes of manufacturing for sale, selling, or warehousing alcoholic liquor in accordance with state law.

(I) For purposes of this section, the term "intoxicated condition" means that the person is under the influence of intoxicating liquor to the degree that the person may endanger himself, herself, or other persons or property, or annoy persons in the vicinity.

(Ord. No. 407, § 4, 7-21-09)

5-5-5-15. RESERVED.

ARTICLE II. LIQUOR CONTROL

5-16. TITLE.

This article shall be known and cited as the "Liquor Control Ordinance."

(1978 Code, § 5-16)

Statutory reference:

Michigan Liquor Control Act, see M.S.A. §§ 18.971 et seq.; M.C.L. §§ 436.1 et seq.

5-17. TRAFFIC IN LIQUOR TO COMPLY WITH STATE LAW.

All alcoholic liquor traffic, including, among other things, the manufacture, sale, offer for sale, storage for sale, possession and/or transportation thereof within city shall comply with the provisions of the Michigan Liquor Control Act, being Public Act 8 of 1933 (Extra Session), being M.C.L.A. §§ 436.1 et seq., as amended, of the State of Michigan.

(1978 Code, § 5-17)

5-18. ENFORCEMENT OF STATE LAW.

It shall be the responsibility of the City Police Department to enforce the provisions of the Michigan Liquor Control Act within the city with full power, authority and duty to accomplish this purpose.

(1978 Code, § 5-18)

5-19. INSPECTIONS AND INVESTIGATIONS OF COMPLAINTS.

(A) The City Police Department shall cause all liquor licensees to be inspected and investigate all complaints received by it concerning violations of the Michigan Liquor Control Act and to investigate improper operations and practices concerning liquor traffic within the city.

(B) Any police officer of the city shall have the right to inspect any place in the city where alcoholic liquor is manufactured, sold, offered for sale, kept for sale, possessed or transported or where the police officer suspects the same is being thus manufactured, sold, offered for sale, kept for sale, possessed or transported.

(1978 Code, § 5-19)

5-20. VIOLATIONS.

(A) Any person, other than persons required to be licensed under the Michigan Liquor Control Act, who shall violate any of the provisions of this article, shall be guilty of a misdemeanor punishable as provided in § 1-9 of this Code.

(B) Any licensee who shall violate any of the provisions of the Michigan Liquor Control Act or any rule or regulation of the Michigan Liquor Control Commission promulgated thereunder or who shall violate any of the provisions of this article, and any person who shall prohibit or interfere with the authorized inspection of a member of the City Police Department, shall be guilty of a misdemeanor punishable as provided in § 1-9 of this Code.

(1978 Code, § 5-20)

5-21-5-29. RESERVED.

ARTICLE III. LIQUOR LICENSING

5-30. TITLE.

This article shall be known and may be cited as the "Sterling Heights Liquor License Ordinance."

(1978 Code, § 5-30; Ord. No. 243, § 1, 12-20-83)

5-31. PURPOSE.

This article is established to cause the greatest benefit to the City of Sterling Heights in its use of its powers with regard to the issuance, transfer, renewal or revocation of liquor licenses, entertainment permits and other alcohol-related permits within its jurisdiction. This article is established in order to provide an orderly and nondiscriminatory procedure for the review and approval by the City of Sterling Heights of any and all requests for liquor licenses, entertainment permits, other permits issued by the Michigan Liquor Control Commission or any matter relating thereto and for the sale or dispensation of alcoholic beverages within the City of Sterling Heights. Each person, firm or corporation who desires such license or permit, or approval or renewal of the same, shall comply with the provisions of this article.

(1978 Code, § 5-31; Ord. No. 243, § 2, 12-20-83; Ord. No. 243-C, § 1, 1-19-99)

5-32. APPLICABILITY.

This article shall apply only to applications for licenses to sell beer, wine or spirits for on-premises consumption, including but not limited to Class B licenses, Class C licenses, resort licenses, tavern licenses and hotel licenses, and it shall also apply to applications for entertainment permits and other permits issued by the Michigan Liquor Control Commission. This article shall not, in any event, apply to applications for SDM and SDD licenses, club licenses, special licenses granted by the Michigan Liquor Control Commission or one day permits as allowed by statute, with the exception that an applicant for such licenses shall be required to submit a nonrefundable fee to the City Clerk, in an amount determined by the City Council, to cover the cost of investigation, review and inspection by the City of Sterling Heights.

(1978 Code, § 5-31; Ord. No. 243, § 2, 12-20-83; Ord. No. 243-C, § 2, 1-19-99)

5-33. DEFINITIONS.

The following definitions shall apply to this chapter.

ALCOHOLIC BEVERAGES. Any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented and by whatever name called, containing 1/2% or more of alcohol by volume which are fit for use for beverage purposes.

OTHER PERMIT. Any on-premises permit that may be issued by the Michigan Liquor Control Commission, with the exception of entertainment permits, including but not limited to food permits, dance permits, additional bar permits, dance-entertainment permits and other specialized permits.

PERSON, FIRM or ***CORPORATION.*** These terms, as used in this article, include any person or legal entity of whatsoever kind or nature, either charitable or profitable, that desires to have or is already possessed of any license or permit issued by the State of Michigan relating to the sale and dispensation of alcoholic beverages or the offering of entertainment at a licensed establishment, pursuant to a liquor license or permit of any variety within the City of Sterling Heights.

(1978 Code, § 5-33; Ord. No. 243, § 3, 12-20-83; Ord. No. 243-C, § 3, 1-19-99)

5-34. APPLICATIONS FOR NEW LICENSE OR PERMIT.

(A) *Procedure*. The applicant must submit an application for liquor license approval to the city for consideration by the city as set forth in this chapter. Upon reaching a decision regarding the request for approval, the city shall notify the Michigan Liquor Control Commission of the application and the city's recommendation. Liquor license holders that desire to apply for an entertainment or other permit must submit an application to the Michigan Liquor Control Commission before submitting an application for permit approval to the city. No application for an entertainment or other permit will be considered by the city until the city has been notified by the Michigan Liquor Control Commission that it has received such an application.

(B) *Submission to City Clerk.* The applicant shall submit a current and fully completed "City of Sterling Heights Liquor License Application," "City of Sterling Heights Entertainment Permit Application" or the appropriate application for any other permit, as prepared and furnished by the City Clerk, to:

City Clerk

City of Sterling Heights

40555 Utica Road

Sterling Heights, Michigan 48078

(C) *Required information and applicable fee.* The city application shall include at least the following information:

(1) Name and address of applicant. If a partnership or corporation, all persons with an ownership interest shall be listed;

(2) Type of license or permit desired;

(3) Address and legal description of the property where the license is to be located;

(4) A preliminary site plan showing the relationship of the proposed structure to the surrounding property and uses and photographs or drawings of each of the sides of the structure in which the license, entertainment permit or other permit shall be operated. This requirement shall be waived for applicants whose site plan remains on file with the city due to a prior application which was approved by the city and granted by the Michigan Liquor Control Commission;

(5) A written statement as to the applicant's character, experience and financial ability to meet the obligations and business undertakings for which the license or permit is to be issued;

(6) Any other information pertinent to the applicant and operation of the proposed facility as may be required by the City Council by prior notice to the applicant;

(7) The application shall be accompanied by a deposit of a nonrefundable fee, in an amount determined by the City Council, to cover the cost of investigation, review and inspection by the City of Sterling Heights of the application.

(D) *Recommendations from city departments.* Following the receipt of the fully completed application, fees and such other information as may be requested by the city, the City Clerk shall forward the application to such departments as required by the City Manager, which departments shall make their recommendations prior to consideration by the City Council. In making its review, the city may request from the applicant other pertinent information.

(E) *Placement upon City Council agenda.* Upon receipt by the City Clerk's office of the recommendations of the departments as required, the Clerk shall cause the application to be placed upon the agenda of the City Council within a reasonable time after the receipt of the recommendation by the City Clerk.

(F) *Initial action by City Council.* At the initial meeting before the City Council to consider the application for a liquor license, entertainment permit or other permit, the City Council shall generally take one of the following steps:

(1) Ask the applicant to proceed with the submitted plans so that a more detailed and complete proposal may be heard by the Council at a later date; provided, however, that this action by the Council shall not be interpreted to mean approval of the application or the general details of the proposal;

(2) Postpone action on the application for a period not to exceed 60 days. The 60 day limitation for postponement of action may be waived by the applicant if the postponement is for the purpose of supplying the City Council with additional information requested of the applicant by the City Council, when the applicant is unable to supply the requested information within that stated time period; or

(3) Reject the application stating the reasons for this denial.

(G) *Criteria for decision on application.* The City Council, in making its decision regarding a liquor license application, shall consider the following criteria:

(1) The applicant's management experience in the alcohol/liquor business;

(2) The applicant's general business management experience;

(3) The applicant's general business reputation;

(4) The applicant's moral character;

(5) The applicant's financial status and its ability to build and/or operate the proposed facility on which the proposed liquor license is to be located;

(6) Past criminal convictions of the applicant for crimes involving moral turpitude, violence or alcoholic liquors;

(7) The applicant's excessive use of alcoholic beverages;

(8) The effect that the issuance of a license would have upon the economic development of the surrounding area;

(9) The effects that the issuance of a license would have on the health, welfare and safety of the general public;

(10) The recommendations of the local law enforcement agency, Building Department, Zoning Department and Fire Department with regard to the proposed facility;

(11) Whether the applicant has demonstrated the public need or convenience for the issuance of the liquor license for the business facility at the location proposed;

(12) The uniqueness of the proposed facility when contrasted against other existing or proposed facilities;

(13) The number of liquor licenses issued and the number of liquor licenses available for issuance in the city;

(14) Whether the facility to which the proposed liquor license is to be issued complies, or will comply, with the applicable building, plumbing, electrical and fire prevention codes and zoning statutes and ordinances applicable in the city;

(15) The effects of the business facility to which the proposed license is to be issued will have upon vehicular and pedestrian traffic in the area;

(16) The proximity of the proposed business facility to other similarly situated licensed liquor facilities;

(17) The effects that the business facility to which the proposed license is to be issued would have upon the surrounding neighborhood and/or business establishments;

(18) The permanence of the establishment in the community as evidenced by the proposed or actual commitments made by the applicant;

(19) Such other considerations as the Council may deem proper, provided such considerations are reasonable under all of the circumstances.

(H) *Criteria for decision on entertainment permit or other permit application.* The City Council, in making its decision regarding an application for an entertainment permit or other permit, shall consider the following criteria:

(1) Each of the applicable criteria listed in subsection (G) of this section;

(2) Each of the criteria listed in the resolution adopted pursuant to this article. Copies of the resolution may be obtained from the City Clerk's office;

(3) The number of years preceding the application during which the applicant was in the business of the sale of alcoholic beverages in the same location in the city;

(4) The applicant's prior citations and convictions for violations of any fire, building, health, or liquor statute, ordinance or regulation;

(5) Whether 50% or more of the total gross receipts for an accounting year of the establishment come from the sale, at retail, of food, goods and services;

(6) Whether the location has ample parking, as determined by the city administration, and whether the entertainment permit will contribute to or create any traffic problem;

(7) The elevation plans regarding the size and seating capacity of the business, the size of the dressing rooms (if any) and locations of the stage (if any);

(8) The reports generated by the heads of the Building, Fire, Zoning and Police Department regarding recent inspections or reinspection of the establishment. Where a previous inspection report has been generated for another purpose, such as on an application for a motel license, the City Council may waive reinspection and request a sworn affidavit by the applicant stating that no changes have been made to the business establishment since the issuance of the previous permit or license;

(9) No permit shall be issued to an establishment located within 500 feet of: (1) a church, (2) a public or private elementary or secondary school or (3) a public park. The distance shall be measured along the center line of the street or streets of address between two fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the church, school or park nearest to the contemplated location and from the part of the contemplated location nearest to the church, school or park;

(10) No permit shall be issued where the proposed use will injure or adversely affect the adjacent area or property values. In making a determination of injury or adverse effect, the City Council must find that the proposed use will not cause a significant hazard, annoyance or inconvenience to the owners or occupants of nearby property or significantly change the character of the neighborhood or reduce the value of nearby property;

(11) No permit shall be issued where the proposed use will impose a significant cost burden upon the city or will create a significant obstacle to the implementation of the zoning ordinance or the master plan of the city;

(12) No permit shall be issued where the applicant fails to file a sworn affidavit concerning the type, kind, character and quality of entertainment proposed and to be presented;

(13) No permit shall be issued where the applicant fails to execute a contract with the city, in the form drafted by the city, to assure compliance with any and all regulations, codes or conditions that apply to the applicant or the establishment or which may be imposed upon the applicant or the establishment by City Council in exchange for approval of the permit request;

(14) No permit shall be issued where the applicant is not the owner of the establishment to be offering the proposed entertainment;

(15) No permit shall be issued where the applicant has failed to secure an amusement device license pursuant to Chapter 7 of the code of ordinances, if applicable, before evaluation of the application for an entertainment permit.

(I) *Restrictions on licenses and permits.* No license, entertainment permit or other permit shall be issued to or for, nor shall any transfer of a license or permit be approved to or for:

(1) An applicant whose liquor license and/or entertainment or other permit has been revoked or not renewed for cause under this article, under a comparable city or township ordinance or under state law, whether in Michigan or otherwise;

(2) A copartnership or partnership, unless all the members of such copartnership or partnership shall qualify to obtain such license or permit;

(3) A corporation, if any officer, manager or director thereof, or stockholder owning in the aggregate more than 10% of the stock of the corporation would not be eligible to receive a license and/or permit hereunder for any reason;

(4) A person who has been convicted of a crime punishable by death or imprisonment in excess of one year under the law under which he or she was convicted; a crime involving theft, dishonesty or false statement (including tax evasion) regardless of punishment; or a crime or administrative violation of a federal or state law concerning the manufacture, possession or sale of alcoholic beverages or controlled substances;

(5) For premises where there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations or any other applicable city ordinance;

(6) An application by a person, firm or corporation for a license at a particular site, location, or geographic area within the city which has been denied by the City Council within the six month period preceding the submission date of the most recent application. The City Clerk shall forward a letter to the applicant advising that the application has been denied pursuant to this chapter;

(7) The waiting period provision of this subsection may be waived where the City Clerk finds that the applicant has demonstrated or alleged in substantial detail a material change of circumstances, such that the original reason(s) for denial of the application are no longer applicable. In such instance, the City Clerk shall, after receiving the appropriate fee from the applicant, forward the application for investigation by the appropriate department(s) to confirm the change in circumstances. If the investigating department(s) confirms the change in circumstances, the City Clerk shall set the application for hearing by the City Council in the usual manner, with the qualification that the application was denied within the previous six months but has been re-submitted due to a material change of circumstances;

(8) For purposes of this section, the phrase ***DENIED BY THE CITY COUNCIL*** shall be construed to mean a vote or resolution of the City Council passed or ratified at an official meeting of the City Council. The term ***SUBMISSION DATE*** shall be construed as the date on which the City Clerk received the new or renewed application. The term ***MATERIAL CHANGE IN CIRCUMSTANCES*** shall be construed to mean new or different facts which tend to eliminate or substantially mitigate the reason(s) for the prior denial of the application;

(9) This subsection shall not be construed to create any rights of appeal or re-application in any applicant or for any property within the six month waiting period.

(J) *Request for consideration of approval.* Once an applicant who has been asked to proceed by presenting a more detailed and complete proposal has sufficiently completed its plans and obtained site plan, engineering, zoning, planning and other necessary approvals by the city, the applicant may then request consideration by the Council of approval. Upon the receipt of a written notice by an applicant for consideration of approval, the City Clerk shall cause the application to be placed on the agenda of the City Council for the Council's action within a reasonable time of the receipt of the same by the Clerk. At that meeting, the applicant shall be prepared to discuss the following:

(1) Cost estimates for the building, furnishing and fixtures as part of the proposal;

(2) Site plan information, including landscaping and other aesthetic features of the proposal;

(3) Estimate of the number of employees who would be required for the operation;

(4) Information on the individual or individuals expected to manage the operation, as well as information as to how the facility would actually be managed;

(5) Information about any entertainment or dancing that might be involved;

(6) Answers to any related questions about the proposed improvements and/or general operation of the facility.

(K) *Action by Council, contingencies of approval.* Following this presentation by the applicant, the City Council may approve, above all others, the application, postpone consideration for a reasonable period or reject the application. Approval will be contingent upon the obtaining of building permits and any other necessary permits, licenses or approval from the city within six months from the date of the approval. Approval will also be contingent upon fulfillment of all other conditions imposed by this article.

(L) *Changes in plans, drawings and the like.* After receipt of approval by the City Council, no floor plan, building elevation, site plan, seating arrangement, kitchen lay-out or other pertinent facts, drawings or documents submitted to the City Council may be changed without the applicant first receiving necessary departmental approvals as well as approval from the City Council.

(M) *Recommendation for approval of liquor license, entertainment permit or other permit.* Upon completion of the building and in accordance with the prior approval of the Council, the City Council shall then recommend the applicant for issuance of the liquor license, entertainment permit or other permit by the Liquor Control Commission of the State of Michigan.

(N) *Reservation of authority.* No applicant has a right to the issuance of a license, entertainment permit or other permit to him, her or it, and the City Council reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such licenses and permits.

(1978 Code, § 5-34; Ord. No. 243, § 4, 12-20-83; Ord. No. 243-A, §§ 2 through 5, 8-8-84; Ord. No. 243B, § 1, 10-7-97; Ord. No. 243-C, § 4, 1-19-99)

5-35. TRANSFER OF EXISTING LICENSES AND PERMITS.

The transfer of any existing liquor license, entertainment permit or other permit covered hereunder shall be subject to each of the requirements, criteria and procedures, including fees, set forth in this article for the granting of a new liquor license or permit. In addition, the transferee applicant shall furnish a copy of any and all files which may be in the Michigan Liquor Control Commission's possession regarding that Commission's investigation of the transferee as a present or previous licensee or permit holder.

(1978 Code, § 5-35; Ord. No. 243, § 5, 12-20-83; Ord. No. 243-C, § 5, 1-19-99; Ord. No. 243-D, § 1, 8-17-99)

5-36. OBJECTIONS TO RENEWAL AND REQUESTS FOR REVOCATION.

(A) *Generally.* The City Council may object to a renewal of a liquor license, entertainment permit or other permit to the Michigan Liquor Control Commission or request the revocation of a liquor license, entertainment permit or other permit by the Michigan Liquor Control Commission.

(B) *Procedure.* Before filing an objection to the renewal or request for revocation of a license or permit with the Michigan Liquor Control Commission, the City Council shall serve the license holder or permit holder, by first class mail, mailed not less than ten days prior to the hearing, a notice of such hearing, which notice shall contain the following information:

(1) Notice of the proposed action;

(2) Reasons for the proposed action;

(3) Date, time and place of the hearing;

(4) A statement that the licensee or permit holder may present evidence and testimony and may confront witnesses and may be represented by a licensed attorney.

(C) *Hearing and final decision.* The hearing may be conducted by Council as a whole or by a hearing officer appointed by the Council for such purposes. If a hearing officer is appointed, it shall be that officer's duty to undertake the hearing and hear and take evidence and testimony of the licensee or permit holder, or witnesses on its behalf, in opposition to the objection to renewal or request for revocation. After the hearing, the hearing officer shall make a recommendation to the City Council for the latter's ultimate final review and decision. The City Council shall submit to the license or permit holder and the Michigan Liquor Control Commission a written statement of its ultimate findings and determination.

(D) *Criteria for nonrenewal or revocation.* At any time during the year, the City Council may recommend nonrenewal or revocation of a license or permit upon a determination by it that, based upon a preponderance of the evidence presented at the hearing, any of the following exist:

(1) A violation of any of the provisions regarding licenses and permits set forth in this article;

(2) Maintenance of a nuisance upon the premises;

(3) Any of the bases for objecting to renewal and/or for a request to revoke a liquor license, entertainment permit and/or other permit, as adopted by the City Council in the resolution adopted pursuant to this ordinance. Copies of the resolution may be obtained from the City Clerk's office.

(E) *Objection to application for club license.* Although local approval is not required for club licenses issued by the Michigan Liquor Control Commission, the city may object, within 15 working days after receiving notice from the Commission of the application for a new club license, to the application based upon the Commission's licensing qualification rules or based upon violations of building codes, health codes or zoning ordinances.

(1978 Code, § 5-36; Ord. No. 243, § 6, 12-20-83; Ord. No. 243-C, § 6, 1-19-99)

5-37-5-49. RESERVED.

ARTICLE IV. PRIVATE PARTIES

5-50. DEFINITIONS.

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

ALCOHOLIC BEVERAGE. An alcoholic liquor as defined in Section 2 of the Michigan Liquor Control Act, Public Act. 8 of 1933 (Extra Session), being M.C.L.A. § 436.2.

ALLOW. To give permission for, or approval of, possession or consumption of an alcoholic beverage or a controlled substance, by any of the following means:

(a) In writing;

(b) By one or more oral statements;

(c) By any form of conduct, including a failure to take corrective action, that would cause a reasonable person to believe that permission or approval has been given.

CONTROL OVER ANY PREMISES, RESIDENCE OR OTHER REAL PROPERTY. The authority to regulate, direct, restrain, superintend, control or govern the conduct of other individuals on or within that premises, residence or other real property and includes but is not limited to a possessory right.

CONTROLLED SUBSTANCE. As that term is defined in § 7104 of the Public Health Code, Public Act 368 of 1978, being M.C.L.A. §§ 333.1101 et seq., M.C.L. § 333.7104.

CORRECTIVE ACTION. Any of the following:

(a) Making a prompt demand that the minor or other individual depart from the premises, residence or other real property or refrain from the unlawful possession or consumption of the alcoholic beverage or controlled substance on or within that premises, residence or other real property and taking additional action described in subparagraph (b) and (c) if the minor other individual does not comply with the request;

(b) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to a law enforcement agency having jurisdiction over the violation;

(c) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to another person having a greater degree of authority or control over the conduct of persons on or within the premises, residence or other real property.

MINOR. An individual less than 21 years of age.

PREMISES. A permanent or temporary place of assembly, other than a residence, including but not limited to any of the following:

(a) A meeting hall, meeting room or conference room;

(b) A public or private park.

RESIDENCE. A permanent or temporary place of dwelling, including but not limited to any of the following:

(a) A house, apartment, condominium or mobile home;

(b) A cottage, cabin, trailer or tent;

(c) A motel unit, hotel unit or bed and breakfast unit.

SOCIAL GATHERING. An assembly of two or more individuals for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family.

(Ord. No. 209-C, § 1, 9-20-94)

5-51. SERVICE TO MINORS PROHIBITED.

Except as otherwise provided in §5-54, an owner, tenant or other person having control over any premises, residence or other real property shall not do either of the following:

(A) Knowingly allow a minor to consume or possess an alcoholic beverage at a social gathering on or within that premises, residence or other real property; or

(B) Knowingly allow any individual to consume or possess a controlled substance at a social gathering on or within that premises, residence or other real property.

(Ord. No. 209-C, § 1, 9-20-94)

5-52. PENALTY.

A person who violates §5-51 is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or by a fine of not more than $500, or both. A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

(Ord. No. 209-C, § 1, 9-20-94)

5-53. EVIDENCE, PRESUMPTIONS.

Evidence of all of the following gives rise to a rebuttable presumption that the defendant allowed the consumption or possession of an alcoholic beverage or a controlled substance on or within a premises, residence or other real property, in violation of this section:

(A) The defendant had control over the premises, residence or other real property;

(B) The defendant knew that a minor was consuming or in possession of an alcoholic beverage or knew that an individual was consuming or in possession of a controlled substance at a social gathering on or within that premises, residence or other real property;

(C) The defendant failed to take corrective action.

(Ord. No. 209-C, 9-20-94)

5-54. EXCEPTIONS.

This article does not apply to the use, consumption or possession of a controlled substance by an individual pursuant to a lawful prescription or to the use, consumption or possession of an alcoholic beverage by a minor for religious purposes. This article does not authorize selling or furnishing an alcoholic beverage to a minor.

(Ord. No. 209-C, 9-20-94)

CHAPTER 6: RESERVED

CHAPTER 7: AMUSEMENT DEVICES

7-1. SHORT TITLE.

This chapter shall be known as the "City of Sterling Heights Amusement Device Ordinance" and may be cited as such.

(1978 Code, § 5.5-1; Ord. No. 234, § 1, 5-18-82; Ord. No. 453, § 1, 5-3-17)

7-2. DECLARATION OF PURPOSE.

The purpose of this amusement device chapter is to provide for the regulation of the distribution and installation of amusement devices within the city; to provide for the licensing of amusement device locations; to insure that licensees are of good moral character; to insure that the locations of the devices are in conformance with the ordinances of the city; to prohibit loitering in the establishments by minors and other patrons; to reduce the potential for unlawful gambling, adverse neighborhood impacts, and adverse impacts on the welfare of children in the city; and to establish fees for the issuance of the licenses.

(1978 Code, § 5.5-2; Ord. No. 234, § 1, 5-18-82; Ord. No. 453, § 1, 5-3-17)

Cross reference:

Licenses generally, see Ch. 29

7-3. DEFINITIONS.

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

AMUSEMENT DEVICE. Any machine, device, or game, with or without a video screen or display, that is constructed principally for entertainment or amusement purposes, including but not limited to a pinball machine, air hockey machine, foosball or table soccer machine, skee-ball machine, shuffleboard, a miniature pool table, shooting gallery device, miniature or modified bowling game, pool or similar game table, bubble hockey machine, electronic game of skill, video game, self-operated or attendant-operated merchandise redemption devices, or any similar machine, instrument, device, game, or contrivance, which is made available for display or operation and which may be operated or set in motion by the insertion of a coin or token, paper currency, ticket, payment of a fee or other valuable consideration, or use of a swipe card. Each device, regardless of the number of stations, shall be considered one device. ***AMUSEMENT DEVICE*** does not include ping pong tables, music playing devices, vending machines, or any rides where no element of chance, bonus, or prize is involved, nor any video lottery games or game terminals or equipment operated or provided directly by the Michigan Lottery as a state agency.

AMUSEMENT DEVICE CENTER. Any of the following:

(1) An establishment, business, or location open for public use and participation and which has as its principal use, or which is devoted primarily to, the operation of amusement devices.

(2) An establishment, business, or location with more than 15 amusement devices within a space of less than 45,000 square feet.

(3) An establishment, business, or location with more than 25 amusement devices.

AMUSEMENT DEVICE LICENSE. A license to keep, maintain, and/or allow the use of amusement devices.

AMUSEMENT DEVICE DISTRIBUTOR LICENSE. A license to distribute one or more amusement devices to any location within the city.

DISTRIBUTOR. Any person, society, club, firm or corporation which places amusement devices in any place or establishment, excluding an owner as herein defined, and who receives or is entitled to receive a share in the profits or income derived from such devices or who receives any consideration for furnishing such devices, with the exception of consideration for a bona fide sale.

GAMBLING GAME. Any game played with cards, dice, equipment, or a machine, including any mechanical, electromechanical, or electronic device which shall include computers and cashless wagering systems for money, credit, or any representation of value, including but not limited to faro, monte, roulette, keno, bingo, fan tan, twenty one, blackjack, seven and a half, klondike, craps, poker, chuck a luck, Chinese chuck a luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panguingui, slot machine, or any banking or percentage game, but does not include games played with cards in private homes or residences in which no person makes money for operating the game, except as a player, and does not include any mechanical amusement device, crane game, or slot machine that is not prohibited under state law as a gambling game or gaming table.

GAMING. To deal, operate, carry on, conduct, maintain or expose or offer for play any gambling game or gambling operation.

OWNER. Any person, society, club, firm or corporation which owns, operates or conducts any establishment in which any amusement device may be operated.

REDEMPTION GAME. A single player or multi-player mechanical, electronic or manual amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, propelling or stopping a ball or other object into, upon or against a hole or other target. ***REDEMPTION GAME*** does not include either of the following:

(1) Games such as roulette, beano, cards, dice, wheels of fortune, video poker, slot machines or other games in which winning depends primarily upon fortuitous or accidental circumstances beyond the control of the player;

(2) A game that includes a mechanical or physical device which directly or indirectly impairs or thwarts the skill of the player.

WHOLESALE VALUE. The price paid for goods in quantities intended for resale or use by a retailer as evidenced by an invoice, bill of lading or similar document which contains the supplier's name, date of purchase, item description and wholesale price per item or stated quantity. If the items are purchased at a package price, the total price and number of items in the package may be substituted for the price per item if accompanied by a statement that the wholesale value for any individual item in the package is not more than that which is permitted by this chapter.

(1978 Code, § 5.5-3; Ord. No. 234, § 1, 5-18-82; Ord. No. 234A, § 1, 3-7-89; Ord. No. 234-C, § 1, 9-19-00; Ord. No. 453, § 1, 5-3-17)

7-4. LICENSE REQUIRED.

(A) It shall be unlawful to place or cause to be placed any functional amusement device within the city without a valid amusement device distributor license.

(B) It shall be unlawful to maintain any functional amusement device within the city without an amusement device license.

(C) The issuance of a license to a distributor to distribute an amusement device does not permit the maintenance or operation of such a device without first obtaining an amusement device license.

(D) For a first or second violation, any person who violates § 7-4(A) or (B) is responsible for a municipal civil infraction punishable by a fine of $500.00, except that the court shall instead assess a fine in accordance with the schedule set forth in § 1-26(A) upon receipt of certification by the City Clerk, in the form of a license or similar documentation, that a license has been obtained or that all amusement devices have been removed from the establishment in which they were placed or maintained.

(1978 Code, § 5.5-4; Ord. No. 234, § 1, 5-18-82; Ord. No. 453, § 1, 5-3-17)

Cross reference:

Business registration, see Ch. 12

7-5. APPLICATION PROCEDURE.

(A) Application for a license shall be filed with the City Clerk in the form and manner as required by this chapter. The application shall include all information necessary to determine compliance with this chapter, including but not limited to:

(1) The full names, dates of birth, proof of identification, business addresses, and residential addresses of all owners, proprietors, officers, and managers of the applicant and the names and addresses of each officer if the applicant is a corporation;

(2) The number of amusement devices to be placed or maintained at the establishment;

(3) The type of device, including its manufacturer and serial number, as soon as such information is available but no later than the date the applicant opens for business;

(4) The zoning of the property upon which the devices are to be located;

(5) The nature and primary use of the premises upon which the devices are to be located;

(6) A list of all assumed, trade, or firm names under which the applicant intends to do business;

(7) All contact information for the establishment where the devices will be placed or maintained, including but not limited to telephone numbers and e-mail addresses for principals or responsible individuals and any websites utilized by the establishment;

(8) Whether or not the applicant or person conducting or managing the applicant's business has been convicted of any crime or tendered a plea to any moral turpitude or criminal sexual conduct crime and, if so, the details of the crime;

(9) A scale diagram of the premises (or tenant space) where the devices will be located, indicating the placement of devices, aisleways, entrances, and exits in order to determine that the provisions of all applicable codes and ordinances are satisfied.

(B) Each and every application for a license shall be in writing and filed in the form and manner required by the City Clerk.

(C) In the event of a change in any of the information required by this section, a licensee shall provide the updated information to the City Clerk within 5 business days of the change.

(1978 Code, § 5.5-5; Ord. No. 234, § 1, 5-18-82; Ord. No. 234A, §§ 2 through 4, 3-7-89; Ord. No. 453, § 1, 5-3-17)

7-6. INVESTIGATION.

(A) The City Clerk shall forward a copy of the application to the Chief of Police, Fire Chief, City Development Director, and City Planner.

(1) The Chief of Police shall investigate the qualifications and background of the applicant and required attendants, if any, and furnish a written report to the City Clerk accompanied by a recommendation as to whether the license and/or an attendant should be approved. The recommendation of the Chief of Police shall be supported, at least in part, on whether or not the applicant or attendant has been convicted of any crime, or tendered a plea to any crime, either directly or indirectly as a result of a plea agreement involving moral turpitude, gambling, narcotics, criminal sexual conduct, or actions detrimental to minors within the preceding 10 years, or has previously violated any of the provisions of this chapter.

(2) The Fire Chief shall investigate whether the establishment has, or has had, any fire safety violations, and shall recommend issuance or denial of the license based on whether the establishment's violation history demonstrates an ability and proclivity to operate the establishment in compliance with all applicable fire codes and regulations.

(3) The City Development Director shall investigate whether the establishment has, or has had, any code violations, and shall recommend issuance or denial of the license based on whether the establishment's code violation history demonstrates an ability and proclivity to operate the establishment in compliance with all applicable codes and in a safe manner for all employees and visitors.

(4) The City Planner shall investigate whether the establishment is complying with all applicable zoning provisions and approvals, and shall recommend issuance or denial of the license based on whether placement or maintenance of amusement devices will be consistent with such zoning provisions and approvals.

(B) The City Clerk shall suspend processing of an amusement device license application until the Chief of Police, Fire Chief, City Development Director, and City Planner are satisfied that any remediable violations or noncompliance have or will be remedied. If an applicant fails to achieve the required remediation or compliance within 90 days after written notice has been transmitted to the applicant of the processing suspension, the City Clerk shall deny the license, except that a denial shall be held in abeyance at the applicant's request if an applicant is contesting the validity of a violation or seeking variances that would eliminate a violation through court action or the action of another quasi-judicial board or commission with authority over the applicant's request. In such a case, the abeyance shall be for a period of 30 days beyond the date a final decision is rendered in such action, after which time the City Clerk shall notify the applicant in writing of the license denial.

(1978 Code, § 5.5-6; Ord. No. 234, § 1, 5-18-82; Ord. No. 453, § 1, 5-3-17)

Cross reference:

Building Code, §§ 11-21 et seq.;

Fire Code, see §§ 20-21 et seq.;

Zoning, see App. A

7-7. FEES.

When an application is made for a license required under the terms of this chapter, a fee shall be paid in an amount established by the annual appropriations ordinance. In the event that an application for a license is denied, the license fee shall be refunded after deduction of a 10% administrative processing fee.

(1978 Code, § 5.5-7; Ord. No. 234, § 1, 5-18-82; Ord. No. 388, § 2, 1-3-07; Ord. No. 453, § 1, 5-3-17)

7-8. DURATION AND RENEWAL OF LICENSES.

(A) Duration of license. Licenses issued under the terms of this chapter shall be valid for two years from the date of issue.

(B) Renewal of license; fees; conditions. Licenses issued pursuant to this chapter are renewable. The City Clerk shall grant a license renewal application when the following conditions are satisfied:

(1) The Police Chief, Fire Chief, City Development Director, and City Planner have determined that no violations have occurred, or remain outstanding, the existence of which would have warranted denial under the investigation process set forth for any new license application.

(2) The licensee submits a properly completed renewal form provided by the City Clerk and pays any applicable license renewal fees established in the annual appropriations ordinance.

(3) Provided a request for renewal of a license is filed with the City Clerk at least 15 days prior to expiration of the license, the expired license shall continue in effect until a decision regarding approval or denial of the renewal is made.

(1978 Code, § 5.5-8; Ord. No. 234, § 1, 5-18-82; Ord. No. 234A, § 5, 3-7-89; Ord. No. 453, § 1, 5-3-17)

7-9. NONTRANSFERABILITY OF LICENSES.

Licenses issued under the terms of this chapter are not transferable.

(1978 Code, § 5.59; Ord. No. 234, § 1, 5-18-82; Ord. No. 453, § 1, 5-3-17)

7-10. DEVICE IDENTIFICATION; POSTING OF LICENSE; LABELS.

(A) Each amusement device licensed under this chapter shall have permanently affixed thereto suitable identification containing the business name, address, telephone number, and e-mail address or website of the distributor of the device if the device is owned other than by the establishment, and the serial number of the device.

(B) Any establishment with an amusement device license shall conspicuously post such license within the establishment and within 10 feet of one or more of the establishment's amusement devices.

(C) The City Clerk shall provide an identification label for each amusement device at the licensed establishment, which shall be affixed to the device at all times. The identification labels are not transferable, and it shall be unlawful to remove an identification label from a device once affixed thereto unless the device is removed from the city and no longer kept or used within the city.

(D) Whenever a new device is added or substituted in place of a previous device, the applicant shall obtain a new identification label for such device and pay the fee established in the annual appropriations ordinance. At the time a new device is added or substituted, the licensee shall furnish the City Clerk, no later than the time that the device is placed in operation, with information indicating the type of device, including its manufacturer and serial number, and its proposed location.

(1978 Code, § 5.5-10; Ord. No. 234, § 1, 5-18-82; Ord. No. 234A, § 6, 3-7-89; Ord. No. 453, § 1, 5-3-17)

7-11. SUSPENSION OR REVOCATION OF LICENSE.

(A) The City Clerk may issue a notice of intent to revoke a license issued under this chapter upon submission of a written report by any city department or official advising of violations of the terms of this chapter or the violation of any rules, regulations, ordinances, or laws.

(B) Revocation of a license shall be effective 15 days from the date of issuance of the City Clerk's notice of intent to revoke unless a hearing is requested by the licensee within five days following issuance of the notice. A person who timely requests a hearing following receipt of a notice of intent to revoke a license is entitled to a hearing with the City Clerk, City Manager's designee, and the department head or city official who determined the existence of the violation underlying the notice of intent to revoke at a time and place to be set by the City Clerk. Written notice of the time and place of the hearing shall be provided to the licensee by first class mail and e-mail (if an e-mail address was provided with the license application) at least 10 days prior to the hearing. Written notice of the determination with respect to revocation shall be provided to the licensee within five days of the hearing.

(1978 Code, § 5.5-11; Ord. No. 234, § 1, 5-18-82; Ord. No. 453, § 1, 5-3-17)

7-12. GENERAL OPERATION.

(A) All amusement device licensees, including any servant, agent, or employee, shall comply with the following:

(1) No person or persons shall be allowed to loiter within or immediately outside of the licensed premises;

(2) No person or persons shall be allowed to violate any of the public offenses set forth in Ch. 35, Art. II of the city code of ordinances, as amended;

(3) No person or persons shall be allowed to engage in unlawful gaming or to use, possess, or keep gambling paraphernalia on the premises or to award any cash, money, or tokens, betting slips, or merchandise redeemable for cash or money as the result of the operation of an amusement device.

a. Subsection (3) does not prohibit a mechanical amusement device which may, through the application of an element of skill, reward the player with the right to replay the mechanical amusement device at no additional cost if the mechanical amusement device is not allowed to accumulate more than 15 replays at one time; the mechanical amusement device is designed so that accumulated free replays may only be discharged by reactivating the device for one additional play for each accumulated free replay; and the mechanical amusement device makes no permanent record, directly or indirectly, of the free replays awarded.

b. Subsection (3) does not prohibit a slot machine if the slot machine is 25 years old or older and is not used for gambling purposes. As used in this section, ***SLOT MACHINE*** means a mechanical device, an essential part of which is a drum or reel which bears an insignia and which when operated may deliver, as a result of the application of an element of chance, a token or money or property, or by operation of which a person may become entitled to receive, as a result of the application of an element of chance, a token or money or property.

c. Subsection (3) does not prohibit a crane game. As used in this section,***CRANE GAME*** means an amusement machine activated by the insertion of a coin by which the player uses one or more buttons, joysticks or similar means of control, or a combination of those means of control, to position a mechanical or electromechanical claw or other retrieval device over a prize, toy, novelty or an edible item having a wholesale value of not more than $3.75 and thereby attempts to retrieve the prize, toy, novelty or edible item. Every prize, toy or edible item must be retrievable by the claw. A slot machine is not considered a crane game.

d. Subsection (3) does not prohibit a redemption game if all of the following conditions are met:

1. The outcome of the game is determined through the application of an element of skill by the player;

2. The award of the prize is based upon the player's achieving the object of the game or otherwise upon the player's score;

3. Only noncash prizes, toys, novelties or coupons or other representations of value redeemable for noncash prizes, toys or novelties are awarded;

4. The wholesale value of a prize, toy or novelty awarded for the successful single play of a game is not more than $3.75;

5. The redemption value of coupons or other representations of value awarded for the successful single play of a game does not exceed 15 times the amount charged for a single play of the game or $3.75, whichever is less. However, players may accumulate coupons or other representations of value for redemption for noncash prizes, toys or novelties of a greater value up to, but not exceeding $250 wholesale value.

(4) Intoxicated persons shall not be allowed in the area designated for the operation of devices;

(5) Alcoholic beverages shall not be allowed on the premises, nor shall the premises be accessible to any place where alcoholic beverages are kept, sold, distributed, or given away, except in an establishment licensed for on-premises alcohol consumption by the Michigan Liquor Control Commission;

(6) The possession or use of a controlled substance as defined in Public Act 368 of 1978, being M.C.L.A. §§ 333.1101 et seq. shall not be allowed;

(7) Entertainment in the form of monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing shall not be offered or permitted without an entertainment permit issued by the Michigan Liquor Control Commission, and noise or music shall not be permitted or caused to emerge from the licensed premises which is disturbing to persons in the surrounding area;

(8) The premises shall not be allowed to become a nuisance;

(9) A person under the age of 17 years shall not be allowed in the establishment before 3:00 p.m. on any day when any school in the city is open for regularly scheduled school attendance (excluding summer school and year-round schools) unless accompanied by a parent, legal guardian, or school official;

(10) A person under the age of 17 years shall not be allowed in the establishment between 11:00 p.m. and 7:30 a.m. unless accompanied by a parent, legal guardian, or supervising adult over the age of 25 designated by the parent or guardian to accompany the minor, unless the minor is an on-duty employee of the licensee;

(11) A person under the age of 14 years shall not be allowed in the establishment at any time unless accompanied by his or her parent, legal guardian, or a supervising adult over the age of 25.

Exceptions:

a. This section shall not apply to an amusement device center lawfully located in an enclosed shopping center containing a gross floor area of not less than 400,000 square feet, if the parent, legal guardian, or supervising adult provides identification and written consent for the person under age 14 to be in the amusement device center without the supervision required by this subsection.

b. This section shall not apply to a movie theater if the person under age 14 is accompanied by a sibling over the age of 16 and is not at the movie theater after

11:00 p.m.

(12) No person shall allow the placement of any amusement device which displays, exposes, produces, or emits any motion picture, printed matter, advertisement, writing, song, recitation, speech, music, or any other matter which depicts or describes nudity, which shall be defined as less than completely or opaquely covered human genitals, pubic regions, buttocks, human female breasts below a point above the top of the areola, or covered human male genitals in a visibly turgid state. A female breast is considered uncovered if the nipple only or the nipple and areola only are covered. In addition, no such device shall depict or describe any of the following:

a. Sexual intercourse, fellatio, cunnilingus, masturbation, sodomy, bestiality, flagellation, or any other act by a person involving the touching or contacting of the genitals, or any sexual acts which are prohibited by law;

b. The touching, caressing, or fondling of the breasts, buttocks, pubic region, or genitals or the stimulation thereof by any device, tool, implement or object;

c. The actual or simulated displaying or exposure or simulations of the pubic hair, pubic region, anus, vulva, or genitals of humans, brutes, beasts, or animals;

d. The suggestion or intimation of any criminal sexual conduct, prostitution, or illegal drug use;

e. Artificial devices or inanimate objects employed to depict any of the prohibited activities described above.

(13) A row, kiosk, or cluster of devices shall not be allowed any closer than six feet to any other row, cluster, or kiosk of devices. This six foot aisle between rows, clusters, or kiosks of devices does not prohibit the back-to-back or side-to-side placement of amusement devices in rows, or otherwise, as long as a six-foot aisle separates such groupings. The six-foot aisle between rows, clusters, or kiosks of devices shall be maintained at all times to facilitate emergency evacuation of the premises.

(14) If the licensee is an amusement device center, provide attendants as required by the Planning Commission pursuant to the special approval land use process set forth in the City's zoning ordinance or, if no special approval was required or no number was established, two attendants shall be provided for the first 75 devices on the premises or fraction thereof and one attendant shall be provided for each 50 devices or fraction thereof beyond the first 75 devices. The licensee must furnish the City Clerk with the following information with respect to each attendant in order to receive a license to operate such an establishment:

a. The attendant's name, date of birth, residential address, photograph, and a copy of his or her driver's license or state-issued identification card; and

b. Whether the attendant has ever tendered a plea to, or been convicted of, a crime involving, either directly or indirectly as a result of a plea agreement, moral turpitude, a controlled substance offense, violence, criminal sexual misconduct, child abuse, or involving conduct detrimental to minors.

(15) Dispose of all waste materials deposited by patrons on the premises and provide sufficient waste receptacles for the deposit of same. A licensee shall keep such materials from being strewn or littered about the premises or blowing on to adjacent property;

(16) Keep every amusement device visible through a window from the exterior of the location, visible from the main public entryway of the location, or visible from a location accessible to any member of the public. No amusement device shall be located behind a doorway, in a back room or side room, or in any other location that is not visible as required by this subsection.

(B) No minor under the age of 17 years shall:

(1) Be in the establishment before 3:00 p.m. on those days when any public school in the city is open for regularly scheduled school attendance (excluding summer school and year round school) unless accompanied by a parent, legal guardian, or a school official;

(2) Be in the establishment between 11:00 p.m. and 7:30 a.m. unless accompanied by a parent, legal guardian, or a supervising adult who is authorized by a parent or guardian and who is over the age of 25.

(C) Hours of Operation.

(1) If the establishment does not have a liquor license for on-premises consumption, the establishment shall not be open after 12:00 a.m., nor shall anyone other than on-duty employees be permitted within the establishment after 12:15 a.m., and no amusement device shall be operated after 12:00 a.m.

Exception: retail stores in excess of 45,000 square feet are not subject to this provision.

(2) If the establishment has a liquor license for on-premises consumption, the establishment shall not be open after 2:00 a.m., nor shall anyone other than employees be permitted within the establishment after 2:15 a.m., and no amusement device shall be operated after 2:00 a.m.

Exceptions: movie theaters with an amusement device license may allow patrons to remain in the establishment for 15 minutes after the end of the final movie being shown, and bowling alleys may allow patrons to remain in the establishment until 15 minutes after all lane rentals purchased prior to 1:30 a.m. have ended.

(D) Nothing contained in this chapter shall be construed as permitting the licensing or use or maintenance of any gambling device, including slot machines.

(E) The licensee shall make the premises available for inspection at reasonable times by any authorized person of the city to determine that the applicant and the premises comply with all applicable codes, statutes, and regulations.

(F) No amusement device center shall contain more than 125 amusement devices.

(G) This chapter shall not apply to amusement devices that are maintained at, and under the supervision of, any public or parochial school, any religious institution, any duly recognized nonprofit civic organization, or any public body.

(1978 Code, § 5.5-12; Ord. No. 234, § 1, 5-18-82; Ord. No. 234A, §§ 7 through 14, 3-7-89; Ord. No. 234B, § 1, 9-18-90; Ord. No. 234-C, § 2, 9-19-00; Ord. No. 453, § 1, 5-3-17)

7-13. PENALTIES.

(A) A violation of the provisions of this chapter shall be punishable as set forth in Chapter 1 of the City Code. Any and all entities, owners, managers, and operators may be issued a citation if deemed to be solely or jointly responsible for the same violation.

(B) Any second violation of the same provision of this chapter, and/or any third violation of any provision of this chapter, within any consecutive 12-month period shall cause the City Clerk to revoke the license.

(C) To appeal a revocation, the licensee may submit a written request to the Board of Ordinance Appeals, which must be sent to the City Clerk within five days of written transmittal of the revocation determination. All revocation appeals shall be heard by the Board of Ordinance Appeals at its next regular meeting scheduled at least three calendar days after submission of the appeal.

(1) Upon submission of the appeal request, the licensee may continue to operate under the license until the decision of the Board is rendered unless the basis for the suspension or revocation is an immediate risk or hazard to public safety or constitutes a continuing disturbance of public tranquility.

(2) The Board may uphold the revocation, reverse the revocation, or modify the revocation to a suspension with reinstatement conditioned upon any terms and conditions the Board determines to be reasonably necessary to ensure future compliance with the requirements of this chapter.

(D) If a revocation is not appealed or is upheld on appeal to the Board, the establishment shall remove the amusement device(s) from the premises. The City Clerk shall transmit notice of the revocation to the Chief of Police to inspect the premises within one business day of the finality of the revocation to ensure that the devices have been removed. Any device(s) still on the premises shall be subject to confiscation and impoundment by the police and shall thereafter be returned to their properly licensed distributor upon request or returned to their lawful owner upon execution of a release agreement or pursuant to a claim and delivery order. Upon impoundment, the police department shall issue written notice to the distributor or owner that the devices will be destroyed or sold if not properly claimed within three months. If no request is made and no court order is obtained within three months, the police department may destroy the devices or sell them at public auction.

(E) A new amusement device license application submitted by the same or substantially similar establishment, owner(s), or operator(s) will not be accepted for a period of one year from the date a revocation becomes final after exhaustion or abandonment of all appeal options.

(F) Ongoing violations of this division may also subject the licensee and/or property owner to the remedial and enforcement provisions set forth in Section 11-141 of

the City Code.

(Ord. No. 453, § 1, 5-3-17)

7-14. VARIANCES.

(A) Where, owing to special conditions, a literal enforcement of the provisions of this chapter would involve practical difficulties or cause unnecessary hardships, the Board of Ordinance Appeals shall have the power to modify the provisions of this chapter in unique circumstances with such conditions and safeguards as it may reasonably determine to be in harmony with the spirit of this chapter while still securing the public safety and welfare and ensuring that substantial justice is done.

(B) No variance of the provisions of this chapter shall be granted unless it appears to the Board of Ordinance Appeals by a preponderance of the evidence that all of the following facts and conditions exist:

(1) There are exceptional or extraordinary circumstances or conditions applicable to the establishment that do not apply generally to other establishments in the city, or a change in this chapter has imposed an unreasonable hardship on the establishment's existing operations;

(2) The granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity of the establishment; and

(3) The granting of the variance will not adversely affect the purposes or objectives of any master plan of the city.

(C) The provisions of Division 11 ofChapter 2 of the City Code shall govern all variance requests if not in conflict with the provisions of this section.

(D) A request for reconsideration by the Board may be filed in writing with the Board, to the attention of the City Clerk, within 10 working days after the date that the decision is rendered if the applicant has new information not presented at the hearing.

(E) A person may not file a new variance application based upon the same facts until the expiration of one year after the Board's decision is rendered.

(F) If a variance is approved, the applicant shall file a notice of variance with the County Register of Deeds relating to the property.

(G) The fee to appear before the Board of Ordinance Appeals with a request for a variance or reconsideration shall be established in the annual appropriations ordinance.

(Ord. No. 453, § 1, 5-3-17)

CHAPTER 8: ANIMALS

ARTICLE I. IN GENERAL

8-1. TITLE.

This ordinance shall be known and referred to as the "Animal Regulatory Ordinance."

(1978 Code, § 6-1; Ord. No. 215A, § 1, 12-19-89; Ord. No. 368, § 1, 3-18-03)

8-2. PURPOSE AND APPLICATION.

The purpose of this chapter is to prevent animals from running at large and to prohibit and regulate the keeping of certain animals within residential areas to promote the health, safety, and welfare of the people.

(Ord. No. 368, § 1, 3-18-03)

8-3. DEFINITIONS.

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

ABANDONMENT. Leaving an animal unattended for more than 24 hours, releasing the animal upon public highways or public or private lands, or failure to provide proper or adequate food, water, exercise, shelter, or medical care.

ADEQUATE CARE. The provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.

ANIMAL. Any living organism typically capable of moving about, but not of making its own food by photosynthesis, including any mammal, bird, fish, reptile, ferret, snake, turtle, mollusk, crustacean, or any other vertebrate other than a human being.

ANIMAL CONTROL OFFICER. Any person designated by the State of Michigan or other unit of government as a law enforcement officer who is qualified to perform animal control duties under the laws of this state. The minimum employment standards relative to the recruitment, selection, and appointment of animal control officers in this city shall at least equal the minimum standards set forth in M.C.L. § 287.289c.

ANIMAL SHELTER. Any facility operated by a humane society, governmental agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

AT LARGE. Except when lawfully hunting, an animal which is not on the premises of the owner and not under the control of a person by leash or lead of suitable strength, or an animal which is not confined within a motor vehicle.

CAT. Any member of the species "Felis Catus."

DANGEROUS ANIMAL.

A dog or other animal:

(1) That bites or attacks a person, or a dog that bites or attacks and causes serious injury or death to another dog while the other dog is on the property or under the control of its owner;

(2) Having a propensity, tendency, or disposition to attack, cause injury or otherwise endanger the safety of persons or domestic animals;

(3) Which behaves or behaved in such a manner that the owner knows or should have known that the animal had tendencies to bite or attack persons or other domestic animals;

(4) Which has been bitten by any animal known to have been afflicted with rabies; or

(5) Which has bitten any person.

DANGEROUS ANIMAL and ***VICIOUS ANIMAL*** shall have the same meaning for purposes of this chapter.

DANGEROUS ANIMAL does not include the following:

(1) An animal that bites or attacks a person who is knowingly trespassing on the property of the animal's owner;

(2) An animal that bites or attacks a person who provokes or torments an animal;

(3) An animal that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged

in lawful activity or is the subject of an assault or battery, or to protect itself or another animal; or

(4) An exotic animal, as defined in §8-23.

DOG . Any member of the species "Canis Familiaries."

DOMESTIC ANIMAL . An animal that has traditionally, through a long association with humans, lived in a state of dependence upon humans or under the dominion and control of humans and has been kept as a tame household pet, including but not limited to: dogs, cats, hamsters, gerbils, ferrets, mice, rabbits, cockatiels, cockatoos, canaries, finches, parakeets, parrots, and tropical fish.

FERRET . An animal of any age of the species "Mustela Furo."

HARBORING or ***KEEPING*** . The act of any person allowing an animal to remain and be lodged within his or her house, store, building, enclosure, or premises.

KENNEL . An establishment on which three or more dogs are kept, for sale, boarding, breeding, or training purposes, for remuneration.

LAW ENFORCEMENT OFFICER or ***POLICE OFFICER*** . Includes animal control officers duly authorized by the city or other governmental agency.

LEASH or ***LEAD*** . A thong, cord, rope, chain, or similar tether which holds an animal in restraint and which is not more than six feet in length.

LIVESTOCK . Those species of animals used for human food and fiber or those species used for service to humans. ***LIVESTOCK*** includes, but is not limited to cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. ***LIVESTOCK*** does not include dogs and cats.

NEGLECT . To fail to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.

OWNER . Every person having a right of property in an animal; an authorized agent of the person having a right of property in an animal; every person who keeps or harbors an animal or has it in his or her care, custody or control; every person who permits an animal to remain on or about the premises occupied by him or her; every person who has the apparent authority to have a right of property in an animal; any person having control or purporting to have control over an animal; the person named in the licensing records of any animal as the owner; the occupant of the premises where the animal is usually kept if such premises are other than the premises of the owner as shown on the licensing records; any person who feeds, shelters, or otherwise entices any animal to the owner's premises, where such animal is otherwise wild or a stray; or any person in possession of, harboring, or allowing any animal to remain about their premises for a period of three consecutive days or more. The parent or guardian of an owner under 18 years of age shall be deemed the owner as defined in this section. If an animal has more than one owner, all such persons are jointly and severally liable for the acts or omissions of an owner, even if the animal was in the possession of or under the control of a keeper at the time of the offense. ***OWNER*** shall include every person who resides at the same address or permits an animal to remain on the premises in which that person resides, if such person is of legal age and capacity and has knowledge that the animal is a dangerous animal.

PERSON . An individual, partnership, corporation, cooperative association, joint venture, or other legal or business entity, including but not limited to, contractual relationships.

PREMISES . An area of private property, including grounds, buildings, and appurtenances.

PROVOKE . To perform an act or omission that an ordinary and reasonable person would conclude is likely to precipitate the bite or attack by an animal, including, but not limited to, threatening, teasing, or striking an animal, or threatening or striking the animal's owner, either on or off the animal owner's property.

SANITARY CONDITIONS . Space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal's health.

SHELTER . Adequate protection from the elements and weather conditions suitable for the ages, species, and physical conditions of the animal so as to maintain the animal in a state of good health. ***SHELTER*** for a dog shall include one or more of the following:

(1) The residence of a dog's owner or other individual.

(2) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog, with an elevation of no less than four inches. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing. The doghouse shall have an entrance which is either covered by a loose covering designed to insulate the interior from harmful weather conditions, or which is designed in such a way so as to otherwise shield the interior from harmful weather conditions.

(3) A structure, including, but not limited to, a garage, barn, or shed that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under (2) above that is accessible to the dog.

TETHERING . The restraint and confinement of a dog by the use of a chain, rope, or similar device.

TORMENT . An act or omission, including abandonment or neglect, that causes unjustifiable pain, suffering, or distress to an animal, including mental or emotional distress as evidenced by the animal's altered behavior, for a purpose such as sadistic pleasure, coercion, or punishment that an ordinary and reasonable person would conclude is likely to precipitate a bite or attack.

WATER . Potable water that is suitable for the age and species of animal, made regularly available unless otherwise directed by a veterinarian licensed to practice veterinary medicine.

WILD ANIMAL . Any nondomesticated animal, any cross of a nondomesticated animal, and any animal that has never been harbored, kept, or otherwise possessed by a person.

(1978 Code, § 6-2; Ord. No. 215-A, § 1, 12-19-89; Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Animal Industry Act; definitions, see M.C.L. §§ 287.705, 287.706

Animals running at large; definitions, see M.C.L. § 433.11

Charge or custody of animal; definitions, see M.C.L. § 750.50(1)

Dangerous animals, see M.C.L. § 287.321

Kennels, see M.C.L. § 287.270

Municipal animal control officer; employment standards, see M.C.L. § 287.289c

8-4. ABUSE PROHIBITED.

An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

(A) Fail to provide an animal with adequate care;

(B) Cruelly drive, work, or beat an animal, or cause an animal to be cruelly driven, worked, or beaten;

(C) Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse whose feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner;

(D) Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage, in which livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this subdivision, for purposes of transportation of sled dogs, STAND means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle;

(E) Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless premises are temporarily vacated for the protection of human life during a disaster. An animal that is lost by an owner or custodian while traveling, walking, hiking or hunting shall not be regarded as abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal;

(F) Willfully or negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain;

(G) Tether a dog unless the tether is at least three times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

(H) Leave an animal in a yard or outdoor enclosure without someone at home who is monitoring and supervising the animal and who is capable of controlling the animal.

(1978 Code, §§ 6-8, 6-9; Ord. No. 215-A, § 1, 12-19-89; Ord. No. 368, § 1, 3-18-03; Ord. No. 411, § 8, 2-1-11) Penalty, see § 8-5

Statutory reference:

Abuse of animals, see M.C.L. § 750.50(2)

8-5. CIVIL ACTIONS FILED BY CITY ATTORNEY; FORFEITURE; PENALTIES.

(A) If an animal is impounded and is being held by an animal control shelter or its designee or an animal protection shelter or its designee or a licensed veterinarian pending the outcome of a criminal action charging a violation of § 8-4, before final disposition of the criminal charge, the City Attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal to the animal control shelter or animal protection shelter or to a licensed veterinarian before final disposition of the criminal charge. The City Attorney shall serve a true copy of the summons and complaint upon the defendant and upon a person with a known ownership interest or known security interest in the animal or a person who has filed a lien with the secretary of state in an animal involved in the pending action. The forfeiture of an animal under this section encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of the crime.

(B) Upon the filing of the civil action, the court shall set a hearing on the complaint. The hearing shall be conducted within 14 days of the filing of the civil action, or as soon as practicable. The hearing shall be before a judge without a jury. At the hearing, the City Attorney has the burden of establishing by a preponderance of the evidence that a violation of § 8-4 occurred. If the court finds that the City Attorney has met this burden, the court shall order immediate forfeiture of the animal to the animal control shelter or animal protection shelter or the licensed veterinarian unless the defendant, within 72 hours of the hearing, submits to the court clerk cash or other form of security in an amount to be determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of initial impoundment to the date of trial. If cash or other security has been submitted, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to submit additional cash or security in an amount determined by the court to be sufficient to repay all additional reasonable costs anticipated to be incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal until the new date of trial. If the defendant submits cash or other security under this section the court may enter an order authorizing the use of that money or other security before final disposition of the criminal charges to pay the reasonable costs incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of impoundment to the date of final disposition of the criminal charges.

(C) The testimony of a person at a hearing held under this subsection is not admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury. The testimony of a person at a hearing held under this subsection does not waive the person's constitutional right against self-incrimination.

(D) An animal seized under this section is not subject to any other civil action pending the final judgment of the forfeiture action under this section.

(E) A person who violates § 8-4 is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or community service for not more than 200 hours, or any combination of these penalties and the cost of prosecution.

(F) If forfeiture is not ordered pursuant to this section, as a part of the sentence for a violation of § 8-4, the court may order the defendant to pay the costs of care, housing, and veterinary medical care for the animal as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this section, or orders only partial payment of these costs, the court shall state on the record the reason for that action.

(G) As part of the sentence for a violation of §8-4, the court may, as a condition of probation, order the defendant not to own or possess an animal for a period of time not to exceed the period of probation.

(H) A person who owns or possesses an animal in violation of an order issued under this section is subject to revocation of probation. A person who owns or possesses an animal in violation of an order issued under this section is also subject to the civil and criminal contempt power of the court, and if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days, or by a fine of not more than $500, or both.

(Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Charge or custody of animals; prohibited conduct, see M.C.L. § 750.50

8-6. LAWFUL KILLING.

The lawful killing or other use of an animal, including, but not limited to the following, is not prohibited:

(A) Fishing;

(B) Hunting, trapping, or wildlife control regulated pursuant to the Natural Resources and Environmental Protection Act, being M.C.L. §§ 324.101 to 324.90106;

(C) Horse racing;

(D) The operation of a zoological park or aquarium;

(E) Pest or rodent control;

(F) Farming or a generally accepted animal husbandry or farming practice involving livestock as permitted under the city's zoning ordinance;

(G) Activities authorized pursuant to rules promulgated under section 9 of the Executive Organization Act of 1965, being M.C.L. § 16.109;

(H) Scientific research pursuant to Use of Dogs and Cats for Research, being M.C.L. §§ 287.381 to 287.395;

(I) Scientific research pursuant to sections 2226, 2671, 2676, and 7333 of the Public Health Code, being M.C.L. §§ 333.2226, 333.2671, 333.2676, and 333.7333.

(Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Lawful killing of animals, see M.C.L. § 750.50(8)

8-7. HUMANE TREATMENT REQUIRED.

No owner shall fail to provide his or her animals with sufficient wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(1978 Code, § 6-7; Ord. No. 215A, § 1, 12-19-89; Ord. No. 368, § 1, 3-18-03)

8-8. DANGEROUS ANIMALS.

(A) No person shall own or harbor a vicious or dangerous animal, an animal that has been bitten by any animal known to have been afflicted with rabies, or an animal which has bitten any person.

(B) If an animal previously adjudicated to be a dangerous animal attacks or bites a person and causes an injury that is not a serious injury, the owner of the animal is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, a fine of not less than $250 nor more than $500, or community service work for not less than 240 hours, or any combination of these penalties. The court may order a person convicted under this subsection to pay the costs of the prosecution.

(C) Upon a sworn complaint that an animal is dangerous and the animal has caused serious injury or death to a person or has caused serious injury or death to a domestic animal, a district court magistrate or district court shall issue a summons to the owner ordering him or her to appear and show cause why the animal should not be destroyed.

(D) Upon the filing of a sworn complaint as provided in subsection (C), the court or magistrate shall comply with the requirements of M.C.L. § 287.322.

(Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Dangerous animals, see M.C.L. § 287.322

Dangerous animals; penalty, see M.C.L. § 287.323(3)

8-9. CONTROL OF ANIMALS; RUNNING AT LARGE; CLEANUP.

(A) All animals shall be kept under restraint. It shall be unlawful for any person to cause or permit any animal owned, kept, possessed, or harbored by such person, or under his or her control, to run at large or unattended, upon the public streets, walks, alleys, parks, public places within the city, or upon the premises of another, without express permission of the owner or occupant of the private premises. All female dogs in heat shall be kept inside a building or within a fence or other enclosure which limits the dog to a particular confined area so that the dog cannot come into contact with a male dog except for planned breeding. When allowed outdoors to relieve itself, a dog in heat shall be under restraint and under the observation of its owner.

(B) If an animal trained or used for fighting or an animal that is the first or second generation offspring of a dog trained or used for fighting goes beyond the property limits of its owner without being securely restrained, or is not securely enclosed or restrained on the owner's property, the owner is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than $50 nor more than $500, or both.

(C) Subsection (B) does not apply to the following:

(1) A dog trained or used for fighting, or the first or second generation offspring of a dog trained or used for fighting, that is used by a law enforcement agency of the state or county, city, village, or township;

(2) A certified leader dog recognized and trained by a national guide dog association for the blind or for persons with disabilities; or

(3) A corporation licensed under the Private Security Guard Act of 1968, being M.C.L. §§ 338.1051 to 338.1085, when a dog trained or used for fighting, or the first or second generation offspring of a dog trained or used for fighting, is used in accordance with the Private Security Guard Act of 1968.

(D) An animal that is involved in a violation of subsection (B) shall be confiscated as contraband by a law enforcement officer and shall not be returned to the owner, trainer, or possessor of the animal. The animal shall be taken to a local humane society or other animal welfare agency. If an animal owner, trainer, or possessor is convicted under subsection (B), the court shall award the animal involved in the violation to the local humane society or other animal welfare agency at the expense of the animal's owner, trainer, or possessor.

(E) This section does not apply to conduct that is permitted by and is in compliance with any of the following:

(1) Part 401 of the Natural Resources and Environmental Protection Act being, M.C.L. §§ 324.40101 to 324.40119;

(2) Part 435 of the Natural Resources and Environmental Protection Act, being M.C.L. §§ 324.43501 to 324.44106;

(3) Part 427 of the Natural Resources and Environmental Protection Act, being M.C.L. §§ 324.42701 to 324.42714;

(4) Part 417 of the Natural Resources and Environmental Protection Act, being M.C.L. §§ 324.41701 to 324.4712.

(5) An agreement between the city and any other governmental agency for the humane treatment and release of stray or feral cats to the area in which they were taken into custody.

(F) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law that is committed by that person while violating this section.

(G) A person who sustains any loss of, or damage to, property by an animal running at large may demand reasonable compensation from the owner of the animal as reparation for the loss or damage as ordered by the court. The demand for compensation shall be in writing and include:

(1) A statement of when, where, what, and how much damage was done.

(2) The identity or description of the animal and, if known, the identity of the owner of the animal.

(3) The demand for compensation shall be verified by the claimant and submitted to the law enforcement agency which has the animal in its custody or possession.

(H) If the owner of an animal that is previously adjudicated to be a dangerous animal allows the animal to run at large, the owner is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, a fine of not less than $250 nor more than $500, or community service work for not less than 240 hours, or any combination of these penalties. The court may order a person convicted under this subsection to pay the costs of the prosecution.

(I) Any person who owns, keeps, possesses, or harbors an animal shall be responsible to ensure that the animal does not defecate on property other than that person's property, or, if the animal does so, to promptly clean up any fecal matter deposited by the animal.

(J) Animals found trespassing on school grounds, whether under restraint or otherwise, shall constitute a nuisance per se, punishable as provided in this chapter.

(K) This section may be construed to permit the use of technological restraints, which include, but are not limited to, invisible fences which emit signals or sounds to discourage an animal from exiting the property; provided, that such technological restraints must be properly installed, set up, operational, and advertised by signage as required by this chapter, and provided the technological restraint keeps the restrained animals at least three feet away from any public ways or property lines. The permission granted by this section to utilize technological restraints for a particular animal shall be automatically revoked upon a second violation by that animal of the restraint requirements of this chapter. In no event shall the use of technological restraints immunize an owner from the criminal and civil responsibilities set forth in this chapter for failure to keep an animal under restraint.

(1978 Code, §§ 6-4, 6-24; Ord. No. 215-A, §§ 1, 2, 12-19-89; Ord. No. 368, § 1, 3-18-03; Ord. No. 447, § 1, 6-21-16) Penalty, see § 8-9

Statutory reference:

Animals running at large, see M.C.L. §§ 433,12, 433.13

Animals used for baiting or fighting, see M.C.L. § 750.49

Dangerous animals, see M.C.L. §§ 287.322, 287.323

8-10. IMPOUNDMENT.

(A) A police or animal control officer may seize and take into custody or possession any animal running at large in violation of this chapter, or any animal which is suspected of having rabies or which has bitten a human or harmed another domesticated animal. A person may seize and take into custody or possession any animal

found running at large or trespassing upon the premises owned or occupied by that person. A person who takes an animal into custody or possession pursuant to this section, or who has been bitten by an animal, or who owns an animal and knows that a person has been bitten by the animal, shall immediately notify the Police Department or other law enforcement agency. The Police Department or law enforcement agency shall promptly take custody or possession of the animal.

(B) If the Police Department takes custody or possession of an animal under this section, and if the owner of the animal is known, the Police Department shall return the animal to its owner, unless the owner refuses to make reparation as provided in § 8-9(G). If the owner is not known, the Police Department shall turn the animal over to the county for disposition as appropriate.

(C) The owner of an animal in the custody or possession of the Police Department pursuant to this chapter, at any time prior to the sale or other disposition thereof, may claim and be entitled to the possession of the animal. Upon payment of reasonable compensation to the entity or agency in possession of the animal for care and keeping of the animal, upon satisfactory proof of ownership of the animal, and upon making reparation as provided in § 8-9(G), the animal shall be returned to its owner.

(D) In addition to, or in lieu of impounding an animal found at large, a police or animal control officer or any person appointed by the Council for that purpose may issue to the known owner of such animal a notice of code violation. Such notice shall impose upon the owner a penalty in a dollar amount to be assessed as determined by resolution of City Council, which may, at the discretion of the animal owner, be paid within 72 hours in full satisfaction of the assessed penalty.

(E) If such penalty is not paid within the time period prescribed, a criminal warrant shall be initiated before a magistrate; and upon conviction of a violation of this article, the owner shall be punished as provided in § 1-9.

(F) The owner of any animal impounded under the provisions of this chapter shall be liable to the city for the expense of impoundment. Failure to make payment in full to the City Treasurer within ten days of receipt of an invoice shall constitute a civil infraction. The city may commence a civil action against a person who is liable for the payment of impoundment expenses to recover the expenses, statutory interest, court costs, and reasonable attorney fees, where the person has failed to make payment in full within ten days of receipt of an invoice from the City Treasurer.

(G) In the event that an owner desires to surrender an animal to the city, whether for purposes of euthanizing the animal or otherwise, the owner shall be required to compensate the city for costs incurred for transport and proper disposal of the animal.

(1978 Code, §§ 6-12, 6-48, 6-49, 6-51, 6-52; Ord. No. 215-A, §§ 1, 4, 12-19-89; Ord. No. 368, § 1, 3-18-03; Ord. No. 411, § 5, 2-1-11) Penalty, see § 1-9

Statutory reference:

Animals running at large, see M.C.L. §§ 433.14 through 433.18

8-11. SANITATION.

(A) It shall be unlawful for any person to permit any animal owned or harbored by him to deposit fecal matter in any place other than the premises where the animal is harbored or kept, unless such fecal matter is immediately collected and removed to the premises where the animal is harbored or kept.

(B) It shall be unlawful for any person to walk any animal on any property not owned by such person, whether public or private, unless such person has an appropriate device for the collection of fecal matter in his immediate possession and an appropriate depository for the transmission of fecal matter to the premises where the animal is harbored or kept.

(C) Every person lawfully keeping or harboring any animal shall keep or cause to be kept all manure or offal which is deposited by or which accumulates from such animal, securely and closely confined to or buried upon his or her premises and in such manner as will prevent it from being scattered from such place of deposit into or upon any street, sidewalk, alley, or gutter of the city, or into or upon any private property, and shall so cover and care for it as to prevent any malodorous or offensive condition to exist and to prevent any nuisance to arise therefrom. All such deposits shall be promptly removed from the owner's premises and/or otherwise properly disposed of, in no event later than 24 hours after a complaint is received by the city. Failure to comply with this subsection is a misdemeanor.

(1978 Code, § 6-10; Ord. No. 215-A, § 1, 12-19-89; Ord. No. 368, § 1, 3-18-03) Penalty, see § 1-9

8-12. COMMERCIAL AND FOOD SOURCE PURPOSES PROHIBITED.

(A) No animals shall be raised, bred, or kept on any premises, except that nonvicious domestic animals may be kept, provided they are not kept, bred, or maintained for any commercial purposes.

(B) All wild animals, including birds, are deemed to be property of the state and may not be harbored, imported, or otherwise kept on any premises, for use as a source of food or for any other purpose, unless otherwise permitted by state law.

(Ord. No. 368, § 1, 3-18-03; Ord. No. 399, § 1, 12-16-08) Penalty, see § 8-55

Statutory reference:

Trapping of animals, see M.C.L.§ 324.43509

8-13. DOMESTICATED PIGEONS.

(A) This chapter shall not be construed to prohibit the orderly keeping of domesticated pigeons. With input and assistance from representatives of a national domesticated pigeon organization, the city has enacted this section in an effort to expand upon antiquated state law allowing the orderly keeping of racing pigeons to also allow the orderly keeping of all domesticated pigeons. In order to ensure that the keeping of domesticated pigeons remains orderly, domesticated pigeons shall only be kept in a loft which has been inspected and approved by the Building Department as being in conformity with all applicable building and zoning codes and regulations; which has been inspected and approved by animal control personnel as being in conformity with administrative standards promulgated by the city manager; and which has been issued a permit from the County Health Department as a proper structure for purposes of keeping domesticated pigeons. A copy of the administrative standards shall be kept in the office of the city clerk and may be obtained by any owner of an existing pigeon loft or any applicant for a pigeon loft permit at no charge. Existing lofts must comply with any new or updated administrative standards unless the city manager deems, upon written request for a waiver, that the public health and welfare purposes behind the administrative standards will not be achieved by requiring an existing loft to meet the new or updated standards.

(B) A “domesticated pigeon” is a pigeon that is seamlessly banded upon the leg with the name of the organization with which the pigeon is registered and with a unique identification or registration number stamped on the band. Acceptable organizations include the National Pigeon Association; the American Racing Pigeon Union; the International Federation of Racing Homers; the National Birmingham Roller Club, the American Tippler Union; or similar organizations recognized as legitimate pigeon fancier organizations by the domesticated pigeon industry.

(C) Officials from the Building Department and Police Department shall have the right, during reasonable hours, to enter upon property and premises for the purpose of randomly inspecting a licensed pigeon loft (or one for which a license is pending) to ensure that the loft is being maintained in conformity with the administrative standards promulgated by the city manager and the standards adopted by the Macomb County Health Department. Revocation of the city’s loft inspection approval on file with the Macomb County Health Department may be transmitted by city officials to the county when:

(1) A licensee or applicant fails the initial inspection and is unable or unwilling to remedy the violation(s) within 72 hours; or

(2) The licensee or applicant refuses to accommodate all reasonable requests for inspection. Unlicensed lofts are prohibited and, unless a license application is pending, city officials may take immediate action to eliminate such lofts including, but not limited to, issuing citations and seeking abatement of such nuisances through the Board of Ordinance Appeals.

(D) All pigeon and pigeon loft odors shall be minimized so that they do not cross property lines. All pigeon and pigeon loft odor complaints shall be independently verified at the property line and tracked to the loft by animal control personnel before a loft owner may be held responsible under this section for the odor. All lofts must be free from any insect or rodent infestations. All pigeons shall be confined to the loft, except for reasonable but limited periods necessary for exercise, training, and competition. Such exercise, training, and competition periods shall not exceed three hours at any one time. At no time shall pigeons be allowed to perch or linger on the buildings or property of others, except that reasonable exceptions shall be made for short-term training of juvenile pigeons. All domesticated pigeons shall be fed within the confines of their loft.

(E) The owner of every domesticated pigeon shall be responsible for the removal of any excreta deposited by the pigeon on public walks, recreation areas, or

private property. Responsibility shall be independently verified by an animal control officer as attributable to the pigeon(s) at issue.

(F) Violation of any provision of this section is punishable as set forth in chapter one of the city code.

(Ord. No. 368, § 1, 3-18-03; Ord. No. 399, § 2, 12-16-08)

Statutory reference:

Definitions, see M.C.L. § 433.351

Racing pigeons, see M.C.L. § 433.19

8-14. NUISANCE PER SE.

Any continuing or repeated violation of this chapter shall constitute a nuisance per se and may be abated by an action in circuit court. In addition, any person who permits or allows a nuisance per se violation of this chapter shall be guilty of a misdemeanor.

(1978 Code, § 6-77; Ord. No. 215-A, § 6, 12-19-89; Ord. No. 368, § 1, 3-18-03)

8-15. RESPONSIBILITY FOR DAMAGES.

Every owner of an animal shall be liable for damages for any and all injuries to persons or property caused by such animal, to be determined and collected in appropriate civil proceedings. Nothing in this chapter shall be construed to impose any liability upon the city, its agents, or its employees for damages caused by such animal.

(Ord. No. 368, § 1, 3-18-03)

8-16. BURIAL OF DEAD ANIMALS.

All animals or parts of an animal, placed into any lake, river, creek, pond, road, street, alley, lane, lot, field, meadow, or common, or in any place within one mile of any residence, shall be buried at least four feet under ground. The owners of any buried animal who knowingly permit the animal to remain in a place to the injury of the health or the annoyance of the citizens of Sterling Heights shall be guilty of a misdemeanor. A new misdemeanor shall be charged for every 24 hours the animal remains buried in violation of this section. The misdemeanor shall be punishable by a fine of not less than $50 nor more than $100, or by imprisonment of not less than 30 days nor more than 90 days. This section shall not be applicable in the event that a more restrictive zoning ordinance applies.

(Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Burial of dead animals, see M.C.L. § 750.57

8-17. VIOLATIONS.

(A) Violations of this chapter are misdemeanors punishable as set forth in §8-55 unless otherwise specified in §1-9(C) or unless a different penalty is set forth in this chapter.

(B) Violation of this chapter may result in impoundment and/or abatement of a nuisance.

(Ord. No. 368, § 1, 3-18-03)

8-18. ZONING ORDINANCE.

No person shall establish or maintain a regulated use in violation of the Zoning Ordinance.

(Ord. No. 368, § 1, 3-18-03)

8-19. TECHNOLOGICAL RESTRAINT; POSTING REQUIRED.

In the event that permissible technological restraint mechanisms are utilized as set forth in this chapter, all such mechanisms shall be publicized by means of posting notice of the use of such mechanism or by such means as will be open and obvious to law enforcement officers and passersby.

(Ord. No. 368, § 1, 3-18-03)

8-20. REPORTING OF ANIMALS HIT BY MOTOR VEHICLE.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to the Police Department.

(1978 Code, § 6-11; Ord. No. 215-A, § 1, 12-19-89; Ord. No. 368, § 1, 3-18-03) Penalty, see §1-9

8-21. SALE OF RABBITS, CHICKS, DUCKLINGS PROHIBITED.

It shall be unlawful for any person, firm or corporation to sell, or offer for sale, any baby chicks, rabbits two months old or younger, ducklings, or other fowl or game as pets or novelties whether or not dyed or otherwise artificially colored or treated. This section shall not be construed to prohibit the display or sale of natural chicks or ducklings in proper brooder facilities by hatcheries or stores engaged in the business of selling the same to be raised for commercial purposes.

(1978 Code, § 6-5; Ord. No. 215-A, § 1, 12-19-89; Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Sale of baby chicks, rabbits, ducklings, or other fowl or game, see M.C.L. § 752.91

8-22. EXPOSURE OF POISON PROHIBITED.

No person shall expose any known poisonous substance, whether mixed with meat or other food or not, so that the same is liable to be eaten by any animal; provided, that it shall not be unlawful to expose on one's own premises common rat poisons mixed only with vegetable substances.

(1978 Code, § 6-6; Ord. No. 215-A, § 1, 12-19-89; Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Exposing poisonous substances, see M.C.L. § 750.437

8-23. ANIMALS EXCLUDED.

(A) ***EXOTIC ANIMAL*** means those animals that are not domestic or any cross of those animals not domestic to North America. Except as otherwise provided in this chapter, it shall be unlawful for a person to possess, breed, exchange, buy or sell, or attempt any of those actions, or harbor the following exotic or wild animals:

(1) Apes, monkeys, and related forms, excepting monkeys used to assist disabled persons;

(2) Poisonous reptiles and other animals, spiders, and insects;

(3) All species and sizes of constrictor snakes;

(4) Cats from the wild family, including, but not limited to, bobcats, cheetahs, cougars, jaguars, leopards, lions, lynxes, mountain lions, panthers, pumas, tigers;

(5) Nondomesticated carnivorous animals, including hybrid crosses of nondomesticated carnivorous animals, including, but not limited to, raccoons, skunks, foxes, wolves, etc.;

(6) All known species of crocodilia, including, but not limited to, crocodiles and alligators;

(7) Piranha fish;

(8) All known species of chondrichthyes, including, but not limited to, sharks;

(9) All known species of struthio, including, but not limited to, ostriches, emus, and other ratites;

(10) Elephants;

(11) Perissodactyla, including, but not limited to, rhinoceros and other animals with an odd number of toes, except as provided in subsection (C);

(12) Artiodactyla, including, but not limited to, camels and other hooved mammals with an even number of toes;

(13) Iguanas, lizards, geckos, newts, and other members of the class reptilia;

(14) Hedgehogs.

(B) A person who owns or keeps an exotic or wild animal listed in this section on the effective date of this chapter shall, within 30 days of the effective date of this chapter, remove the animal from the city.

(C) This section shall not apply to the following:

(1) Zoological parks and aquariums that are accredited by the American Association of Zoological Parks and Aquariums;

(2) Wildlife sanctuaries and nature preserves;

(3) Circuses;

(4) Bona fide scientific, medical, or educational research facilities; or

(5) Properly licensed stables.

(1978 Code, § 6-13; Ord. No. 215-A, § 1, 12-19-89; Ord. No. 368, § 1, 3-18-03)

8-24. RESERVED.

ARTICLE II. DOGS AND CATS

DIVISION 1. IN GENERAL

8-25. VIOLATION NOTICES, FEE.

The Police Department, and any other persons authorized to enforce this article, upon witnessing violations of this article under circumstances where it is not practical, possible, or desirable in their judgment to impound the dog or cat, may issue to the owner of the dog or cat a notice of such violation, pursuant to which the owner shall pay to the Police Department within ten days a service fee in an amount equal to the impounding fee which would have been imposed under § 8-10 had the dog or cat been impounded at the time of the violation.

(Ord. No. 368, § 1, 3-18-03)

8-26. CONFINEMENT; DISEASE OR CONTAMINATION.

(A) It shall be unlawful for any owner to allow any dog or cat to leave the owner's premises under any conditions, unless such dog or cat has been immunized against rabies, provided nothing in this section shall be interpreted to prevent an owner from taking his dog or cat to the offices of a veterinarian, for purposes of having such dog or cat immunized.

(B) A person who discovers, suspects, or has reason to believe that an animal is either affected by a reportable disease or contaminated with a toxic substance shall immediately report that fact, suspicion, or belief to the Director of the Department of Agriculture or the Police Department.

(C) A person who knowingly possesses or harbors affected or suspect animals shall not expose other animals to the affected or suspect animals or otherwise move the affected or suspect animals or animals under quarantine, except with permission from the Director of the Department of Agriculture.

(D) A person shall not remove or alter the official identification of an animal. A person shall not misrepresent an animal's identity or the ownership of an animal. A person shall not misrepresent the animal's health status to a potential buyer.

(E) A violation of this section is punishable as set forth in §1-9, except that a person who violates subsection (C) is guilty of a misdemeanor, punishable by a fine of not less than $300 or imprisonment of not less than 30 days, or both.

(Ord. No. 368, § 1, 3-18-03) Penalty, see §1-9

Statutory reference:

Animals affected with reportable disease or contaminated with toxic substance, see M.C.L. § 287.709

8-27. CONTROL OF CATS.

It shall be unlawful for any person in the city to have possession or custody of any cat without having it under control or confined to his or her premises at all times.

(1978 Code, § 6-37; Ord. No. 215-A, § 3, 12-19-89; Ord. No. 368, § 1, 3-18-03) Penalty, see §8-55

8-28. POTENTIALLY DANGEROUS DOGS.

The purpose of this section is to establish a procedure for identifying dogs that pose a potential or significant threat to the safety of people, animals, or property, to impose precautionary restrictions on such dogs in an effort to prevent a serious injury from occurring, and to promote responsible ownership of all dogs within the city.

(A) Determination of a potentially dangerous dog. The determination that a dog is potentially dangerous shall be based on the following specific behaviors exhibited by the dog:

(1) Menaces, chases, displays threatening or aggressive behavior toward, or otherwise threatens or endangers the safety of a person or domestic animal.

(2) Causes injury to a person or domestic animal that is less than a severe injury. For purposes of this section, the term "severe" injury means permanent, serious disfigurement, serious impairment of health, or serious impairment of a bodily function.

(3) Aggressively bites a person or domestic animal. For purposes of this section, the term "aggressively bites" means the dog physically bit the person or animal in a manner not normally associated with playfulness or accidental behavior while exhibiting objective signs of aggression, attack behavior, or intent to harm. The damage inflicted by a bite, or lack thereof, may also be used by animal control officials as a factor in determining whether a bite was aggressive.

(4) Any of the behaviors listed above exhibited in another community and documented in an official report of any law enforcement or animal control agency.

(B) Notice of determination and right of appeal. An animal control officer shall have the authority to make a determination that a dog is potentially dangerous if the

animal control officer concludes the dog has exhibited the behaviors specified in this section. The owner or keeper of a dog determined to be potentially dangerous shall be provided with a notice containing the following information:

(1) A summary of the findings that form the basis for the determination that the dog is potentially dangerous.

(2) Notice of requirements necessary to possess a potentially dangerous dog in the city.

(3) Notice of the right to submit a written appeal of the determination that the dog is potentially dangerous to the Board of Ordinance Appeals within ten calendar days from the date of the notice. The notice shall:

(a) Provide instructions for taking an appeal;

(b) Indicate that the appeal will be considered at the next regular meeting of the Board of Ordinance Appeals to be held at least three calendar days from the date of the notice, unless an earlier meeting is scheduled and the owner requests in writing for the appeal to be heard at that meeting;

(c) Indicate that the determination that the dog is potentially dangerous is final and conclusive if an appeal is not taken; and

(d) Indicate that ownership of the dog will be deemed forfeited to the city if any of the following occur:

a. An appeal is not taken and the owner has not secured permanent relocation of the dog or satisfied all of the requirements set forth below for possession of a potentially dangerous dog within 14 calendar days from the date of the notice.

b. The Board of Ordinance Appeals upholds the determination that the dog is potentially dangerous and the owner or keeper has not secured permanent relocation of the dog or satisfied all of the conditions set forth in this section, and any other conditions established by the Board, for possessing the potentially dangerous dog within 14 days of the appeal hearing.

c. Animal control and the Board of Ordinance Appeals shall have the authority, but no obligation, to extend any of the deadlines set forth in this division for demonstrable good faith progress toward relocation of the dog or toward satisfaction of the possession requirements.

(4) Notice of the right to request removal of the potentially dangerous classification after the dog has resided and been licensed within the city for a minimum of three full years following the date the dog is licensed with the city as a potentially dangerous dog without any violations of the conditions required for keeping the potentially dangerous dog and without any new incidents involving behavior by the dog that would qualify for a potentially dangerous determination pursuant to this section. The removal request shall be sent in writing to animal control. The decision to remove the potentially dangerous classification shall be made in the first instance by animal control upon a review of the history of the dog and its residence for the three years preceding the date of the removal request, including a premises inspection and an inspection of the dog to ensure that the conditions set forth in this section have been followed. If the request is denied, the owner may appeal the denial to the Board of Ordinance Appeals within ten calendar days. Owners shall only be permitted one request and one appeal during any 12-month period.

(C) Mitigating circumstances. An animal control officer shall have discretion to refrain from making a potentially dangerous determination if the animal control officer determines that the behavior was the result of the victim abusing or tormenting the dog, was directed toward a trespasser or person committing or attempting to commit a crime, involved accidental or instinctive behavior while playing, did not involve a significant injury, or other similar mitigating or extenuating circumstances.

(D) Impoundment. A dog that is determined to be potentially dangerous shall be removed from the city and placed with the Macomb County Animal Shelter or, in the discretion of Animal Control, the owner may authorize placement of the dog at a residential home outside of the city, or with a qualified rescue organization or qualified dog lodging business, during any quarantine period and until the owner has either confirmed a new place of residence for the dog outside of the city or has exhausted any appeals permitted by this section. If the dog is not being housed at the shelter, it must first be microchipped with all information required by animal control. All impoundment, lodging, and microchipping costs are the sole responsibility of the dog's owner.

(E) Requirements for possession of a potentially dangerous dog. If the owner of the dog requests that the dog be permitted to return to the city, its return shall not be permitted until the following requirements have been satisfied:

(1) Animal control shall confirm the following:

(a) The owner or keeper shall install secure fencing at the property where the dog will reside which is maintained in good repair with self-locking ingress or egress gates. The fencing may be any combination of chain link fencing and/or privacy fencing, shall only be installed upon obtaining all required fence permits from the city, and shall pass all required inspections prior to the dog's return to the property,

(b) When removed from the property of the owner or keeper, a potentially dangerous dog shall always be restrained by a secure leash of no more than four feet in length and under the control of a capable person.

(c) A potentially dangerous dog shall have a microchip implanted by a licensed veterinarian. The microchip shall contain the name and approximate age of the dog, its classification as potentially dangerous, and the name, address, and telephone number of the registered owner.

(d) The owner shall obtain and maintain public liability insurance with policy coverage in the minimum amount of $250,000.

(e) Two recent color photographs of the dog, which clearly show the color and approximate size of the animal, shall be provided to animal control.

(f) The potentially dangerous dog shall meet the requirements of the AKC's Canine Good Citizen Program, or its equivalent, to the satisfaction of animal control. Dogs that are under one year of age are ineligible for the AKC Canine Good Citizen Program, so such dogs must be enrolled in or have completed the AKC START Program or an equivalent approved by animal control. The dog may not return to its city residence until these requirements have been met, but it may be kept at a qualified rescue or dog housing business until proof of successful completion of the program is submitted to, and acknowledged by, animal control and the City Clerk. For every future violation of this chapter for which a dog may be determined to be potentially dangerous which occurs after the dog has completed the requirements of this subsection and been properly registered under this section, additional training or testing, including but not limited to renewing the dog's compliance with this division, may be imposed by animal control as a condition of continuing to keep the dog within the city unless the dog's status is changed to dangerous due to the nature or frequency of the new violation(s).

(g) The potentially dangerous dog, if over 12 weeks old, has been spayed or neutered.

(h) All impoundment and lodging costs have been paid by the owner.

(2) Before the dog returns to any property within the city other than a qualified rescue organization or a boarding business, the owner of a potentially dangerous dog shall ensure that the dog's license is current and shall register the dog with the City Clerk as a potentially dangerous dog with all information required by the City Clerk's potentially dangerous dog registration form, as well as the following:

(a) Proof of animal control's certification that the required fence, self-locking gate, and leash have all been procured for the dog.

(b) Proof of microchipping and the information contained on the microchip. The owner shall ensure that the microchip information provided to the city is kept up to date.

(c) Proof of the required insurance policy.

(d) Proof of the successful completion of the required training and temperament testing.

(e) Two recent color photographs of the dog, which clearly show the color and approximate size of the animal.

(3) The owner or keeper of a potentially dangerous dog must, within ten business days, report to the City Clerk if the dog has been permanently removed from the city, has died, or has relocated within the city. The new address of a relocated potentially dangerous dog shall be provided as part of the report to the City Clerk.

(4) After its initial registration, a potentially dangerous dog shall be registered with the City Clerk annually and its owner or keeper shall pay a registration fee established by the city's annual appropriations ordinance. This registration and fee shall be in addition to any other requirements for annual licensing of an animal.

(E) Visiting Dogs. Any dog that does not reside within the city and is licensed by another community but which is determined to be a potentially dangerous dog pursuant to this section shall not be subject to the conditions for possessing a potentially dangerous dog within the city, except that the dog shall be microchipped before its release, all impound and microchipping costs shall be paid by the owner, and its owner and keeper shall be advised by animal control that the dog is not to

return unless all of the conditions for possessing a potentially dangerous dog are first satisfied. In the event the dog is subsequently in the city without full compliance with the requirements for possessing a potentially dangerous dog, the person harboring or possessing the dog shall be subject to the penalties set forth in division (F).

(F) Penalties.

(1) Except as provided in division (F)(2), any person who owns, harbors, keeps, or possesses a potentially dangerous dog in violation of any of the requirements of this section for possessing a potentially dangerous dog, or who in any way aids or abets such ownership, harboring, keeping, or possession, shall be responsible for a municipal civil infraction. The fine for a first violation shall be $500; for a second violation, $750; and for all subsequent violations, $1,000 per violation. The court may only waive or reduce these fines in cases of financial hardship, upon good cause shown, if the offender forfeits all ownership and possessory rights to the offending dog and forfeits future dog ownership and possessory rights until the offender has successfully completed animal ownership educational training satisfactory to the city's animal control officers and for a period of time determined appropriate by the court.

(2) In addition to the civil penalties set forth in division (F)(1), a potentially dangerous dog shall be subject to immediate impoundment by an animal control officer if it is determined that the dog is owned, possessed, harbored or maintained in violation of this section. The animal control officer shall issue a notice to the owner or keeper of the potentially dangerous dog which indicates the hearing date at which the city's Board of Ordinance Appeals will address the violations. The city shall provide notice of the hearing to any victim and/or any owner of an animal victimized by the potentially dangerous dog.

(3) Any hearing scheduled for consideration by the Board of Ordinance Appeals shall be administratively canceled if the owner or keeper withdraws the requested appeal, corrects all correctable violations to the satisfaction of animal control, satisfies the conditions for possessing a potentially dangerous dog, permanently relocates the dog to the satisfaction of animal control, or forfeits ownership rights to the potentially dangerous dog prior to the scheduled Board hearing. The owner or keeper shall be responsible for all impound fees and costs, regardless of whether the hearing is held or canceled. If a hearing is held, the Board shall:

(a) Determine whether the status of the dog as potentially dangerous shall be upheld and, if so, the conditions applicable for return of the potentially dangerous dog to the owner or keeper, including but not limited to deadlines for correcting any uncorrected violations and random inspections of the premises and the potentially dangerous dog by an animal control officer, with the owner or keeper responsible for payment of inspection fees established by the city's annual appropriations ordinance. In the event of noncompliance, the Board may impose conditions on removal from the city that are rationally related to the public interest in protecting others from any potential future harm that could be caused by the potentially dangerous dog. Failure to comply or remove the dog in accordance with the decision of the Board within the timeframe established by the Board shall result in forfeiture of ownership rights to the dog in favor of the city, in which event animal control shall determine the final placement or disposition of the dog.

(Ord. No. 411, § 2, 2-1-11; Ord. No. 449, § 1, 8-16-16)

Statutory reference:

Dangerous animals, see M.C.L. § 287.321 et seq.

8-28A. DANGEROUS DOG.

(A) Determination of a dangerous dog. The determination that a dog is dangerous shall be based on the following specific behaviors exhibited by the dog:

(1) Exhibits aggressive behaviors that result in further incidents or complaints after having been determined to be a potentially dangerous dog.

(2) Causes severe injury to a person or domestic animal. For purposes of this section, the term "severe" injury means permanent, serious disfigurement, serious impairment of health, or serious impairment of a bodily function.

(3) Kills a person or domestic animal.

(4) Its use in the commission of a crime, including but not limited to dog fighting and guarding of illegal operations.

(B) Notice of determination. The definition of "dangerous animal" in § 8-3 shall continue for purposes of issuing violations for harboring a dangerous or vicious animal pursuant to § 8-8. An animal control officer shall have the additional authority to make a determination that a dog is to be classified as dangerous under this article if the animal control officer concludes the dog has exhibited the behaviors specified in this section. The owner or keeper of a dog determined to be dangerous shall be provided with a notice containing the following information:

(1) A summary of the findings that form the basis for the determination that the dog is dangerous.

(2) Notice of the prohibition of dangerous dogs within the city.

(3) Notice of the right to appeal, as set forth below.

(C) Mitigating circumstances. An animal control officer shall have discretion to refrain from making a determination of a dangerous dog if the animal control officer determines that the behavior was the result of the victim abusing or tormenting the dog, was directed toward a trespasser or person committing or attempting to commit a crime, or other similar mitigating or extenuating circumstances. The animal control officer retains discretion, however, to classify the dog as potentially dangerous if the mitigating circumstances do not completely dispel concern about the dog's future behaviors.

(D) Impoundment and euthanization. A dangerous dog is not permitted within the city, shall be immediately impounded, and shall be euthanized not less than ten calendar days after a determination is made by an animal control officer.

(E) Right of appeal. The animal control officer shall issue a notice to the owner or keeper of the right to appeal the determination that a dog is dangerous to the Board of Ordinance Appeals within ten calendar days from the date of the notice. The notice shall provide instructions for taking an appeal and indicate that the determination is final and conclusive if an appeal is not taken. The city shall provide notice of the hearing to any victim and/or any owner of an animal victimized by the dangerous dog. If the owner forfeits ownership rights to the dangerous dog or obtains written permission to relocate the dog to another municipality from that municipality's chief administrative officer or chief animal control official prior to the scheduled Board hearing, the matter shall be administratively withdrawn from the agenda. If relocation permission is obtained, the dog shall first be microchipped at the owner's expense with all information required by animal control, including the dog's designation as dangerous in Sterling Heights and information referencing the city's incident report(s). The owner or keeper shall be responsible for all impound fees and costs, regardless of whether the dog is forfeited, removed from the city, or a hearing is held. If a hearing is held, the Board shall determine whether the dog is dangerous and subject to forfeiture and euthanization.

(Ord. No. 411, § 3, 2-1-11; Ord. No. 449, § 2, 8-16-16)

8-29. RABIES; QUARANTINE; DESTRUCTION OF DANGEROUS DOGS AND CATS.

(A) Any dog or cat which is suspected of having rabies or any dog or cat which has bitten a human shall be confined, quarantined, and observed for a period of ten days by one of the following methods:

(1) Quarantine at the Macomb County Animal Shelter or another animal control facility for all incidents involving harm to a human or death to another domesticate animal; or

(2) For all other incidents, if authorized by an animal control officer of the city, the confinement may be at a hospital or kennel under the supervision of a veterinarian of the owner's choice, or at the owner's residence in a fenced-in yard or pen, in the owner's home, or on a chain of sufficient strength to contain the animal. In no event shall the owner permit a quarantined animal to leave the owner's residence or to have contact with animals or persons outside the owner's family.

(B) If an animal other than a dog or cat is suspected of having rabies or has bitten a human, the procedures set forth in subsection (A) shall be followed, except that the confinement and quarantine period shall be as designated by an animal control officer of the city.

(C) Any confinement under this section, wherever located, shall be at the owner's expense. Any expenses for laboratory analysis of an animal confined and quarantined under this section are the responsibility of the owner. If legal action is initiated to recover monies due under this section for confinement expenses, the court may award reasonable attorney fees and costs incurred to the animal control facility or other place of confinement.

(D) The ten-day confinement period may be extended by an animal control officer of the city if warranted by circumstances involving harm caused to a person or to a domesticated animal, and no animal shall be released until the permission of the Police Department is obtained. In such cases, the animal control officer who issued

a criminal citation shall advise the court that an expedited hearing date is requested due to the continuing impoundment of the animal. During the confinement period, no rabies vaccination shall be administered.

(E) Whenever a dog or cat is brought to the animal shelter for having bitten a person, the Police Department may, if deemed necessary and advisable, and after holding such dog or cat a sufficient length of time to meet the requirements of subsection (A) and of the health department for investigation, cause such dog or cat to be destroyed as a dangerous or vicious animal. Unless waived in writing, notice of intent to destroy such dog or cat shall be given to the owner if known. The owner shall have seven days from mailing of such notice in which to seek a review by the district court for the 41-A Judicial District of the order of the Police Department for the destruction of such dog or cat.

(F) Failure of any resident or owner to comply and cooperate with the requirements of this section shall constitute a misdemeanor. Failure to comply with confinement and quarantine requirements shall also result in confiscation of the animal and confinement at the Macomb County Animal Shelter or other animal control facility.

(G) For purposes of this section, ***RABIES CONFINEMENT AT THE OWNER'S RESIDENCE*** shall mean that the animal is kept inside a secure building or otherwise confined so that no contact with animals or persons outside the owner's family can occur for the confinement period. During such period of confinement, the animal must not be let out to relieve itself without being on a leash or lead and handled by a person capable of physically restraining the animal.

(1978 Code, § 6-50; Ord. No. 215-A, § 4, 12-19-89; Ord. No. 368, § 1, 3-18-03; Ord. No. 411, §§ 6,7, 2-1-11)

8-30. UNLAWFUL NOISE.

No person shall harbor or keep any dog or cat which by loud, frequent, or habitual barking, whining, yelping, howling, crying, or by any other noise shall disturb the peace and quiet of any person or cause an annoyance or disturbance to the neighborhood, or to people passing upon the streets of the city.

(1978 Code, § 6-25; Ord. No. 215-A, § 2, 12-19-89; Ord. No. 368, § 1, 3-18-03)

8-31. NUMBER OF ANIMALS PERMITTED.

(A) Notwithstanding any other ordinance to the contrary, it shall be unlawful for any person or owner to keep or harbor more than four animals older than four months of age at any one address or premises.

(B) The provisions of this section shall not apply to:

(1) Puppies and kittens not exceeding four months of age;

(2) The business premises of a licensed veterinarian; or

(3) Kennels operating in conformance with state law and applicable zoning provisions.

(1978 Code, § 6-3; Ord. No. 215-A, § 1, 12-19-89; Ord. No. 368, § 1, 3-18-03)

8-32. DISPLAY OF DOGS AND CATS TO AUTHORITY.

(A) It shall be unlawful for any person to refuse to show or exhibit, at any reasonable time, any dog or cat in his or her possession or custody to any licensed inspector, police officer, animal control officer, or health official of the city or county.

(B) Each owner or keeper of a cat within the city shall produce, upon request of a law enforcement officer, a certificate of vaccination for such cat.

(1978 Code, § 6-37; Ord. No. 215-A, § 3, 12-19-89; Ord. No. 368, § 1, 3-18-03) Penalty, see §1-9

8-33. PARENTAL LIABILITY.

The parent or guardian of any minor claiming ownership of any dog, cat, or other animal subject to this chapter, shall be deemed to be the owner of such animal and shall be charged for all penalties and fees imposed under this chapter.

(Ord. No. 368, § 1, 3-18-03)

8-34. CONDUCT DIRECTED TOWARD DOGS ASSISTING OR SERVING THE BLIND.

(A) An individual shall not do either of the following:

(1) Willfully and maliciously assault, beat, harass, injure, or attempt to assault, beat, harass, or injure a dog that he or she knows or has reason to believe is a guide or leader dog for a blind individual, a hearing dog for a deaf or audibly impaired individual, or a service dog for a physically limited individual.

(2) Willfully and maliciously impede or interfere with, or attempt to impede or interfere with duties performed by a dog that he or she knows or has reason to believe is a guide or leader dog for a blind individual, a hearing dog for a deaf or audibly impaired individual, or a service dog for a physically limited individual.

(B) In a prosecution for a violation of subsection (A), evidence that the defendant initiated or continued conduct directed toward a dog described in subsection (A)(1) after being requested to avoid or discontinue that conduct or similar conduct by a blind, deaf, audibly impaired, or physically limited individual being served or assisted by the dog shall give rise to a rebuttable presumption that the conduct was initiated or continued maliciously.

(C) The terms used in this section shall have the meaning assigned to them by M.C.L. § 750.50a.

(Ord. No. 368, § 1, 3-18-03) Penalty, see §8-55

Statutory reference:

Guide or leader dog, see M.C.L. § 750.50a

8-35. ANIMALS USED IN LAW ENFORCEMENT.

(A) As used in this section the following definitions shall apply unless the context clearly indicates or requires a different meaning:

DOG HANDLER. A peace officer who has successfully completed training in the handling of a police dog pursuant to a policy of the law enforcement agency that employs that peace officer.

PHYSICAL HARM. Any injury to a dog's or horse's physical condition.

POLICE DOG. A dog used by a law enforcement agency of this state or of a local unit of government of this state that is trained for law enforcement work and subject to the control of a dog handler.

POLICE HORSE. A horse used by a law enforcement agency of this state or of a local unit of government of this state for law enforcement work.

SERIOUS PHYSICAL HARM. Any injury to a dog's or horse's physical condition or welfare that is not necessarily permanent but that constitutes substantial body disfigurement, or that seriously impairs the function of a body organ or limb.

(B) A person shall not intentionally cause physical harm to a police dog or police horse.

(C) A person shall not intentionally harass or interfere with a police dog or police horse lawfully performing its duties.

(D) Except as provided by state law, a person who violates subsection (B) or (C) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500, or both.

(E) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law committed by that individual while violating this section.

(Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Police dog or horse, see M.C.L. § 750.50c

8-36. ELECTRONIC VACCINATION REPORTING.

(A) Beginning January 1, 2014, every veterinarian shall transmit to the city's designee the certificate of vaccination for every dog that resides or is kept within the city and that is vaccinated by the veterinarian. Certificates may be transmitted no later than the fifteenth day of the month following the month in which the rabies vaccination was administered by the veterinarian. The certificate shall be in a form or format required by the City Clerk and shall include all information required by the City Clerk for licensing purposes and by Animal Control for public safety purposes, including but not limited to all of the information included on the standard rabies vaccination certificates used by the veterinarian in the ordinary course of business.

(B) The City Clerk may waive the vaccination reporting requirement set forth in this section for one-year intervals if the veterinarian or owner produces a written statement from the veterinarian each year indicating that the dog should not be vaccinated because vaccination will have an adverse health impact on the dog. In such instances, the owner must include with the dog license application a signed affidavit affirming "As the owner of an unvaccinated dog, I am aware of and assume all of the potential liability and risk and I recognize the potential for court-ordered euthanasia and/or quarantine of the dog should it bite a person or animal or otherwise expose a human to rabies. Under penalty of forfeiture of the dog without court proceedings, I agree to keep the unvaccinated dog muzzled and properly under control while it is on a public sidewalk or in any place open to the public."

(C) For purposes of this section, the term "veterinarian" shall include, but not be limited to, any veterinarian, veterinary doctor, individual acting under the direction or supervision of a veterinarian or veterinary doctor, animal hospital, veterinary clinic, veterinary facility, or any individual who administers a dog's rabies vaccination within the City.

(D) A failure to comply with the requirements of this section shall be deemed a municipal civil infraction, punishable as provided in Chapter 1 of the City Code.

(Ord. No. 431, § 1, 10-1-13)

8-37-8-40. RESERVED.

DIVISION 2. DOG LICENSING

8-41. LICENSE REQUIRED.

(A) Any person owning, keeping, possessing, harboring, or having custody within the city of any dog six months old or older must obtain a license for such dog, pursuant to state law, from the City Clerk for a fee to be determined by the county. No person shall keep, possess, harbor, or have custody of an unlicensed dog which is required to be licensed under this section.

(B) The following shall be unlawful:

(1) For any person to own any dog six months old or older that does not at all times wear a collar with a tag approved by the Director of Agriculture, attached as provided in this chapter; or

(2) For any person, except the owner or authorized agent, to remove any license tag from a dog.

(C) A person who owns or harbors a dog shall produce proof of a valid dog license upon request of a person who is authorized to enforce this chapter.

(D) The owner of a dog that is four or more months old shall apply, within 30 days, to the City Clerk or the Clerk's authorized agent for a license for each dog owned or kept by him or her. This subsection will not apply to a nonresident keeping a dog within the city for no longer than 30 days.

(E) The licensing period shall begin April 1. Licensing periods of 1, 2, and 3 years shall be available as options to applicants, except that no license shall be issued for a duration longer than the time during which the dog’s rabies vaccination certificate is valid plus 90 days. All licenses shall expire at the end of March 31 during whichever licensing period was issued to the applicant.

(F) Written application for licenses shall be made to the City Clerk. The license application shall state the breed, sex, age, color, and markings of the dog, and the name and address of the current and last previous owner. The application for a license shall be accompanied by a valid certificate of a current vaccination for rabies, with a vaccine licensed by the United States Department of Agriculture, signed by an accredited veterinarian who directly supervised the vaccination. The certificate for vaccination for rabies shall state the month and year of expiration for the rabies vaccination, in the veterinarian's opinion. When applying for a license, the owner shall pay the required license fee.

(G) The owner of a dog that is required to be licensed under this section shall keep the dog currently vaccinated against rabies by an accredited veterinarian with a vaccine licensed by the United States Department of Agriculture.

(H) A person who becomes owner of a dog that is four or more months old and that is not already licensed shall apply for a license within 30 days. A person who owns a dog that will become four months old and that is not already licensed shall apply for a license within 30 days after the dog becomes four months old.

(I) No license or license tag issued for one animal shall be transferable to another animal. No person shall use any license for any animal other than the animal for which the license was issued.

(J) If a dog license is lost or destroyed, the license holder shall obtain a duplicate license from the city upon payment of the prescribed replacement license fee.

(K) The City Clerk shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public during business hours. These records will be kept for a period of three years.

(1978 Code, § 6-23; Ord. No. 215-A, § 2, 12-19-89; Ord. No. 368, § 1, 3-18-03; Ord. No. 431, § 2, 10-1-13) Penalty, see § 8-9

Statutory reference:

Dog law, see M.C.L. §§ 287.261 et seq.

8-42. LICENSE FEES.

License fees shall be established by the annual appropriations ordinance.

(Ord. No. 368, § 1, 3-18-03; Ord. No. 388, § 3, 1-3-07)

Statutory reference:

Dog licenses, see M.C.L. § 287.266

8-43. LICENSE FEE EXEMPTIONS.

(A) A dog which is an authorized law enforcement dog, or which is used as a guide or leader dog for a blind person, a hearing dog for a deaf or audibly impaired person, a service dog for a physically limited person, or a dog owned by a person over the age of 60, is not subject to any fee for licensing.

(B) The terms used in this section shall have the meanings assigned to them by M.C.L. § 287.291.

(Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Dogs not subject to license fees, see M.C.L. § 287.291

8-44. IDENTIFICATION TAGS.

(A) Upon acceptance of the license application and fee, the City Clerk shall issue a durable identification tag or collar, stamped with an identifying number and the year of issuance. Tags should be designed so that they may be conveniently fastened or riveted to the animal's collar or harness.

(B) Dogs must wear identification tags affixed to substantial collars at all times. Every dog and cat that is not required to be licensed shall bear an identification tag setting forth the name and address of its owner or keeper.

(1978 Code, § 6-23; Ord. No. 215-A, § 2, 12-19-89; Ord. No. 368, § 1, 3-18-03) Penalty, see §1-9

Statutory reference:

Dog license tags, see M.C.L. § 287.267

8-45. PENALTY FOR STEALING OR CONFINING LICENSED DOG.

Any person who shall steal, or confine and secret any dog licensed under this chapter or kept under a kennel license, unless legally authorized to do so, or unless such confining is justifiable for the protection of person, property, or game, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than $50 nor more than $100, or imprisonment in the County Jail for not less than 60 nor more than 90 days, or both in the discretion of the court.

(Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Penalty for stealing or confining licensed dog, see M.C.L. § 287.286b

8-46. PUBLIC NUISANCES.

(A) It is unlawful for any owner or keeper of an animal to fail to exercise proper care and control of the animal so as to have it become a public nuisance. For purposes of this section, a public nuisance includes:

(1) An animal which is a safety or health hazard, which damages or destroys the property of another (including garden and flower beds and trees), which creates offensive odors which materially interfere with or disrupt another person in the conduct of lawful activities at such person's home, or which urinates or defecates upon private property not owned or exclusively occupied by the owner or keeper or upon public property if the feces deposited by the animal are not immediately removed by the owner.

(2) An animal at large that jumps on, or attempts to herd a person or persons, or that runs after and vocalizes at horses, joggers, pedestrians, bicyclists, or any vehicle being ridden or driven upon the roads or any public grounds or place within the city.

(3) An animal that exhibits exuberant greeting behavior while not on its owner's property and without the intent to harm, including but not restricted to jumping up, chasing, and excessive mouthing.

(4) An animal that chases or attacks wildlife (including birds) or livestock on property not owned or exclusively occupied by the owner, whether or not the animal injures or destroys the wildlife or livestock.

(5) An animal that is required to be licensed under this chapter but is unlicensed.

(B) The Police Department or the City Attorney may initiate proceedings for elimination of the nuisance.

(Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Unlicensed animal, see M.C.L. § 287.277

8-47. PENALTIES FOR CERTAIN VIOLATIONS.

Unless designated as a municipal civil infraction in §1-9(C) or a specific penalty is otherwise set forth, any person violating or failing or refusing to comply with any of the provisions of this division shall be guilty of a misdemeanor and upon conviction shall pay a fine not less than $10 nor more than $100, or shall be imprisoned in the County Jail for not exceeding 90 days, or be subject to both such fine and imprisonment. Any person presenting a false claim, knowing it to be false, or receiving any money on such false claim, shall be guilty of a misdemeanor and upon conviction, shall pay a fine of not less than $10 nor more than $100, or shall be imprisoned in the county jail for not exceeding 90 days, or both such fine and imprisonment.

(Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Penalties; disposition of fines, see M.C.L. § 287.286

8-48. EXCEPTIONS.

None of the provisions of this chapter shall be construed to require the licensing of any dog imported into this city, for a period not exceeding 30 days, for show, trial, breeding, or hunting purposes.

(Ord. No. 368, § 1, 3-18-03)

Statutory reference:

Dogs imported temporarily, see M.C.L. § 287.289

8-49. REVIEW OF LICENSE OF REPEAT OFFENDERS.

The City Clerk shall review automatically all licenses issued to animal owners against whom three or more ordinance violations have been assessed in a 12-month period. Licenses may be revoked by the City Clerk after notice and an opportunity for a hearing are afforded to the owner.

(1978 Code, § 6-53; Ord. No. 215-A, § 4, 12-19-89; Ord. No. 368, § 1, 3-18-03)

8-50. RESERVED.

ARTICLE III. FERRETS

8-51. RABIES; VACCINATIONS; INCIDENT REPORTS; HANDLING GUIDELINES; CERTIFICATES.

(A) A person shall not own or harbor a ferret over 12 weeks of age unless the ferret has a current vaccination against rabies with an approved rabies vaccine administered by a veterinarian, unless otherwise exempt from this requirement under state law.

(B) A person who owns or harbors a ferret that has bitten, scratched, caused abrasions, or contaminated with saliva or other infectious material an open wound or mucous membrane of a human being shall report the incident within 48 hours to the county public health department.

(C) A person who owns or harbors a ferret that has potentially exposed a person or other animal to rabies by biting, scratching, causing abrasions, or contaminating open wounds or mucous membranes with saliva or other infectious material shall handle the ferret in accordance with current published guidelines of the centers of disease control and prevention.

(D) A person who owns or harbors a ferret shall produce proof of a valid rabies certificate signed by a veterinarian for the ferret upon request of a law enforcement officer.

(Ord. No. 368, § 1, 3-18-03) Penalty, see §8-55

Statutory reference:

Ferrets; vaccination required, see M.C.L. § 287.892

8-52. CONFINEMENT.

(A) An owner shall prevent a ferret from leaving the owner's property unless the ferret is confined or leashed and under the direct control of the owner or a responsible person designated by the owner.

(B) A person shall not release a ferret into the wild or abandon a ferret.

(Ord. No. 368, § 1, 3-18-03) Penalty, see §8-55

Statutory reference:

Ferrets; confinement, see M.C.L. § 287.894

8-53. HOBBY BREEDERS.

Hobby breeders shall be regulated in accordance with the provisions of state law. A person who violates the state law hobby breeder regulations is guilty of a misdemeanor.

(Ord. No. 368, § 1, 3-18-03) Penalty, see §8-55

Statutory reference:

Ferrets; breeding of, see M.C.L. § 287.893

8-54. RESERVED.

ARTICLE IV. VIOLATIONS AND PENALTIES

8-55. VIOLATIONS, PENALTIES.

(A) A person who violates this chapter is guilty of a misdemeanor unless otherwise specified in §1-9(C) or elsewhere, and shall pay the costs of the prosecution. In addition, the violation is punishable by one or more of the following unless a contrary provision is otherwise set forth:

(1) Imprisonment for not more than 90 days.

(2) A fine of not less than $500.

(3) Community service work of not more than 120 hours.

(4) Relinquishment of the privilege of animal ownership, either permanently or for a defined period of time set by the court.

(5) Regardless of whether relinquishment is ordered, the court may order the defendant to pay the costs of care, housing, and veterinary medical care for the animal as applicable.

(6) Private or group obedience classes, evaluation by a behavior specialist, and/or completion of a responsible ownership course.

(B) A person who violates § 8-52(A) is guilty of a misdemeanor punishable by a fine of not more than $100, and shall pay the costs of the prosecution.

(C) A person who violates § 8-41(A) is responsible for a municipal civil infraction punishable by a fine as set forth in §1-26(B) of the city code, except that the court shall instead assess a fine in accordance with the schedule set forth in § 1-26(A) upon receipt of certification by the city clerk and/or an animal control officer of the city that the person, before the appearance date on the citation, properly licensed and registered the dog as required by this chapter, including payment of all licensing, registration, and late fees.

(D) A law enforcement officer may issue an appearance ticket for any misdemeanor violation of this article as described in subsection (A).

(E) In addition to any other action authorized by this article and by state law, a law enforcement officer may bring an action to do one or more of the following:

(1) Obtain a declaratory judgment that a method, act, or practice is a violation of this article.

(2) Obtain an injunction against a person who is engaging, or about to engage, in a method, act, or practice that violates this article.

(F) Any person who owns or harbors an animal after a court has ordered relinquishment of animal ownership rights is guilty of a misdemeanor, punishable as provided in this section.

(Ord. No. 368, § 1, 3-18-03; Ord. No. 411, §§ 4, 9, 2-1-11)

Statutory reference:

Ferrets; violations, see M.C.L. § 287.899

8-56-8-60. RESERVED.

ARTICLE V. ENFORCEMENT

8-61. ENFORCEMENT PERSONNEL.

(A) Whenever a law enforcement officer has probable cause to believe that a violation of this chapter has occurred, the officer may issue a citation to the violator, stating the nature of the violation with sufficient particularity to give notice of the charge to the violator. Police and animal control officers shall enforce all of the provisions of this chapter.

(B) No person shall knowingly interfere with, impede, or obstruct any police or animal control officer who is attempting to discharge or is in the course of discharging an official duty or fail to obey the lawful order of a police or animal control officer.

(1978 Code, § 6-80; Ord. No. 215-A, § 7, 12-19-89; Ord. No. 368, § 1, 3-18-03)

8-62. RIGHT OF ENTRY GRANTED.

Police, animal control, and code enforcement officers are hereby authorized to enter upon any premises in the city for the purposes of responding to and investigating complaints relating to a violation of this chapter, where the officer has reasonable cause to believe that an immediate response is required to ensure the health, safety, and welfare of a person or an animal, or where the animal in question is mobile and its capture would be hindered by the delay necessitated in obtaining a search warrant. If entry onto the premises is denied, the officer may issue an appropriate citation and/or seek a search warrant.

(Ord. No. 368, § 1, 3-18-03)

8-63-8-70. RESERVED.

ARTICLE VI. HUNTING AND TRAPPING

8-71. PROHIBITIONS.

In the interest of public health and safety and the general welfare of the citizens of the city, it shall be unlawful for any person, unless exempted by §8-72:

(A) To hunt or pursue any animal or wildlife at any time within the limits of the city by means of a firearm, either handgun or rifle, or by any weapon or explosive device, including air rifles, spring guns, bow and arrow, slingshot, or by any other instrument potentially dangerous to human safety.

(B) To trap or snare any animal or wildlife at any time within the limits of the city by means of a steel leg trap, wire snare, pit, net, baited hook, weighted log, wire cage, or any other kind of trapping device.

(C) To use poison or a chemical by itself or in bait or feed to attract and kill wildlife.

(1978 Code, § 6-64; Ord. No. 215-A, § 5, 12-19-89; Ord. No. 368, § 1, 3-18-03) Penalty, see §8-55

8-72. EXCEPTIONS.

Any prohibitions against hunting or trapping made under this article shall not apply to:

(A) State or local law enforcement officers in the discharge of their official duties.

(B) Any governmental official or local law enforcement official, when such hunting or trapping is necessary or incident to a scientific or biological survey or when related to any aspect of wildlife management and control.

(C) Any property owner or his or her designated agent who hunts or traps on his or her own private property to destroy or control animals causing damage to the property; the use of a lawful exterminator is also permitted as required. For purposes of this section, only live traps may be utilized. ***LIVE TRAPS*** shall mean such traps which capture, but do not harm or kill, the trapped animal.

(1978 Code, § 6-65; Ord. No. 368, § 1, 3-18-03)

CHAPTER 9: BICYCLES

9-1. DEFINITION.

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

BICYCLE. Every device propelled by human power upon which any person may ride, having two tandem wheels, either of which is over 20 inches in diameter. It includes pedal bicycles with helper motors rated less than one brake horsepower transmitted by friction and not by gear or chain, which produces only ordinary pedaling speeds up to a maximum of 20 miles per hour. It shall also include every chain-driven drive propelled by human power upon which a person may ride having three wheels, one of which is in the front and center of the device and the other two being in the rear and connected to each other by means of an axle, which rear wheels are over 20 inches in diameter.

(1978 Code, § 7-1)

9-2. LICENSE GENERALLY.

(A) Application for a bicycle license shall be made upon a form provided by the city and shall be made to the City Clerk or his or her designate. The City Clerk shall not accept an application for a bicycle license unless it is accompanied by a bill of sale indicating the serial number of the bicycle or a physical inspection of the bicycle has been made to determine the serial number. In the event the bicycle being licensed does not have a serial number supplied by the manufacturer, the City Clerk may assign a number to that bicycle and place the number on the frame of the bicycle, which shall serve as the serial number of that bicycle for the purposes of this chapter.

(B) The Clerk, upon receiving proper application therefor, is authorized to issue a permanent bicycle license tag.

(C) The Clerk shall not issue a license for any bicycle when he or she knows or has reasonable grounds to believe that the applicant is not the owner of or entitled to the possession of such bicycle.

(D) The Clerk shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued and the number on the frame of the bicycle for which issued.

(1978 Code, § 7-2)

Statutory reference:

Authority of city to regulate bicycles, see M.S.A. § 9.2306; M.C.L. § 257.606

9-3. ISSUANCE, ATTACHMENT AND THE LIKE OF LICENSE TAG.

(A) The Clerk, upon issuing a bicycle license, shall also issue a license tag bearing the license number assigned to the bicycle and the name of the city.

(B) The license tag shall be firmly attached to the upright part of the frame of the bicycle which supports the seat, between the seat and the sprocket. The license tag should be facing the front of the bicycle when attached and shall be plainly visible.

(C) No person shall remove a license tag from a bicycle, except in the event the bicycle is dismantled and no longer operated upon any street in the city.

(D) In the event a bicycle is dismantled or damaged beyond use, the registered owner of the bicycle shall notify the Clerk that the license tag is no longer valid. The Clerk shall then eliminate and remove that license tag from the file.

(1978 Code, § 7-3)

9-4. DAMAGING, ALTERING AND THE LIKE SERIAL NUMBER OR LICENSE TAG.

No person shall willfully or maliciously remove, destroy, mutilate or alter the serial number of any bicycle registered pursuant to this chapter. It shall be unlawful for any person to mutilate, alter or destroy any license tag during the time in which such tag is valid. Nothing contained in this section shall prohibit the Clerk from stamping numbers on the frames of bicycles upon which no serial number can be found or upon which said number is illegible or insufficient for identification purposes.

(1978 Code, § 7-4) Penalty, see §1-9

9-5. IMPOUNDMENT OF UNLICENSED BICYCLES.

Any bicycle, the owner of which has failed to comply with the licensing requirements of this chapter, shall be impounded by the Police Department. All bicycles impounded shall be released upon proof of ownership and compliance with the provisions of this chapter; provided, however, the owner shall be 18 years of age or older; otherwise, the owner must be accompanied by his or her parent or legal guardian.

(1978 Code, § 7-5)

9-6. TRANSFER OF OWNERSHIP GENERALLY.

(A) Upon the sale or other transfer of ownership of a registered bicycle, the original owner shall furnish the new owner with a bill of sale indicating the date and registration and serial numbers.

(B) Upon the purchasing or other transfer of ownership of a registered bicycle, the new owner shall be required to register the bicycle according to this chapter.

(1978 Code, § 7-6)

9-7. TRANSACTIONS WITH MINORS INVOLVING SECONDHAND BICYCLES.

No person shall conduct any transaction involving the buying, selling or trading of a secondhand bicycle with a minor child, without the expressed knowledge and consent of that child's parent or legal guardian.

(1978 Code, § 7-7)

9-8. RENTAL AGENCIES NOT TO RENT CERTAIN BICYCLES.

A rental agency shall not rent or offer any bicycle for rent, unless the bicycle is licensed and a license tag is attached thereto as provided in this chapter and the bicycle is equipped with all equipment required under Chapter 50 of this Code.

(1978 Code, § 7-8)

CHAPTER 10: RESERVED

CHAPTER 11: BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. IN GENERAL

11-1. UNDERGROUND UTILITY INSTALLATIONS-GENERALLY.

(A) This section, together with §§ 11-2, 11-3 and 11-4, shall be known and may be cited as the "Public Utility Safety Ordinance."

(B) As used in this section and §§ 11-2, 11-3 and 11-4, the following words and terms shall have the meanings ascribed to them as follows.

PUBLIC UTILITY. Any industry having underground facilities and being regulated by the Michigan Public Service Commission and shall include, but shall not be limited by such enumeration, the Michigan Bell Telephone Company, Consumers Power Company, Southeastern Michigan Gas Company, Michigan Consolidated Gas Company, the Detroit Edison Company, Michigan Gas Storage Company and Buckeye Pipeline Company.

EXCAVATOR. Any person who undertakes to remove earth prior to constructing a new facility or repairing an old facility located underground or above the ground.

MAJOR INSTALLATION. Any facility of any public utility that is designed to serve more than one single-family residence building.

(1978 Code, § 8-1)

11-2. SAME-MAP.

All public utilities, after January 1, 1967, are required to file with the city a current map showing the approximate location of every underground facility in the city. The maps shall be updated every six months and the revisions shall be filed by the last day of July of each year. The maps shall be drawn to the scale of one inch per 200 feet. The purpose of this requirement is to provide, for public record, notice of installations of public facilities. The maps are not required for the purpose of providing an accurate daily guide to the precise location of all public utility facilities.

(1978 Code, § 8-2)

11-3. SAME-NOTICE OF NEW WORK.

(A) All public utilities shall notify the city of any new work undertaken on underground facilities in the city. The notice shall be provided in advance. The notice may be served by registered letter or personally upon the City Manager or the Superintendent of Public Works.

(B) The city waives the requirement of advance notice of any work on underground facilities in the city when the work is begun under emergency conditions; provided, that notice shall be provided the city of the location and nature of the emergency work within a reasonable time after it is undertaken.

(1978 Code, § 8-3)

11-4. SAME-PROTECTION DURING EXCAVATING WORK.

(A) All public utilities shall, upon reasonable request by the city or any excavator, provide a spotter or inspector at the scene of any excavating work undertaken in the city, for the purpose of aiding the excavator in determining the location of public utility underground installations. The Michigan Public Service Commission shall be called upon, if a dispute arises over the reasonableness of a request, to make a recommendation as to whether or not the request is reasonable.

(B) The foregoing provisions of this section and §§ 11-1, 11-2 and 11-3 shall in no way alter existing legal, statutory or common-law duties of safety imposed upon excavators. All excavators shall have the duty to ascertain the exact locations of public utility installations in the city by diligently checking with the utility companies in advance as to the exact positioning of their installations.

(1978 Code, § 8-4)

Cross reference:

Excavations generally, see §§ 17-15 et seq.

11-5. LOCATION AND DISTRIBUTION OF UNDERGROUND ELECTRICAL SERVICE.

Provisions of this section and all of its subsections shall pertain only to the location or distribution of underground electrical service to houses. The installation of such underground electric service shall comply with the following:

(1) No transformer or junction box shall be placed on the lot line so as to obstruct the erection of a fence;

(2) All services to buildings from the rear property line shall follow the side property line to a point perpendicular to the building. The service cables shall be no closer than one foot nor more distant than two feet from such property line. Depth will be that depth which is required by the utility company;

(3) Deviation from the installation requirements set forth in this section shall not be allowed unless written approval is obtained from the Building Official and, if approved, a diagram of the installation, as built, shall be posted on the inside cover of the distribution panel;

(4) The utility company shall post on the meter box, in unobstructed view, notice of warning of all underground services.

(Ord. No. 352, § 1)

11-6. INTENT OF CITY TO ENFORCE MICHIGAN CONSTRUCTION CODE WITH PARTICULAR CODE UPDATES.

Pursuant to Public Act 245 of 1999, the State of Michigan will have a uniform construction code within the State of Michigan upon the promulgation of various code updates (building, electrical, plumbing, mechanical) by the Director of Consumer and Industry Services after October 15, 1999. The City of Sterling Heights has previously filed with the state a Notice of intent to enforce the Michigan Construction Code Act indicating the city's desire to be the enforcement agency for the Michigan Building, Electrical, Mechanical and Plumbing Codes after each Code has been promulgated by the Director of Consumer and Industry Services, which updates have been filed (or will be filed) after October 15, 1999.

(Ord. No. 352, § 2)

11-7. ENFORCEMENT OF MICHIGAN CONSTRUCTION CODE WITH CODE UPDATES; DESIGNATION OF CITY AS ENFORCEMENT AGENCY; ADOPTION OF FLOOD INSURANCE STUDY AND FLOOD INSURANCE RATE MAP.

(A) The Michigan Construction Code, comprised of the following codes, as promulgated by Director of Consumer and Industry Services pursuant to the Michigan Construction Code Act, Public Act 230 of 1972, as amended, (M.C.L. §§ 125.1501 et seq.) shall be enforced within the city :

(B) The Michigan Construction Code includes, without limitation, the Michigan Building, Electrical, Mechanical and Plumbing Codes as they have been and will be promulgated and amended from time to time. The Building Official of the city is designated as the enforcing agency to discharge the enforcement responsibilities of the city under Public Act 230, as amended, and the city assumes responsibility for the administration and enforcement of the Michigan Construction Code after the particular code updates are promulgated by the Director of Consumer and Industry Services.

(C) Code appendix enforced. Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230 of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the Building Official within the city.

(D) Designation of Regulated Flood Prone Hazard Areas. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled "Macomb County, Michigan and all Jurisdictions" and dated 9/29/06 and the Flood Insurance Rate Map(s) (FIRMs) panel number(s) of 26099C0218G, 0219G, 0238G, 0302G, 0304G, 0306G, 0307G, 0308G, 0309G, 0312G, 0316G, 0317G, 0326G, 0328G, and 0336G and dated September 29, 2006 are adopted by reference and declared to be a part of Section 1612.3 of the Michigan Building Code.

(Ord. No. 352, § 2; Ord. No. 386 § 2, 10-3-06)

11-8. PENALTIES.

A person or corporation, including an officer, director or employee of a corporation, or a government official or agent charged with the responsibility of issuing permits or inspection buildings or structures who does any of the following which is applicable to such person or corporation or such governmental official or agent shall be responsible for a municipal civil infraction and subject to a civil fine as provided in section 1-26 of the City Code, plus any costs, damages and expenses in other sections as authorized by Public Act 236 of 1961, Chapter 87, as amended:

(A) Knowingly violates any provision of the Michigan Building, Electrical, Mechanical or Plumbing Code or any rule for the enforcement of any such Code;

(B) Knowingly constructs or builds a structure or performs any work in violation of the terms of the permit issued for such work;

(C) Knowingly fails to comply with any lawful order issued by an enforcing agency, a board of appeals;

(D) Knowingly makes a false or misleading written statement or knowingly omits required information or a statement in an inspection report, application, petition, request for approval or appeal to an enforcing agency, a board of appeals or any state commission established pursuant to the Michigan Construction Code Act;

(E) Knowingly refuses entry or access to an inspector lawfully authorized to inspect any premises, building or structure pursuant to the Michigan Construction Code Act;

(F) Unreasonably interferes with an authorized inspection;

(G) Knowingly issues, fails to issue, causes to issue or assists in the issuance of a certificate, permit or license in violation of the Michigan Construction Code Act or any rule promulgated under the Act or other applicable laws;

(H) Knowingly conceals a violation of the Michigan Construction Code Act or a rule promulgated under the Act or other applicable laws, if such party has a duty to report such violation. The enforcing agency, together with officers of the Sterling Heights Police Department, are the city officials authorized to issue citations for violations which are civil infractions under this chapter.

(Ord. 352, § 18, 12-19-00)

11-9-11-20. RESERVED.

ARTICLE II. BUILDING CODE

11-21. ENFORCEMENT OF MICHIGAN BUILDING CODE.

The Michigan Building Code, as promulgated by the Director of Consumer and Industry Services, shall be enforced within the city after the effective date of the Michigan Building Code. The Building Official of the city, or his or her designee, is designated as the enforcing agency responsible for discharging the city's duties of administration and enforcement under the Michigan Building Code, as promulgated from time to time.

(Ord. No. 352, § 3; Ord. No. 396, § 1, 5-6-08)

11-22-11-33. RESERVED.

ARTICLE III. ELECTRICAL CODE

11-34. ENFORCEMENT OF MICHIGAN ELECTRICAL CODE.

The Michigan Electrical Code, as adopted by the Director of Consumer and Industry Services, shall be enforced within the city after the effective date of the Michigan Electrical Code. The Building Official of the city, or his or her designee, is designated as the enforcing agency responsible for discharging the city's duties of administration and enforcement under the Michigan Electrical Code, as promulgated from time to time.

(Ord. No. 352, § 4; Ord. No. 396, § 2, 5-6-08)

11-35-11-57. RESERVED.

ARTICLE IV. PLUMBING CODE

11-58. ENFORCEMENT OF MICHIGAN PLUMBING CODE.

The Michigan Plumbing Code, as adopted by the Director of Consumer and Industry Services, shall be enforced within the city after the effective date of the Michigan Plumbing Code. The Building Official of the city, or his or her designee, is designated as the enforcing agency responsible for discharging the city's duties of administration and enforcement under the Michigan Plumbing Code, as promulgated from time to time.

(Ord. No. 352, § 6, 12-19-00; Ord. No. 396, § 3, 5-6-08)

11-59-11-70. RESERVED.

ARTICLE V. MECHANICAL CODE

11-71. ENFORCEMENT OF MICHIGAN MECHANICAL CODE.

The Michigan Mechanical Code, as adopted by the Director of Consumer and Industry Services, shall be enforced within the city after the effective date of the Michigan Mechanical Code. The Building Official of the city, or his or her designee, is designated as the enforcing agency responsible for discharging the city's duties of administration and enforcement under the Michigan Mechanical Code, as promulgated from time to time.

(Ord. No. 352, § 7, 12-19-00)

11-72-11-83. RESERVED.

ARTICLE VI. PROPERTY MAINTENANCE

11-84. TITLE.

This article shall be known as the "Property Maintenance Code of the City of Sterling Heights."

(1978 Code, § 8-181; Ord. No. 267, § 1, 7-5-88; Ord. No. 298, § 2, 6-18-91; Ord. No. 367, § 10, 12-17-02; Ord. No. 396, § 4, 5-6-08)

11-85. PURPOSE.

The purpose of this article is to establish minimum levels of property maintenance for buildings, structures, and premises throughout the city, to prevent and eliminate dangerous, vacant, and/or neglected buildings or structures in the city, to prevent and eliminate blight, and to encourage the rehabilitation and re-occupancy of buildings where reasonably possible.

(Ord. No. 367, § 10, 12-17-02; Ord. No. 396, § 4, 5-6-08)

DIVISION 1. PROPERTY MAINTENANCE CODE

11-86. ADOPTION OF PROPERTY MAINTENANCE CODE.

A certain document, one copy of which is on file in the office of the City Clerk, being marked and designated as "The International Property Maintenance Code, 2015 Edition," as published by the International Code Council, is adopted as the Property Maintenance Code of the City of Sterling Heights in the State of Michigan for regulating and governing the conditions and maintenance of all property, buildings, and structures; to provide the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; to provide for the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; and to provide for the issuance of permits and collection of fees therefore. Each and all of the regulations, provisions, penalties, conditions and terms of the International Property Maintenance Code are referred to, adopted, and made a part of this Code as if fully set forth in this article, with the additions, insertions, deletions, and changes, if any, prescribed in § 11-87 and Divisions 2, 3, and 4 of this article.

(1978 Code, § 8-182; Ord. No. 267, § 2, 7-5-88; Ord. No. 298, § 3, 6-18-91; Ord. No. 312, § 1, 6-21-94; Ord. No. 329, § 1, 12-16-97; Ord. No. 367, § 10, 12-17-02; Ord. No. 396, § 4, 5-6-08; Ord. No. 414, § 1, 6-07-11; Ord. No. 462, § 1, 3-18-19)

11-87. LOCAL AMENDMENTS TO INTERNATIONAL PROPERTY MAINTENANCE CODE.

The International Property Maintenance Code, 2015 Edition, shall govern generally property maintenance matters in the city, provided that adoption of the International Property Maintenance Code shall not repeal any other provisions of this Code regulating property maintenance unless expressly repealed by the City Council. To further the goal of protecting the public health, safety, and welfare of the residents and businesses of the city, the following sections of the International Property Maintenance Code, 2015 Edition, and its Appendices, are amended as set forth in the following paragraphs.

The following sections are amended or deleted as follows:

101.1 Title. These regulations shall collectively be known as the Property Maintenance Code of the City of Sterling Heights, referred to in this Property Maintenance Code as "this Code."

Section 103. PROPERTY MAINTENANCE ENFORCEMENT.

103.1 General. The City Manager shall serve as the executive official overseeing property maintenance within the city, and shall be known as the Code Official for purposes of this article. The Code Official shall designate which city employees shall be responsible for enforcement of the provisions of this Code.

103.2 Appointment. The City Manager is appointed by the City Council in accordance with the City Charter. If there is a vacancy in the position of the City Manager, the person appointed by the City Council to serve as acting City Manager shall serve as the Code Official until a new City Manager is appointed.

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this Code shall be established by the city's appropriations ordinance.

104.1 General. The Code Official shall designate which city personnel shall enforce the provisions of this Code.

104.2 Inspections. The Code Official may make periodic and required inspections, or may accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by the responsible officer of such approved agency or by the responsible individual. The Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

104.3 Right of entry. The Code Official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this Code, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the Code Official is authorized to seek a warrant if required by law in order to authorize entry into the structure or premises without the consent of the owner or person in charge of the premises. The Code Official shall not enter a dwelling without the permission of the owner, owner's authorized agent, or the occupant, unless a warrant has been secured, or there is imminent danger to life.

106.2 Notice of violation. The Code Official may serve a notice of violation or order prior to taking any of the enforcement actions available under §1-141 of the Code of Ordinances. Notice with respect to removal of noxious weeds may be given in accordance with the provisions of the Michigan Noxious Weeds statute, currently M.C.L. §§ 247.61 et seq., the substantive provisions of which have been incorporated into Section 302.4.1 of this Property Maintenance Code.

106.3 Prosecution of violation. Any responsible party who does not maintain his property in accordance with the provisions of this Code, or who fails to comply with any notice of violation issued by the Code Official, shall be deemed responsible for a municipal civil infraction, unless this Code specifically designates the offense as a misdemeanor. All municipal civil infractions shall be strict liability offenses as defined in this Code. The Code Official shall take one or more of the enforcement actions authorized by § 11-141 of the City Code.

106.4 Violation penalties. Any person who violates a provision of this Code, or fails to comply with any of the requirements contained in it, may be prosecuted within the limits provided by state and local law. Each day that a violation continues to exist shall be deemed a separate offense.

106.5 Violations constitute nuisance; abatement of violation. Any buildings, structures, or premises which remain in violation of this Code or any other provision of the City Code relating to property maintenance constitute a public nuisance which shall be ordered abated by a court of competent jurisdiction of the Board of Ordinance Appeals if:

(a) The owner, owner's authorized agent, or responsible party has been given notice of the violation(s); and

(b) A reasonable time period to correct the violation(s) has expired.

106.5.1 Emergencies. The Code Official may take emergency corrective action without prior notice to the responsible party in the case of imminent danger as provided in § 109.

106.5.2 Authority for additional action. The imposition of the penalties provided in this article shall not preclude the City Attorney from instituting appropriate action to

restrain, abate, or correct the violation, or to prevent the illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises.

Section 107.1 shall be deleted.

Section 107.2 shall be deleted.

Section 107.3 shall be deleted.

108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property, or safety of the public or the occupants of the structure by not meeting minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment, or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible. Unsafe structures include, but are not limited to, dangerous buildings as defined in Division 2 of this article.

108.3 Notice. Whenever the Code Official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent, or responsible party in accordance with § 11-142 of the City Code. If the notice pertains to equipment, it shall also be placed on the condemned equipment.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid in the first instance by the city. A lien shall be imposed upon the property upon which the work was performed equal to the cost incurred by the city, plus an administrative charge in the amount established by the City Council's annual appropriations ordinance. Legal counsel for the city may bring action against the owner of the premises or owner's authorized agent where the unsafe structure is or was located for the recovery of such costs, together with any legal costs incurred in recovery of the amount due.

Section 110.2 shall be deleted.

110.3 Failure to comply. If the owner of a premises or owner's authorized agent fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be paid in the first instance by the city. A lien shall be imposed upon the property upon which the work was performed equal to the cost incurred by the city, plus an administrative charge in the amount established by the City Council's annual appropriations ordinance. Upon authorization from the City Council, legal counsel for the city may bring action against the owner of the premises where the unsafe structure was located for the recovery of such costs, together with any legal costs incurred in recovery of the amount due.

111.2 Membership of board. The board of appeals shall be the Board of Ordinance Appeals established in Chapter 2 of the City Code.

111.2.1 Appeals. Appeals of actions taken by the Code Official under this article shall be heard by the Board of Ordinance Appeals established in Chapter 2 of the City Code, unless expressly provided otherwise in this article or the City Code.

Section 111.2.2 shall be deleted.

Section 111.2.3 shall be deleted.

Section 111.2.4 shall be deleted.

Section 111.2.5 shall be deleted.

Section 111.4.1 shall be deleted.

111.6.1 Minutes. Minutes of each board meeting shall be prepared in accordance with the requirements of the Open Meetings Act.

111.7 Court review. An appeal or an application for review by a court of competent jurisdiction may be filed after a final decision of the Board in accordance with applicable Michigan law.

Section 202 is amended to add or revise the following definitions, to be inserted in alphabetical order:

Board: The Board of Ordinance Appeals created by Chapter 2 of the City Code.

Code: Article VI of Chapter 11 of the City Code, also known as the Property Maintenance Code.

Code Official: The City Manager and such employees designated by the City Manager to enforce the provisions of this Code.

Dangerous building: See Division 2 of Article VI of this chapter.

Graffiti: An inscription or drawing made upon a rock, wall, or other surface visible to the public which is not specifically permitted as a sign under the sign regulations of the zoning ordinance.

Junk: Personal property, including but not limited to recreational equipment, building materials, furniture, or any other personal property stored outside of a building, that is dilapidated, in disrepair, or otherwise not in compliance with the minimum maintenance requirements of this Code, which has a negative aesthetic impact upon adjacent properties or the neighborhood in the reasonable judgment of the Code Official.

Lamppost: A post upon which an electric or gaslight lantern is mounted.

Noxious weeds: Canada thistle (Cirsium arvense), dodders (any species of Cuscuta), mustards (charlock, black mustard, and Indian mustard, species of Brassica or Sinapis), wild carrot (Daucus carota), bindweed (Convolvulus arvensis), perennial sowthistle (Sonchus arvensis), hoary alyssum (Berteroa incana), giant hogweed (Heracleum mantegazzianum), ragweed (Ambrosia elatior l.), and poison ivy (Rhus toxicodendron), poison sumac (Toxicodendron vernix), grasses in excess of six (6) inches in height, and all other grasses, annual plants, weeds and vegetation, except regularly maintained and weeded lawn areas, regularly trimmed, pruned and maintained trees and shrubs, cultivated flowers and vegetables, weeded beds and gardens, or fields devoted to growing any grain crop such as wheat, oats, barley, or rye, or to agricultural fields or fruit or vegetable gardens devoted to fruits and vegetables that will be harvested during the current growing season. All plants defined to be weeds are deemed by the City Council to be noxious and a common nuisance in accordance with Public Act 359 of 1941, M.C.L. §§ 247.61 et seq., the Michigan Noxious Weed statute.

Outdoor yard displays: Any display or yard ornamentation located on the exterior of the premises (other than a sign) designed to attract attention to the premises, including holiday displays, monuments, yard lights, sculptures, and statues.

Responsible party: The owner, owner's authorized agent, lessee, occupant, guest, or other person, corporation, or entity having possession and/or control of premises. In the case of a condominium unit, both the owner, lessee, or occupant of the unit and the condominium association for the condominium development shall be considered a responsible party with respect to matters for which the association is responsible for maintenance under the master deed of the condominium project. In the case of a mobile home park or property upon which a mobile home is situated, both the owner, lessee, or occupant of the mobile home and the mobile home park or property owner shall be considered a responsible party with respect to matters for which the property owner is responsible or for which the property owner may exercise just cause termination of the tenancy pursuant to the Revised Judicature Act of 1961, as amended. All uses of the term occupant throughout this article shall be deemed to refer to a responsible party as defined by this section. For purposes of this division, a real estate broker or agent managing a property shall not be a responsible party unless so designated in a writing signed by the owner and the real estate broker or agent.

Rodent harborage: The existence of any condition which permits a rodent to enter or leave a given space or building or gain access to food, water, or shelter in occupied or unoccupied premises or on vacant land.

Storage device: A storage pod, trailer, mechanical container, or substantially similar unit or device utilized or designed for the storage, keeping, transportation, or removal of personal property or waste.

Yard lights: Ornamental outdoor lights of not more than two feet in height placed on the ground and used to highlight a residence or landscaping. The term shall not include a lamppost.

Yard ornamentation: Any ornamental item affixed to the ground and located in the front or side yard of the premises visible from the public right-of-way designed to draw attention to the premises including, but not limited to, statues, monuments, fountains, bird baths, sculptures, lampposts, yard lights, fence ornamentation, and

other similar items.

The following sections are amended or added to read as follows:

301.2 Responsibility. The responsible party shall maintain the structures and exterior property in compliance with the requirements of this Code, except as otherwise expressly provided in this Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this article. Occupants of a dwelling unit are responsible for keeping that part of the dwelling unit or premises which they occupy and/or control in a clean, sanitary, and safe condition.

301.3 Vacant structures and land. All vacant buildings and structures and their premises, or vacant land, shall be maintained in a clean, safe, secure, and sanitary condition so as to not contribute to blighting or adversely affect the public health or safety. During the period when any residential, commercial, or industrial building is vacant, closed, or otherwise not open for business or occupancy for more than 30 consecutive days, the owner or party-in-interest or other responsible parties shall be subject to the following regulations:

(1) If any exterior openings of the building are boarded up or required to be boarded up, such shall be done in a neat and workmanlike manner using one-half inch water resistant plywood (or such other material approved by the Code Official) sized to fit within the exterior openings, which shall be securely fastened in place and coated with an appropriate neutral color which blends with or harmonizes with the exterior color of the building so as to be as inconspicuous as possible. Intact windows on vacant or unused buildings shall not be covered or obstructed with newsprint or newspaper. In the absence of traditional window treatments such as blinds or curtains, such windows may be covered on the inside only with neutral colored construction paper that blends with and is harmonious with the exterior color of the building so as to be as inconspicuous as possible, and only in conjunction with interior renovations undertaken with a valid building permit. The Code Official shall request the owner or responsible party to replace any broken glass and repair, replace, or paint the plywood material or paper window coverings within a period not exceeding ten working days. The exterior premises adjacent to any vacant building shall be maintained in a clean, aesthetically pleasing condition, including maintenance of signage, lighting, parking areas, sidewalks and other common areas. The owner or responsible party shall be subject to the penalties and abatement procedures as provided in this Code and other applicable provisions of the Code of Ordinances.

(2) The responsible party shall comply with all other applicable provisions of this article relating to vacant buildings.

301.4. General maintenance and exterior property and premises. All exterior property and premises shall be maintained in a neat, orderly, and attractive condition, including but not limited to the regular removal of trash and debris from the exterior property and premises and the maintenance of landscaping and removal of weeds as required by Section 302.4 of this Property Maintenance Code.

302.1.1 Attractive nuisances. No person shall permit any physical condition or use of property or its appurtenances which constitutes an attractive danger to children, including but not limited to open wells, swimming pools, shafts, basements, excavations, or pits, or unsafe fences or structures, or discarded refrigerators or freezers with doors attached.

302.2.1 Installation of landscaping. For a single family residential lot or site condominium unit where a soil erosion permit is not required by the City Code, the lot or unit shall be seeded or sodded to prevent soil erosion as soon after issuance of a certificate of occupancy as weather permits and in no event later than 12 months after a certificate of occupancy is issued. All lawn areas shall be watered, weeded, and maintained in an aesthetically pleasing condition. The Board of Ordinance Appeals may, upon an appeal, permit other suitable ground cover if it prevents soil erosion and will not detract from the aesthetics of the neighborhood. If the owner or occupant of a single family residence fails to install suitable landscaping within the time set forth above, such condition may be considered a public nuisance subject to abatement as provided in this Code or the City Code.

302.4 Landscaping and removal of weeds. All landscaping located on the exterior property and premises shall be maintained in a neat, orderly, and attractive condition, including but not limited to, the regular mowing of lawn areas, periodic trimming and pruning of trees and shrubs, the watering and weeding of lawn and landscaped areas, the removal and replacement of dead or diseased trees, shrubs, and plants, the removal of weeds in parking lots, driveways, sidewalks and other public areas and the regular removal of trash and debris from premises. All premises and exterior property shall be maintained free from noxious weeds as defined in this Property Maintenance Code in accordance with Section 302.4.1 of this Property Maintenance Code.

302.4.1 Noxious Weeds. The following regulations and procedures shall apply to noxious weeds and their removal:

1. The owner, agent, or occupant of (a) any subdivided land (lot) in a subdivision in which buildings have been erected on 60% of the lots, or (b) a lot or parcel adjacent to a paved street or road used or open to the public upon which noxious weeds are found growing shall destroy such noxious weeds before they reach seed bearing stage or six (6) inches in height, and prevent their regrowth, or prevent them from becoming a detriment to public health for a depth of the lot or parcel, or the depth of 10 rods (165 feet), whichever is less in accordance with the provisions of this Section 302.4.1 and where such parcel abuts a subdivision, for a distance of at least 24 feet from the perimeters of the subdivision.

2. If the owner, agent, or occupant of the lot or parcel upon which noxious weeds are found fails to destroy the weeds as required by the notice given in accordance with subsection 302.4.1.3 below, the city or its agent may enter the lot or parcel and destroy the noxious weeds to the depth of the lot or parcel, or the depth of 165 feet (165'), whichever is less and for a distance of at least 24 feet from the perimeter of the subdivision as set forth in subsection 302.3.1.1. The city may use mechanical equipment or other reasonable methods that do not damage the property or adjacent sidewalk. The city may cut or destroy weeds as many times as is necessary each year and may charge the expenses incurred by the city to the property owner as provided in subsection 302.4.1.4.

3. The city may give notice of the obligation of an owner of a lot or parcel to destroy noxious weeds by publishing a notice in a newspaper of general circulation in the county during the month of March advising that weeds which are not cut by May 1 of that year will be cut by the city and that the owner of the lot or parcel will be charged with the cost of doing so as provided in subsection 302.4.1.4 below. The notice shall contain all information required by the Michigan Noxious Weeds statute, currently M.C.L. § 247.64. Alternatively, the city may give notice to the owner of a lot or parcel of his obligation to destroy noxious weeds by certified mail with return receipt requested (or equivalent).

4. The expenses incurred by the city in destruction of the noxious weeds shall be paid by the owner of the lot or parcel, and the city shall have a lien upon the lot or parcel for the amount of the expense, including administrative expenses, attorney fees, recording fees and other expenses incurred in connection with imposition of the lien, and applicable penalties and interest until the amount of the lien is collected. The lien may be enforced in the manner provided by the City Charter, Michigan laws applicable to the enforcement of tax liens, or city ordinance adopted by the City Council.

302.5.1 Rodent prevention. In order to prevent rodent infestation, all owners or occupants in the city shall:

(1) Store and keep all garbage and debris on their premises in compliance with Chapter 23 of the City Code.

(2) Maintain those portions of the building and premises under their control free from the accumulation of trash, debris, rubbish, or similar materials that may provide hiding places, nesting places, or harborage for rodents.

(3) Store and handle all building materials, boxes, cartons, machinery, raw materials, fabricated goods, food or food stuffs, or any other materials that might provide harborage or food supply for rats in compliance with the City Code or other methods approved by the city.

(4) Store or pile firewood safely and neatly at least eight inches above the ground with an open space underneath and in piles not higher than six feet above ground level. No such storage piles shall be located in any front yard or within three feet of any side lot line.

(5) Keep all lots, vacant or occupied, as well as all buildings and structures free from all litter, garbage, or debris at all times.

(6) Elevate to a height of at least 48 inches above ground level all containers used for the feeding of wild birds or animals.

302.8 Motor vehicles and storage devices. The following regulations apply to the parking, storage, and keeping of motor vehicles and storage devices within the City:

302.8.1 Except as permitted by other laws, ordinances, codes, or regulations, no inoperable or unlicensed motor vehicle or trailer shall be parked, kept, stored, or otherwise left on any premises.

302.8.2 No motor vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside of an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes, and provided the location of the work is zoned to allow such activity and a corresponding use permit has

been issued by the City for the site.

302.8.3 No motor vehicle, regardless of whether it is operable or licensed, shall be parked or stored in a manner that is visible from any public right-of-way unless otherwise permitted under federal or state laws or other City ordinances or regulations governing the parking and storage of motor vehicles.

302.8.4 No storage device shall be installed, set up, or maintained on any premises unless it is kept on a paved driveway and is located a minimum of eight (8) feet from any public sidewalk, and no storage device shall remain on any premises in violation of any other applicable City ordinances and regulations governing their use or maintenance.

302.8.5 Any vehicle in violation of this section that is parked, stored, abandoned, or otherwise left in a parking area of a property that is vacant, abandoned, or not in use, or parked, stored, abandoned, or otherwise left unattended upon unimproved land, shall be removed within seven (7) days after being conspicuously tagged with a notice of the violation or warning citation by any code enforcement personnel or police officer, or within seven (7) days of mailing of a notice of the violation if the vehicle cannot be accessed in order to tag it due to the presence of a barrier such as a fence, wall, or similar partition.

302.8.6 Any vehicle in violation of this section that is parked, stored, or kept in a side yard, rear yard, or front yard of an improved single-family or dual-family residential property shall be removed within seven (7) days after the front door of the home on the site has been conspicuously posted with notice of the violation by any code enforcement personnel or police officer.

302.8.7 Any storage device that is stored or kept on any premises shall be removed within seven (7) days after the front door of the building on the site, or in the case of vacant land, the storage device itself, has been conspicuously posted with notice of the violation by any code enforcement personnel. Violations of this section shall be the responsibility of the property owner, property occupant, or person/entity responsible for placement and removal of the storage device, jointly and severally.

Exception: A storage device may be kept upon a premises for longer than seven (7) days if the project for which it is being used has been issued a valid permit by the City and the project is active and ongoing. The Code Official may also allow short-term deviations from the seven (7) day removal requirement upon good cause having been established due to weather conditions, good faith progress, or force majeure conditions not the fault of the owner or occupant of the premises.

302.8.8 If a vehicle or storage device in violation of this section has not been removed within the time required by this section, the City or its contracted agent may enter upon the property to remove the vehicle or storage device to a place of storage selected by the City. In the event the vehicle or storage device is not accessible or cannot be removed without breaking or passing through a barrier, the City may secure an administrative warrant for the removal of the vehicle or storage device. In the event of removal, the City and its personnel and agents shall have no liability or responsibility for any loss or damage to the vehicle or storage device, or the contents thereof.

302.8.9 Retrieval of a vehicle or storage device removed from a property pursuant to this section shall be contingent upon the owner paying all costs of removal, including but not limited to actual impound and storage costs, and in the case of a vehicle, ensuring that the vehicle is properly registered and insured.

302.8.10 The notice of violation or warning citation issued pursuant to this section shall include a notice advising the recipient of the following:

(1) A summary of the findings that form the basis for the determination that the vehicle, storage pod, trailer, or mechanical container is in violation of this section.

(2) A summary of the requirements and rights set forth in section 302.8 and its subparts.

(3) Notice of the right to submit a written appeal of the determination to the Board of Ordinance Appeals within seven (7) days from the date on the notice. The notice shall include the following:

a. Instructions for taking an appeal;

b. The appeal will be considered at the next regular meeting of the Board of Ordinance Appeals to be held at least three (3) calendar days from the date the appeal request is received by the City, unless an earlier meeting is scheduled and the owner requests in writing for the appeal to be heard at that meeting;

c. The determination is final and conclusive if an appeal is not taken;

d. The owner of the premises will be responsible for all costs associated with re-inspection, appeal hearing(s), costs associated with preparing an administrative warrant, towing, and storage unless the conditions underlying the violation determination have been corrected within seven (7) days from the date on the notice or a storage permit has been obtained. Failure to pay the invoice within thirty (30) days is a misdemeanor punishable as provided in Chapter 1 of the City Code. The City shall have a lien upon the lot or parcel for the amount of the invoice, including administrative expenses/fees, attorney fees, recording fees, and other expenses incurred in connection with imposition of the lien, and applicable penalties and interest until the amount of the lien is collected. The lien may be enforced in the manner provided by the City Charter, Michigan laws applicable to the enforcement of tax liens, or applicable City ordinances; and

e. The Board of Ordinance Appeals may grant an appeal only if it finds that a preponderance of the evidence favors reversal of the violation determination due to an error or mistake made by the City.

302.10 Outdoor yard displays or other yard ornamentation. Outdoor yard displays and yard ornamentation not visible from a public right-of-way and otherwise in compliance with applicable zoning and regulatory restrictions are permitted but must be maintained in accordance with this article and to prevent deterioration, rodent or other infestations, and attractive nuisances. Outdoor yard displays and yard ornamentation visible from a public right-of-way are permitted but subject to the following restrictions:

1. The display and/or ornament(s), individually or collectively, shall not create a visual or physical distraction, hazard, obstruction, or impediment for vehicles, pedestrians, or bicyclists traveling on an adjacent public right-of-way.

2. The display and/or ornament(s), individually or collectively, shall not consist of, include, or be composed of junk, garbage, refuse, or scrap, as defined elsewhere in the City Code or by state law.

3. The display and/or ornament(s), individually or collectively, shall not consist of, include, or be composed of any material or substance which reflects light to the extent that it directs the reflected light into a nearby residence or a traveling automobile at any time.

4. No portion of a display and/or ornament(s) shall be farther than 10 feet from an exterior wall of the habitable area of the dwelling, nor within 10 feet of a neighboring property.

5. Only 1 yard ornament is permitted for every 20 feet of real property linear street frontage along the street to which the property is assigned a postal address. Each ornament permitted by this subsection shall not exceed 4 feet in height and 2 feet in width. Although they may have additional street frontage along a second street, corner lots shall also be subject to the restrictions in this subsection.

6. One (1) additional yard ornament, not to exceed 6 feet in height and 3 feet in width, is permitted as the focal point of an outdoor yard display and shall not be counted against the ornament limitations governed by street frontage in subsection 5.

7. The purpose of the restrictions in this section is to eliminate a one size fits all approach to the regulation of yard ornamentation. The new restrictions will reduce visual clutter on smaller lots while allowing additional ornamentation for larger lots. However, the restrictions of this section shall not be enforced against yard displays and/or yard ornamentation that were in compliance with the previous regulations set forth in this section prior to June 7, 2011, so long as such displays and/or ornaments are not modified thereafter. Upon modification of a nonconforming display or removal/replacement of a nonconforming yard ornament, the restrictions of this section shall apply to the extent that the nonconformity shall be eliminated and not replaced.

Exceptions. This subsection shall not prohibit any of the following:

(1) The placement of one yard ornament, which is a focal point of landscaping, provided it

does not exceed six feet in height measured from the base of the item;

(2) The placement of not more than six yard ornaments, which do not exceed four feet in height measured from the base of the items;

(3) The display of the flag of the United States of America or the State of Michigan flag or other governmental entities;

(4) The installation or operation of one lamppost and yard lights not more than two feet in height which illuminate landscaping or walkways or a residence, provided the same are directed away from any public right-of-way;

(5) Temporary outdoor displays for periods of not more than 60 days if associated with a holiday celebration or event, provided the temporary displays for any site do not exceed 120 days in any one calendar year; and

(6) Any sign authorized by applicable codes, ordinances, or statutes.

302.11 Graffiti. No person shall allow any graffiti to remain upon any property or premises so as to be visible from a public sidewalk, public right-of-way, or place which is accessible to the public.

302.12 Bird infestations. All property shall be kept free of bird infestations which cause or contribute to conditions that are conducive to an unhealthful or disease-causing condition.

302.13 Hose connections. All exterior water hose connections shall comply with the requirements of the Michigan Residential Code and shall have vacuum breakers installed at each hose bib location.

302.14 Backflow preventers. Backflow prevention protects the public potable water system from possible contamination. Because backflow preventers contain parts that may break or wear out, all backflow preventers installed in residential homes and used for lawn irrigation shall be tested and recertified by a certified backflow prevention assembly tester every three (3) years.

302.15 Odors. All property shall be kept free of conditions, things, and processes that create offensive odors that are detectable to the human senses at or beyond the property line. For purposes of this section, "offensive odor" shall have the meaning set forth in Chapter 33 of the code of ordinances.

304.14 Insect screens. During the period from May 1 to October 15, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25mm) and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

304.20 Detached accessory structures. All detached accessory structures, regardless of size, must comply with the requirements of the Residential Code for exterior building envelopes if set up or installed on the premises for longer than seven (7) days.

304.21 Fences during residential construction. During construction of new residential homes within an existing neighborhood, fencing shall be installed around the perimeter of the lot to protect it from intrusions and to protect against harm to others during construction. The fencing shall consist of metal mesh material and shall be a minimum of four (4) feet in height. A top rail shall be installed to maintain the fencing's integrity. Access gates must open into the site and not outward. All fencing shall be maintained to ensure its integrity. If surface mounted fencing is installed, it shall not be permitted to fall into disrepair.

304.22 Residential construction requirements. During the construction of new residential homes or additions onto or renovations of existing residential homes:

304.22.1 All public sidewalks adjacent thereto shall be maintained to ensure safe and passable condition for the public and passersby.

304.22.2 Trash containment in the form of a dumpster or containment area with a minimum height of three (3) feet shall be provided to ensure against debris blowing or escaping from the site.

304.22.3 Temporary bathroom facilities shall be provided and accessible to the contractors working on site. Such facilities shall be maintained on a weekly basis or more frequently if conditions therein begin to have external impacts on the area. Such facilities shall be located a minimum of fifteen (15) feet from any adjacent residential home or property line.

304.22.4 Signage shall be conspicuously posted on the site, prior to any work commencing, with contact information including, but not limited to, the site address, the applicant's name, address, and telephone number, and the permit number.

304.22.5 The site shall have a clear unobstructed accessway, free of snow, ice, or other foreign material, to ensure safe access for City inspectors.

304.23 Fencing of non-residential construction sites. During construction or renovation projects on non-residential sites, and for other projects for which the Building Official determines sufficient cause requires it, the active construction area shall be screened by fencing a minimum of six (6) feet in height consisting of metal material and privacy screening. Such fencing shall be installed with vertical and horizontal supports to provide structural integrity. Access gates must open into the site and not outward.

304.24 Multifamily balconies. All exterior balconies, decks, and similar appurtenances not at ground level and designed for use by tenants, owners, or guests of a residential unit in a multifamily structure shall be inspected and re-certified by a qualified structural engineer every five (5) years if the multifamily structure is more than ten (10) years old (measured from the date the multifamily structure was first approved for occupancy by the City). The evaluation shall include a complete assessment of the floor joists, flooring materials, and guardrails. For multifamily developments consisting of multiple buildings or more than 20 units with non-ground level balconies, the Building Official may approve a phased inspection process rather than require all of the inspections on the same cycle. Initial inspection reports required by this subsection shall be submitted to the Building Official by September 1, 2020, unless the multifamily development is less than ten (10) years old at that time, in which case the initial inspection reports for that development shall be due by September 1st of the year in which the development reaches its tenth (10th) year of existence. Any repairs required as a result of the engineer's inspection report must be completed through the permitting process established by the Building Department and in accordance with the timeframe set by the Building Official, depending on the severity of the deficiency. For balconies with significant distress, the Building Official may require the multifamily development to barricade the balcony for safety purposes until the repairs are completed. In circumstances where the balcony maintenance is the responsibility of a unit owner and not the owner or operator of the entire multifamily development, unit owners and oversight associations shall be jointly and severally responsible for ensuring compliance with this subsection.

308.1 Accumulation of rubbish, garbage, or junk. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish, garbage, or junk. Notwithstanding any provision of this section, all owners and responsible parties shall comply with the provisions of Chapter 23 of the City Code.

602.3 Heat supply. Every owner and operator of any building who rents, leases, or lets one or more dwelling unit, rooming unit, dormitory, or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 15 to June 15 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

1. **Exception:** When the outdoor temperature is below the winter outdoor design temperature for the city, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the city shall be as indicated in Appendix D of the International Plumbing Code.

2. In areas where the average monthly temperature is above 30ºF (-1ºC) a minimum temperature of 65ºF (18ºC) shall be maintained.

602.4 Occupiable workspace. Indoor occupiable work spaces shall be supplied with heat during the period from October 15 to June 15 to maintain a temperature of not less than 68°F (20°C) during the period the spaces are occupied.

Exceptions:

(1) Processing, storage and operation areas that require cooling or special temperature conditions.

(2) Areas in which persons are primarily engaged in vigorous physical activities.

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the Michigan Residential Code. Dwelling units shall be served by a three-wire, 120/240-volt, single-phase electrical service having a rating not less than 100 amperes. Service equipment shall be dead front, having no live parts exposed whereby accidental contact could be made. All plug type fuses shall be Type S.

604.3.3 Evidence of inadequacy. Any of the following, without limitation, shall be considered evidence of inadequacy:

(1) Use of cords in lieu of permanent wiring.

(2) Oversizing of overcurrent protection for circuits, feeders, or service.

(3) Unapproved extensions to the wiring system in order to provide light, heat, or power.

(4) Electrical overload.

(5) Misuse of electrical equipment.

(6) Lack of lighting fixtures in bathrooms, laundry rooms, furnace room, stairway, or basement.

605.5 Entrances and exits. Where two or more entrances and/or exits exist, at least two shall be illuminated by exterior lights. Exterior lights shall be controlled by interior wall switches, located for convenient and readily accessible use.

605.6 Living room. The living room shall be provided with a conveniently located wall-switch controlled light or receptacle. The switched receptacle may be one of the required receptacles in the room.

605.7 Kitchen. The kitchen shall be provided with illumination. The required illumination shall be controlled by a wall switch. A separate kitchen appliance circuit shall be provided, supplying a minimum of three grounding-type duplex receptacle outlets. Two receptacles shall be readily accessible and spaced for convenient use of portable appliances. New appliance circuits shall be 20 ampere capacity and GFCI protected unless otherwise allowed by the Michigan Residential Code or Michigan Building Code as applicable.

605.8 Bathroom. Bathrooms shall be provided with illumination, controlled by a conveniently located wall switch. Receptacles in light fixtures are prohibited. At least one bathroom receptacle shall be required and shall have GFCI protection as required by the Michigan Residential Code or Michigan Building Code as applicable.

605.9 All other habitable rooms. Habitable rooms shall be provided with a conveniently located wall-switch-controlled light or receptacle. A minimum of two additional duplex receptacles are required.

605.10 Basement. The basement shall have a minimum of one lighting outlet for general illumination. All enclosed areas that may be walked into (except coal bins) shall be provided with a lighting outlet. The basement shall be on a separate circuit.

605.11 Laundry area. Laundry areas shall be provided with illumination. A grounding-type duplex receptacle shall be provided adjacent to the laundry equipment, on a separate circuit. New laundry circuits shall be 20 ampere capacity.

605.12 Space heating system. Heating equipment that requires electricity for operation of any facet shall be provided with an individual circuit. A disconnect switch shall be provided on or adjacent to the equipment.

Exception: Thermal-pile controlled furnaces.

605.13 Stairwells. Stairwells shall be adequately illuminated. Lighting outlets shall be controlled by wall switches. Switches shall not be located where it is necessary to use darkened stair sections for their operation. Stairwells connecting finished portions of dwellings shall be provided multiple-switch control: One at the head, the other at the foot of the stairwell.

(1978 Code, § 8-183; Ord. No. 267, § 3, 7-5-88; Ord. No. 298, § 4, 6-18-91; Ord. No. 298-A, § 1, 9-17-91; Ord. No. 298-B, §§ 2, 3, 4, 5; Ord. No. 312, § 2, 6-21-94; Ord. No. 279-A, § 5, 7-2-96; Ord. No. 328, § 6, 11-5-97; Ord. No. 329, § 2, 12-16-97; Ord. No. 367, § 10, 12-17-02; Ord. No. 396, § 4, 5-6-08; Ord. No. 414, §§ 2 - 6, passed 6-12-11; Ord. No. 424, § 1, 2-5-13; Ord. No. 462, § 2, 3-18-19; Ord. No. 479, § 2, 7-20-21)

11-88. NON-HOMESTEAD RESIDENTIAL PROPERTY INSPECTION PROGRAM.

(A) As a result of the high incidence of foreclosures during recent years, the number of non-homestead residential properties in the city has risen dramatically. Statistically, such properties account for more than half of the single-family residential properties that are reviewed by the Board of Ordinance Appeals each year for exterior property maintenance violations. In the interest of protecting residential property values for residents whose homestead remains within the city, the non-homestead residential property inspection program set forth in this section is hereby created.

(B) Non-homestead single-family residential properties within the city shall be subject to a non-complaint based exterior property maintenance inspection once during every two calendar years. Upon completion of the inspection, the property owner shall be assessed a fee established by the city's annual appropriations ordinance for the biennial inspection. Violations discovered during the inspection or the registration period shall be addressed in the same manner as all other property maintenance and nuisance violations, and the same inspection and Board of Ordinance Appeals fees shall apply.

(C) As used in this subsection, the term "non-homestead single-family residential property" and "non-homestead residence" shall mean any parcel of property that is zoned for, or used for, single-family residential purposes, but which is not recorded as the owner's primary residence for homestead exemption tax purposes, or which is not owned by a person or a person's trust but is instead owned by a corporate or other type of legal entity. The following are excluded from the requirements of this section:

(1) Mobile home parks;

(2) A non-homestead residence where its owner resides during part of the year and the owner does not rent the residence during the owner's absence; and

(3) A non-homestead residence owned by a property owner who also owns and occupies a homestead property elsewhere within the city.

In the event one parcel of property contains more than one single-family residence, each non-homestead residence shall be subject to the two-year registration program and shall be registered, if possible, by its distinct residential address.

(D) The inspection fee authorized by this section shall be paid by the property owner within 30 days of the date of a city invoice for the inspection. The city shall have a lien against the real property to secure payment. If the invoice remains unpaid after 30 days, the amount of the invoice shall be placed upon the tax roll, and shall be subject to the same penalties, interest, and collection procedures that are applicable to delinquent taxes.

(E) Enforcement of the lien to collect the inspection fee shall not be the exclusive means of collection and the city may collect such fee in any manner permitted by law.

(F) An owner may appeal the city's determination that the owner's property is a "non-homestead single-family residential property" by submitting a written letter to the City Manager or designee within 30 days of receiving either a notice that the property has been designated as a "non-homestead single-family residential property" or within 30 days of receiving an invoice for the initial inspection. The City Manager or designee may overturn the determination, uphold the determination, or uphold the determination but waive or reduce the applicable fee if the status of the property changed such that it no longer meets the definition of a non-homestead single-family residential property, as set forth in this section, during either 30-day period. An appeal will toll the deadline for payment of the inspection invoice, which shall become due within 30 days following the date of the City Manager's written appeal determination if the determination does not waive the inspection fee.

(Ord. No. 426, § 1, 3-5-13)

11-89-11-100. RESERVED.

DIVISION 2. DANGEROUS BUILDINGS

11-101. DEFINITION OF DANGEROUS BUILDING.

(A) ***DANGEROUS BUILDING.*** A building or structure that has one or more of the following defects or is in one or more of the following conditions:

(1) A door, aisle, passageway, stairway, or other means of exit that does not conform to the approved fire code of the city;

(2) A portion of the building or structure if damaged by fire, wind, flood, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirement of the city's property maintenance code for a new building or structure, purpose, or location;

(3) A building or structure or part of a building or structure which is an unsafe building under the approved fire code of the city, and which fails to maintain the required separation between dwelling units under the applicable standards of the approved fire code of the city and state building code act;

(4) A part of the building is likely to fail, become detached or dislodged, or collapse and injure persons or damage property;

(5) A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by this Code;

(6) A building or structure, or a part of a building or structure, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way;

(7) A building, structure, or a part of the building or structure that is manifestly unsafe for the purpose for which it is used;

(8) A building or structure that is damaged by fire, wind, or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building or structure for committing a nuisance of an unlawful or immoral act;

(9) A building or structure used or intended to be used for dwelling purposes including the adjoining grounds that, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the Building Official or Health Department inspector determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling, near the dwelling, or the community at large;

(10) A building or structure that is vacant, dilapidated, and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers;

(11) A building or structure that remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease, or rent with a real estate broker licensed under Article 25 of the Occupational Code, Act No. 299 of the Public Act of 1980, being M.C.L. §§ 339.2501 to 339.2515. For purposes of this subsection, **BUILDING** or **STRUCTURE** includes, but is not limited to, a commercial building or structure. This subsection does not apply to either of the following:

(a) A building or structure as to which the owner or agent does both of the following:

1. Notifies the Sterling Heights Police Department that the building or structure will remain unoccupied for a period of 180 consecutive days or longer. The notice shall be given to the Police Department by the owner or agent not more than 30 days after the building or structure becomes unoccupied.

2. Maintains the exterior of the building or structure and adjoining grounds in accordance with this Code and other applicable codes of the city.

(b) A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notified the Sterling Heights Police Department that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. If the status of the dwelling changes such that it no longer qualifies for the notice required under this subsection, the owner who has given the notice prescribed by this subsection shall notify the Police Department within 30 days to advise that the dwelling no longer qualifies for this exception. As used in this subsection, ***SECONDARY DWELLING*** means a dwelling such as a vacation home or summer home that is occupied by the owner or a member of the owner's family during part of the year.

(12) A building or structure that is partially completed unless such building or 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 period.

(Ord. No. 367, § 11, 12-17-02; Ord. No. 396 § 4, 5-6-08)

Statutory reference:

Dangerous buildings defined, see M.C.L. § 125.539

11-102. NOTICE OF DANGEROUS BUILDINGS; HEARING; SERVICE.

(A) If a building or structure is found by the Code Official to be a dangerous building, the city shall issue a notice that the building or structure is a dangerous building.

(B) The notice shall be served on the owner, agent, or lessee that is registered under M.C.L. § 125.525. If an owner, agent, or lessee is not registered under M.C.L. § 125.525, the notice shall be served on each owner or party in interest in the building or structure in whose name the property appears on the last city tax assessment records.

(C) The notice shall specify the time and place of a hearing before the Board of Ordinance Appeals on whether the building or structure is a dangerous building.

(D) The notice shall be served in the same manner as a notice of hearing before the Board of Ordinance Appeals as specified in §1-142 of the City Code.

(E) The owner of a building determined to be a dangerous building by the Board of Ordinance Appeals under this division shall comply with an order of the Board of Ordinance Appeals which specifies the actions the owner must take in order to eliminate the building's classification as a dangerous building. (The registered agent for purposes of service of notice or process shall not have the responsibilities of the owner as a result of having been designated as the registered agent for the owner). The Board of Ordinance Appeals may rely upon the Code Official or Building Official for purposes of drafting an order containing the specific remedies which are deemed to be needed. The order of the Board of Ordinance Appeals may be served upon the owner personally or in accordance with Division 4 of this article, including any required posting. Failure to comply with the order of the Board of Ordinance Appeals shall be a misdemeanor punishable as prescribed in Chapter 1 of the City Code.

(Ord. No. 367, § 11, 12-17-02; Ord. No. 396 § 4, 5-6-08)

11-103-11-115. RESERVED.

DIVISION 3. VACANT BUILDINGS.

11-116. PURPOSE.

The purpose of this division is to protect the health, safety, and welfare of the residents and businesses of the City by preventing blight, protecting property values, avoiding the creation and maintenance of nuisance conditions, and ensuring safe and sanitary maintenance of commercial and industrial buildings and structures. Vacant buildings can, and have, become attractive nuisances for minors, transients, and criminals. Such buildings can also fall into disrepair, both outside and inside, to the point of creating dangerous or unhealthy conditions, and such buildings also require regular attention to prevent unsecured doors and windows, broken water pipes, theft of metals and other materials, fire risks, overgrowth of grass, weeds, shrubs, and bushes, illegal dumping, and vermin activity. Such neglect ultimately requires the expenditure of more resources by both the City and the building owner to address and remediate the issues. Therefore, this division is intended to emphasize prevention and proactive measures to ensure against such neglect and disrepair.

(Ord. No. 462, § 3, 3-18-19)

11-117. DEFINITIONS.

For purposes of this division, the following words and phrases are defined as follows:

ABANDONED VACANT BUILDING means a vacant building or structure as defined in this section that has been vacant for 30 days or more and meets any of the following criteria:

(1) Provides a location for loitering, vagrancy, unauthorized entry, or other criminal activity;

(2) Has one or more broken or cracked windows;

(3) Has one or more doors, entranceways, or access points that are not secured against human or animal entry;

(4) Has taxes in arrears for a period of time exceeding 365 days;

(5) Has utilities disconnected or not in use, whether voluntarily or involuntarily;

(6) Is not maintained in compliance with any applicable provisions of the City Code;

(7) Is only partially completed; or

(8) Is not fit for human occupancy.

BUILDING means a structure with a roof supported by columns or walls to serve as a shelter or enclosure, or a tenant space consisting of a fire area exceeding 12,000 square feet.

EVIDENCE OF VACANCY means any condition that, on its own or combined with other conditions present, would lead a reasonable person to believe the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers, and/or mail; the return of mail sent to the property by City; failure to respond to any notices posted on the property by the City; past due utility notices and/or disconnected utilities; accumulation of trash, junk, and/or debris; broken or boarded up windows and/or doors/doorways; abandoned vehicles, auto parts, or auto-related materials; the absence of window coverings; the absence of furnishings and/or personal items consistent with habitation or occupation; statements by neighbors, passersby, delivery agents, or government employees that the building is vacant; and/or evidence located on the internet indicating that the building is vacant.

OWNER means an individual, co-partnership, association, corporation, company, fiduciary, or other person or legal entity having a legal or equitable title or any interest in the real property where the building is located.

STRUCTURE means anything constructed or erected the use of which requires location on or attachment to the ground, including but not limited to buildings.

VACANT PROPERTY means an unimproved lot or parcel of real property that is not residentially zoned or utilized for residential use and is not currently in lawful use or lawfully occupied, and/or an improved lot or parcel of real property with at least one building or structure that is not residentially zoned or utilized for residential use and is not currently in lawful use or lawfully occupied.

(Ord. No. 462, § 3, 3-18-19)

11-118. REGISTRATION OF VACANT PROPERTY.

(A) Every owner of a vacant property in the City shall be responsible for registering that property with the Building Department by complying with the affidavit and registration and inspection fee requirements in this division within:

(1) Sixty days from the date this division takes effect or from the date the property becomes vacant, or

(2) If the property includes an abandoned vacant building, 30 days from the date this division takes effect or from the date the vacant building becomes an abandoned vacant building, or within ten days of the inspection required by this division.

(B) The requirements of this section shall not apply to any site with an active permit authorizing development or redevelopment of a building or structure on the site.

(Ord. No. 462, § 3, 3-18-19)

11-119. REGISTRATION AFFIDAVIT.

Owners who are required to register their properties pursuant to this division shall do so by submitting a copy of a driver's license and an affidavit containing the information specified in this section. The affidavit may be provided by an agent for an owner provided the agent's written authorization from the owner is included with the affidavit.

(A) The name, date of birth, and driver's license number of the owner(s) of the property.

(B) A mailing address where mail may be sent that will be acknowledged as received by the owner(s). If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed" or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

(C) The name of an individual or legal entity responsible for the care and control of the property. Such individual may be the owner, if the owner is an individual, or someone other than the owner with whom the owner has contracted.

(D) A current address, telephone number, facsimile number, and email address where communications may be sent that will be acknowledged as received by the individual or legal entity responsible for the care and control of the property. If certified mail return receipt requested is sent to the address and the mail is returned marked refused or unclaimed, or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

(Ord. No. 462, § 3, 3-18-19)

11-120. REGISTRATION, INSPECTION, AND OTHER FEES.

All fees applicable to this division shall be set by the City's annual appropriations ordinance. A fee shall be established for registration, inspections, and the filing of any additional or new owner's affidavit. For properties that are not registered within the required time, an additional fee for the added cost of the City's expenses in having to determine ownership shall also be established. The payment of all fees required under this division is secured by a lien against the property, which may be placed on the tax roll for collection in the same manner and subject to the same interest and penalties applicable to delinquent special assessments.

(Ord. No. 462, § 3, 3-18-19)

11-121. REQUIREMENT TO KEEP INFORMATION CURRENT.

If at any time the information contained in the registration affidavit is no longer valid, the property owner shall file a new affidavit containing current information within ten days. No fee shall be assessed to update a registered owner's current information.

(Ord. No. 462, § 3, 3-18-19)

11-122. ANNUAL INSPECTIONS; WINTERIZING.

(A) The owner(s) of improved vacant property shall immediately obtain and pay for the City's safety and maintenance inspection of the vacant building thereon, obtain necessary permits, make required repairs, and obtain inspections from the City annually thereafter until a certificate of occupancy has been issued and the building is being lawfully occupied and utilized.

(B) The safety and maintenance inspections shall be designed to ensure the building is safe, secured, and well-maintained. The owner(s) or owner's agent shall demonstrate that all water, sewer, electrical, gas, HVAC and plumbing systems, exterior finishes and walls, concrete surfaces, accessory buildings and structures, roofing, structural systems, foundation, drainage systems, gutters, doors, windows, parking areas, signage, driveway aprons, service walks, sidewalks, and other areas accessible by the public are sound, operational, or properly disconnected.

(C) By November 1 of each calendar year, or as soon thereafter between November 1 and April 1 when a property becomes subject to the registration requirements of this division, the owner of improved vacant property shall submit a sworn statement to the City under penalty of perjury, on a form provided by the City, indicating that the building(s) on the property have been fully inspected and winterized by a licensed contractor for purposes of ensuring appropriate heating, fire suppression, plumbing, and electrical systems therein to prevent or minimize the risk of pipes freezing or breaking and fires.

(Ord. No. 462, § 3, 3-18-19)

11-123. MAINTENANCE AND SECURITY REQUIREMENTS.

(A) Every owner is responsible for compliance with the requirements of this section, which apply to all vacant properties from the time of vacancy, including the time between vacancy and when registration is required.

(1) Vacant property and buildings thereon shall be maintained in accordance with the standards set forth in all federal, state, and local laws and regulations, including but not limited to the standards set forth in this chapter and Chapter 300 of the Property Maintenance Code.

(2) Vacant property and buildings thereon shall be kept free from conditions that give the appearance to any reasonable observer that the property is abandoned.

(3) Vacant buildings shall be maintained in a secure manner so as not to be accessible to unauthorized persons, animals, or vermin. "Secure manner" includes, but is not limited to, the closure and locking of windows, doors, gates, and any other opening of such size that may allow a person, animal, or vermin to access the interior of the building.

(4) On a weekly basis, owners shall inspect or cause the inspection of vacant property and buildings thereon to verify compliance with this section and all other applicable laws and regulations. If the property is owned by a person other than an individual and/or the owner is located more than 30 miles away, a qualified local property management company or agent shall be contracted to perform weekly inspections to verify that the requirements of this section and any other applicable laws and regulations are being met. The property shall be posted with the name and 24-hour contact telephone number of the property management company or agent, which shall have its place of business within 30 miles of the property. The posting shall be no less than 18" x 24" and shall be of a 72 point Arial font and shall also contain the words: "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL". The posting shall be placed on the interior of a window or secured to an exterior portion of the building facing the street to the front of the property so it is visible from the street. If no such area exists, the posting shall be on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property, but not readily accessible to vandals. The local property management company shall create and maintain a written record of its inspections and provide written notice to the owner, any person registered as responsible for the care and control of the property, and the City regarding any conditions or areas that are not in compliance with the requirements of this division.

(Ord. No. 462, § 3, 3-18-19)

11-124. FIRE DAMAGED BUILDINGS.

If a building is fire damaged, the owner has 90 days from the date of the fire to apply for a permit to start construction or demolition. Extensions of 90 days may be granted by the Building Department if the owner demonstrates substantial progress toward completing the work. Failure to do so will result in the property being deemed vacant and subject to the requirements of this division.

(Ord. No. 462, § 3, 3-18-19)

11-125. RIGHT OF ENTRY.

If a building is not secured as required by this division and the City has secured the property, the City and/or its contracted agent may enter or re-enter the building to conduct inspections to assure compliance with the requirements of this division, to determine if there are emergency or hazardous health and safety conditions that require remediation, and to correct any conditions that are out of compliance with the requirements of this division or that constitute emergency or hazardous health and safety conditions.

(Ord. No. 462, § 3, 3-18-19)

11-126. RE-OCCUPANCY.

Occupancy is prohibited within, and an occupancy or use permit shall not be issued by the City for, any vacant or unoccupied building or structure on vacant property until all violations have been corrected and all outstanding costs, assessments, and/or liens owed to the City have been paid in full.

(Ord. No. 462, § 3, 3-18-19)

11-127. VIOLATIONS AND PENALTIES.

Violations of this division are municipal civil infractions, punishable as provided in Chapter 1 of the Code of Ordinances. Each day during which a violation continues is a separate offense. Owners and management agents, if any, including their principals and managers, shall be jointly and severally responsible for any violations of this division.

(Ord. No. 462, § 3, 3-18-19)

11-128 – 11-140. RESERVED.

DIVISION 4. ADMINISTRATION AND ENFORCEMENT.

11-141. ALTERNATIVE ENFORCEMENT ACTIONS.

Whenever the Code Official determines that there has been a violation of this chapter, or has reasonable grounds to believe that a violation has occurred, the city may proceed with any of the following enforcement actions:

(A) Schedule and proceed with a hearing before the Board of Ordinance Appeals, in accordance with the provisions of §1-142 of the City Code;

(B) Issue an appearance ticket to the owner or responsible party, to be addressed in district court, in accordance with the provisions of §1-143 of the City Code;

(C) Initiate circuit court action to abate the violation in accordance with established city procedures, the provisions of §1-144 of the City Code and applicable Michigan law;

(D) Initiate condemnation proceedings to acquire the premises, in accordance with the provisions of §1-145 of the City Code and applicable Michigan law.

(Ord. No. 367, § 11, 12-17-02; Ord. No. 396, § 4, 5-6-08)

11-142. BOARD OF ORDINANCE APPEALS PROCEEDINGS AND DETERMINATION; CORRECTIVE ACTION; ADMINISTRATIVE WARRANTS.

(A) If the Code Official determines that there has been a violation of this chapter , or has reasonable grounds to believe that a violation has occurred, he may issue a notice of violation to the owner or other responsible party prior to holding a hearing before the Board of Ordinance Appeals.

(B) Any notice of violation given shall:

(1) Be in writing;

(2) Include a description of the real property sufficient for identification;

(3) Include a statement of the reason or reasons why the notice is being issued;

(4) Include a correction order allowing a reasonable time for the repairs, actions, and/or improvements required to bring the premises into compliance with the City Code;

(5) Include a statement that, if all corrections ordered to be made in the notice have not been completed within the prescribed time period specified in the notice, an administrative hearing will be held before the Board of Ordinance Appeals, for which the owner or responsible party will be assessed a hearing fee;

(6) Include the time, date, and place of the hearing, and a statement that the owner, responsible party, or their representative shall be entitled to be heard with respect to why the ordered corrective repairs, actions, and/or improvements have not been made or should not be required; and

(7) Be delivered personally, or sent by first class mail to the responsible party, which may be based upon the name and address on the records of the city assessing department. If the notice is sent by mail, then a copy of the notice shall also be posted on the property in a conspicuous place.

(8) The Code Official may also cause a sign to be posted within the public right-of-way in front of the subject property, or as near as possible thereto, designating the property as one for which the Board of Ordinance Appeals will be addressing outstanding property maintenance concerns.

(C) Hearing. The Board of Ordinance Appeals shall conduct a hearing on the date fixed in the notice, which hearing may be adjourned from time to time by the Board of Ordinance Appeals as needed to properly complete the hearing.

(D) After the expiration of the time established in the notice for curing of all violations, but before the date fixed in the notice for the hearing, the Code Official shall have the premises reinspected to determine whether the corrections have been completed, and shall report the findings of the inspection to the Board of Ordinance Appeals. In the event that all violations are determined by the Code Official to be corrected, the hearing before the Board of Ordinance Appeals may be canceled by the Code Official.

(E) Opportunity to be heard. The Code Official, property owner, responsible party, any interested party, and/or their representative(s) shall be given an opportunity to be heard at the hearing and to present evidence on the matter before the Board.

(F) Order for corrective repairs after hearing. At the conclusion of the hearing, the Board of Ordinance Appeals shall determine, in its discretion, whether a violation of this Code or of any other provision of the City Code relating to property maintenance exists. If the Board determines that a violation does exist, it shall order specific corrective repairs, actions and/or improvements to be taken by the responsible party (or the City), including, if necessary, in the discretion of the Board, a vacation of occupancy and/or a physical demolition of the structure; provided, however, demolition of the structure shall not be ordered unless a health or safety hazard exists, or unless a condition of disrepair has existed for at least 12 months. The order shall also indicate that the City shall be permitted to initiate the required repairs, actions, and/or improvements. In so doing, the City may utilize the services of a reputable contractor and invoice the property owner for such contractor's services and all applicable administrative fees set by the City Council in the annual appropriations ordinance. Such invoice shall be paid by the property owner within the time period prescribed on its face. The Board shall provide its order, or written notice thereof, to the owner or responsible party, and shall advise such party of the right to appeal the Board's decision to the Macomb County Circuit Court. The Board shall keep official minutes of its meetings, which shall include findings of fact and the terms of the order issued by the Board.

(G) The administrative hearing fee established under the city's appropriation ordinance is intended to recover the city's costs for scheduling and preparing for a hearing before the Board of Ordinance Appeals. The fee shall be paid by the owner or responsible party if all corrections are not completed by the time specified in the notice. The fee shall not be refunded if the hearing before the Board of Ordinance Appeals is canceled under subsection (D) above. Similarly, invoices for the improvements ordered by the Board of Ordinance Appeals are intended to recover the city's costs for implementing the improvements and/or for securing, utilizing, and monitoring a contractor to do so. Any person who fails to pay the fee and/or the invoice shall be subject to the penalties set forth in Chapter 1 of the City Code. The costs incurred by the city for abatement action under this section, including attorney fees, court costs, title searches, administrative fees imposed under the Appropriations Ordinance, and any other costs incurred in connection with the abatement action, shall be paid by the owner within 30 days of the date of a city invoice for such services. The city shall have a lien against the real property to secure payment. If the invoice remains unpaid after 30 days, the amount of the invoice shall be placed upon the tax roll, and shall be subject to the same penalties, interest, and collection procedures that are applicable to delinquent taxes.

(H) After the Board of Ordinance Appeals has ordered that improvements and/or abatement action take place on a subject property, and after the deadline for the property owner to initiate and complete such improvements and/or abatements has expired, the Code Official shall cause such improvements and/or abatement action to be undertaken and completed, utilizing either City personnel, an independent contractor, or both. In such instances, the property owner has already been afforded more due process than would otherwise be afforded by seeking an administrative warrant or other ex parte court order for abatement of the existing conditions. Therefore, a court order and/or administrative warrant is unnecessary. However, in situations where the property owner has expressed hostility toward the City's personnel, or is known to have a weapon or dangerous animal on the premises, or has otherwise locked or barricaded access to the offending property or condition, or in any other situation that causes the City's personnel to have unusual concern, the Code Official or his/her designee may take the additional step of subscribing an affidavit and seeking an appropriate administrative warrant from the 41-A District Court in order to be able to present a court order to the property owner for the entry required to perform the improvements or abatements, and to take such related actions as may be necessary in order to do so.

(Ord. No. 367, § 11, 12-17-02; Ord. No. 396, § 4, 5-6-08)

11-143. APPEARANCE TICKETS.

(A) If the Code Official determines, or has reasonable grounds to believe that a violation of this Code or of any other provision of the City Code relating to property maintenance exists, he may issue an appearance ticket requiring the responsible party to appear in court to answer the appearance ticket within the time period specified in the notice.

(B) The appearance ticket shall contain the information and shall be in the form specified by Michigan law.

(C) The appearance ticket shall specify, if required by law, the options available to the responsible party with respect to responding to the appearance ticket.

(D) The appearance ticket shall be served upon the responsible party as provided by Michigan law.

(Ord. No. 367, § 11, 12-17-02; Ord. No. 396, § 4, 5-6-08)

11-144. CIRCUIT COURT ACTION.

(A) If the Code Official determines, or has reasonable grounds to believe that a violation of this Code or of any other provision of the City Code relating to property maintenance exists, the city may, in accordance with procedures established by the City Manager and City Council, proceed with the filing of an action in the Macomb County Circuit Court to compel the owner or responsible party to bring the property into compliance with the provisions of this Code and the City Code by taking corrective action with respect to the property, building, or structure, or by demolishing the building or structure. The city may proceed under this section instead of proceeding to a hearing before the Board of Ordinance Appeals.

(B) The Circuit Court action shall be brought in accordance with applicable Michigan law, and shall provide the responsible party, after notice as required by law, an opportunity to be heard prior to any corrective action or demolition taking place, unless otherwise authorized by the Court.

(Ord. No. 367, § 11, 12-17-02; Ord. No. 396, § 4, 5-6-08)

11-145. EMINENT DOMAIN.

(A) The City may institute and prosecute proceedings under its power of eminent domain to eliminate a structure which is determined to have a blighting effect on the city. The purposes of rehabilitating blighted areas and the prevention, reduction, or elimination of blight, blighting factors, or causes of blight contemplated by this article are hereby declared to be public purposes within the meaning of the constitution, state laws, and municipal charters relative to the power of eminent domain.

(B) All condemnation action taken by the city under its eminent domain authority shall be in accordance with applicable Michigan law.

(Ord. No. 367, § 11, 12-17-02; Ord. No. 396, § 4, 5-6-08)

11-146. SUPPLEMENTARY NATURE OF ARTICLE.

This article is intended to supplement other laws, ordinances, and City Code provisions, and is not intended to supersede or repeal other ordinances or City Code provisions except where expressly provided.

(Ord. No. 367, § 11, 12-17-02; Ord. No. 396, § 4, 5-6-08)

11-147. CONFLICT.

Where a provision of the Property Maintenance Code adopted in this article is considered to be in conflict with another provision of the City Code or any other city ordinance, the provision which establishes the higher standard for the promotion or protection of the health and safety of the public, as determined in the reasonable discretion of the Code Official, shall prevail.

(Ord. No. 367, § 11, 12-17-02; Ord. No. 396, § 4, 5-6-08)

11-148. FAILURE TO COMPLY; PENALTY.

Any person who violates a provision of this article or who fails to comply with any of the requirements in this article, and any person who obstructs, hinders, or interferes with the Code Official or any agent or employee of the city when carrying out tasks contemplated in this chapter, a directive of the Code Official, or a certificate issued under the provisions of this article, shall be subject to the penalties prescribed by Chapter 1 of the City Code.

(Ord. No. 367, § 11, 12-17-02; Ord. No. 396, § 4, 5-6-08)

11-149-11-180. RESERVED.

ARTICLE VII. PERFORMANCE GUARANTEES

11-181. REQUIRED DEPOSITS.

The Building Official, City Engineer, City Planner, City Development Director, City Manager or their respective designates shall have authority to require a developer, builder, homeowner or other applicant to deposit with the city an amount reasonably necessary to ensure that such developer, builder, homeowner or applicant completes its obligations under the city code and ordinances on a timely basis, together with an administrative fee to the city as set forth in the city's annual appropriations ordinance. A deposit may be required for any of the following:

(A) To ensure that a developer or builder completes all site work or improvements, public utility and right-of-way improvements, soil erosion measures, grading or landscaping associated with an approved site plan, subdivision plan, condominium plan, mobile home park plan, planned unit development plan, special development option plan, special land use approval or variance or required by the provisions of any city code, ordinance, standard or regulation;

(B) To ensure that a builder or applicant completes all site work or improvements, soil erosion measures, grading or landscaping within a reasonable specified time period as required by any permit, plot plan or by the provisions of any city code, ordinance, standard or regulation;

(C) To ensure that any site work or improvements or public utility and right-of-way improvements required by the city based upon its inspection will be completed by a reasonable completion date in connection with the issuance of permits for models and other structures prior to completion of such improvements;

(D) To ensure that any outstanding items required by the city based upon its inspection will be completed by a reasonable completion date in connection with the issuance of a temporary certificate of occupancy for a structure or dwelling;

(E) To ensure that no damage is done to public or private property or improvements or landscaping located upon public or private property;

(F) To ensure that any site under development is cleaned up on a daily basis, that trash and debris are always contained and disposed of regularly and that public streets and adjacent properties are kept free from dirt, mud or construction debris;

(G) To ensure that any other requirements relating to the construction process for which any deposit is required under other applicable provisions of the city codes, ordinances, standards or regulations are completed or satisfied on a timely basis.

(Ord. No. 352, § 16, 12-19-00; Ord. No. 367, § 10, 12-17-02; Ord. No. 396, § 6, 5-6-08)

11-182. PROCEDURE.

(A) When the Building Official, City Engineer, City Planner, City Development Director, City Manager or their respective designate determines that a developer, builder, homeowner or other applicant should make a deposit with the city to ensure that such person fulfills its obligations to the city as set forth in subparagraph (A), the developer, builder, homeowner or applicant shall deposit with the city an amount determined by the appropriate city official to be necessary to fulfill the unfinished obligations. The amount shall be the sum necessary to perform the outstanding obligations based upon either: (i) an approved estimate submitted by the developer, builder, homeowner or applicant , or (ii) a reasonable estimate made by the Building Official, City Engineer, City Planner, City Development Director, City Manager or their respective designate. The City Council shall establish by resolution or ordinance the minimum performance guarantee for the addition to or alteration, modification or new construction of a single family residence, multiple family residential building or commercial or industrial building.

(B) The performance guarantee required may be either a cash deposit made with the city or an irrevocable letter of credit drawn upon a financial institution satisfactory to the city.

(C) If the developer, builder, homeowner or applicant fulfills its obligations by the specified time, the cash deposit shall be returned without interest (less a processing fee established by an ordinance or resolution adopted by the City Council).

(D) If the amount of the deposit exceeds $10,000, the developer, builder, homeowner or applicant may request a rebate of part of the deposit in reasonable proportion to the ratio of the work completed as the work progresses.

(E) If the developer, builder, homeowner or applicant fails to complete the required work by the specified date, the city may utilize any or all of the deposited funds or funds available through the letter of credit to complete such person's obligations and to pay the city's administrative fee established by the annual appropriations ordinance. . If there are excess funds available after completion of the work, the surplus shall be returned (or the unused portion may be retained by the city for the cost of preparing or reviewing any reimbursement agreement, together with any costs or fees incurred by the city in securing use of such funds in the event of the default of the developer, builder, homeowner or applicant).

(F) The city may require the developer, builder, homeowner or applicant to execute an agreement in a form satisfactory to the City Attorney requiring the developer, builder, homeowner or applicant to: (i) fulfill its obligations by a specified date, (ii) deposit with the city or other financial institution acceptable to the city an amount determined to be sufficient to complete such person's obligations, with the administrative fee payable to the city as established by the annual appropriations ordinance, and (iii) authorize the city to utilize the funds for completion of the outstanding items. The developer, builder, homeowner or applicant shall be responsible for reimbursement to the city of the cost of preparing or reviewing such agreement, together with any costs or fees incurred by the city in securing use of such funds in the event of the default of the developer, builder, homeowner or applicant.

(Ord. No. 352, § 16, 12-19-00; Ord. No. 367, § 10, 12-17-02; Ord. No. 396, § 4, 5-6-08)

11-183. ADDITIONAL PERFORMANCE GUARANTEES AND COST RECOVERY.

Builders, developers, and similar applicants shall not record a master deed, easement agreement, restrictive covenant, vacation agreement, retention basin agreement, or similar document or device until the Office of Engineering has reviewed it, obtained the City Attorney's review and approval if needed, and provided its final approval for recording in writing. All such documents shall also include performance guarantees and obligations satisfactory to the Office of Engineering. Final approvals and final permits shall not be issued until the city has been reimbursed for the City Attorney's review, whether by direct payment, withdrawal from a performance guarantee fund, or other means satisfactory to the Office of Engineering.

(Ord. No. 396 § 6, 5-6-08)

11-184-11-193. RESERVED.

ARTICLE VIII. MOVING OF BUILDINGS

11-194. TITLE.

This article shall be known and may be cited as the "Building Moving Ordinance."

(1978 Code, § 8-194; Ord. No. 396 § 6, 5-6-08)

11-195. RESERVED.

11-196. MOVING PERMIT REQUIRED.

No building having a floor area of more than 50 square feet shall be moved out of, through or from one location to another within the city or on any of the public ways

thereof without securing a written permit therefor.

(1978 Code, § 8-196; Ord. No. 396 § 6, 5-6-08)

Cross reference:

Permits generally, see Ch. 29

11-197. APPLICATION FOR LICENSE AND PERMIT.

Before any permit is issued under the provisions of this article, the applicant shall file a written application with the Office of Building Services. The application for a permit shall give the name of the owner and the description of the building to be moved; give its dimensions; state the purpose; and give the locations from which and to which it is to be moved, together with the routes proposed to be followed. In case the building has a floor space area of more than 400 square feet, or in case it is over 15 feet in height, and if the building is to be located within the city, the application must be accompanied by photographs showing each of the four side elevations of the building and must likewise be accompanied with a copy of a full set of plans for the building as it is proposed to complete the same after moving; also, in such case, the application must be made at least seven working days in advance of the moving day or longer, if so required by the City Manager, in order to make the necessary arrangements.

(1978 Code, § 8-197; Ord. No. 396 § 6, 5-6-08)

11-198. AGREEMENT REQUIRED FROM PERMIT APPLICANT IN CERTAIN CASES.

Before the moving of any building over 400 square feet in area or over 15 feet in height is authorized, the applicant for the moving permit shall be required to sign a written agreement prepared by the City Attorney and approved by the City Manager by which the applicant agrees to conform to the terms of this article and other requirements of the city.

(1978 Code, § 8-198; Ord. No. 396 § 6, 5-6-08)

11-199. PERMIT FEES.

The permit fees for moving any building, and all preliminary inspection fees, shall be established by the annual appropriations ordinance. Preliminary inspection fees may be refunded in the event a permit is not used and is canceled upon written request by the applicant, less the amount of actual expenses incurred by the city. Applicants shall return all canceled permits to the city.

(1978 Code, § 8-199; Ord. No. 396 § 6, 5-6-08)

11-200. BOND OR INSURANCE.

Before any permit is issued under the provisions of this article, the moving contractor shall furnish a surety bond conditioned upon saving the city harmless from public liability or damage to private property or a policy of public liability insurance, which bond or insurance policy shall be in limits of not less than $25,000 for injuries to one person or $50,000 for damages in one accident set by the City Engineer and City Attorney.

(1978 Code, § 8-200; Ord. No. 396 § 6, 5-6-08)

11-201. CASH DEPOSITS; APPROVAL FOR PLUGGING SEWER CONNECTIONS; FILLING EXCAVATIONS AND REMOVAL OF DEBRIS.

(A) The moving contractor shall make a cash deposit or provide a letter of credit in an amount set by the City Engineer to guarantee the payment of any and all damages to public property caused by the moving operations, including any damage to street surfaces, sidewalks, street lights, public buildings, or any and all other damage to public property, and also to guarantee payment of all inspection fees and expenses incurred by the city as a result of the moving operations. The moving contractor shall secure the approval of the Director of Public Works of the plugging of sewer connections before covering the work. He or she shall fill all excavations which result from the moving of the building and shall remove all materials and debris from the premises from which the building is to be moved if the premises are located within the city, and all materials and debris which may be deposited or disrupted elsewhere during the moving process. The burning of such materials and debris is prohibited.

(B) The city shall retain the moving contractor's cash deposit for approximately 30 days after the moving operations are completed, during which time it shall be the duty of the City Engineer to estimate the amount of damage, if any, to public and private property resulting from the moving operations and to ascertain whether all materials and debris have been removed from the premises from which the building was moved and all other areas where materials and debris may have been deposited elsewhere during the moving process. The City Engineer shall make a written report in regard thereto and place the same on file. The amount of the contractor's deposit, less the amount of damage, if any, to public and private property and less the expense, if any, of removing material and debris from public or private properties, shall be returned to him or her as soon as practicable. In case the amount of such damage and/or cleaning up and removal expense shall be more than the amount of the deposit, the contractor shall pay the city the difference within ten days after receiving a statement thereof from the City Engineer.

(C) The owner or moving contractor, on the owner's behalf, shall also file a cash deposit in an amount set by the City Engineer to guarantee that the building will be completed according to the plans and specifications on file with the city and will be in full compliance with his or her agreement with the city and the requirements of the City Building Code and fit for occupancy within six months from the date when the moving permit is granted. The owner shall be entitled to the return of the cash deposit upon completion of the building within six months and approval and issuance of a certificate of occupancy by the city.

(1978 Code, § 8-201; Ord. No. 396 § 6, 5-6-08)

Cross references:

Excavations, see Ch. 17;

Refuse, see Ch. 23;

Sewers, see Ch. 53

11-202. RESERVED

11-203. RESERVED

11-204. RESERVED

11-205. ROUTE TO BE FOLLOWED; RULES GOVERNING MOVING OPERATIONS.

It shall be the duty of the moving contractor to move the building over the route designated by the City Engineer . In the process of moving the building, it shall be done in a way to least obstruct the street and as expeditiously as possible. The building shall not be left standing at any street intersection at any time except in case of unavoidable occurrence making such standing necessary in the opinion of the City Engineer . It shall be the duty of the moving contractor to erect a safe and sufficient barrier around any part of a street occupied by the building during the nighttime and maintain sufficient colored lights or flares thereon during the hours at night for the protection of the public.

(1978 Code, § 8-205; Ord. No. 396 § 6, 5-6-08)

11-206. INSPECTION OF MOVING OPERATIONS.

During the moving operation it shall be the duty of the Office of Engineering , at least once each day and for such length of time as the City Manager deems advisable, to inspect the moving operation and take any steps necessary to prevent injury to public or private property or any undue interference with public travel. This obligation shall not, however, create any legal liability for the city due to any private property damage that is nevertheless caused during the moving process. The city shall be paid for the cost of the use of all city equipment required to be used or to be present during the moving operation and in addition shall be paid the actual hourly cost to the city, plus the administrative fee established by the city’s annual appropriations ordinance, for the services of each of the city’s representatives

present for inspecting the moving process. Written notice shall be given the City Manager at least 48 hours in advance of the moving date. The time of moving shall be set by the city official in charge. No building shall be moved at a time earlier than that agreed upon by the moving contractor and the city authorities.

(1978 Code, § 8-206; Ord. No. 396 § 6, 5-6-08)

11-207. BUILDING TO BE OCCUPIED AS DWELLING AFTER MOVE TO CONFORM TO OTHER DWELLINGS IN AREA.

All buildings moved to a location within the city and which are to be used for residential purposes shall conform, so far as possible, to the general type, age and construction of the predominant residential buildings in the area adjacent to the proposed site, which comply with or are more restrictive than the zoning and aesthetic regulations of the street upon which located.

(1978 Code, § 8-207; Ord. No. 396 § 6, 5-6-08)

11-208. CERTIFICATE OF OCCUPANCY FOR MOVED DWELLINGS.

Any building moved for the purpose of being occupied as a residence within the city shall not be occupied during the moving operations or until the building has been completed and approved by the Building Official and a certificate of occupancy has been issued by the city. Before such certificate of occupancy is issued, it shall be the duty of the Building Official or other duly authorized representative of the city to make a final inspection for the purpose of ascertaining whether such building is completed according to the plans, specifications and agreements on file with the city, is in full compliance with the requirements of the City Building Code and is fit for human occupancy. If the certificate of occupancy is not applied for within six months after the permit for moving a building is granted, or if the building is not completed and ready for human occupancy within six months, the cash deposit required by § 11-201 or any part thereof shall be declared forfeited to the city and the city may institute proceedings to have the building condemned and torn down, or city may complete the owner's obligations under this section; provided, that upon application to the Board of Ordinance Appeals by the person owning the building and for good cause shown, the time for completing the work so that it may be occupied may be extended for one or more periods of 90 days, upon payment of the sum established by the annual appropriations ordinance for each such extension. The Board of Ordinance Appeals may, upon granting of an extension, require a new cash deposit to be made and a new agreement executed. In the event the city's expenses for condemning and tearing down the building, or for completing the owner's obligations, exceed the amount of the forfeited deposit and any other monies deposited under this section, the owner shall pay the city the difference within ten days after receiving a statement of the balance due from the City Engineer.

(1978 Code, § 8-208; Ord. No. 396 § 6, 5-6-08)

11-209-11-218. RESERVED.

ARTICLE IX. NUMBERING OF BUILDINGS

11-219. DEFINITIONS.

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

BUILDING DEVELOPMENT. Any improvement to commercial or residential property, including but not limited to a subdivision, apartment complex, a condominium complex, industrial complex, shopping mall or any complex of like nature.

COMMERCIAL. Any use of property which is nonresidential, including but not limited to business, industrial or professional uses.

MULTIFAMILY RESIDENTIAL BUILDING. Any residential building in which more than one family or tenant may reside, including but not limited to apartment buildings, condominium buildings, town house buildings and complexes that are similar in nature.

THOROUGHFARE. Any surface which is designed for vehicular traffic, including but not limited to all expressways, limited access highways, streets, roads, avenues, boulevards, courts, terraces, drives and lanes, whether public or private, including private thoroughfares located in any building development.

(1978 Code, § 8-219; Ord. No. 274, § 1, 4-18-89; Ord. No. 396 § 7, 5-6-08)

11-220. COMPLIANCE WITH ARTICLE.

According to the system set out in this article, all thoroughfares within the city shall have a name, all property adjacent to any thoroughfare shall be numbered and the assigned numbers shall be displayed on buildings and structures.

(1978 Code, § 8-220; Ord. No. 274, § 2, 4-18-89; Ord. No. 396 § 7, 5-6-08)

11-221. BASE LINES ESTABLISHED.

(A) A base line shall be established extending from the westerly to the easterly city limits on a line concurrent with Fourteen Mile Road, and all thoroughfares extending in a general northerly direction therefrom shall be numbered beginning with 33000 at such base line, the numbers increasing in series of one or more even hundred of numbers to each block, as practicable.

(B) Another base line shall be established extending from the northerly to the southerly city limits on a line concurrent with Dequindre Road and all thoroughfares extending in a generally easterly direction shall begin numbering with 1900 at such base line and shall increase in series of one or more even hundred of numbers to each block, as practicable.

(1978 Code, § 8-221; Ord. No. 396 § 7, 5-6-08)

11-222. CERTAIN STREETS .

For the purposes of this article, Canal Road shall be considered extending in a generally easterly direction and numbered accordingly, Clinton River Road shall be considered as extending in a generally easterly direction and numbered accordingly, Utica Road shall be considered as extending in a generally northerly direction and numbered accordingly and Moravian Road shall be considered as extending in a generally easterly direction and numbered accordingly.

(1978 Code, § 8-222; Ord. No. 396 § 7, 5-6-08)

11-223. RECTIFYING LINES GENERALLY.

The City Engineer shall establish rectifying lines on certain thoroughfares and the number on thoroughfares intersection same shall be rectified or corrected at each point of intersection.

(1978 Code, § 8-223; Ord. No. 396 § 7, 5-6-08)

11-224. NEW BASE AND RECTIFYING LINES.

The City Engineer shall establish such additional base and rectifying lines as may be necessary for the numbering of new districts, but such new lines shall not conflict with the base and rectifying lines established by this article.

(1978 Code, § 8-224; Ord. No. 396 § 7, 5-6-08)

11-225. NUMBERING SYSTEM GENERALLY.

Numbers shall be assigned progressively from the base line and from the rectifying lines in series of one or more even hundreds to each block, as nearly as practicable and as required by the length of the blocks, the unassigned numbers of a series to be dropped at the end of each block, and the succeeding blocks shall be numbered beginning with the first number of the following series. Thoroughfares, regardless of where they begin, but which extend in the same general direction, shall be numbered in the same series in parallel blocks.

(1978 Code, § 8-225; Ord. No. 396 § 7, 5-6-08)

11-226. AMOUNT OF SPACE ALLOWED FOR EACH FULL NUMBER.

One full number shall be allowed for each five feet of frontage on each side of all thoroughfares.

(1978 Code, § 8-226; Ord. No. 396 § 7, 5-6-08)

11-227. ASSIGNMENT OF NUMBERS ON THOROUGHFARES.

The City Engineer shall assign numbers on the thoroughfares of the city and shall maintain suitable charts of all thoroughfares indicating the names and numbering. The assignment of numbers shall be done in writing.

(1978 Code, § 8-227; Ord. No. 274, § 3, 4-18-89; Ord. No. 396 § 7, 5-6-08)

11-228. ASSIGNMENT OF ODD AND EVEN NUMBERS.

Facing progressive with the numbers, even numbers shall be assigned to the right-hand side of the thoroughfares and odd numbers shall be assigned to the left-hand side.

(1978 Code, § 8-228; Ord. No. 396 § 7, 5-6-08)

11-229. NUMBERING SYSTEM ON FREEWAYS AND LIMITED ACCESS HIGHWAYS.

All freeways and limited access highways within the city shall be numbered continuously, regardless of direction, as may be determined from appropriate base lines.

(1978 Code, § 8-229; Ord. No. 396 § 7, 5-6-08)

11-230. DISPLAY, SIZE, AND COLOR OF NUMBERS.

All buildings and structures within the city shall display the numbers assigned by the City Engineer in accordance with the following:

(1) Numbers on all residential buildings shall meet the requirements of chapter 3 of the International Property Maintenance Code as adopted in this chapter of the code of ordinances;

(2) Multifamily residential buildings shall have a building address sign on or at the front of the building that will identify all addresses located within a multifamily residential building;

(3) Numbers on commercial buildings shall be displayed on the front of the building or on a sign at the front of the building and at the rear of the building if there is an access at the rear of the building to a hard-surfaced area upon which vehicular traffic may maneuver, and all said numbers shall be at least four inches in height;

(4) All numbers displayed on or at the front of the buildings shall be displayed in such a manner as to be readily visible to occupants of vehicles on thoroughfares immediately in front of such buildings during all hours of normal daylight;

(5) The color of the numbers for both residential and commercial buildings shall be in contrast with the immediate background upon which they are mounted;

(6) This section shall be construed to mean that, if the numbers are hidden by an awning or other appurtenance, the owner of the building or persons having control shall provide supplementary numbers in such a manner as to comply with this article;

(7) The numbers shall be permanently affixed at the time of any final inspection of the building.

(1978 Code, § 8-230; Ord. No. 274, § 4, 4-18-89; Ord. No. 396 § 7, 5-6-08)

11-231. FEES.

The City Council may, by resolution or through the annual appropriations ordinance, establish a fee or fees to be paid to the city for performing the service of assigning numbers in accordance with this article.

(1978 Code, § 8-231; Ord. No. 396 § 7, 5-6-08)

11-232. NAMES ON PRIVATE THOROUGHFARES.

Prior to commencing construction on a thoroughfare, property owners of thoroughfares shall submit a name for the proposed thoroughfare to the City Engineer for approval. The City Engineer may approve the proposed name if it is proper and suitable for public display and use and is not the same as, or so similar to, the name of any existing thoroughfare within the city so as to be confusing and likely to delay the response time of the Fire and Police Departments and other emergency vehicles. The owner of the thoroughfare shall erect a sign at each intersection which displays the name of the thoroughfare in accordance with the standards of the City Engineer and in such a manner as to be visible from the intersecting thoroughfares.

(1978 Code, § 8-232; Ord. No. 274, § 5, 4-18-89; Ord. No. 396 § 7, 5-6-08)

11-233. CORRECTION OF VIOLATIONS.

The owner of a building or private thoroughfare which is not named or numbered in accordance with this article shall make the necessary corrections and obtain the necessary permits or authority as required in this chapter within 30 days after receiving a notice from the city specifying any violation of this chapter and any corrective action that is required.

(1978 Code, § 8-233; Ord. No. 274, § 6, 4-18-89; Ord. No. 396 § 7, 5-6-08)

11-234-11-241. RESERVED.

CHAPTER 12: BUSINESS REGISTRATION AND REGULATIONS

ARTICLE I. BUSINESS REGISTRATION

12-1. SHORT TITLE.

This article shall be known as the City of Sterling Heights "Business Registration Ordinance."

(1978 Code, § 8.2-1; Ord. No. 270, § 1, 7-19-88; Ord. No. 270-B, § 1, 10-19-93)

12-2. PURPOSE.

Registration serves the following critical governmental purposes:

(1) To assist the city with information to help with:

a. The preparation of a comprehensive database of businesses and individuals conducting business within the city in order to provide effective first responder and emergency services through more efficient wayfinding, the ability to access up-to-date emergency contact information, and the identification of "lock box" and other security and alarm information;

b. Better efficiency and economy in furnishing public utility services;

c. Tracking and analyzing business trends, patterns, and needs in the community;

d. Identifying, stopping, and eliminating illicit businesses and activities within the city;

e. Expediting notice to local businesses regarding important city concerns, such as snow emergencies, business opportunities, business development, consumer trends, and marketing;

f. More comprehensive and informed planning and zoning uses of land and structures; and

(2) To establish a registry of businesses operating within the city for the general information of the public and for the promotion of the city.

(1978 Code, § 8.2-2; Ord. No. 270, § 1, 7-19-88; Ord. No. 270-B, § 1, 10-19-93; Ord. No. 471, § 2, 8- 5-20)

12-3. DEFINITIONS.

The word ***BUSINESS***, when used in this article, shall mean any trade, occupation, profession, work, industry, commerce or other activity owned or operated by any person within the city, except the word ***BUSINESS*** shall not include home occupations, as defined in the city zoning ordinance.

(1978 Code, § 8.2-3; Ord. No. 270, § 1, 7-19-88; Ord. No. 270-B, § 1, 10-19-93)

12-4. CERTIFICATION OF REGISTRATION.

(A) *Requirement established.* It shall be unlawful for any person to operate a business within the city without having first obtained a certificate of registration, unless the business is already licensed pursuant to Chapter 29 of the City Code.

(B) *Registration form.* In order to register, the owner or operator of a business shall submit registration information on a form prepared by the City Clerk which may require that full identification information be provided for owners and operators, including dates of birth and driver license numbers. The information on the registration form shall be true and accurate. The business and the person signing the form shall be responsible for the accuracy of the information.

(C) *Fees.* Fees for registration shall be set by the City Council in the annual appropriations ordinance. There shall be no fee for renewal of registration.

(D) *Prohibition.* No certificate of registration shall be issued by the City Clerk until a certificate of occupancy has been issued, nor shall a certificate be issued if the existing or proposed business is illegal or not permitted under any law or ordinance.

(E) *Issuance.* After the filing of a fully completed registration form, the City Clerk shall issue a certificate of registration.

(F) *Duration.* The certificate of registration shall be effective until the following April 30.

(G) *Renewals.* By April 1 of each year, the City Clerk shall send each holder of a certificate of registration a copy of the filled in registration form for the previous year, and each business shall return it by April 30 of each year with a signed statement the information has not changed and is correct as of that date or with the addition of any information necessary to correct the registration form.

(1) *Issuance of a sticker.* Upon receipt of the form, and upon determining compliance with the requirements of this article, the City Clerk shall issue a sticker indicating registration for the current year, which shall be affixed to the certificate of registration by the business.

(2) *Issuance of a new certificate.* If there is a necessity of the issuance of a new certificate due to a name change or other reason, the City Clerk shall issue a new certificate of registration.

(H) *Transfer.* No certificate of registration may be transferred by the holder to any other person or entity.

(I) *Inspection.* The City Clerk or his or her agent shall have the right of inspection of the premises to assure compliance with this article, either before or after the issuance of a certificate of registration.

(J) *Display.* The certificate of registration shall be prominently displayed in the place of business.

(1978 Code, § 8.2-4; Ord. No. 270, § 1, 7-19-88; Ord. No. 270-A, § 1, 10-4-88; Ord. No. 270-B, § 1, 10-19-93; Ord. No. 388, § 6, 1-3-07; Ord. No. 471, § 3, 8-5-20) Penalty, see § 1-9

12-5. REVOCATION AND/OR SUSPENSION.

(A) *Noncompliance.* In the event of any noncompliance with the provisions of this article after a certificate of registration has been issued, the certificate may be revoked or suspended by order of the City Clerk until the noncompliance has been corrected as determined by the Clerk.

(B) *Written notice.* Upon any revocation and/or suspension, the City Clerk shall notify in writing the business of the action taken and shall specify the nature of any violations.

(C) *Hearing.* Any business aggrieved of the action taken by the City Clerk may request a hearing before the City Council to be held within 21 days of the request.

(D) *Final determination.* The City Council shall determine whether or not a violation has occurred and, if so, shall determine whether the revocation and/or suspension should be continued and, if so, under what conditions.

(1978 Code, § 8.2-5; Ord. No. 270, § 1, 7-19-88; Ord. No. 270-B, § 1, 10-19-93)

12-6. EXEMPTIONS.

No registration shall be required of any agency of the United States of America, the State of Michigan or any political subdivision of the state.

(1978 Code, § 8.2-6; Ord. No. 270, § 1, 7-19-88; Ord. No. 270-B, § 1, 10-19-93)

12-7. OTHER CITY REQUIREMENTS.

Obtaining a certificate of registration shall not relieve any business from obtaining any other license, permit or approval as may be required by any other city ordinance, requirement, regulation or standard.

(1978 Code, § 8.2-7; Ord. No. 270, § 1, 7-19-88; Ord. No. 270-B, § 1, 10-19-93)

12-8. PRIVACY REGULATION.

The City Clerk shall withhold from public disclosure any personal information provided to the city under this article, except where disclosure is required by law.

(1978 Code, § 8.2-8; Ord. No. 270, § 1, 7-19-88; Ord. No. 270-B, § 1, 10-19-93; Ord. No. 270-C, § 1, 1-19-99; Ord. No. 471, § 4, 8-5-20)

12-9. RESERVED.

12-10-12-20. RESERVED.

ARTICLE II. BUSINESS REGULATIONS

DIVISION 1. SECONDHAND MERCHANTS

12-21. GENERAL REGULATIONS GOVERNING ALL SECONDHAND MERCHANTS.

(A) The regulations in this division shall apply to all secondhand merchants within the city, regardless of any other provisions of the city code, unless specifically

exempted by this division. A ***SECONDHAND MERCHANT*** is any person, corporation, member of a co-partnership, firm, or limited liability company that purchases, receives, stores, passes through, or exchanges secondhand personal property of any kind in any condition to facilitate or promote the re-sale of such property. By way of illustration and not limitation, pawn shops, pawnbrokers, flea market dealers, junk dealers, automobile wrecking yards, nonferrous metal dealers, jewelers, jewelry exchange participants, precious metal and gem dealers, videogame retailers, electronics stores, toy stores, video stores, and any other store or operation are all deemed to be secondhand merchants for purposes of this division if they purchase, receive, store, pass through, or exchange secondhand personal property of any nature.

(B) Every secondhand merchant shall register with the city as a secondhand merchant prior to undertaking any transactions involving secondhand personal property. The registration form shall include all information required by the City Clerk and the Police Department, including but not limited to all formal and informal names of the business or operation, all business and emergency contact information, hours of operation, location(s), name(s) of owners and operators, names(s) of managers or supervisors, dates of birth and driver's license numbers for owners, operators, managers, and supervisors. The fees for registration and renewals shall be set by the City Council in the annual appropriations ordinance. After the filing of a fully completed registration form and payment of the required fee, the City Clerk shall issue a certificate of registration, except no certificate shall be issued if the business or operation does not have a proper certificate of occupancy or other required licenses or registrations. The certificate of registration shall be effective until the following April 30. By April 1 of each year, the City Clerk shall send each holder of a certificate of registration a copy of the completed registration form for the prior year, and each business or operation shall return it by April 30 with a signed statement that the information has not changed and is correct as of that date or with the addition of whatever information is needed to update or correct the registration form. Upon receipt of the properly completed renewal, and upon determining compliance with this division and other applicable laws and ordinances, the City Clerk shall issue a sticker indicating registration for the current year, which shall be affixed to the certificate of registration by the business. No certificate of registration may be transferred by the holder to any other person or entity. The City Clerk and his or her agent shall have the right to inspect the premises of any secondhand goods business or operation to ensure compliance with this section, either before or after issuance of a certificate. The certificate of registration shall be prominently displayed in the place of business where it can readily be viewed by customers and members of the public who enter the establishment.

(C) Unless otherwise permitted by law or ordinance, a secondhand merchant shall not purchase or receive any item or goods:

(1) From any person under the age of 18 years without the written consent of a parent or guardian;

(2) From any person whom the secondhand merchant has reason to suspect stole the item or goods, or is attempting to sell or dispose of a stolen item or goods, or who has been identified by law enforcement or code enforcement authorities via written or electronic notice as someone from whom secondhand goods should not be received or purchased;

(3) From any person between the hours of 9:00 p.m. and 7:00 a.m. of the following day.

(D) A secondhand merchant shall keep a record of every person or business with whom any secondhand property transaction is conducted and a record of all property purchased, received, stored, passed through, or exchanged. Every secondhand merchant, by 10:00 a.m. on the next day that the secondhand merchant is open for business or within 48 hours if the secondhand merchant does not operate out of a traditional storefront, must transmit a report to the Chief of Police or the Chief's designee of all transactions in which the secondhand merchant received secondhand or used personal property. A transaction reported by electronic transmission under this subsection shall not be reported on paper forms unless the Chief of Police so requests. The report must be transmitted via e-mail or internet through an electronic information data manager designated by the Chief of Police to facilitate the collection and transmission of such reports. The reports shall be in a format designated by the contractor or service provider. The report shall include all identifying marks or other unique descriptors which distinguish the property from similar items. All jewelry and precious metals or gems, and any property that does not have a serial number, or a product name, or a make and model, shall be photographed from three angles and the photographs shall be included with the report.

(E) All secondhand merchants must have the equipment or software necessary to transmit the required reports through the electronic information data manager designated by the Chief of Police installed and operational no later than April 30, 2013. The Police Department will require all secondhand merchants to electronically submit data beginning April 1, 2013.

(F) Exemptions.

(1) The purchase, receipt, storage, passing through, or exchange of an antique is exempt from the requirements of this division if the primary business of the secondhand merchant is the sale or collecting of antiques. This exemption does not mean that an antique dealer is exempt from the requirements of this division if the transaction involves an item that is not an antique. An ***ANTIQUE*** is a decorative object, piece of furniture, or other work of art created in, or in the style of, an earlier period that is collected and valued for its beauty, workmanship, and age.

(2) The purchase, receipt, storage, passing through, or exchange of clothing is exempt from the requirements of this division if the primary business of the secondhand merchant is the sale or consignment of clothing.

(3) Private residential sales commonly known as "garage sales," "yard sales," or "estate sales" involving tangible personal property, whether new, used, secondhand, damages, or discarded and not otherwise regulated, including but not limited to clothing, household effects, tools, garden implements, toys, recreation equipment, and other similar personal household property, advertised by any means whereby the public at large is made aware of such sale, are exempt from the requirements of this division so long as such sales take place at a residentially zoned property, occur less than three times per year, and occur for less than three consecutive days.

(4) An organization or non-profit entity which is tax-exempt and tax-deductible under an IRS rule, ruling, or determination, and to which all of its secondhand items are donated without payment to the donor by the organization, is exempt from the requirements of this division.

(5) Auctioneers and auction houses are exempt from the requirements of this division.

(6) Individuals engaging in an incidental transaction between themselves are exempt from the requirements of this division, where neither individual engages in the transaction as part of a more frequent practice designed to produce income.

(7) Retail merchants who repossess their own merchandise sold on a title retaining contract or chattel mortgage basis or who accept merchandise as a part payment on new sales are exempt from the requirements of this division.

(8) New articles, wares, or merchandise purchased at wholesale from manufacturers, wholesale, distributors, or jobbers for retail sale to customers are exempt from the requirements of this division.

(9) Old rags, paper, used books, magazines, tapestries, and household furniture are exempt from the requirements of this division.

(10) Secondhand or used tires are exempt from the requirements of this division when removed from the vehicle to which such tires are attached in the presence of the person receiving them.

(11) Persons whose principal business is that of dealing in new goods, articles, and merchandise and who do not buy secondhand goods, articles, and merchandise outright, but occasionally accept in trade or repossess electrical appliances, gas appliances, lighting fixtures, electrical motors, radios, watches, jewelry, precious stones, and musical instruments, are exempt from the requirements of this division.

(12) Used car dealers are exempt from the requirements of this division.

(13) Art galleries are exempt from the requirements of this division.

(G) Regardless of an exemption set forth in this division, all secondhand merchants must still comply with any and all state law requirements and separate ordinance requirements governing the nature of their business, the nature of their transactions, and any recording and reporting requirements set forth therein.

(H) Penalties.

(1) Any violation of this division may be charged against the owner or operator of the secondhand merchant operation, as well as against any responsible employee(s) or agent(s).

(2) A first violation of any of the requirements of this division is a municipal civil infraction, punishable as set forth in Chapter 1 of the city code.

(3) A second or subsequent violation of any of the requirements of this division within any 12 month period of time is a misdemeanor, punishable by up to 90 days in jail, a fine up to $500, or both.

(4) A third violation of any of the requirements of this division, in addition to the penalties set forth in subsection (3) above, occurring within a seven year period of time shall result in the secondhand merchant operation or business being deemed a nuisance. Upon receipt of written notice from the city that the secondhand merchant's operation or business has been deemed a nuisance, all secondhand property transactions must cease and the secondhand merchant's registration will be revoked. Thereafter, the secondhand merchant shall not engage in any secondhand merchant activities covered by this division. After a period of one year, the secondhand merchant may petition the City Manager for the privilege of resuming the secondhand merchant activities. The secondhand merchant shall provide any and all information requested by the City Manager during the petition review process. If the secondhand merchant has honored the cessation order, has provided the City Manager will all requested information, and has not violated any laws during the closure period, the City Manager shall allow the operation or business to resume on an indefinite probationary status. Any violation of this division during the probationary operation of the business shall result in permanent closure.

(I) Appeal. The city's determination that a business or individual must register as a secondhand merchant may be appealed to the Ordinance Board of Appeals within 14 days of written notice of the determination. Because the interests of residents and law enforcement in finding and reclaiming stolen property outweigh the interests of a business or individual in conducting secondhand property transactions, the business or individual shall not engage in secondhand goods transactions without complying with the requirements of this division during that appeal time period and during the pendency of the appeal. During the appeal time period, during the pendency of the appeal, and during any period when a registration certificate has not been issued or has been revoked, the Chief of Police shall have the authority to post one or more conspicuous notices on the premises indicating that the business or individual is not authorized to undertake any transactions involving secondhand property. Persons or entities who are cited for a municipal civil infraction or charged with a misdemeanor pursuant to this division after expiration of the 14-day notice period may not avail themselves of this appeal provision, but may instead defend against the charge in the district court if desired.

(Ord. No. 425, § 1, 3-5-13)

12-22-12-40. RESERVED.

DIVISION 2. CIGARETTE VENDING MACHINES

12-41. SHORT TITLE.

This division shall be known as the "City of Sterling Heights Cigarette Vending Machine Ordinance" and may be cited as such.

(1978 Code, § 8.2-41; Ord. No. 293, § 1, 4-16-91)

12-42. DECLARATION OF PURPOSE.

In the interest of comporting with state law prohibiting the sale of tobacco products to minors and protecting the health and welfare of the residents of the city, especially minors, this division regulates the placement of cigarette vending machines within the city limits.

(1978 Code, § 8.2-42; Ord. No. 293, § 1, 4-16-91)

12-43. DEFINITIONS.

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

CIGARETTE VENDING MACHINES. Includes any machine which dispenses cigarettes or other tobacco products upon insertion of coins or tokens.

MANAGEMENT OF THE WORKPLACE. The individuals responsible for the daily operation and supervision of a private place of business.

MINORS. Includes any individual who has not attained his or her 18 birthday.

OWNER, ***OPERATOR*** or ***DISTRIBUTOR***. The individual owning and/or exercising control of the operation of the cigarette vending machines, including responsibility for stocking the machines and collecting the proceeds of sales.

(1978 Code, § 8.2-43; Ord. No. 293, § 1, 4-16-91; Ord. No. 293-A, § 1, 10-19-93)

12-44. LICENSES REQUIRED.

(A) No person shall use a cigarette vending machine to sell tobacco products without first obtaining a license for the placement of the cigarette vending machine in compliance with the provisions of this division.

(B) No cigarette vending machine shall be issued a license unless it is either:

(1) To be located in an establishment in which access by minors is prohibited by law;

(2) To be located in an area, office, plant, factory or private membership club that is not open to the public and is located not less than 20 feet from all entrances and exits that are accessible to the general public.

(C) Notwithstanding the above provisions, licenses may be granted for cigarette vending machines located in an establishment that has a Class C license under M.C.L. § 436.2(t) and one of the following applies:

(1) If the establishment has a bar that is located in a room that is separated from the remainder of the establishment by a wall and a doorway and the cigarette vending machine is located entirely in that room;

(2) If the establishment has a bar that is located in a room that is separated from the remainder of the establishment by a wall and a doorway and the cigarette vending machine is located not more than 20 feet from the bar, is located clearly within the bar area and not in a hallway, coatroom, restroom or similar unrelated area and is under the direct visual supervision of an adult.

(1978 Code, § 8.2-44; Ord. No. 293, § 1, 4-16-91; Ord. No. 293-A, § 2, 10-19-93)

12-45. LICENSES.

(A) Licenses shall be issued in accordance with the following:

(1) Licenses shall be issued annually by the City Clerk upon application;

(2) Applications for a license shall include the following information:

a. Name and business address of the owner, operator or distributor of each cigarette vending machine;

b. Address at which each machine is to be placed and its location within the establishment;

c. A statement that the applicant is familiar with the provisions of this division and will comply with it;

(3) Each application shall be accompanied by a fee, the amount of which shall be established by the City Council in the annual appropriations ordinance;

(4) Upon issuance of a license, the City Council will provide the owner, operator or distributor with an identification label for each licensed cigarette vending machine.

(B) Each cigarette vending machine licensed under this chapter shall have permanently affixed, in a conspicuous place, an identification label provided by the City Clerk. No person shall transfer identification labels from one cigarette vending machine to another.

(1978 Code, § 8.2-45; Ord. No. 293, § 1, 4-16-91; Ord. No. 388, § 7, 1-3-07)

DIVISION 3. OUTDOOR PATIO SPACE ("OPS")

12-46. PURPOSE.

Many service industry business establishments, including but not limited to establishments that serve alcoholic beverages for on-site consumption, utilize outdoor patio spaces at various times throughout the year for patrons to congregate for a variety of purposes, such as dining, drinking, and/or enjoying some form of entertainment. At times, the use of such areas can result in disturbances to neighboring properties, noise violations, and occupancy concerns. This division establishes licensing requirements designed to minimize the adverse secondary effects of such uses.

(Ord. No. 450, § 1, 12-20-16)

12-47. LICENSE REQUIRED.

The term "outdoor patio space" is abbreviated in this division as an OPS and includes, but is not limited to, a designated area outside of the primary structure to which it is attached, whether or not it is functionally capable of being completely enclosed, that is utilized for patron seating, dining and/or drink service for patrons, and any other form of patron congregation, with the exception of an outside area that is designated solely for smoking and which complies with the Dr. Ron Davis Smoke-Free Air Law. An OPS must be licensed by the city if it falls within any of the following categories:

(A) The OPS is defined by a perimeter of walls, fencing, trees, shrubbery, or any other design that restricts ingress and egress from the OPS, and the OPS is larger than 100 square feet.

(B) The business to which the OPS is open later than 10:00 p.m. Sunday through Thursday and/or later than 11:00 p.m. on Friday and Saturday. However, a license will not be required for the OPS if it is not accessible to the public or otherwise being utilized during unusual occasions when indoor business operations are extended beyond those times.

(C) Total tabletop space available outdoors on the site for patron use exceeds 100 square feet.

(D) Any form of amplified sound is transmitted on, in, from, or through the OPS.

(E) The OPS is part of an area licensed or authorized for alcoholic beverage consumption and/or service under the Liquor Control Code.

(Ord. No. 450, § 1, 12-20-16)

12-48. APPLICATION.

(A) By March 1, 2017, any person desiring a license to utilize an OPS for which a license is required under this division shall file with the City Clerk an application, under oath, on a form provided by the City Clerk. Applications shall include the following information:

(1) The full name of the applicant and whether the applicant is an individual or a corporation, partnership or other business entity;

(2) The name under which the business is operated and a copy of the current business registration and any applicable business licenses;

(3) The business address and all telephone numbers for the business;

(4) A copy of the signed lease for the business premises and written consent of the owner to utilize an OPS on the premises, if the premises are not owned by the applicant;

(5) The site plan number and the date of the meeting at which the site plan for the OPS was approved by the Planning Commission (if applicable), including a layout plan of the OPS showing:

a. Its overall design and placement on a scaled site plan;

b. The location of all seats, tables, serving areas, exits, trash receptacles, and any other temporary fixtures;

c. Lighting (other than decorative lighting);

d. Speakers, amplifiers, televisions, display screens, stages or performance areas, and similar installations designed to facilitate entertainment;

e. Design of any walls, railings, planters, and other screening and boundary elements; and

f. If outdoor heating elements are proposed (permanent or temporary), the location and design of such elements, which shall be required to meet all applicable codes prior to installation.

(6) The full name, address, and phone number of each individual who manages or is principally in charge of the operation of the business, with such information to be updated immediately with any new or changed information not found on the initial list;

(7) A detailed summary or description of the nature and type of services to be provided within the OPS;

(8) The days and times the OPS will be open to patrons;

(9) A release and authorization for the city, through its agents and employees, to seek information and conduct an investigation into the truth of the statements set forth on the application and the qualifications of the applicant for the license;

(10) Additional business establishments with an OPS that have been owned and/or operated by the applicant, in whole or in part, within the past ten years;

(11) Such other information as may be required by the Clerk;

(12) A written declaration by the applicant, given under oath or affirmation, under penalty of perjury, that the information contained in and attached to the application is true and correct.

(C) All applications shall be accompanied by a nonrefundable application fee in an amount set by the city's annual appropriations ordinance.

(D) It shall be a misdemeanor, punishable as provided in Chapter 1 of the city code, for any person to knowingly make any false, fraudulent, or untruthful statement, either written or oral, or in any way knowingly to conceal any material fact or to give or use any fictitious name in applying for a license under this division. Any license obtained in violation of this division shall be void.

(E) Each application shall also be accompanied by:

(1) A fully executed maintenance agreement acceptable to the City Attorney, assuring the upkeep and maintenance of, and the prevention of nuisances created by operation of, the OPS. The agreement shall remain in effect for as long as the OPS is operated and properly licensed, and shall include the applicant's agreement to cease operating the OPS until the operation is in full compliance with the requirements of the maintenance agreement. Any modifications to the OPS may require an amended maintenance agreement.

(2) A public liability and property damage insurance policy insuring the establishment and its personnel against any liability arising out of its utilization of an OPS on the premises. The city, including its employees, agents, officials, officers, and volunteers, shall be named as an additional insured. No person or entity shall maintain, utilize, or allow to be utilized any OPS unless the insurance required by this section is in force at the time of such operation.

(3) A fully executed indemnity agreement, approved by the City Attorney, whereby the applicant and property owner agree to indemnify and hold harmless the city and its officers, agents, and employees from any claim arising or resulting in any manner from the operation of the OPS.

(Ord. No. 450, § 1, 12-20-16)

12-49. DUTIES OF THE CITY CLERK REGARDING APPLICATIONS FOR OPS LICENSES.

(A) Upon receipt of a properly and fully completed application for a license, the City Clerk shall provide a copy of the application materials to the City Manager or his or her designee and shall forward a copy of the application materials to the following for their review, investigation, and recommendation:

(1) Chief of Police;

(2) Building Official;

(3) Fire Marshal;

(4) City Planner; and

(5) City Development Director.

(B) Except as provided in subsection (D), upon receipt of favorable recommendations from each of the investigating officials listed in subsection (A), the City Clerk shall issue a license to the applicant.

(C) Upon issuance of a license, the City Clerk shall notify each of the following of the issuance:

(1) Chief of Police;

(2) Building Official;

(3) Fire Marshal;

(4) City Planner;

(5) City Development Director; and

(6) City Manager.

(D) Denial. The City Clerk shall deny an application for any of the following reasons:

(1) The operation or facility, as proposed in the application, would not comply with all applicable laws, including, but not limited to, the city's building, fire, zoning, and health ordinances.

(2) The business is not registered with the City Clerk, does not have a proper certificate of occupancy, has unresolved code, liquor control, and/or property maintenance violations, is in default to the city for taxes or other obligations, or has pending litigation or pending ordinance violations in court.

(3) The applicant made a false, misleading, or fraudulent statement of fact or omission in the license application or any document required by the city in conjunction therewith, or has failed to submit all required information or the required fee.

(4) The applicant has had a similar permit or license denied, revoked, or suspended by the city or any other state or local agency.

(5) The applicant has not provided all of the information required to be submitted with an application pursuant to this division.

(6) The OPS or its use is no longer in compliance with approved plans or other approvals on file with the city.

(E) If the City Clerk denies an application, he or she shall notify the applicant by regular mail addressed to the applicant at the address shown on the application. Such notice shall specify the following:

(1) Notice of the proposed action.

(2) Reasons for the proposed action.

(3) A statement that the individual or entity has the right to appeal the decision to the Board of Ordinance Appeals by submitting a written application to the City Clerk or his or her designee within 14 calendar days.

(F) The City Clerk shall grant or deny a license application under this division within 60 days of receipt of the application, except that the City Clerk may extend that deadline upon request of an applicant in order for the applicant to attempt to remedy any correctable violations that would require denial if left uncorrected. The applicant may extend the deadline as often and for as long as it believes it will need, except that upon the expiration of one year from receipt of the application, the City Clerk shall issue a final grant or denial decision and close the matter. Thereafter, a new application from the applicant shall not be accepted by the City Clerk for a period of six months unless accompanied by documentation of a material change in circumstances, including but not limited to a correction or elimination of any previously outstanding violations or other reasons for denial. An OPS that is or has previously been lawfully in use prior to March 1, 2017 may continue to be utilized as an OPS while the license application is pending, unless the city identifies an immediate risk or hazard to public safety requiring closure, so long as the application is properly completed and submitted to the City Clerk prior to March 1, 2017.

(G) Each license issued under this division shall be valid until January 31 of the calendar year following the year in which it was issued. The expiration date shall be designated by the City Clerk on the license. A renewal form and any applicable fee must be submitted to the City Clerk prior to expiration of the license in order for the OPS use to continue. Upon receipt of a properly completed renewal form and any applicable fee, the license will be deemed renewed until and unless the City Clerk denies the renewal due to inaccurate or incomplete information or for any of the reasons a license may be suspended or revoked under this division.

(H) A party aggrieved, including but not limited to the applicant or an adjoining property owner or tenant, may appeal any decision under this section to the Board of Ordinance Appeals within 14 calendar days after the contested decision. An appeal must be made in writing and submitted to the City Clerk or his or her designee and shall contain the reasons supporting the appeal and any evidence that supports it. The person appealing may review the evidence that is the basis of any grant, inaction, or denial during the city's normal business hours. The city shall send notice of the meeting at which the appeal will be heard to all addresses within 1,500 feet of the OPS. The scope of the Board's review shall be limited to verifying the facts supporting a written decision to grant, not act upon, or deny a license. If the Board finds that the facts supporting the decision are correct, the grant, inaction, or denial shall not be disturbed.

(Ord. No. 450, § 1, 12-20-16)

12-50. USE OF LICENSE.

(A) Each license issued under this chapter shall be conspicuously displayed upon a wall of the establishment within the OPS or at the inside entrance to the OPS, including the approved layout of the OPS, unless the license is issued with a QR code that enables city personnel to scan the license and review the approved layout plans electronically. All licenses shall be made available, upon request, for inspection by any patron, police officer, or city official in order to confirm the information contained in the licenses. Within 72 hours of any change in fact, policy, or method which would alter the information provided in a license application, or on the license itself, the applicant/licensee shall notify the City Clerk of such change(s) in writing.

(B) It shall be a misdemeanor for any person to fraudulently make use of, to his or her own or another's benefit, a license issued to him, her, or another in accordance with this division.

(C) It shall be a misdemeanor for any person to counterfeit or forge the license required by this division or to deface or otherwise alter a license issued under the provisions of this division.

(D) A license issued under this division is not transferable, separable, or divisible, and the authority conferred shall be conferred only upon the individuals named on the license. Upon sale, transfer, or relocation of the establishment, the license therefor shall be null and void unless pre-approved by the City Clerk. It shall be the duty of all owners or licensees having knowledge of the sale, transfer, or relocation of the establishment to immediately report such sale, transfer, or relocation to the City Clerk's office. The failure to do so shall result in an immediate suspension of the license. An application for transfer shall be in writing, shall contain the same information as required by this division for an initial application for a new license, and shall be accompanied by the same fee as required for an application for a new license.

(E) It shall be a misdemeanor for any person operating an establishment to permit or allow an employee or any person whatsoever to violate any of the terms of this division while on the premises of the establishment, and it shall be a misdemeanor for any person at a licensed establishment to condone or allow any unlawful activity to occur on the licensed premises, whether within or outside the actual licensed building or the OPS.

(F) The hours of operation of an OPS shall be consistent with the hours of operation of the principal business to which it is attached, and a licensee shall be guilty of a misdemeanor if the OPS is utilized between the hours of 2:00 a.m. and 6:00 a.m.

(Ord. No. 450, § 1, 12-20-16)

12-50A. REGULAR INSPECTIONS AND SAFETY REQUIREMENTS.

(A) All premises used by a licensee under this division shall be periodically inspected by the Police Chief, Building Official, Fire Marshal, City Development Director, and City Planner, or their authorized representatives, for the safety of the OPS and compliance with all applicable laws, codes, ordinances, and any conditions imposed by any board or commission. A search warrant shall not be required for such inspections, in accordance with the opinion of the Michigan Supreme Court in *Gora v City of Ferndale*, 456 Mich 704 (1998). It is unlawful for any licensee to deny or refuse access to the premises or to hinder the official in any manner in the performance of his or her responsibilities under this division, and such refusal shall constitute sufficient grounds for immediate revocation of a license granted under the provisions of this division. The following minimum standards shall be maintained:

(1) An OPS must comply with all applicable construction, building, and fire codes and all other governmental laws and regulations, including all technical codes, as well as the conditions of any permits, licenses, or other approvals issued for, or governing, the use of the OPS.

(2) (a) An OPS must be "open air" but be enclosed around its perimeter to prevent ingress and egress from any location except the principal structure to which it is attached. Enclosures shall consist of metal railing, wood railing, brick walls, or other durable materials approved by the Building Official. No exits, doors, or gates shall be installed in the enclosure unless required by federal or state laws or codes, or unless specifically authorized by the Fire Department, Building Official, or a board or commission. Access to the OPS, and departure therefrom, shall not be permitted from any location other than the principal structure unless for emergency purposes. The OPS shall be located adjacent and connected to the indoor premises and all patrons shall enter and exit the OPS from inside the principal structure. The perimeter of the OPS shall be shielded and screened through the use of walls, fencing, trees, shrubbery, and/or other materials designed to mitigate sound and light emanating from the OPS.

(b) Exception: An OPS licensed under this division that consists solely of outside tables provided for patrons of the business is not required to comply with this division.

(3) Lighting for the OPS shall be shielded so as to prevent glare to adjacent properties, public rights-of-way, vehicles, and pedestrians.

(4) The OPS shall only be operated in accordance with a plan approved by the City Planner (or, if applicable, the Planning Commission) for mitigation of any potential nuisance caused by the use of speakers, amplified music, televisions, displays, lighting, performances, or other forms of entertainment.

(5) If required by the City Planner due to proximity of the OPS to nearby properties that may be residential or otherwise in use, the establishment shall post conspicuous signage visible to users of the OPS advising patrons to respect neighboring properties by not yelling, screaming, littering, singing, or otherwise engaging in activities that could disturb a neighboring property, and to depart the premises at the conclusion of their visit by leaving courteously and expediently, with no loitering in the parking areas or outside of the establishment.

(6) The establishment shall employ sufficient staff to ensure that noise levels within the OPS are not distracting any nearby residents and/or businesses, and also to maintain compliance and reduce congestion. The establishment shall also maintain staff to continuously patrol and monitor the exterior of the premises to address any noise and/or nuisance issues and facilitate the dispersal of individuals loitering on the site but outside of the OPS.

(7) Unless an alternative is specifically approved by the City Planner or a city board or commission, the ingress and egress points to and from an OPS into the principal structure (if applicable) shall be designed to muffle, mask, or prevent lights, vibration, and/or sound from inside the principal structure that could impact neighboring properties by installation of a vestibule, transition room, or hallway with a sound muffling door at each access point, or by installing a sound-muffling revolving door. All ingress and egress doors shall remain closed unless being utilized for immediate ingress or egress, or unless the business is closed to the public and employees are utilizing the doors during daylight hours for cleaning, stocking, and similar business purposes.

(8) An OPS and shall be regularly maintained in a safe, clean, litter-free, and orderly condition.

(9) All chairs, benches, tables, and other installations that are part of the outdoor seating area shall be of quality, durable material and shall be removed and stored in a legal location and manner when the OPS is not in use.

(10) Elevated platforms are prohibited unless specifically authorized by the City Planner or a city board or commission.

(11) If applicable, the maximum occupancy permitted in the OPS shall be posted in the OPS and at the inside entrance to the OPS in a conspicuous place. The licensee shall ensure that the number of occupants in the OPS does not exceed the posted limit at any time. A server or other person employed by the licensee who briefly enters and exits an OPS shall not be considered an occupant for the purposes of this division.

(12) All required city, county, and state permits, licenses, and approvals shall be secured prior to any OPS license becoming effective.

(B) For an OPS that is located upon property that adjoins, or is located within 500 feet of (measured from the approved boundary of the OPS to the applicable property line), any property zoned for, utilized for, or depicted on the city's master plan for future residential purposes, the following additional regulations apply:

(1) The applicant is required to comply with a nuisance mitigation plan.

(2) The nuisance mitigation plan must be submitted by the applicant with the license application. The nuisance mitigation plan will be presented by the City Planner to the Planning Commission for review under the standards set forth in the zoning ordinance.

(3) Failure to comply with the nuisance mitigation plan as approved by the Planning Commission shall be grounds for the Planning Commission to revise or revoke the nuisance mitigation plan. Ongoing or recurring instances of noncompliance shall be submitted by the City Planner to the Planning Commission for review. A license issued under this division shall be suspended by the City Clerk in the event that the Planning Commission revokes an approved nuisance mitigation plan. The license shall be reinstated if the Planning Commission later approves a new or revised nuisance mitigation plan or if the City Planner determines that the noncompliance is otherwise corrected.

(4) Ongoing instances of unforeseen or unintended consequences adverse to other properties or which extend beyond the property line shall be submitted by the City Planner to the Planning Commission for review and consideration of potential amendments to the terms and conditions applicable to the OPS.

(Ord. No. 450, § 1, 12-20-16)

12-50B. VIOLATIONS AND APPEALS.

(A) Unless otherwise specified, any violation of the provisions of this division shall result in the issuance of a municipal civil infraction citation carrying a fine of $500. A second or subsequent violation of the same provision within any consecutive 12-month period shall be deemed a misdemeanor, punishable as provided in Chapter 1 of the city code. Any and all entities, owners, managers, and operators may be issued a citation if deemed to be jointly responsible for the same violation.

(B) Any second violation of the same provision of this division, and/or any third violation of any provision of this division, within any consecutive 12-month period shall cause the City Clerk to suspend the license for 30 days. Any fourth violation of this division within any consecutive 12-month period shall cause the City Clerk to review the license for revocation. The City Clerk shall solicit a review of the development and utilization of the OPS from the Police Chief, Fire Chief, Building Official, City Development Director, and City Planner. The review shall be limited to determining whether the license should be revoked, either for (1) ongoing nuisance conditions, (2) continued violations of the original city approvals relating to the OPS application, and/or (3) other law, ordinance, or code violations arising out of the use and/or maintenance of the OPS and reasonably related to the public health, safety, and welfare. In the event that any of them recommend revocation, the City Clerk shall issue notice to the licensee that the license is revoked.

(C) The licensee may submit a written request to appeal any suspension or revocation pursuant to the appeal provisions set forth in this division.

(1) All suspension appeals shall be reviewed by the City Manager or his/her designee. Review is limited to (1) finding error in the conclusion of the City Clerk regarding the number and/or nature of violations, (2) finding that the licensee has satisfactorily demonstrated that one or more of the underlying violations was due to causes outside of its control, or (3) the licensee has implemented significant remedies to prevent future violations. A written decision shall be provided to the licensee within 14 calendar days.

(2) All revocation appeals shall be heard by the Board of Ordinance Appeals at its next regular meeting scheduled at least three calendar days after submission of the appeal.

(3) Upon submission of the appeal request, the licensee may continue to operate under the license until the decision of the City Manager or the Board is rendered unless the basis for the suspension or revocation is an immediate risk or hazard to public safety or continued disturbance of public tranquility.

(4) When considering a revocation appeal, the Board may uphold the revocation, reverse the revocation, or modify the revocation to a suspension with reinstatement conditioned upon any terms and conditions the Board determines to be reasonably necessary for the safe and lawful continued utilization of the OPS, including but not limited to referral to the Planning Commission if the Board determines that a required nuisance mitigation plan should be reviewed for potential revision.

(D) Ongoing violations of this division may also subject the licensee and/or property owner to the remedial and enforcement provisions set forth in §1-141 of the city code.

(Ord. No. 450, § 1, 12-20-16)

ARTICLE III. HOTELS AND MOTELS

12-51. SHORT TITLE.

This article shall be known as the “Hotel, Motel and Tourist Home License and Regulation Ordinance.”

(Ord. No. 337, § 1, 9-15-98)

12-52. DECLARATION OF PURPOSE.

In the interest of assisting the City of Sterling Heights with information to help provide more adequate police and fire protection and in the interest of preventing unsanitary living conditions, the use or sale of drugs by transients, prostitution, loitering and unsupervised juvenile activity in or near places designed to provide lodging for transient guests in the city, this article is established in order to regulate the operation of hotels, motels and tourist homes which are engaged in the business of providing rooms for lodging or sleeping purposes to transient guests and to provide an orderly and nondiscriminatory procedure for the review and approval by the city of any and all requests for hotel, motel or tourist home licenses or any matter relating thereto. Each person, firm or corporation who desires the license, approval or renewal of the same shall comply with the provisions of this article.

(Ord. No. 337, § 1, 9-15-98)

12-53. DEFINITIONS.

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

ACCOMMODATION(S). The room or other space provided to transient guests for lodging or sleeping, including furnishings and other accessories therein. ***ACCOMMODATIONS*** does not mean food or beverages.

APPLICANT. The person, corporation, partnership or other entity filing an application for a license under this article, including all officers, partners and other persons listed by name on the license application.

FINANCIAL TRANSACTION DEVICE. Any of the following:

(i) An electronic funds transfer card;

(ii) A credit card;

(iii) A debit card; or

(iv) A point-of-sale card.

HOTEL and/or ***MOTEL***. A building or group of buildings containing units (a bedroom, closet and a bathroom) or rooms, which provides accommodations for transient persons for compensation. Every building or structure kept, used or maintained as or advertised or held out to the public to be an inn, hotel, family hotel, apartment hotel, lodging house, dormitory or place where sleeping or rooming accommodations are furnished for hire or rent, whether with or without meals, shall be included within the definitions of hotel and motel, with the exception of tourist homes.

LICENSEE. A person, corporation, partnership or other entity which was granted a license under this article.

RESIDENT AGENT. A person who resides within Michigan and who is designated by the applicant to be contacted by city officials for purposes of addressing ordinance violations, compliance problems or any other issues reasonably related to the provisions of this chapter and who is granted the authority by the applicant or licensee to take action on his, her or its behalf to ensure compliance with this chapter and to accept service on behalf of the applicant and/or licensee.

TOURIST HOME. Any building in which there are less than ten rooms or rental units, other than rooms which are occupied by the family of the owner or lessee, which provides accommodations for transient persons for compensation.

TRANSIENT MEANS. A person lodging in and/or providing compensation for the use of any hotel, motel or tourist home facilities.

(Ord. No. 337, § 1, 9-15-98)

12-54. LICENSE REQUIRED.

No person, firm, corporation or other entity shall operate a hotel, motel or tourist home within the City of Sterling Heights without having first obtained a license for that purpose. A license shall expire December 31 two years following the date of issuance, unless sooner suspended or revoked. The city may impose reasonable conditions upon the issuance of any license. All persons, firms, corporations or other entities operating a hotel, motel or tourist home within the city at the time this article is adopted shall be permitted to continue the operation for 120 days, by which time a properly completed application for a license shall be submitted as required by this article and shall be permitted to continue such operation during the consideration of the application.

(Ord. No. 337, § 1, 9-15-98)

12-55. LICENSE REVIEW; TERM.

The City Clerk may undertake a review of any license at any time to determine whether or not the license should be renewed. Each license granted under this article shall be valid for a period of two years from the date of issuance, and expiration shall occur on December 31 thereafter.

(Ord. No. 337, § 1, 9-15-98)

12-56. APPLICATION; RENEWAL.

(A) Every applicant for a license to operate a hotel, motel or tourist home shall submit a current and fully completed "City of Sterling Heights Hotel/Motel Application," as prepared and furnished by the City Clerk, to the City Clerk’s office and pay a nonrefundable application fee. The fee shall be set by the City Council in the annual appropriations ordinance in an amount to cover the cost of investigation, review and inspection by the City of Sterling Heights of the application . The application shall contain the following information:

(1) The name, residence address and telephone number of a resident agent;

(2) The name, residence address and telephone number of each applicant:

a. If the applicant is a corporation, the name, residence address and telephone number of each of the officers and directors of the corporation and of each stockholder owning more than 10% of the stock of the corporation if that individual is or will be involved in the management and/or operation of the hotel, motel or tourist home and the address of the corporation itself. The applicant shall also provide documentation that the corporation is in good standing in the state of incorporation;

b. If the applicant is a partnership, the name of the partnership and the name, residence address and telephone number of each of the partners having at least a 10% ownership interest, as well as any individual who is or will be involved in the management and/or operation of the hotel, motel or tourist home;

c. If the applicant owns stock or has a financial interest in any other hotel, motel or tourist home, the name, address and telephone number of the corporation and the name, address and telephone number of each hotel, motel or tourist home;

(2) The address and legal description of the property where the license is to be located;

(3) A site plan showing the relationship of the structure to the surrounding property and uses and photographs or drawings of each of the sides of the structure in which the license shall be utilized;

(4) The history of the applicant in the operation of a hotel, motel or tourist home, or similar business or occupation, including but not limited to whether or not such person or business has previously operated under license in the city or another municipality or state and whether such person has had such license revoked or suspended, including the reason for such suspension;

(5) The social security number, driver's license number (if any) and date of birth of all applicants;

(6) Business, occupation or employment of the applicant(s) for the three years immediately preceding the date of application, including the name, address and telephone number of any and all employers;

(7) All criminal convictions of any applicant in the preceding ten years, including the dates of convictions, nature of the crime and place convicted;

(8) Authorization for the City of Sterling Heights, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application. The applicant shall give such additional information and identification necessary to discover the truth of the matters required to be set forth in the application;

(9) A statement concerning the proposed rates to be charged by the establishment; and

(10) The application shall be signed and sworn to by the applicant.

(B) Every licensee in good standing desiring to renew his, her or its license under this article shall submit a "Request for Renewal of License" form, as prepared and furnished by the City Clerk, to the City Clerk's office. A nonrefundable renewal fee shall be paid to the City Clerk's office, such fee to be established by the annual appropriations ordinance to cover the costs to the city of investigating and processing renewal requests. The renewal form shall contain any and all changes and updates to the information in the licensee's original application and shall be signed and sworn to by the applicant. The renewal process shall be subject to the same investigation process as the original application at the discretion of the City Clerk. Renewal shall be automatically granted by the City Clerk unless the City Clerk shall discover a lack of suitable character or other basis for denying an application under this article. Renewal forms must be submitted to the City Clerk's office by October 31 of the year in which the license will expire.

(Ord. No. 337, § 1, 9-15-98; Ord. No. 388, §§ 8 - 9, 1-3-07)

12-57. INVESTIGATION.

Upon receipt of the fully completed application, fees and such other information as may be required or requested by the city, the City Clerk shall refer the application as follows:

(A) To the Chief of Police, who shall investigate and determine whether the applicant for such license is of suitable character to conduct or maintain such a business in the City of Sterling Heights. The Chief of Police shall forward to the City Clerk the results of such investigation along with a recommendation concerning whether or not the license should be granted.

(1) The phrase ***OF SUITABLE CHARACTER***, as used in this article for the purpose of licensing, shall be construed to mean the propensity on the part of the applicant to serve the public in the licensed area in a fair, lawful and honest manner;

(2) In making his/her determination, the Chief of Police shall consider:

a. *Penal history.* All of the applicant's convictions in the preceding ten years, other than traffic violations, the reasons therefor and the demeanor of the applicant subsequent to his or her release;

b. *License and permit history.* The license and permit history of the applicant, whether such applicant is or was previously operating in this city or state or in another municipality or state under a license or permit which is or was revoked or suspended, the reasons therefor and the demeanor of the applicant subsequent to such action;

c. *Other information.* The Chief of Police may consider any other information and documentation which he or she considers relevant to make a determination as to whether the applicant is of suitable character;

(3) The Chief of Police shall complete his or her investigation and determination within a reasonable time, not to exceed 60 days, after being provided with the application;

(4) If based upon the report of the Chief of Police the City Clerk determines that an applicant is unqualified for a license because of lack of suitable character, or similar criteria, the applicant shall be furnished by the City Clerk with a statement containing information as to the basis for this determination.

(B) If the investigation by the Chief of Police does not cause the City Clerk to conclude that the applicant lacks suitable character, the City Clerk shall refer the application to the Building Official and Fire Chief, or their designated representatives, who shall cause a thorough inspection of the premises to be made to ensure that the premises are in compliance with all pertinent provisions of state law and local ordinances. The results of such inspections shall be returned to the City Clerk within 30 days of the date the application was referred.

(C) The City Clerk shall forward the application to such other departments as required by the City Manager, which departments shall make their recommendations prior to grant or denial of the application by the City Clerk. In making its review, the City Clerk may request from the applicant other pertinent information.

(D) The City Clerk shall issue its decision to grant or deny a license to an applicant within 120 days of receipt of the properly completed application.

(Ord. No. 337, § 1, 9-15-98)

12-58. LICENSE - REFUSAL, SUSPENSION, REVOCATION OR NONRENEWAL.

A license requested under this article may be refused by the City Clerk, and any license issued under the provisions of this article may be suspended, revoked or not renewed by the City Council for cause. The term ***CAUSE***, as used in this article, shall include the doing or omitting of any act or permitting any condition to exist on the premises for which a license is issued, which act, omission or condition is contrary to the health, safety and welfare of the public, is unlawful, irregular or fraudulent in nature, is unauthorized or beyond the scope of the license issued or is forbidden by this article or any applicable law. ***CAUSE*** shall include but not be limited to:

(A) Fraud or material misrepresentation in the application for license;

(B) Fraud or material misrepresentation in the operation of the licensed business;

(C) Any material violation of this article or of the regulations authorized herein;

(D) Any violation of federal or state law or local ordinance which creates a risk to the health, safety or welfare of the transients or to the community or brings into question whether the licensee is of suitable character to operate the business;

(E) Conducting the business in an unlawful manner or in such a manner as to constitute a maintenance of a nuisance upon or in connection with the licensed premises. For purposes of this article, ***NUISANCE*** shall be given the normal and customary meaning and shall include but not be limited to the following:

(1) Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes;

(2) A pattern or practice of patron conduct which is in violation of the law and/or interferes with the health, safety and welfare of the properties in the area;

(3) Failure to maintain the grounds and exterior of the licensed premises, including permitting litter, debris or refuse to exist on the premises outside of proper repositories or to blow or be deposited upon adjoining properties;

(F) Failure by the licensee to permit the inspection of the licensed premises by the city's agents or employees in connection with the enforcement of this article;

(G) Failure of the licensee to pay personal property taxes, other city obligations and real property taxes by February 14 of each year arising from the licensee's use and occupancy of the property. A licensee who does not own the real property is not responsible for the payment of the real property taxes unless a lease or contract requires such payment.

(Ord. No. 337, § 1, 9-15-98)

12-59. PROCEDURE FOR NONRENEWAL, REVOCATION OR SUSPENSION.

(A) Before any action is taken concerning nonrenewal, revocation or suspension of a license, the city shall serve the licensee by first class mail, mailed at least ten days prior to a hearing with notice of hearing before the City Council, which notice shall contain the following:

(1) Date, time and place of the hearing;

(2) Notice of the proposed action;

(3) Reasons for the proposed action;

(4) Names of witnesses known at the time who will testify;

(5) A statement that the licensee may be represented by legal counsel, present evidence and testimony and confront and cross-examine adverse witnesses;

(6) A statement requiring the licensee to notify the Sterling Heights City Attorney's office at least three days prior to the hearing date if he, she or it intends to contest the proposed action and to provide the names of witnesses known at that time who will testify on his, her or its behalf.

(B) Upon completion of the hearing, the City Council shall submit to the licensee a written statement of findings and determination within 30 days.

(C) During the procedure for nonrenewal, revocation or suspension, the licensee will be permitted to continue to operate until such time as the statement of findings and determination is served upon the licensee by mail or otherwise.

(Ord. No. 337, § 1, 9-15-98)

12-60. LICENSE REFUSAL; HEARING.

(A) Any person whose initial request for a license is refused shall have a right to a hearing before the City Council, provided a written request therefor is filed with the City Manager within ten days following such refusal. The City Council shall have the right to affirm and sustain any refusal to issue a license or the City Council may grant any license.

(B) In addition to the information required in this article, an applicant whose application for a license under this article was denied by the City Clerk should be prepared to submit and discuss any additional information required by the City Council for the appeal hearing.

(Ord. No. 337, § 1, 9-15-98)

12-61. RULES AND REGULATIONS.

The following rules, regulations and conditions shall be observed by each licensee under this article:

(A) All accommodations must afford easy and unobstructed access to a hall or passageway or to the outdoors;

(B) In every hotel, motel or tourist home hereafter erected, all accommodations shall be in compliance with the Building Code as adopted by the city and all applicable building codes in the city;

(C) In every hotel, motel or tourist home, there must be provided at least one toilet, washing facilities and shower and bathtub for every eight occupants or less. Hot and cold running water must be provided;

(D) The third or higher floor of any building shall not be used for lodging or sleeping purposes, unless equipped with fire escape facilities as required by all applicable regulations and codes and unless approved by the proper authorities designated in those regulations and codes;

(E) Rooms must be kept clean and free from dirt, vermin, garbage and rubbish. The licensee shall be responsible for the sanitary maintenance of the entire premises;

(F) Clean sheets, pillow cases, blankets and towels must be provided before a transient guest may occupy a bed previously occupied by another person;

(G) The cooking of food in or upon the premises is prohibited, other than in a kitchenette facility in compliance with applicable codes and regulations, and approved by the proper authorities designated in those codes and regulations. The use of hot plates or similar equipment which can be utilized to heat or cook food is specifically prohibited, with the exception of microwave ovens provided by the licensee. A notice to this effect shall be conspicuously posted in each accommodation, utilizing bold lettering;

(H) No guest shall remove any furniture from any of the licensee's facilities; nor shall any guest permit any furniture, regardless of whether it belongs to the licensee, to be placed outside of his or her room. A licensee, its agent(s) or its employee(s) shall take prompt action to immediately remove furniture from any area of public egress, whether it be a porch, driveway, walkway or any similar area;

(I) A register shall be provided and maintained on the premises near the main entrance and its information shall be submitted in printed form, upon demand, to any official or police officer of the City of Sterling Heights within a reasonable time, not to exceed one week. Register information shall be maintained by a licensee for a period of one year. The register shall contain the following information:

(1) The name and address of every guest renting a room. The licensee, or its agent, servant or employee shall request proper photo identification from all guests who are actually renting the room and who pay for the room with a means other than a financial transaction device and shall note in the register whether such request was made and whether such identification was actually provided;

(2) The make, year, model and color of every motor vehicle parked by a guest on the licensee's premises;

(3) The date and time of arrival and date of departure of every guest, the number of days each guest has been at the establishment during the calendar year and the amount paid by the guest for each stay;

(4) Where at least two persons occupy the same room, the total number of occupants that shall be lodging in and/or occupying the room;

(J) In addition to the required register information, the licensee shall also maintain telephone usage records for a period of one year for each room, accommodation and telephone (with the exception of public "pay" telephones) on the licensee's premises. The telephone usage information shall be submitted in printed form, upon demand, to any police officer of the City of Sterling Heights within a reasonable time, not to exceed one week. The information to be maintained should include but is not limited to the telephone number called, the date and time of the call and the telephone and/or room from which the call was made;

(K) No licensee shall knowingly permit any accommodations and/or other location on the premises to be used for an unlawful purpose. A licensee with reasonable cause to believe that the premises are being used for an unlawful purpose shall be deemed to be "knowing" for purposes of this section;

(L) All licensees shall permit free access by building officials, the fire marshal, the Chief of Police or their representatives at all reasonable times. All licensees shall exhibit, upon demand, a valid license issued by the city authorizing the operation of the establishment. Before a license is issued under this article and bi-annually thereafter prior to renewal inspection of the premises shall be made by the inspection division which shall certify that the applicable provisions of the Housing Code have been complied with. The bi-annual inspection period shall be October 1 through December 31, subsequent to the initial inspection;

(M) The right to occupy any accommodation shall not be assigned or transferred without the express written consent of the licensee. No licensee shall permit any transient to obtain accommodations for more than 90 consecutive days, except as provided in § 12-63;

(N) No pets of any kind shall be permitted in any accommodation or otherwise on the licensee's premises, with the exception of leader dogs for the blind, animals harbored on the premises for security reasons and any such animals as may be exempt from this section by state or federal law;

(O) All licensees shall post in each room and accommodation, in a prominent and conspicuous place and manner, an accurate egress route to be followed by the licensee's guests in the event of fire or other emergency. This section shall not apply where the room or accommodation has an exit door that opens directly to the outdoors at ground level;

(P) These rules and regulations (§§ 12-61, 12-64 and 12-67 of this article) shall be conspicuously displayed with the license at each registration area.

(Ord. No. 337, § 1, 9-15-98)

12-62. APPROVAL CONTINGENCIES.

(A) Approval of any license under this article will be contingent upon the obtaining of any necessary permits as required by the Sterling Heights Code of Ordinances, the City Manager and the City Council, within six months from the date of such approval. The construction of new buildings and alterations of existing buildings shall commence within six months after the date of approval, with a completion date of no more than one year after the issuance of the relevant building permits. Extensions for completion of construction or alteration may be granted by the City Council for good cause.

(B) No applicant for a license under this article has a right to the issuance of such license to him, her or it, and the City Clerk reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such licenses, subject to the right of appeal to the City Council. Upon appeal, the City Council reserves the right to exercise reasonable discretion to determine whether the City Clerk's denial decision shall be overruled.

(Ord. No. 337, § 1, 9-15-98)

12-63. LONGER TERM OCCUPANCY LIMITATIONS.

Longer term occupancy of accommodations may be permitted in a hotel, motel or tourist home, subject to the following limitations.

(A) The licensee shall provide a report to the city on a quarterly basis (January 1, April 1, July 1, October 1 of each calendar year) of the number of accommodations being utilized in excess of 90 consecutive days. The quarterly report shall include:

(1) The correct name and address of every guest renting, occupying or residing at the licensee's establishment for a period in excess of 90 days, including but not limited to non-paying minors and/or dependents;

(2) The date and time of arrival and date and time of departure of every guest who has utilized an accommodation in excess of 90 consecutive days;

(3) A description of the specific accommodation, including the dimensions of the accommodation, the existence of a kitchenette and available appliances, the existence of a bathroom, the number of beds and a description of any other appliances or facilities available in the specific accommodation.

(B) Any room occupied in excess of 90 days shall be considered to be a residence and open for inspection, as provided by law, for compliance with state and local laws and codes by personnel of the Police Department, Fire Department, Building Department and any other department of the city. A fee, set by the annual appropriations ordinance, may be assessed to recoup the costs of the inspection.

(Ord. No. 337, § 1, 9-15-98; Ord. No. 388, § 10, 1-3-07)

12-64. REPORTING FALSE INFORMATION.

It shall be a violation of the article for any person to inscribe in any hotel, motel or tourist home register or to give for the purpose of being inscribed in such register or for a quarterly report any false information. Knowing or having reasonable cause to believe such information to be false, the licensee or its employee shall notify the Police Department of such fact and failure to do so shall be grounds for revocation of the license.

(Ord. No. 337, § 1, 9-15-98)

12-65. SMOKING IN BED PROHIBITED.

It shall be unlawful for any transient guest to smoke while in bed or for any licensee to permit smoking in bed. A conspicuous notice to this effect shall be posted in each room.

(Ord. No. 337, § 1, 9-15-98) Penalty, see §1-9

12-66. REPORTING OF FIRES.

Each licensee under this article shall cause the Fire Department of the City of Sterling Heights to be immediately notified when a fire occurs within its establishment. Any person therein who discovers such a fire shall immediately notify the person in charge in the place of registration.

(Ord. No. 337, § 1, 9-15-98)

12-67. NO ASSIGNMENT OF LICENSE.

No license granted pursuant to this article may be assigned, transferred or otherwise utilized by any other person or entity other than the licensee.

(Ord. No. 337, § 1, 9-15-98)

12-68. MAINTAINING OF A PUBLIC DISORDER.

A licensee shall be guilty of maintaining a public disorder when the licensee or any of the licensee's employees knowingly permit prostitution, pimping, gambling or the unlawful sale of narcotics or controlled substances to be conducted upon the premises or immediately adjacent to the premises by any person or persons letting a room or rooms from said licensee.

A licensee shall be held to be guilty of maintaining a public disorder when the licensee or any employee of the licensee through the exercise of ordinary care and diligence under such circumstances that a reasonable person would infer that prostitution, pimping, gambling or unlawful sale of narcotics or controlled substances is being conducted upon the premises or immediately adjacent to the premises by any person or persons letting a room or rooms from the licensee fails to discover the fact.

However, no licensee shall be punished for maintaining a public disorder if the licensee notifies the police of suspicions that the aforesaid conduct is occurring on the premises and/or the licensee terminates the letting of the room or rooms immediately upon learning that the aforesaid conduct is occurring on or adjacent to the licensee's premises. No employee of the licensee shall be punished for maintaining a public disorder if the employee makes the notification required herein or notifies the licensee of the existence of the prohibited conduct for the licensee's action immediately upon learning that the conduct is occurring on or immediately adjacent to the premises.

(Ord. No. 337, § 1, 9-15-98)

12-69. INVESTIGATION.

Whenever the police are called or have occasion to be on the licensee's premises for the purposes of making a police report relative to criminal conduct or an arrest, the Chief of Police shall cause to be conducted an investigation as to whether the "Maintaining of a Public Disorder" is occurring as defined herein and prepare a written report of the investigation and his or her findings and recommendation. The report shall be transmitted within a reasonable time, not to exceed 72 hours, to the City Attorney and to the City Manager's office for further actions as warranted.

(Ord. No. 337, § 1, 9-15-98)

12-70. PENALTIES.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding $500 or be imprisoned for a period not exceeding 90 days, or be both so fined and/or imprisoned, in the discretion of the court. Any entity violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding $500 and shall be subject to the revocation procedures set forth in this article.

(Ord. No. 337, § 1, 9-15-98)

12-71 - 12-80. RESERVED.

ARTICLE IV. PAWNBROKERS

12-81. SHORT TITLE.

This article may be known and may be cited as the City of Sterling Heights "Pawnbrokers Ordinance."

(Ord. No. 398, § 1, 10-21-08)

12-82. INTENT.

The City Council hereby finds that the public health, safety, and welfare are best served by the adoption of an ordinance providing for the licensing and regulation of pawnbrokers operating within the city. The purpose of this article is to insure the protection of the public health and safety through the establishment of certain licensing and regulatory standards pertaining to pawnbrokers within the city. The holding of any pawnbroker related license is hereby declared to be a privilege, and not a right. The provisions of this chapter shall not be held to grant any rights or privileges to operate as a pawnbroker in areas of the city that are not zoned for such a use.

(Ord. No. 398, § 1, 10-21-08)

12-83. DEFINITIONS.

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

PAWNBROKER. A person, corporation, or member, or members of a co-partnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Definition, see M.C.L. § 446.203(e)

12-84. COMPLIANCE WITH ARTICLE.

All persons licensed under this article shall conduct business in conformity with the rules, regulations, and conditions set forth in this article. A license shall not be deemed to be a property right, but instead shall be deemed a privilege that may only be maintained by complying all applicable laws, ordinances, rules, and regulations applicable not only to the licensee and the establishment, but also to the licensee and its employees as individuals. The violation of any laws, ordinances, rules, or regulations shall be grounds for denial of a pending license application, suspension or revocation of an existing license, or the refusal to renew a license. Every licensee, by virtue of accepting a license under this article, shall be held to have faithfully covenanted with the city to operate and maintain its business in conformity with this article. The licensee shall comply with all other city ordinances and regulations, except that to the extent that any real or perceived conflicts exist, the provisions of this article shall control.

(Ord. No. 398, § 1, 10-21-08)

12-85. REMEDIES FOR VIOLATION OF ARTICLE.

Engaging in the business of a pawnbroker in violation of the provisions of this article is declared to be a nuisance per se and, in addition to the penalties set forth herein and in state law, such operation may be enjoined and abated by a court of competent jurisdiction.

(Ord. No. 398, § 1, 10-21-08)

12-86. LICENSE REQUIRED; FEES AND BOND; NO EXEMPTIONS.

(A) No person shall carry on the business of a pawnbroker in the city without first having obtained a license issued by the City Clerk, authorizing such person to carry on such business subject to the provisions of this article. The fee for a pawnbroker's license, and for renewal of such license, shall be in the amount established by the annual appropriations ordinance, but not more than the limit established by state law. The licensee shall provide a bond to the city in the penal sum established by the annual appropriations ordinance and state law, with at least two sureties, conditioned for the faithful performance of the duties and obligations pertaining to the conduct of the business, and for the payment of all costs and damages incurred by any violation of state law or local ordinance.

(B) Licensure under either or both of the following acts, or related city ordinance, does not exempt a person or business from obtaining a license under this article:

(1) The precious metal and gem dealer act.

(2) The secondhand dealers and junk dealers act.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

License required, see M.C.L. § 446.201(1)

Fees, bonds, and sureties, see M.C.L. § 446.202(4)

No exemptions, see M.C.L. § 446.201(2)

12-87. APPLICATION.

Any person desiring to engage in the business of a pawnbroker in the city shall make application in writing to the City Clerk and shall furnish the following and such other information as may be required by the city to consider such application:

(A) Full name and address of applicant or applicants. If an association, give the full name. If a corporation, give the full name and the official address thereof with the date and state of incorporation, the full name and address of the resident agent, and attach to the application a copy of the certificate from the state of incorporation indicating that the corporation is in good standing. If a limited liability company, give the full name and the official address thereof with the date and state of organization, the full name and address of the members and of the resident agent, and attach to the application a copy of the certificate from the state of organization indicating that the company is in good standing;

(B) Full name and address of all other owners, copartners, officers, and directors, and, if a closely held corporation, all shareholders, or, if a limited liability company, all managers and members. A closely held corporation shall include any corporation having complete stock ownership in 20 or less persons;

(C) Fingerprints of applicant and other persons mentioned in division (B) above;

(D) The location of the place(s) of business where the applicant proposes to engage in the business of a pawnbroker;

(E) Full names and addresses of all persons to be employed in the operation of the business;

(F) Individual affidavits of each of the persons mentioned in divisions (B) and (E) above indicating that each person has not been convicted of or pled guilty or no contest to a felony or any moral turpitude offense within ten years prior to the date of the application, has not been convicted of any other criminal acts within five years prior to the date of the application, has never been convicted of or pled guilty or no contest to a violation of state or local law relating to pawnbroker businesses or the services performed therein, and has never had a license or permit to operate a pawnbroker business denied, suspended, or revoked.

(G) A sworn statement as to the truth of the statements in the application.

(Ord. No. 398, § 1, 10-21-08)

12-88. INVESTIGATIONS BY POLICE CHIEF; INSPECTIONS.

(A) Upon receiving an application for a pawnbroker's license, the City Clerk shall refer such application to the Chief of Police, who shall conduct an investigation into the applicant's moral character and personal and criminal history. The Chief of Police may, in his or her discretion, require a personal interview of the applicant and such further information, identification, and physical examination of the person as shall bear on the investigation.

(B) Upon the referral of an application for a pawnbroker's license by the City Clerk, the Chief of Police shall also cause to be conducted an investigation of the premises where the pawnbroker business is to be carried on for the purpose of ensuring that such premises comply with all of the requirements set forth in this article and with ordinances of the city related to public health, safety and welfare.

(C) An applicant for a pawnbroker license, or renewals thereof, shall submit to lawful inspections by the Building Department, Police Department, Fire Department, and such other departments as may be necessary to ensure that the proposed business and applicant comply with all applicable ordinances and regulations of the city. The Chief of Police may refuse to submit any report of his or her investigations until he or she has a report from any department that he or she feels is necessary to make an inspection stating that the applicant or proposed premises comply with all ordinances and regulations.

(D) Before the City Clerk shall issue any license under this article, the Chief of Police shall first submit to the City Clerk within 90 days of the receipt of an application, a report of his or her investigations and inspection and his or her recommendation.

(Ord. No. 398, § 1, 10-21-08)

12-89. ISSUANCE OR DENIAL.

(A) Upon receipt of the report and recommendation from the Chief of Police required under this article, the City Clerk shall transmit the application to the City Manager, who shall consider the same within a reasonable time, either granting or denying the license.

(B) The City Manager shall deny a license or renewal of the license whenever it appears that:

(1) The correct license fee has not been tendered to the city, or, in the case of a check or bank draft, such check or draft has not been honored with payment upon presentation.

(2) The pawnbroker business, as proposed by the applicant, if permitted would not comply with all applicable laws, including, but not limited to, the city's building, fire, and zoning ordinances, or if the business fails to comply with any of the terms of this article.

(3) The applicant, if an individual, or any of the applicant's employees or personnel; any of the stockholders holding more than 10% of the stock, any officer and any director, if a corporation; any member or manager, if a limited liability company; and the manager or other person involved in the operation of the business, has pled guilty or no contest to, or has been convicted of, any felony or any crime of moral turpitude, including but not limited to theft, gambling, extortion, or fraud, unless such plea or conviction occurred at least ten years prior to the date of the application, or has pled to or been convicted of any other crime during the five years prior to the date of application, or has pled to or been convicted of any crime relating to the business of a pawnbroker.

(4) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the city.

(5) The applicant has had a similar business license, or other similar permit or license, denied, revoked, or suspended by the city or any other state or local agency within ten years prior to the date of the application.

(Ord. No. 398, § 1, 10-21-08)

12-90. EXPIRATION; RENEWAL; TRANSFER.

(A) All licenses shall be valid for one year except the first year of issuance, because all such licenses shall expire on December 31 of the year of issuance unless revoked for cause. Licenses shall be renewable upon application to the City Clerk, who shall submit the application to the City Manager for review and recommendation.

(B) Licenses are not transferable. The license shall designate the particular place in the city where the licensee shall conduct the business. A person, corporation, or firm receiving a license shall not conduct the business in any other place than the place designated in the license. In the event of a sale or transfer of the business, the new owner shall apply for and obtain a license pursuant to this article before entering into the operation of a pawnbroker.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Valid for one year and not transferable, see M.C.L. § 446.202(3)

12-91. RECORD OF PROPERTY RECEIVED; INSPECTION.

(A) A pawnbroker shall keep a record in English, at the time the pawnbroker receives any article of personal property or other valuable thing by way of pawn, that includes a description of the article, a sequential transaction number, any amount of money loaned on the article, the name, residence, general description, and driver license number, official state personal identification card number, or government identification number of the person from whom the article was received, and the day and hour when the article was received. The record, the place where the business is carried on, and all articles of property in that place of business are subject to examination at any time by the city attorney, the police department, code enforcement officers, the Macomb County Prosecuting Attorney, or the department of state police.

(B) Upon the receipt of any article of personal property or other valuable thing by way of pawn, the pawnbroker shall make a permanent record of the transaction on a form provided by the pawnbroker that substantially complies with the form described in state law. Each record of transaction shall be completed in duplicate by the pawnbroker, legibly in the English language, and shall contain all applicable information required to complete the record of transaction form. This subsection does not prohibit the use and transmission of the information required in the record of the transaction by means of computer or other electronic media as permitted by the police department.

(C) The pawnbroker shall retain a record of each transaction and, every Monday unless requested by the Chief of Police that it be sent more expeditiously, shall send one copy of the record of transaction to the police department.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Recordkeeping, see M.C.L. § 446.205

12-92. STATEMENT TO POLICE OF PROPERTY RECEIVED; CONTENTS; IDENTIFICATION AND THUMB PRINT OF PERSON FROM WHOM PROPERTY RECEIVED.

(A) Every pawnbroker shall make a sworn statement of his transactions to the Chief of Police of the city every Monday, unless requested more expeditiously by the police department, describing the articles received, and the name, residence, and description of the person from whom the articles were received.

(B) When a pawnbroker receives any item of personal property, or other valuable thing, by way of pledge or pawn, except new items, wares, or merchandise purchased from wholesale distributors or jobbers for retail sales to customers; motor vehicles; old rags; waste paper; books; magazines; tapestries; antiques; and household furniture; he or she shall take in duplicate the legible imprint of the right thumb of the person from whom the property was received, or if not possible, of the left thumb of such person. A copy of the imprint shall be forwarded to the Chief of Police with the sworn statement of transactions.

(C) Every pawnbroker shall also cause to be made a facsimile copy of the driver's license or, if unavailable, another form of picture identification, of the person from whom the pawned property is received. A copy of the license or picture identification shall be forwarded to the Chief of Police, together with the sworn statement of transactions and thumb print.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Sworn statement, see M.C.L. § 446.206

12-93 PURCHASER'S MEMORANDUM OF PAWN; CONTENTS; INTEREST ON CERTAIN LOANS.

A pawnbroker, at the time of a loan, shall deliver to the person pawning or pledging any article a memorandum or note signed by him or her, containing the substance of the entry required to be made by him or her in his or her record of transactions under this article and state law. A charge shall not be made or received by the pawnbroker for the entry, memorandum, or note. The memorandum or note shall be consecutively numbered and upon its back shall be printed in English in 12-point type the following: "If interest or charges in excess of 3% per month, plus storage charges provided in this document, are asked or received, this loan is void and of no effect; and the borrower cannot be made to pay back the money loaned, any interest on the loan, or any charges or any part of the charges, and the pawnbroker loses all right to the possession of the goods, article, or thing pawned, and shall surrender the item to the borrower or pawner upon due demand for the item."

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Purchaser's note, see M.C.L. § 446.208

12-94. INTEREST ON LOANS; RATE, STORAGE CHARGE, TIME OF PAYMENT, COMPUTATION.

(A) Unless state law provides otherwise, a licensed pawnbroker may charge upon any loan a rate of interest not to exceed 3% per month and is not required to accept any interest less than 50 cents on a single loan. A pawnbroker may also charge $1.00 per month or fraction of a month for the storage of property under any single pledge or pawn.

(B) A pawnbroker may charge $1.00 per month or fraction of a month for a usage fee for unencumbered personal property pawned or pledged and used by the pawner during the term of the pawn or pledge. A usage fee charged under this section is not considered interest.

(C) A pawnbroker or the pawnbroker's agent or employee shall not charge or receive interest on the loan in excess of the amounts provided for under state law.

(D) Interest on any loan is not payable in advance and shall be computed on unpaid monthly balances without compounding.

(E) A pawnbroker is not entitled to any examination fee and shall not make any charge in excess of the amounts provided for under state law.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Interest and charges, see M.C.L. § 446.209

12-95. SALE OF PAWNED PROPERTY AT PUBLIC AUCTION; TIME, PLACE, NOTICE, AFFIDAVIT OF PUBLICATION OF NOTICE.

(A) Title to the item pledged or pawned vests in the pawnbroker upon the expiration of three months or of any period beyond three months agreed upon by the parties if the borrower has not paid the debt, interest, and charges on the item pledged or pawned.

(B) A pawnbroker shall not sell any pawn or pledge until the item has remained in his or her possession for at least three months.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Title and sales, see M.C.L. § 446.210

12-96. TENDER OF DEBT AND COSTS BEFORE SALE; EFFECT OF RIGHT TO PROPERTY.

(A) If at any time before the sale of the item pledged or pawned the borrower pays or tenders to the pawnbroker the debt and interest and charges on the item, that payment or tender reinvests the pawner with the title and right of possession to the property pledged.

(B) A pawnbroker may agree in writing, after pledged or pawned unencumbered personal property has been deposited with the pawnbroker, to allow the pawner to maintain possession and use of the pledged or pawned unencumbered personal property during the term of the pawn or pledge transaction. The agreement may also include the payment of a usage fee under this article. A pawnbroker may take possession of the pledged or pawned property pursuant to Section 9609 of the Uniform Commercial Code, 1962 PA 174, M.C.L. 440.9609.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Redemption, see M.C.L. § 446.211

12-97. PAWNED PROPERTY; DESTRUCTION OR DEFACING UNLAWFUL.

(A) A pawnbroker shall not deface, scratch, obliterate, melt, separate, or break into parts any article or thing received by him or her in pawn, or otherwise or in any manner do, cause, or suffer to be done by others, anything that destroys or tends to destroy the identity of the article or thing, or tends to render the identification of the thing or article more difficult.

(B) A pawnbroker shall not accept by way of pledge, pawn, purchase, or exchange any article or thing that customarily bears a manufacturer's serial number or other identifying insignia unless the number or insignia is plainly visible on the article or thing.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Defacing pawned property, see M.C.L. § 446.213

12-98. PAWNED PROPERTY; ACCEPTANCE FROM SUSPICIOUS PERSON OR MINOR UNLAWFUL.

A pawnbroker shall not receive for pawn any article from any person under 18 years of age or a person the pawnbroker suspects as having stolen the article to be pawned.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Identical provision, see M.C.L. § 446.213

12-99. TRANSACTION OF BUSINESS ON SUNDAY UNLAWFUL.

A pawnbroker shall not conduct any business on Sundays.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Identical provision, see M.C.L. § 446.217

12-100. VIOLATION; PENALTY.

(A) Any person who shall violate or permit a violation of any of the provisions of this article, whether as an owner, or as clerk, agent, servant or employee, shall be guilty of a misdemeanor and subject to the penalties set forth in Chapter 1 of the city code.

(B) Upon the conviction of any person doing business as a pawnbroker under the provisions of this article, or upon conviction of any clerk, agent, servant or employee of any such person, the pawnbroker's license shall be revoked forthwith by the City Clerk, and no part of the license fee shall be returned. In addition, the pawnbroker shall not be eligible to apply for another pawnbroker license for a period of five years from the date of revocation.

(Ord. No. 398, § 1, 10-21-08)

Statutory reference:

Minimum penalties and revocation period, see M.C.L. §§ 446.218, 446.219

12-101. APPEAL.

(A) Within ten days of receipt of notification of suspension, revocation, or denial of a license under this article, an applicant may request, in the form of a written application to the City Manager, a reconsideration hearing before the Ordinance Board of Appeals. Such application may request either reconsideration of the suspension, revocation, or denial, or a variance of any of the provisions or requirements of any law, ordinance, code, or regulation the violations of which constituted grounds for the suspension, revocation, or denial, or both.

(B) The appeal must state specifically the applicant's reasons for believing the actions of the applicable city official were erroneous, and a copy of the decision or notice complained of should be attached to the appeal.

(C) The appeal hearing shall be conducted in accordance with the provisions in Chapter 2 of the Code of Ordinances. At the hearing, the appellant and the appellant's attorney may present a statement and evidence showing:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the proposed pawnshop referred to in the appeal application submitted to the City Manager, which circumstances or conditions do not apply generally to any proposed pawnshop; and/or

(2) That the granting of pawnshop license will not, under the circumstances of the particular case, have a material adverse effect upon the health, safety, or welfare of the persons residing or working in the neighborhood or attending the pawnshop, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to the immediate neighborhood or the city at large.

(D) In all cases where the Ordinance Board of Appeals reverses or modifies an administrative decision to suspend, revoke, or deny, the Ordinance Board of Appeals shall condition its order in any manner it deems necessary or desirable and which will be in harmony with the general purpose and intent of this article, and which will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(E) In no event shall the Ordinance Board of Appeals grant a variance or relax or overturn an administrative decision where the suspension, revocation, or denial is based upon the occurrence of criminal acts, fraud, dishonesty, or other acts of moral turpitude, if established at the hearing by a simple preponderance of the evidence.

(F) The Ordinance Board of Appeals shall not have any authority to grant a variance for any regulations in the city's zoning ordinance that affect pawnshops.

(Ord. No. 398, § 1, 10-21-08)

12-102 - 12-119. RESERVED.

ARTICLE V. BODY ART FACILITIES

12-120. SHORT TITLE.

This article may be known and may be cited as the City of Sterling Heights "Body Art Facilities Ordinance."

(Ord. No. 398, § 2, 10-21-08)

12-121. INTENT.

The City Council hereby finds that the public health, safety, and welfare are best served by the adoption of an ordinance governing the establishment and maintenance of body art facilities within the community. However, because body art facilities are now a regulated industry under state law, the City Council has limited this article to local regulations and concerns not addressed by the Michigan Legislature.

(Ord. No. 398, § 2, 10-21-08)

12-122. DEFINITIONS.

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

BODY ART FACILITY. A location at which an individual does one or more of the following for compensation:

(1) Performs tattooing.

(2) Performs branding.

(3) Performs body-piercing.

BODY-PIERCING. The perforation of human tissue other than an ear for a nonmedical purpose.

BRANDING. A permanent mark made on human tissue by burning with a hot iron or other instrument.

TATTOO. One or more of the following:

(1) An indelible mark made upon the body of another individual by the insertion of a pigment under the skin.

(2) An indelible design made upon the body of another individual by production of scars other than by branding.

(Ord. No. 398, § 2, 10-21-08)

Statutory reference:

Definitions, see M.C.L. § 333.13101(1)

12-123. LICENSE AND PERMIT REQUIREMENTS.

(A) All body art facilities must be licensed by the Department of Community Health as required by state law. Inspections will be conducted by the Macomb County Health Department unless designated otherwise by the county.

(B) All body art facilities shall also obtain a permit issued by the City Clerk. The fee for a body art facility permit, and for renewal of such permit, shall be in the amount established by the annual appropriations ordinance, but not more than the fees for a statutory license.

(Ord. No. 398, § 2, 10-21-08)

Statutory reference:

State law allowing local permits, see M.C.L. § 333.13111

12-124. APPLICATION.

Any person desiring to engage in the business of a body art facility in the city shall make application in writing to the City Clerk and shall furnish the following and such other information as may be required by the city to consider such application:

(A) Full name and address of applicant or applicants. If an association, give the full name. If a corporation, give the full name and the official address thereof with the date and state of incorporation, the full name and address of the resident agent, and attach to the application a copy of the certificate from the state of incorporation indicating that the corporation is in good standing. If a limited liability company, give the full name and the official address thereof with the date and state of organization, the full name and address of the members and of the resident agent, and attach to the application a copy of the certificate from the state of organization indicating that the company is in good standing;

(B) Full name and address of all other owners, copartners, officers, and directors, and, if a closely held corporation, all shareholders, or, if a limited liability company, all managers and members. A closely held corporation shall include any corporation having complete stock ownership in 20 or less persons;

(C) Fingerprints of applicant and other persons mentioned in division (B) above;

(D) The location of the place(s) of business where the applicant proposes to engage in the business of a body art facility;

(E) Full names and addresses of all persons to be employed in the operation of the business;

(F) Individual affidavits of each of the persons mentioned in divisions (B) and (E) above indicating that each person has not been convicted of or pled guilty or no contest to a felony or any moral turpitude offense within ten years prior to the date of the application, has not been convicted of any other criminal acts within five years prior to the date of the application, has never been convicted of or pled guilty or no contest to a violation of state or local law relating to body art facilities or the services performed therein, and has never had a license or permit to operate a body art facility denied, suspended, or revoked.

(G) A sworn statement as to the truth of the statements in the application.

(Ord. No. 398, § 2, 10-21-08)

12-125. INVESTIGATIONS BY POLICE CHIEF; INSPECTIONS.

(A) Upon receiving an application for a body art facility permit, the City Clerk shall refer such application to the Chief of Police, who shall conduct an investigation into the applicant's moral character and personal and criminal history. The Chief of Police may, in his or her discretion, require a personal interview of the applicant and such further information, identification, and physical examination of the person as shall bear on the investigation.

(B) Upon the referral of an application for a body art facility permit by the City Clerk, the Chief of Police shall also cause to be conducted an investigation of the premises where the body art facility's business is to be carried on for the purpose of ensuring that such premises comply with all of the requirements set forth in this article and with ordinances of the city related to public health, safety, and welfare.

(C) An applicant for a body art facility permit, including renewals, shall submit to lawful inspections by the Building Department, Police Department, Fire Department, and such other departments as may be necessary to ensure that the proposed business and applicant comply with all applicable ordinances and regulations of the city. The Chief of Police may refuse to submit any report of his or her investigations until he or she has a report from any department that he or she feels is necessary to make an inspection stating that the applicant or proposed premises comply with all ordinances and regulations.

(D) Before the City Clerk shall issue any permit under this article, the Chief of Police shall first submit to the City Clerk within 90 days of the receipt of an application, a report of his or her investigations and inspection and his or her recommendation.

(Ord. No. 398, § 2, 10-21-08)

12-126. ISSUANCE OR DENIAL; APPEAL.

(A) Upon receipt of the report and recommendation from the Chief of Police required under this article, the City Clerk shall either grant or deny the permit.

(B) The City Clerk shall deny a permit or renewal of the permit whenever it appears that:

(1) The correct application fee has not been tendered to the city, or, in the case of a check or bank draft, such check or draft has not been honored with payment upon presentation.

(2) The body art facility, as proposed by the applicant, if permitted would not comply with all applicable laws, including, but not limited to, the city's building, fire, and zoning ordinances, or if the body art facility fails to comply with any of the terms of this article.

(3) The applicant, if an individual, or the applicant's employees or personnel; any of the stockholders holding more than 10% of the stock, any officer and any director, if a corporation; any member or manager, if a limited liability company; and the manager or other person involved in the operation of the business, has pled guilty or no contest to, or has been convicted of, any felony or any crime of moral turpitude, including but not limited to theft, gambling, extortion, or fraud, unless such plea or conviction occurred at least ten years prior to the date of the application, or has pled to or been convicted of any other crime during the five years prior to the date of application, or has pled to or been convicted of a crime relating to the operation of a body art facility.

(4) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the city.

(5) The applicant has had a similar business permit or license denied, revoked, or suspended by the city or any other state or local agency at any time prior to the date of the application.

(6) An applicant whose application for a permit has been denied or whose permit has been suspended or revoked may appeal the decision by following the appeal provisions set forth for pawnbroker licenses in Article IV of this chapter.

(Ord. No. 398, § 2, 10-21-08)

12-127. EXPIRATION; RENEWAL; TRANSFER.

(A) All permits shall be valid for one year except the first year of issuance, because all such permits shall expire on December 31 of the year of issuance unless revoked for cause. Permits shall be renewable upon application to the City Clerk.

(B) Permits are not transferable. The permit shall designate the particular place in the city where the permittee shall conduct the business. A person, corporation, or firm receiving a permit shall not conduct the business in any other place than the place designated in the permit. In the event of a sale or transfer of the business, the new owner shall apply for and obtain a permit pursuant to this article before entering into the operation of a body art facility.

(Ord. No. 398, § 2, 10-21-08)

12-128. MINORS; ALCOHOLIC LIQUOR OR CONTROLLED SUBSTANCES.

(A) An individual shall not tattoo, brand, or perform body-piercing on a minor unless the individual obtains the prior written informed consent of the minor's parent or

legal guardian. The minor's parent or legal guardian shall execute the written, informed consent required under this subsection in the presence of the individual performing the tattooing, branding, or body-piercing on the minor or in the presence of an employee or agent of that individual.

(B) An individual shall not tattoo, brand, or perform body-piercing on another individual if the other individual is under the influence, however minor it may be, of any alcoholic liquor and/or any controlled substance.

(Ord. No. 398, § 2, 10-21-08)

Statutory reference:

Similar provisions, see M.C.L. § 333.13102

12-129. DUTIES OF OWNER OR OPERATOR; HOURS OF OPERATION.

(A) A person who owns or operates a body art facility shall do all of the following:

(1) Display the license and permit issued under this article in a conspicuous place within the customer service area of the body art facility.

(2) Comply with and ensure that the body art facility is in compliance with state law, this article, and all administrative rules promulgated under state law.

(3) Ensure that the body art facility as a whole and any individual engaged in tattooing, cleaning tattooing instruments, performing branding or body-piercing, or cleaning branding or body-piercing instruments comply with the bloodborne pathogen safety standards under the Code of Federal Regulations.

(4) Ensure that tattooing, branding, or body-piercing is performed in a sterile field with sterile needles and only single-use ink.

(5) Maintain a confidential record of each individual who has been tattooed or branded or who has had body-piercing performed at the body art facility and make the records available for inspection by a local health department. The record shall include, at a minimum, the individual's name, address, age, and signature; the date; the design and location of the tattooing, branding, or body-piercing; the name of the individual performing the tattooing, branding, or body-piercing; and any known complications the individual has with any tattooing, branding, or body-piercing done at that body art facility. The owner, operator, manager, or person having control of the body art facility shall provide a copy of the record to the individual at the time he or she is tattooed, is branded, or has body-piercing performed.

(6) Prohibit smoking within the body art facility.

(7) Provide each customer with a written information sheet distributed or approved by the Department of Community Health that provides at least all of the following:

(a) Instructions on the care of a tattoo site, brand site, or body-piercing site.

(b) A recommendation that an individual seek medical attention if the tattoo site, brand site, or body-piercing site becomes infected or painful or if the person develops a fever soon after being tattooed, branded, or having body-piercing performed.

(c) Notice that the individual may be allowed to donate blood within the standard deferral period if the individual presents a copy of the record required under subdivision (A)(5) to the blood donor facility.

(8) Maintain on file on the premises of the body art facility and have available for inspection by a local health department all of the following:

(a) All of the following regarding each technician employed by or who performs tattooing, branding, or body piercing at the body art facility:

1. His or her full legal name.
2. His or her exact duties at the facility.
3. His or her date of birth.
4. His or her gender.
5. His or her home address.
6. His or her home and work telephone numbers.
7. His or her prior or other current places of employment as a technician, if known.
8. His or her training and experience.
9. An identification photo.
10. Documentation of compliance with the educational, training, or experience requirements of the department under this part.
11. Documentation of HBV vaccination status or other vaccination status requirements of the department under this part.

(b) Full legal name of the body art facility.

(c) The hours of operation of the body art facility.

(d) All of the following regarding each owner and operator of the body art facility:

1. His or her full legal name.
2. His or her home address.
3. His or her home and work telephone numbers.

(e) A complete description of all tattooing, branding, or body piercing performed at the body art facility.

(f) A complete inventory of all instruments, body jewelry, sharps, and inks used for the tattooing, branding, or body piercing performed at the body art facility. The inventory shall include the name of the item's manufacturer and serial or lot number, if applicable. The body art facility may provide invoices or orders to satisfy this requirement if determined appropriate by the Department of Community Health or the local health department.

(g) A copy of the applicable state law and rules promulgated thereunder.

(B) A body art facility shall not operate between the hours of 8:00 p.m. and 11:00 a.m.

(Ord. No. 398, § 2, 10-21-08)

Statutory reference:

Similar provisions, see M.C.L. § 333.13107

12-130. VIOLATIONS; PENALTY.

A person who violates this article is subject to the penalties prescribed in Chapter 1 of the code of ordinances, except that the maximum fine for such violation shall not be more than $100 or a higher amount if a maximum fine is set by state law for a particular violation.

(Ord. No. 398, § 2, 10-21-08)

Statutory reference:

Applicable penalties, see M.C.L. § 333.13109

12-131. AUTHORIZATION.

This article shall not be construed to conflict with the corresponding or applicable state law, but state law shall not relieve a body art facility applicant from the responsibility for securing a local permit or complying with the regulations of this article.

(Ord. No. 398, § 2, 10-21-08)

Statutory reference:

Local ordinances authorized, see M.C.L. § 333.13111

12-132 - 12-149. RESERVED.

ARTICLE VI. FILMING PERMITS

12-150. SHORT TITLE.

This article may be known and may be cited as the City of Sterling Heights “Film Permit Ordinance.”

(Ord. No. 401, § 1 (part), 3-2-09)

12-151. PURPOSE.

The commercial production of films, television programming, and commercials is expected to become an important part of the economy of the city and the state. In order to further those activities within the city, this article sets forth rules and regulations to govern and authorize individuals and film companies to conduct filming activities in the city without unreasonably impacting the peace and comfort of the residents of the community; to assure that such activities are consistent with considerations of the public health, safety, and general welfare; to ensure the protection of property; and to provide a streamlined process for issuing film permits. The requirements provided in this article shall be separate and in addition to those provisions of ordinances of the city, and/or other codes adopted by reference, regarding business regulation and licensing. Any and all fees provided in this article are intended to cover the cost of investigation and processing permits for filming, as specified herein, and shall be in addition to all other applicable licenses and/or permits.

(Ord. No. 401, § 1 (part), 3-2-09)

12-152. PERMIT REQUIRED.

Except as otherwise provided in this article, it is unlawful for any person to engage in the business or activity of filming at any place within the city, other than at or in an established motion picture or television studio or entirely within an enclosed structure or building (with no outside storage of filming equipment) without a film permit from the city. Any person interested in filming within the city shall complete in full a film permit application that shall be submitted to the Film Office of the city. A film permit does not constitute or grant permission to use or occupy property not owned, leased, or controlled by the city.

(Ord. No. 401, § 1 (part), 3-2-09)

12-153. EXEMPTIONS.

The provisions of this article shall not apply to:

(A) The creation of a personal film;

(B) The creation of news media;

(C) The filming or video recording of motion pictures for use in a criminal investigation, civil proceeding, or emergencies such as fires, floods, or police actions;

(D) The filming or video recording of motion pictures and activities associated therewith which occur upon property which is owned or leased for more than six months by the enterprise or individual conducting the filming or video recording and none of the activities are open to view by the general public. However, this exemption shall not be construed to authorize the use of residential properties for commercial enterprises that violate any laws, the city code, or the city's zoning ordinance;

(E) Education, government, and public access and local origination programs for cable television systems franchised within the city;

(F) The filming or video recording of motion pictures by the city, including, but not limited to, video recording of a sewer line or preparation of promotional videos;

(G) The filming of competitive athletic events, parades, or other similar events of a public nature, when in attendance as a member of the public and a spectator;

(H) The creation of a student film, unless the filming activities utilize or adversely impact public ways or are conducted outdoors in residential areas;

(I) Local commercials (video or still photography) produced entirely on private property for purposes of advertising local businesses and merchants, so long as the equipment, personnel, and subject connected with the commercials do not interfere in any way with the public right-of-way or impact neighboring private property;

(J) Still photographers, who are photographing in a public area, and who do not encroach upon the public right-of-way with equipment or personnel;

(K) Films produced entirely for training of employees or personnel that are produced within the employer's property and do not utilize or adversely impact any public ways and are not produced outdoors in residential areas; and

(L) Any other activity deemed to be in the public interest by the City Manager.

(Ord. No. 401, § 1 (part), 3-2-09)

12-154. DEFINITIONS.

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

CHARITABLE FILMS. Commercials, motion pictures, television, video recordings, or other photography produced by a nonprofit organization which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, recordings, or photos.

FILMING. The act(s) of undertaking, producing, or creating a video recording or motion picture film. The term also includes the setup and dismantling of all related equipment.

FILM OFFICE. The film production office designated by the Community Relations Department of the City of Sterling Heights.

NEWS MEDIA. The filming or video recording for the purpose of spontaneous, unplanned, or "on scene" television news broadcasting by reporters, photographers, or camera operators, but not including magazine or documentary programs filmed, edited, and prepared for commercial purposes.

PERSONAL FILM. A video recording or film for private or family use, including but not limited to family event videos or a recording of security footage.

STUDENT FILM. A motion picture film or video recording production by a student of a public or private school or college where the production is for school or college credit and from which no profit is taken.

VIDEO RECORDING. The creation of a motion picture or film, whether by the act of filming, undertaking a video recording production, or otherwise.

VIDEO RECORDING PRODUCTION. The use of video recording equipment to capture motion picture images, whether by videotape, digital media, or any other means.

(Ord. No. 401, § 1 (part), 3-2-09)

12-155. APPLICATION.

Any person desiring to conduct video recording production activities shall make application on the appropriate form provided by the Film Office. The form must be signed and accompanied by the required processing fee, deposit, hold harmless agreement, and insurance certificate before it will be processed.

(Ord. No. 401, § 1 (part), 3-2-09)

12-156. APPLICATION INFORMATION AND FEES.

The applicant for a permit required by this article shall supply the following information on the application:

(A) Name, permanent street address, and telephone number of the applicant. If an association, the applicant shall provide its full name. If a corporation, the applicant shall provide the full name and the official address thereof with the date and state of incorporation, the full name and address of the resident agent, and attach to the application a copy of the certificate from the state of incorporation indicating that the corporation is in good standing. If a limited liability company, the applicant shall provide the full name and the official address thereof with the date and state of organization, the full name and address of the members and of the resident agent, and attach to the application a copy of the certificate from the state of organization indicating that the company is in good standing;

(B) Name, address, and telephone number of the person in charge of the location and responsible for the applicant's and applicant's employees' conduct. The Film Office may also require that the applicant provide the names and related information of association members, corporate directors, partners, or others in a position of responsibility with the applying entity;

(C) If the filming is conducted by a non-profit organization which qualifies under the Internal Revenue Code Section 501(c)(3) or Michigan law as a charitable organization, and no person, directly or indirectly, receives a profit from the marketing or production of the film or tape or from showing the film, tape, or photos, the applicant must sign under penalty of perjury to this information on the application form;

(D) Name, address, and 24-hour telephone number of at least two persons to be contacted in the event of emergency situations which might alter the conditions of the film permit;

(E) Name (or working title) of the film or project, and the nature of the proposed motion picture, television, or photographic production;

(F) Location(s), date(s), time(s), and activities of the proposed filming, and an estimate of the maximum number of attendees expected at the filming during each day or time. If the proposed filming involves the use of private property, the full name and address of the property owner where the filming is to occur and a signed affidavit from the property owner granting permission for the proposed use of the property in question shall be provided. If, in the discretion of the Film Office, it appears that the peace and tranquility of neighboring property owners may be disturbed by the filming, the Film Office may require affidavits from neighboring property owners indicating their concurrence with the proposed use of the property in question. However, if a residential area is to be used, the applicant must file a copy of notice to residents who are within a 300-foot radius of filming site and a signed affidavit as proof of such notice with application prior to actual filming;

(G) Approximate number of individuals in the cast and crew;

(H) List of types and number of vehicles and other equipment;

(I) If applicable, a statement that overnight parking and locations are needed;

(J) Requests for special assistance at the location, including but not limited to street closure, traffic control, and emergency services;

(K) Special conditions or requests by the applicant;

(L) If the applicant intends to use either wild animals, chemicals, explosives, or fire, or intends to engage in any other hazardous activity, a statement to that effect and a description of such activities with specificity;

(M) A list of prior filming projects, references, experience, and credentials relating to the individuals primarily responsible for the proposed filming activity and production;

(N) A sworn statement as to the truth of the statements in the application. If the applicant is a corporation or business, the application shall be signed by one principal officer of the corporation or business; and

(O) In addition to the requirements of this article, any applicant who or which will engage in any activity that requires compliance with any federal, state, or local regulations, including additional licenses or permits, shall present evidence of satisfactory compliance with such regulations.

(P) Each application shall be accompanied by a fee as follows:

(1) A processing fee in an amount established by the City Council's annual appropriations ordinance to reimburse the city for the staff time required to evaluate the application and establish conditions of approval.

(2) After the application has been reviewed and it is determined that city property will likely be utilized during filming activities, the applicant shall pay to the city a daily property use fee in an amount calculated by the Finance Director to compensate the city for the use of public property and its lack of availability for ordinary and usual purposes resulting from the filming activity.

(3) After the application has been reviewed and it is determined that city personnel will be utilized during filming activities, the applicant shall pay to the city a monitoring fee to reimburse the city for staff time required to monitor the filming activity, and for reasonable costs for other city services or equipment approved for use during such activities, in an amount determined by the Finance Director based upon the actual costs to the city and for the city's administrative oversight during the process. Staff time may include, but shall not be limited to, the time expended by law enforcement personnel, traffic control personnel, fire safety personnel, trash haulers, and review by the city attorney.

(4) In lieu of providing three distinct fee payments, the Finance Director may authorize the payment of one sum to be held as a deposit by the city to ensure the payment of all of the fees required by this section. Any amounts not used at the end of the project shall be refunded by the city to the applicant. In the event the actual costs exceed the deposit, the city may retain the deposit and the applicant will be invoiced by the city and shall pay for the excess. No permit shall be issued to an applicant who owes the city money for a prior permit.

(5) The processing fee shall be waived for the following if, in the discretion of the City Manager, the city will benefit by doing so:

(a) Productions conducted by a cable television company operating under a franchise granted by the city which are not conducted on public property, do not interfere with public rights-of-way, and which involve fewer than two motor vehicles; and

(b) Productions for wholly charitable or educational purposes and from which no profit is derived, either directly or indirectly, other than funds to further the charitable or educational mission of the producer.

(6) In the event that weather conditions or other circumstances beyond the control of the permittee require that the date(s) or time(s) of the proposed filming or taping need to be altered, no additional processing fees shall be required because of such alteration of the date(s) or time(s) so long as the Film Office is given at least one (1) business day notice of the alteration; however, an additional fee will be charged if changes, additions, deletions, and extensions to the original filming permit are requested which are not beyond the control of the permittee. The additional fee shall be established by the City Council's annual appropriations ordinance. A change, addition, deletion, or extension to the original filming permit request must be filed with the Film Office. Only one such request per permit will be allowed.

(7) If the Film Office, in coordination with the City Manager, Police Chief, and Fire Chief, determines that any potential danger to the public's health, safety or general welfare, or property would be eliminated by the presence of police or fire protection at the site of the filming or videotaping, the Film Office may grant the film permit with the condition that the permittee pay in advance to the city the anticipated costs of such police or fire protection or presence.

(8) For filming permits that require the city to provide services to the permittee in addition to police or fire protection, service charges shall be imposed for same. Such charges will be determined by the Finance Director for the services provided and shall be based on the actual cost incurred by the city in providing such services. Such service charges shall include, but shall not be limited to, charges for labor, supervision, overhead, administration, and the use of any and all city equipment,

supplies, etc. Additional charges may be imposed to cover the cost of extraordinary film permit investigation and/or staff costs, if the City Manager deems the collection of such costs to be necessary to prevent absorption of any costs by the taxpayers.

(Ord. No. 401, § 1 (part), 3-2-09)

12-157. PLANS.

Each application for a permit required by this article shall be accompanied by a detailed explanation, including drawings and diagrams where applicable, of the prospective permittee's plans to provide for the following:

(A) The size or area of the property to be used, including a sketch of the filming site showing placement of work trucks and production vehicles;

(B) A sketch of the "base camp," if any, showing any off-street locations for crew parking, honeywagon, catering, and non-essential production vehicles;

(C) A traffic control plan of the exact filming location, listing roads or lanes to be closed, if any;

(D) A description of the duration of the proposed activities and daily hours of operation;

(E) The facilities for cleanup and waste disposal;

(F) A letter of notification of, and signatures from, businesses/neighborhoods impacted by filming or related activities, if required by the Film Office; and

(G) Insurance and bonding arrangements.

(Ord. No. 401, § 1 (part), 3-2-09)

12-158. LIABILITY PROVISIONS.

The requirements of this section are applicable whenever a permittee's operations will utilize or impact city facilities or property as determined by the Film Office.

(A) *Liability Insurance; Indemnity and Faithful Performance Bond.* Before a permit is issued a certificate of insurance must be submitted evidencing insurance in an amount not less than one million dollars per occurrence for comprehensive or commercial general liability and one million dollars per occurrence for automobile liability. In the event the use of pyrotechnics or any other potentially hazardous activity is contemplated, the permittee will be required to submit evidence of insurance which will cover said use or activity in an amount and form acceptable to the Risk Manager and Fire Marshal. An endorsement to said liability policies shall be submitted naming the city, its officers, employees, agents, representatives, and volunteers as additional insureds. The Risk Manager is authorized to modify the insurance requirements above if it is deemed to be in the best interests of the city.

(B) *Hold Harmless and Indemnity Agreement.* An applicant shall execute a hold harmless and indemnity agreement as provided by the city prior to the issuance of a permit under this article.

(C) *Faithful Performance Bond.* To ensure cleanup and restoration of the site, an applicant may be required to post a refundable cash deposit or faithful performance bond (amount to be determined by the Finance Director) upon submittal of the application. Upon completion of filming, cleanup, and restoration of the site by the permittee, and inspection of the site by the city with a satisfactory conclusion, the bond shall be returned to the permittee.

(Ord. No. 401, § 1 (part), 3-2-09)

12-159. INVESTIGATION OF APPLICATION.

(A) Upon receipt by the Film Office, copies of the application for a permit required by this article shall be forwarded to the Police Chief, Fire Chief, City Development Director, Public Works Director, City Planner, and to such other appropriate public officials or departments as the City Manager deems necessary. Such officers, departments, and officials shall review and investigate matters relevant to the application and within four business days of receipt thereof shall report their findings and recommendations to the Film Office or his/her designee.

(B) The Chief of Police shall investigate each application for a filming permit. If, during the course of such investigation, the Chief of Police desires additional information to assist with determining whether or not such a permit should be issued, the Chief of Police is authorized to require the applicant to furnish such additional information.

(C) The applicant and permittee shall allow for site inspections by the city as requested by the city for purposes of ensuring compliance with this article, all conditions of the permit, and all applicable fire and building codes and ordinances.

(Ord. No. 401, § 1 (part), 3-2-09)

12-160. SPECIFIC CIRCUMSTANCES.

In addition to the criteria listed in this article, the city shall also investigate the application with respect to the following special circumstances and may impose conditions if warranted:

(A) *Noise.* Filming activities which produce unusual noise such as gunfire, sirens, public address systems, bull horns, or any other loud noises may be restricted to mitigate the effects of the activity.

(B) *Aircraft.* Helicopter landings or filming from the air are not permitted without explicit written permission from the Film Office. The written authorization shall be filed with the application.

(C) *Public safety personnel.* Police and/or fire personnel requirements shall be determined by those departments and any personnel required shall be at the permittee's expense. Additional public safety employees may be requested by the applicant at the time of application at the applicant's expense. The Chief of Police may approve the use of additional public safety personnel or may require the applicant instead to contract with a private security firm. Additional public safety employees approved by the Chief of Police shall enforce all city regulations and shall remain employees of the city at all times. The city's employees shall not be employees of the permittee and shall not act at the direction of the permittee unless doing so will ensure enforcement of applicable laws and regulations.

(D) *Roads and streets.* If the permittee must park equipment, trucks, and/or cars in zones that do not permit parking, the permittee must post the street as required by the Public Works Director. The applicant must also obtain permission to string cable across sidewalks or from a generator to a service point.

(E) *Traffic control.* For any filming that would impair traffic flow in any manner or for any duration, the applicant shall comply with all traffic control requirements deemed necessary by local police or private security personnel for traffic control, subject to the approval of the Chief of Police or the use of local law enforcement personnel. The use of local law enforcement personnel shall be dependent on the location of filming (for example, filming within a County park would fall under the jurisdiction of the County Sheriff rather than local law enforcement) and must be approved and funded as described in division (C) above. All interruptions of normal pedestrian or vehicular traffic must be authorized on the permit, with the traffic control plan and staffing approved by the Chief of Police prior to permit issuance. Any proposed detour plan or parking shall be submitted for the review and approval of the City Engineer. The permittee shall also obtain all necessary permits and approvals from the Michigan Department of Transportation and/or Macomb County Road Commission prior to filming on a state or county roadway.

(F) *Adult entertainment.* No filming shall be conducted within the city which depicts nudity, sexual intercourse, simulated sex acts, or other displays prohibited by state law or city ordinance which could be observed by a member of the general public. Films which have as their primary purpose the display of such acts for distribution to an adult entertainment market or video provider shall not be granted a permit for filming. A permit issued under this article does not authorize the production of a film that in any manner requires the use of property owned by or under the control of the city in violation of Public Act 84 of 2008, which prohibits the production of a film that includes obscene matter or an obscene performance, or that requires that individually identifiable records be created and maintained for every performer provided in 18 U.S.C. 2557.

(G) *Pyrotechnics and special effects.* The applicant shall obtain a permit from the Fire Department for any pyrotechnics or similar special effects.

(H) *Vegetation.* The Film Office may impose restrictions on filming in native vegetation, natural areas, wetlands, and similar locations.

(I) *Crew size.* The Film Office may impose requirements for filming operations involving more than 50 cast and crew at a filming location.

(J) *Refueling.* The Film Office may impose restrictions on refueling operations in excess of ten gallons.

(K) *Boundaries.* The Film Office may impose requirements concerning the posting of the outer boundaries of the filming.

(L) *Uniforms.* The Film Office may impose restrictions concerning the covering of police, fire, and other uniforms worn by actors when they are not being filmed.

(M) *Insignia.* The Film Office may impose restrictions on the use of city and other public agencies' logos, insignias, badges, or decals for filming purposes.

(N) *Extras.* The Film Office may request that city residents be afforded a higher priority than others, for example, exclusive access to the first day of auditions, when the permittee seeks or requires "extras" for certain portions of the filming.

(O) *Acknowledgment.* The Film Office shall require that the permittee properly acknowledge the assistance of the city in the final film credits.

(P) *Access.* The Film Office may request access to behind the scenes production of any filming activities for purposes of creating promotional videos for the city. However, the Film Office will honor all conditions of the production company regarding material that may be disclosed to the public prior to release of the final film or production.

(Ord. No. 401, § 1 (part), 3-2-09)

12-161. GRANTING OR DENIAL OF PERMIT; ADMINISTRATIVE POLICIES.

(A) If, after his investigation, the Chief of Police finds that the conduct of the activity regulated by this article or the proposed location of such will not comport with the public welfare or that it will tend to create a nuisance or that the character or reputation of the applicant, its officers, or employees as to truthfulness, decency, or of order is poor, the Film Office shall deny such application.

(B) The City Manager may promulgate administrative policies and procedures governing the form, time, and location of any filming activity within the city. Such policies and procedures shall be on file with the City Clerk's office for review by the public and they shall have the force and effect of law as if fully set forth in this article. In addition to the City Manager's policies and procedures, if any, all decisions concerning the issuance of any film permit and/or the conditions imposed thereon shall be made after consideration of the following factors:

(1) The health and safety of the public;

(2) Disruption of activities of businesses or persons within the affected area;

(3) The safety of property within the city; and

(4) Traffic congestion at particular locations within the city.

(C) Otherwise, a permit shall be issued, or issued subject to conditions, unless it is determined that the activity contemplated in the permit will adversely affect city operations, city businesses or residents, or city personnel resources, or if the proposed activity has the potential to damage public or private property.

(D) A permit may only be issued for a maximum of 30 calendar days before the first day of filming activities. A permit is void 30 days after it is issued unless the permit contains a more specific expiration date.

(E) A permit may not be assigned and must be posted in public view at the filming location at all times.

(Ord. No. 401, § 1 (part), 3-2-09)

12-162. APPLICATION PROCESSING TIME.

If the application satisfies the criteria of this article, the permit shall be issued within ten business days of submission; or within 12 business days of submission if the activity requires traffic control measures, outdoor stunts, or special effects; or within 15 business days of submission if the filming requires road closures.

(Ord. No. 401, § 1 (part), 3-2-09)

12-163. APPEAL.

Any person aggrieved by the decision of the Film Office shall have the right to appeal the approval, conditional approval, or disapproval of the application to the City Manager or his/her designee in writing. The appeal shall be taken within five business days after notice of the decision is mailed or transmitted to the applicant. The City Manager shall decide the appeal within ten business days. The City Manager's decision shall be final.

(Ord. No. 401, § 1 (part), 3-2-09)

12-164. RESTORATION.

A permittee shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use, maintenance of the area, and the cleanup of trash and debris. The area used shall be cleaned of trash and debris within two hours of the completion of the activity or within such other time established in the permit to the city's satisfaction. The applicant shall be responsible for restoring any area damaged or disrupted before leaving the site. If the site is not repaired or restored to the city's satisfaction, the City Manager or his/her designee shall have the necessary restoration and/or repairs performed and the applicant shall reimburse the city for such work within ten days of completing filming. In the event the applicant fails to reimburse the city, the city may secure its reimbursement from any deposit or bond that was posted by the permittee during the application process. The amount of any bond shall in no way limit the permittee's liability or responsibility for the costs of repairs or restoration in the event these costs exceed the bond amount.

(Ord. No. 401, § 1 (part), 3-2-09)

12-165. FILMING HOURS.

(A) *Permitted hours.* It is prohibited for any person to commence or conduct, or permit the commencement or conducting of, any filming in residentially-zoned neighborhoods, and any other neighborhoods within a 300 foot radius of a residential zone, except between the hours of 7:00 a.m. and 10:00 p.m., Monday through Friday; 8:00 a.m. and 10:00 p.m., Saturday; and 9:00 a.m. and 10:00 p.m., Sunday and city-specified holidays.

(B) *Exception - Extended hours.* Filming activity in residentially-zoned neighborhoods, and other neighborhoods located within a 300 foot radius of a residential zone, shall be permitted beyond those hours set forth in this section if the permittee submits signatures of approval from one adult resident of at least 70% of the dwelling units located within a 300 foot radius of the filming, at least 48 hours prior to the scheduled start time of the filming. However, this signature requirement may be waived by the Film Office if it determines that the filming will not have any adverse effect upon the owners or occupants of such dwelling units.

(Ord. No. 401, § 1 (part), 3-2-09)

12-166. PARKING AND STREET CLOSURES.

(A) No person shall close any city street or alley, unless first authorized by the city.

(B) No person shall park a vehicle or place equipment associated with filming on any street or alley, except where parking is lawfully permitted.

(C) The permittee shall post "No Parking" signs, as required by the Film Office, at least 24 hours prior to the scheduled start time of the filming.

(D) Before a street or alley closure can occur, the permittee shall submit to the Film Office, at least 48 hours prior to the scheduled start time of the filming activity, signatures of approval from one adult resident of at least 70% of the dwelling units and businesses adjacent to or serviced by the street or alley proposed to be closed.

(E) If a permittee wets the roadway for filming purposes, the permittee shall not strike the set until the roadway is dry to the city's satisfaction. A professional lane closure company shall be hired to install the lane closure area for the wet-down and shall maintain such closure until the roadway is dry. “Wet Pavement” signs are required at both ends of the wet-down.

(Ord. No. 401, § 1 (part), 3-2-09)

12-167. VIOLATION; REVOCATION; PENALTY.

(A) Any film permit may be revoked under the following circumstances:

(1) Where it has been determined that the permittee has violated or has failed to comply with any of the terms or conditions of the film permit;

(2) Where it has been determined that the permittee has violated or has failed to comply with any ordinances, resolutions, or applicable regulations;

(3) Where it has been determined that the film permit was granted pursuant to false or fraudulent information contained in the film permit application or verbally provided to city officials;

(4) Where it has subsequently been determined that filming activity will fail to meet the criteria enumerated in this article for granting a film permit; or

(5) Where it has been determined that the preservation of the public health, safety, and general welfare demand revocation of the film permit.

(B) A notice of revocation shall be mailed to the permittee, by certified mail, stating the grounds for revocation and advising the permittee of the appeal rights afforded by this article.

(C) City officials with the authority to revoke a permit include the Community Relations Director, Police Chief or designee, Fire Chief or designee, Development Director, Public Works Director, and the City Manager.

(D) Revocation of a film permit shall be effective for a period of one year. No permits shall be issued to any individual or entity found to be in violation of this article for the subsequent one (1) year period of time. Thereafter, film permits may be granted on a restricted or conditional basis to ensure that the offender does not violate this article again.

(E) Violation of any of the provisions of this article or any of the terms and conditions of a film permit shall be punishable as set forth in Chapter One of the city code. In addition, it shall be a misdemeanor to:

(1) Provide false or fraudulent information to the city during the permit application process;

(2) Provide any false or fraudulent information after the permit has been issued, including but not limited to the possession or existence of consent or permission from property owners when required; or

(3) Fail or refuse to cease any film activities when ordered to do so by a city official due to violations of any code, ordinance, or this article.

(Ord. No. 401, § 1 (part), 3-2-09)

12-168. NUISANCE VIOLATIONS.

Any filming, video recording, or related activity conducted contrary to the provisions of this chapter shall be and is hereby declared to be an unlawful action and a public nuisance. The City Council may authorize the commencement of an action at law or in equity in the name of the city in any court of competent jurisdiction against the permittee to ensure compliance with the terms of this article. All remedies prescribed herein will be cumulative and the use of any one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this article, nor shall the city's delay or failure to exercise any remedy result in a waiver of same.

(Ord. No. 401, § 1 (part), 3-2-09)

12-169 - 12-199. RESERVED.

ARTICLE VII. CLOSE-OUT SALES

12-200. SHORT TITLE.

This article may be known and may be cited as the City of Sterling Heights "Close-Out Sale and Auction Ordinance."

(Ord. 405, § 1 (part), 7-07-09)

12-201. INTENT.

The City Council finds that the public health, safety, and welfare are best served by the adoption of an ordinance providing for the licensing and regulation of persons conducting close-out sales within the City of Sterling Heights pursuant to Public Act No. 39 of 1961, as amended. The purpose of this article will insure the protection of the public health and safety through the establishment of certain licensing and regulatory standards pertaining to the conduct of close-out sales within the city.

(Ord. 405, § 1 (part), 7-07-09)

12-202. DEFINITIONS.

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

CASUALTY SALE. A sale of goods which have been damaged by fire, smoke, flood, water, or other casualty.

CLOSE-OUT SALE. Any going-out-of-business sale, removal sale, casualty sale, or sale of goods by any person, insurance company, bankruptcy trustee, mortgage company, creditor, assignee, personal representative, trustee, or receiver. Close-out sales do not include such sales of real property, estate sales by personal representatives or trustees, or other sales of personal property which are not subject to the Michigan personal property tax.

GOING-OUT-OF-BUSINESS SALE. Any sale, whether described by such name or by any other name such as, but not limited to, "closing out sales," "liquidation sales," "lost our lease sales," "forced to vacate sales," held in such a manner as to indicate a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted. A going-out-of-business sale includes an offering of the stock of goods on hand in such manner whether or not any sales of goods are made.

GOODS. All goods, wares, merchandise, and other personal property, except money or rights to recover possession of property or money.

PERSON. An individual, firm, corporation, limited liability company, partnership, limited partnership, association, or two or more persons having a joint or common interest in a business or business pursuit.

REMOVAL SALE. Any sale held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted, and thereafter will be moved to and operated at another location. A removal sale includes an offering of the stock of goods on hand in such manner whether or not any sales of goods are made.

(Ord. 405, § 1 (part), 7-07-09; Ord. 408, § 1, 11-17-09)

12-203. LICENSE REQUIRED; EXEMPTIONS FROM LICENSING REQUIREMENTS.

(A) It shall be a violation of this article for any person to advertise, promote, or conduct a close-out sale within the city without first having obtained a license from the City Clerk.

(B) The provisions of this article shall not apply to sheriffs, constables, or other public or court officers, or to any other person or persons acting under the license, direction, or authority of any state or federal court, or pursuant to the Michigan General Property Tax Act which are selling goods, wares, or merchandise in the course of their official duties.

(Ord. 405, § 1 (part), 7-07-09)

12-204. APPLICATION FOR LICENSE.

(A) Any applicant for a license to conduct a close-out sale shall file an application with the City Clerk under oath on a form provided by the City Clerk. The application shall include the following information:

(1) The full name and address of the applicant who must be the owner of the goods to be sold at the close-out sale, and whether the applicant is an individual, firm, corporation, limited liability company, partnership, limited partnership, or association, and the name and the position of the individual filing such application.

(2) The name and style in which such sale will be conducted, and the address of the location where the sale will be conducted.

(3) The dates and time periods during which the sale will be conducted.

(4) The name and address of the person who will be in charge and responsible for the conduct of the sale.

(5) A full explanation of the circumstances, conditions, or necessity which give rise to the desire to conduct the sale, including a statement of the descriptive name of the sale and the reasons why the name accurately describes the sale. If the application is for a license to conduct a going-out-of-business sale, it shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale. If the application is for a license to conduct a removal sale, it shall contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale, along with the address of the premises to which the business will be moved. If the application is for a license to conduct a casualty sale, it shall also contain a statement as to the time, location, and cause of the damage to the goods.

(6) A full, detailed, and complete inventory of the goods that are to be sold, which inventory shall:

(a) Itemize the goods to be sold and contain sufficient information concerning each item, including make and brand name, if any, to clearly identify it.

(b) List separately any goods purchased during a 60-day period immediately prior to the date of making application for the license.

(c) Show the cost price of each item in the inventory together with the name and address of the seller of the items to the applicant, the date of the purchase, the date of the delivery of each item to the applicant, and the total value of the inventory at cost.

(d) A statement that no goods will be added to the inventory after the application is made or during the sale, and that the inventory contains no goods received on consignment.

(7) A written disclosure of any convictions for any felonies or any crimes involving dishonesty, fraud, or deceit.

(B) All applications shall be accompanied by the following items:

(1) A non-refundable application fee in an amount set by the city's annual appropriations ordinance.

(2) If applicable, proof that an assumed name certificate has been filed with the Macomb County Clerk or the State of Michigan.

(3) If applicable, the articles of incorporation or organization, partnership agreement, and a certificate of good standing issued by the State of Michigan.

(4) A statement from the City Treasurer that all personal property taxes relating to the business for the current calendar year have either been paid or an escrow arrangement satisfactory to the City Treasurer has been established to ensure their payment from the close-out sale proceeds at the conclusion of the sale.

(5) A statement from the County Treasurer that all personal property taxes relating to the business for current and prior calendar years have either been paid or an escrow arrangement satisfactory to the County Treasurer has been established to ensure their payment from the close-out sale proceeds at the conclusion of the sale.

(C) It shall be unlawful for any person to knowingly make any false, fraudulent, or untruthful statement, either written or oral, or in any way knowingly to conceal any material fact or to give or use any fictitious name in applying for a license under this article. Any license obtained by violation of this subsection shall be void.

The City Clerk may waive requirements relating to details pertaining to the goods where such information is not available after a good faith search based upon an affidavit of the applicant.

(Ord. 405, § 1 (part), 7-07-09)

12-205. DUTIES OF THE CITY CLERK REGARDING APPLICATIONS FOR LICENSES; RESTRICTIONS.

(A) Upon receipt of a fully completed, accurate, and sworn application for a license, accompanied by the fee required by Section 12-204 (B) (1), the City Clerk may issue a license to the applicant authorizing the applicant to advertise, promote, and sell the particular goods inventoried at the time and place stated in the application if the City Clerk determines that all of the requirements of this article have been satisfied.

(B) The license shall apply only to the premises specified in the application, and it may not be transferred or assigned. If a licensee under this article is engaged in business in other locations, advertising or offering of goods on behalf of such location shall not represent or imply any participation in or cooperation with the sale on the premises specified in the license, nor shall any advertising or other offering of goods on behalf of the premises where the licensed sale is being conducted represent or imply any participation in or cooperation with such sale at other locations.

(C) The license shall be issued in duplicate and shall bear a number and date of its expiration.

(D) Upon issuance of a license, the City Clerk shall notify the Chief of Police, the Building Official, the Fire Marshal, the City Planner, the City Assessor, and the City Manager.

(E) The City Clerk shall deny an application for a license under this article for any of the following reasons:

(1) The applicant has been convicted of, pled guilty to, or pled no contest to any crime involving dishonesty, fraud, or deceit.

(2) The applicant has made a false, misleading, or fraudulent statement of fact or omission in the license application or any document required by the city in connection with the processing of the application of the license, has failed to submit all the required information, or pay the required fee.

(3) The applicant has had a similar license or permit denied, revoked, or suspended by the city or any other state or local agency.

(4) The applicant has conducted a sale under the trade name or style of a person in whose goods the applicant for the license has acquired a right or title within six months prior to the time of making application for such a license.

(5) The applicant has requested a license to continue or has continued a sale in the name of a licensee under this article in whose goods such person acquired a right or title while such a sale is in progress.

(6) The applicant has conducted a sale, other than an insurance sale, a salvage sale, or a sale of damaged goods, on the same premises within one year of the conclusion of a prior sale of the nature covered by this article.

(7) The restrictions on issuance of a license to a person described in divisions (4), (5), and (6) do not apply to any person who has acquired a right, title, or interest in goods as an heir, devisee, or legatee or pursuant to an order or process of a court of competent jurisdiction.

(Ord. 405, § 1 (part), 7-07-09; Ord. 408, § 2, 11-17-09)

12-206. RESTRICTIONS ON ADVERTISEMENT OF BANKRUPTCY, PERSONAL REPRESENTATIVE, RECEIVER, OR TRUSTEE SALES, ASSIGNEE AND INSOLVENT SALES.

No person shall advertise, promote, or otherwise represent for sale, or sell, any goods as a bankruptcy, personal representative, receiver, or trustee sale except pursuant to and in compliance with federal or state statutory authority or judicial process, or as an assignee's or insolvent sale except where there is a bona fide assignment for the benefit of creditors.

(Ord. 405, § 1 (part), 7-07-09)

12-207. LICENSES; TERMS; RENEWALS; FEES.

(A) A license to conduct a sale issued under this article shall not be issued or valid for a period of more than 30 days from the start of the sale, and the sale may be conducted only during the period set forth in the license.

(B) A license to conduct a sale issued under this article may be renewed not more than twice, for a period not to exceed 30 days for each renewal. A person requesting a renewal under this subsection must provide an affidavit of the licensee that the goods listed in the inventory have not been disposed of and that no new goods have been or will be added to the inventory previously filed pursuant to this article, by purchase, acquisition on consignment, or otherwise. The application for renewal of the license shall be made not more than 13 days before the time of the expiration of the license and shall contain a new inventory of goods remaining on hand at the time the application for renewal is made, prepared, and furnished in the same manner and form as the original inventory. A renewal shall not be granted if any goods have been added to the stock listed in the inventory since the date of the issuance of the license.

(C) A renewal fee in the amount set forth by the city's annual appropriations ordinance shall accompany an application for the renewal of a license.

(Ord. 405, § 1 (part), 7-07-09)

12-208. LICENSES; APPLICATION, INVENTORY, POSTING; ADVERTISEMENT, ANNOUNCEMENT; CONTENTS.

A copy of the application for a license to conduct a sale under this article, including the filed inventory, shall be posted in a conspicuous place where the inventoried goods are to be sold, so that the public may be informed of the facts relating to the goods before purchasing them, but the copy need not show their purchase price. A duplicate copy of a license shall be attached to the front door of the premises where the sale is conducted in such a manner that it is clearly visible from outside the premises. Any advertisement or announcement published in connection with the sale shall conspicuously show on its face the number of the license and its expiration date.

(Ord. 405, § 1 (part), 7-07-09)

12-209. LICENSES; APPLICATION; CITY CLERK'S RECORDS.

The City Clerk shall indicate on the application the date it was received and shall keep a written record of it in the City Clerk's office that contains the name of the applicant, the nature of the proposed sale, the place where the sale is to be conducted, the proposed duration of the sale, the inventory of the goods to be sold, a general statement as to the source of the goods, and whether the license was approved or denied, along with the date of such issuance or denial.

(Ord. 405, § 1 (part), 7-07-09)

12-210. LICENSES; SCOPE; GOODS, REMOVAL; EFFECT.

Any license issued under this article shall be valid only for a sale of the goods inventoried and described in the application for such license, in the manner and at the time and place set forth in the application. Any removal of the goods so inventoried and described in the application from the place of sale mentioned in the application shall cause the goods to lose their identity as goods to be sold pursuant to a close-out sale in accordance with this article, and no license shall be issued for the conduct of a sale of any of such goods removed from the place described in the application under the provisions of this article at any other place or places.

(Ord. 405, § 1 (part), 7-07-09)

12-211. CONDUCT OF SALES; PURCHASE OF GOODS PRIOR TO SALE PROHIBITED; EVIDENCE.

No person who is contemplating holding a close-out sale under a license as provided in this article shall order any goods for the purpose of selling and disposing of the same at such sale. Any unusual purchase and additions to the stock of goods within 60 days prior to the filing of the application for license to conduct the sale shall be presumptive evidence that the purchases and additions to stock were made in contemplation of the sale and for the purpose of selling the same at the sale.

(Ord. 405, § 1 (part), 7-07-09)

12-212. CONDUCT OF SALES; ADDITION OF GOODS DURING SALE; FALSE DESCRIPTION OR INVENTORY PROHIBITED.

No person carrying on or conducting a close-out sale shall add, during the continuance of the sale, any goods to the stock of goods described and inventoried in its original application for the license. No goods shall be sold at or during the sale, except the goods described and inventoried in the original application.

(Ord. 405, § 1 (part), 7-07-09)

12-213. EACH VIOLATION A SEPARATE OFFENSE.

Every addition of goods to the stock of goods described and inventoried in the application and each sale of goods not inventoried and described in the application (except for goods ordered more than 60 days prior to the filing of the application for a license but delivered after the beginning of the sale) shall constitute a separate offense under this article and shall void any license issued to conduct a sale under this article.

(Ord. 405, § 1 (part), 7-07-09)

12-214. VIOLATION; PENALTY.

(A) Any person who violates or permits a violation of any of the provisions of this article, whether as an owner, agent, servant, employee, advertiser, or promoter shall be guilty of a misdemeanor and subject to the penalties set forth in Chapter 1 of the City Code.

(B) The license of any person who is convicted for any violation of the provisions of this article shall be immediately revoked by the City Clerk, and no part of the license fee shall be returned.

12-215. - 12-229. Reserved.

ARTICLE VIII. AUCTIONS AND AUCTIONEERS.

DIVISION 1. GENERALLY

12-230. SHORT TITLE.

This article may be known and may be cited as the City of Sterling Heights "Auctions and Auctioneers Ordinance."

(Ord. 405, § 2 (part), 7-07-09)

12-231. INTENT.

The City Council finds that the public health, safety, and welfare are best served by the adoption of an ordinance providing for the licensing and regulation of persons conducting auction sales and auctions within the City of Sterling Heights. The purpose of this article will insure the protection of the public health and safety through the establishment of certain licensing and regulatory standards pertaining to conduct of auction sales within the city.

(Ord. 405, § 2 (part), 7-07-09; Ord. 408, § 3, 11-17-09)

12-232. DEFINITIONS.

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

AUCTION SALE. The offering for sale or the selling of personal property to the highest bidder, or offering for sale or selling of personal property at a high price and then offering the same at successive lower prices until a buyer is secured. Auction sales do not include auctions of real property, charitable auctions, estate auctions by personal representatives or trustees, or other auctions of personal property which are not subject to the Michigan personal property tax, auction sales of livestock or farm produce, used homestead goods, or other items commonly sold at farm or homestead sales, auction sales under a mortgage foreclosure, under the direction of

a court or court officer or such sales as may be required by law, or auctions conducted by or for the benefit of a municipal, state, or federal governmental agency.

AUCTIONEER. A person offering personal property for sale by means of an auction sale.

CHARITABLE AUCTION. An auction conducted by a charitable organization or religious organization.

CHARITABLE ORGANIZATION. A benevolent, educational, philanthropic, humane, patriotic, or eleemosynary organization of persons which solicits or obtains contributions solicited from the public for charitable purposes as defined under Michigan law.

GOODS. All goods, wares, merchandise, and other personal property, except money or rights to recover possession of property or money.

NEW MERCHANDISE. All goods or merchandise not previously sold at retail.

PERSON. An individual, firm, corporation, limited liability company, partnership, limited partnership, association, or 2 or more persons having a joint or common interest in a business or business pursuit.

RELIGIOUS ORGANIZATION. A church, ecclesiastical corporation, or group, not organized for pecuniary profit, that gathers for mutual support and edification in piety or worship of a supreme deity as defined under Michigan law.

(Ord. 405, § 1 (part), 7-07-09; Ord. 408, § 4, 11-17-09)

DIVISION 2. LICENSING OF AUCTION SALES

12-233. LICENSE REQUIRED; EXEMPTIONS FROM LICENSING REQUIREMENTS.

(A) It shall be a violation of this article for any person to advertise, promote, or conduct an auction sale within the city without first having obtained a license from the City Clerk.

(B) This provision of this article shall not apply to charitable auctions, auction sales of livestock, farm machinery or farm produce, used homestead goods or other items commonly sold at farm or homestead sales, to auction sales of real property, or to auction sales under a mortgage foreclosure, under the direction of a court or court officer of such sales as may be required by law, or auctions conducted by or for the benefit a municipal, state, or federal governmental agency.

(Ord. 405, § 1 (part), 7-07-09)

12-234. APPLICATION FOR LICENSE.

(A) Any applicant for a license to conduct an auction sale shall file at least 10 days prior to the proposed auction sale an application with the City Clerk under oath on a form provided by the City Clerk. The application shall include the following information:

(1) The full name and address of the applicant, and whether the applicant is an individual, firm, corporation, limited liability company, partnership, limited partnership, or association, and the name and the position of the individual filing such application.

(2) The name, residence, and post office address of the licensed auctioneer who will conduct the auction sale.

(3) The dates and time periods during which the sale will be conducted.

(4) The location where the auction is proposed to be held.

(5) A full, detailed, and complete inventory of the goods or equipment that are to be sold, which inventory shall:

(a) Itemize the goods or equipment to be sold and contain sufficient information concerning each item, including make and brand name, if any, to clearly identify it.

(b) Show the cost price of each item in the inventory together with the name and address of the seller of the items to the applicant, if known, the date of the purchase, the date of the delivery of each item to the applicant, and the total value of the inventory at cost.

(6) A statement as to whether or not the auction will be with or without reservation.

(7) A written disclosure of any convictions of felonies or any crimes involving dishonesty, fraud, or deceit.

(B) All applications shall be accompanied by the following items:

(1) A non-refundable license application fee in an amount set by the city's annual appropriations ordinance.

(2) A copy of the auctioneer's surety bond filed with the application for city auctioneer's license as required by Section 12-253 of the City Code.

(3) If applicable, proof than an assumed name certificate has been filed with the Macomb County Clerk or the State of Michigan.

(4) If applicable, the articles of incorporation or organization and a certificate of good standing issued by the State of Michigan.

(5) A statement from the City Treasurer that all personal property taxes relating to the business for the current calendar year have either been paid or an escrow arrangement satisfactory to the City Treasurer has been established to ensure their payment from the auction proceeds at the conclusion of the sale.

(6) A statement from the County Treasurer that all personal property taxes relating to the business for the current and prior calendar years have either been paid or an escrow arrangement satisfactory to the County Treasurer has been established to ensure their payment from the auction sale proceeds at the conclusion of the sale.

(C) An applicant for an auction license may authorize the auctioneer in writing to file and process the auction license application on the applicant's behalf.

(D) It shall be unlawful for any person to knowingly make any false, fraudulent, or untruthful statement, either written or oral, or in any way knowingly to conceal any material fact or to give or use any fictitious name in applying for a license under this article. Any license obtained by violation of this subsection shall be void.

(Ord. 405, § 1 (part), 7-07-09; Ord. 408, § 5, 11-17-09)

12-235. DUTIES OF THE CITY CLERK REGARDING APPLICATIONS FOR AUCTION LICENSES; RESTRICTIONS.

(A) Upon receipt of a fully completed, accurate application for a license under oath, accompanied by the fee required by Section 12-234 (B)(1), the City Clerk may issue a license to the applicant authorizing the applicant to advertise, promote, and sell the particular goods or equipment inventoried at an auction to be held at the time and place stated in the application if the City Clerk determines that all of the requirements of this article have been satisfied.

(B) The license shall apply only to the proposed auction location specified in the application, and it may not be transferred or assigned. If a licensee under this article is engaged in business in other locations, advertising or offering of goods on behalf of such location shall not represent or imply any participation in or cooperation with the sale on the premises specified in the license, nor shall any advertising or other offering or goods or equipment on behalf of the premises where the licensed sale is being conducted represent or imply any participation in or cooperation with such sale at other locations.

(C) The license shall be issued in duplicate and shall bear a number and date of its expiration.

(D) Upon issuance of a license, the City Clerk shall notify the Chief of Police, the Building Official, the Fire Marshal, the City Planner, and the City Manager.

(E) The City Clerk shall deny an application for a license under this article for any of the following reasons:

(1) The applicant has been convicted of, or pled guilty to, any crime involving dishonesty, fraud, or deceit.

(2) The applicant has made a false, misleading, or fraudulent statement of fact or omission in the license application or any document required by the city in connection with the processing of the application of the license or has failed to submit all the required information or pay the required fee.

(3) The applicant has had a similar license or permit denied, revoked, or suspended by the city or any other state or local agency.

(Ord. 405, § 1 (part), 7-07-09; Ord. 408, § 6, 11-17-09)

12-236. LICENSES; TERMS; RENEWALS; FEES.

(A) A license to conduct a sale issued under this article shall not be issued or valid for longer than the time period specified on the license, and the sale may be conducted only during the period set forth in the license.

(B) A license to conduct a sale issued under this article may be renewed not more than twice, for a period not to exceed five days for each renewal. A person requesting a renewal under this subsection must provide an affidavit of the licensee that the goods or equipment listed in the inventory have not been disposed of and that no new goods or equipment have been or will be added to the inventory previously filed pursuant to this article, by purchase, acquisition on consignment, or otherwise. The application for renewal of the license shall contain a new inventory of goods remaining on hand at the time the application for renewal is made, prepared and furnished in the same manner and form as the original inventory. A renewal shall not be granted if any goods or equipment have been added to the items listed in the inventory since the date of the issuance of the license.

(C) A renewal fee in the amount set forth by the city's annual appropriations ordinance shall accompany an application for the renewal of a license.

(Ord. 405, § 1 (part), 7-07-09)

12-237. LICENSES; APPLICATION, INVENTORY, POSTING; ADVERTISEMENT, ANNOUNCEMENT; CONTENTS.

A copy of the application for a license to conduct a sale under this article, including the filed inventory, shall be posted in a conspicuous place where the inventoried goods or equipment are to be sold, so that the public may be informed of the facts relating to the goods or equipment before purchasing them, but the copy need not show their purchase price. A duplicate copy of a license shall be attached to the front door of the premises where the sale is conducted in such a manner that it is clearly visible from outside the premises. Any advertisement or announcement published in connection with the sale shall conspicuously show on its face the number of the license and its expiration date.

(Ord. 405, § 1 (part), 7-07-09)

12-238. LICENSES; APPLICATION; CITY CLERK'S RECORDS.

The City Clerk shall indicate on the application the date it was received and shall keep a written record of it in the City Clerk's office that contains the name of the applicant, the name of the auctioneer who will conduct the auction sale, the place where the auction sale is to be conducted, the proposed duration of the auction sale, the inventory of the goods or equipment to be sold, a general statement as to the source of the items, and whether the license was approved or denied, along with the date of such issuance or denial.

(Ord. 405, § 1 (part), 7-07-09)

12-239. LICENSES; SCOPE; MERCHANDISE, REMOVAL; EFFECT.

Any license issued under this article shall be valid only for a sale of the goods or equipment inventoried and described in the application for such license, in the manner and at the time and place set forth in the application. Any removal of the goods or equipment so inventoried and described in the application from the place of the proposed auction sale mentioned in the application shall cause such items to lose their identity as items to be sold pursuant to an auction sale in accordance with this article, and no license shall be issued for the conduct of a sale of any of such items removed from the proposed auction sale location described in the application under the provisions of this article to any other place or places.

(Ord. 405, § 1 (part), 7-07-09)

12-240. CONDUCT OF SALES; PURCHASE OF MERCHANDISE PRIOR TO SALE PROHIBITED; EVIDENCE.

No person in contemplation of conducting an auction sale under a license as provided in this article shall order any additional goods or equipment for the purpose of selling and disposing of the same at such sale. Any unusual purchase and additions to the inventory within 60 days prior to the filing of the application for license to conduct the auction sale shall be presumptive evidence that the purchases and additions to inventory were made in contemplation of the auction sale and for the purpose of selling the same at the auction sale.

(Ord. 405, § 1 (part), 7-07-09)

12-241. CONDUCT OF SALES; ADDITION OF GOODS DURING SALE; FALSE DESCRIPTION OR INVENTORY PROHIBITED.

No person carrying on or conducting an auction sale shall add, during the continuance of the auction, any goods or equipment to the inventory described in its original application for the license. No goods or equipment shall be sold at or during the sale, except for inventory itemized in the original application.

(Ord. 405, § 1 (part), 7-07-09)

12-242. - 12-249. RESERVED.

DIVISION 3. LICENSING OF AUCTIONEERS

12-250. COMPLIANCE WITH DIVISION.

All persons licensed as an auctioneer under this article shall conduct business in conformity with the rules, regulations, and conditions set forth in Divisions 2 and 3 of Article VIII of Chapter 12. A license shall not be deemed to be a property right, but instead shall be deemed a privilege that may only be maintained by complying with all applicable laws, ordinances, rules, and regulations applicable not only to the licensee and the establishment, but also to the licensee and its employees as individuals. The violation of any laws, ordinances, rules, or regulations shall be grounds for denial of a pending license application, suspension or revocation of an existing license, or the refusal to renew a license. Every licensee, by virtue of accepting a license under this division, shall be held to have faithfully covenanted with the city to operate and maintain its business in conformity with this article. The licensee shall comply with all other city ordinances and regulations, except that to the extent that any real or perceived conflicts exist, the provisions of this Division shall control.

(Ord. 405, § 1 (part), 7-07-09)

12-251. REMEDIES FOR VIOLATION OF DIVISION.

Engaging in the business of an auctioneer in violation of the provisions of this division is declared to be a nuisance per se and, in addition to the penalties set forth in this division and in state law, such operation may be enjoined and abated by a court of competent jurisdiction.

(Ord. 405, § 1 (part), 7-07-09)

12-252. LICENSE REQUIRED; FEES AND BOND; NO EXEMPTIONS.

(A) No person shall carry on the business of an auctioneer in the city without first having obtained a license issued by the City Clerk, authorizing such person to carry on such business subject to the provisions of Divisions 2 and 3 and having filed the surety bond required by Section 12-253. The fee for an auctioneer's license, and for renewal of such license, shall be in the amount established by the annual appropriations ordinance.

(B) Licensure under any or all of the following acts, or related city ordinance, does not create an exemption from obtaining a license under this article:

(1) The precious metal and gem dealer act.

(2) The secondhand dealers and junk dealers act.

(3) Division 2 of article VIII ofChapter 12 of the City Code.

(Ord. 405, § 1 (part), 7-07-09; Ord. 408, § 7, 11-17-09)

12-253. APPLICATION FOR AUCTIONEER'S LICENSE.

(A) Any person desiring to engage in the business of an auctioneer in the city shall make application in writing under oath to the City Clerk and shall furnish the following and such other information as may be required by the city to consider such application:

(1) The full name and address of the applicant or applicants. If an association, give the full name. If a corporation, give the full name and the official address thereof with the date and state of incorporation, the full name and address of the resident agent, and attach to the application a copy of the certificate from the state of incorporation indicating that the corporation is in good standing. If a limited liability company, give the full name and the official address thereof with the date and state of organization, the full name and address of the members and of the resident agent, and attach to the application a copy of the certificate from the state of organization indicating that the company is in good standing.

(2) The full name and address of all other owners, co-partners, officers, and directors, and, if a closely held corporation, all shareholders, or, if a limited liability company, all managers and members. A closely held corporation shall include any corporation having complete stock ownership in 20 or less persons.

(3) The location of the place(s) where the applicant proposes to engage in the business of an auctioneer.

(4) Individual affidavits of each of the persons mentioned in subsection (2) above indicating that each person has not been convicted of or pled guilty or no contest to a felony or any moral turpitude offense within 10 years prior to the date of the application, has not been convicted of any other criminal acts within five years prior to the date of the application, has never been convicted of or pled guilty or no contest to a violation of state or local law relating to auctioneer businesses or the services performed therein, and has never had a license or permit to operate an auctioneer business denied, suspended, or revoked.

(5) A surety bond with a surety company approved by the city in the penal sum of $2,500 running to the City of Sterling Heights, the State of Michigan and other lawful taxing authorities conditioned on the payment by the auctioneer of (a) all taxes that may be payable by, or due from the party for which the applicant is conducting any auction, to the City of Sterling Heights, State of Michigan, or any department or subdivision of it or any lawful taxing authority, and (b) any fines that may be assessed by any court against such party or the auctioneer for violation of any of the provisions of this Article, provided, however, that the aggregate liability of the surety for all such taxes or fines shall not exceed the sum of such bond.

(Ord. 405, § 1 (part), 7-07-09; Ord. 408, § 8, 11-17-09)

12-254. REVIEW BY POLICE CHIEF; INSPECTIONS.

(A) Upon receiving an application for an auctioneer's license, the City Clerk shall refer such application to the Chief of Police, who shall determine whether the applicant has been convicted of, pled guilty to, or pled no contest to any crime involving dishonesty, fraud, or deceit.

(B) Upon the referral of an application for an auctioneer's license by the City Clerk, the Chief of Police may also cause to have the premises inspected for the purpose of determining whether criminal activities are occurring on the premises where the auction sale is proposed to be conducted.

(C) An applicant for an auctioneer license, or renewals of them, shall submit to lawful inspections by the Police Chief or others designated by him or her to determine compliance with the provisions of this division and other applicable ordinances and regulations of the city.

(D) Before the City Clerk shall issue any license under this article, the City Clerk shall review the information obtained by the Chief of Police as to whether the applicant has been convicted of, pled guilty to, or pled no contest to any crime involving dishonesty, fraud, or deceit and whether there are criminal activities going on at the premises where the auction is proposed to be conducted.

(Ord. 405, § 1 (part), 7-07-09)

12-255. ISSUANCE OR DENIAL OF AUCTIONEER'S LICENSE.

(A) Upon receipt of the information from the Chief of Police required under this division, the City Clerk shall consider the same within a reasonable time, either granting or denying the license. The City Clerk shall deny a license or renewal of the license if:

(1) The correct license fee and bond have not been tendered to the city, or, in the case of a check or bank draft, such check or draft has not been honored with payment upon presentation.

(2) There are ongoing criminal activities at the location where the proposed auction sale is to be conducted.

(3) The applicant, if an individual, or any of the applicant's employees or personnel; any of the stockholders holding more than 10 percent of the stock, any officer and any director, if a corporation; any member or manager, if a limited liability company; and the manager or other person involved in the operation of the business, has pled guilty or no contest to, or has been convicted of, any felony or any crime of moral turpitude, including but not limited to theft, gambling, extortion, dishonesty, fraud or deceit, unless such plea or conviction occurred at least 10 years prior to the date of the application, or has pled to or been convicted of any other crime during the five years prior to the date of application, or has pled to or been convicted of any crime relating to the business of an auctioneer.

(4) The applicant has knowingly made any false, misleading, or fraudulent statement(s) of fact in the license application or in any document required by the city.

(5) The applicant has had a similar business license, or other similar permit or license, denied, revoked, or suspended by the city or any other state or local agency within 10 years prior to the date of the application.

(Ord. 405, § 1 (part), 7-07-09)

12-256. EXPIRATION; RENEWAL; TRANSFER.

(A) All licenses shall be valid for one year except the first year of issuance, because all such licenses shall expire on December 31 of the year of issuance unless revoked for cause. Licenses shall be renewable upon application to the City Clerk.

(B) Licenses are not transferable. The license shall designate the particular location in the city where the auctioneer intends to conduct an auction sale. A person, corporation, or firm receiving a license shall not conduct an auction sale at any other location than the place designated in the license. In the event of a sale or transfer of the auctioneer business, the new owner shall apply for and obtain a license pursuant to this division before conducting any auction sales in the city.

(Ord. 405, § 1 (part), 7-07-09)

12-257. LICENSES; APPLICATION; CITY CLERK'S RECORDS.

The City Clerk shall indicate on the application for auctioneer's license the date it was received and shall keep a written record of it in the City Clerk's office that contains the name of the applicant, and whether the license was approved or denied, along with the date of such issuance or denial.

(Ord. 405, § 1 (part), 7-07-09)

12-258. VIOLATION; PENALTY.

(A) Any person who violates or permits a violation of any of the provisions of this article, whether as an owner, agent, servant, employee, advertiser, or promoter shall be guilty of a misdemeanor and subject to the penalties set forth in Chapter 1 of the City Code.

(B) The license of any person who is convicted for any violation of the provisions of this Article shall be immediately revoked by the City Clerk, and no part of the license fee shall be returned.

(Ord. 405, § 1 (part), 7-07-09)

12-259. APPEAL OF DENIAL, SUSPENSION, OR REVOCATION OF LICENSES FOR CLOSE-OUT SALES, AUCTIONEERS AND AUCTION SALES.

(A) Within 10 days of receipt of notification of suspension, revocation, or denial of a license under this Article IX or, an applicant may file a written appeal of such

action to the Board of Ordinance Appeals. Such appeal may request reconsideration of the suspension, revocation, or denial.

(B) The appeal must state specifically the reasons for believing the City Clerk's decision relating to suspension, revocation, or denial of a license was erroneous, and a copy of the decision or notice complained of must be attached to the appeal.

(C) The appeal hearing shall be conducted in accordance with the provisions in Chapter 2 of the Code of Ordinances. At the hearing, the appellant and the appellant's attorney may present a statement and evidence showing:

(1) That the decision of the City Clerk with respect to denial of an application for a license is not supported by the facts set forth in the record of the application for a license.

(2) That the decision of the City Clerk with respect to suspension or revocation of a license is not supported by competent, material evidence of the facts which form the basis for the suspension or revocation.

(3) That the decision of the City Clerk is contrary to law.

(D) The Board of Ordinance Appeals shall not reverse the City Clerk's decision where the denial, suspension, or revocation is based upon the occurrence of criminal acts, fraud, dishonesty, or other acts of moral turpitude, if established at the hearing by a simple preponderance of the evidence.

(Ord. 405, § 1 (part), 7-07-09; Ord. No. 454, § 1, 7-18-17)

12-260. - 12-269. RESERVED.

ARTICLE IX. BANQUET AND EVENT FACILITIES AND ACCESSORY USES.

12-270. PURPOSE.

Banquet halls, reception halls, catering halls, event facilities, and other establishments offering banquet services provide places for patrons to congregate for a variety of purposes, such as dining, drinking, socializing, and enjoying some form of entertainment. At times, the use of such facilities can result in disturbances to surrounding neighbors and tenants, noise or other nuisance violations, and illicit or criminal activities within the building or on the property. This article establishes licensing requirements designed to minimize the adverse secondary effects of such uses.

(Ord. No. 454, § 3, 7-18-17)

12-271. DEFINITIONS.

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

ACCESSORY BANQUET OR EVENT USE. A building or facility, or part of a building or facility, which offers, provides, or allows catering of food and beverage services in its event facilities or within separate indoor event rooms or areas which are available for use by individuals or groups as an accessory use to a principal use allowed under the Zoning Ordinance of the City of Sterling Heights. The term "***ACCESSORY BANQUET OR EVENT USE***" specifically excludes (a) banquet and event facilities as defined below, (b) establishments which do not permit their event facilities or event rooms to be used by patrons beyond 11:00 p.m., or (c) events offering, providing, or allowing food or beverage services which are regulated as temporary uses under the provisions of the Zoning Ordinance. The term "***ACCESSORY BANQUET OR EVENT USE***" does not include any building or part of a building which is used as a "banquet and event facility" as defined in this section.

BANQUET AND EVENT FACILITY. A freestanding building with one or more rentable separate event rooms or areas which is principally used for the holding of (a) private events or gatherings which are not open to the general public, or (b) public events offered by the proprietor of the banquet facility which are open to the public, where food or beverage services are offered, provided, or catered by such proprietor. The term ***"BANQUET AND EVENT FACILITY***" does not include any building or part of a building which is used as an "accessory banquet or event use" as defined in this section.

(Ord. No. 454, § 3, 7-18-17)

12-272. LICENSE REQUIRED.

(A) It shall be unlawful to operate a banquet and event facility within the city without obtaining a banquet and event facility license as required by this article.

(B) It shall be unlawful to operate an accessory banquet or event use within the city without obtaining an accessory banquet or event use license as required by this article.

(Ord. No. 454, § 3, 7-18-17)

12-273. APPLICATION.

(A) A banquet and event facility, and any accessory banquet or event use, lawfully operating prior to July 19, 2017 shall have until January 5, 2018 to file a license application in order to continue operating thereafter, and if timely filed, it may continue such operations if it is otherwise in compliance with the requirements of this article, and until a final decision on issuance or denial is made by the City Clerk. A banquet and event facility, and any accessory banquet or event use, not lawfully operating prior to July 19, 2017, including any expansions or modifications of an otherwise lawful use, shall file an application and await issuance of a license prior to beginning any new, expanded, or modified operations regulated by this article. Applications shall be filed with the City Clerk, under oath, on a form provided by the City Clerk, and shall include the following information:

(1) The full name of the applicant and whether the applicant is an individual or a corporation, partnership, or other business entity;

(2) The name under which the business is or will be operated, and a copy of the current business registration, if any, and any applicable business licenses;

(3) The business address and all telephone numbers for the business;

(4) A copy of the signed lease for the business property and written consent of the owner to utilize the property as a banquet and event facility or an accessory banquet or event use, if the property is not owned by the applicant;

(5) The site plan or special approval land use number, and the date of the meeting at which the site plan or special land use for the banquet and event facility or accessory banquet or event use (or facility to which the accessory banquet or event use is accessory if such use was approved prior to the effective date of this Ordinance) was approved by the Planning Commission (if applicable) or Planning Department (if site plan approval was granted administratively), including a layout plan of the banquet and event facility or accessory banquet or event use showing:

a. The overall design and placement of the facility on a scaled site plan, with "to scale" floor plans of the banquet facility layout or of the accessory banquet or event use rooms or areas;

b. The location of all facilities, areas, separate rooms available for banquet or event rental or use, areas for outdoor congregation, and kitchen and bar areas used for the preparation of food and/or beverages;

c. Any speakers, amplifiers, televisions, display screens, stages or performance areas, and similar installations designed to facilitate entertainment;

(6) The full name, address, and phone number of each individual who manages or is principally in charge of the operation of the business, with such information to be updated immediately with any new or changed information not found on the initial list;

(7) A detailed summary or description of the nature and type of services to be provided within the banquet and event facility or accessory banquet or event use, including the square footage and occupant load of the facility and of each room available for rental or use for a banquet or other event use;

(8) For existing banquet and event facilities or accessory banquet or event uses, (i) the date that a certificate of occupancy was issued for an approved banquet and event facility, (ii) the date that use approval was granted for an approved accessory banquet or event use, or if neither of the above was obtained, then (iii) the

date the banquet and event facility or accessory banquet or event use proposes to open for business if it is a new banquet and event facility or accessory banquet or event use;

(9) The days and hours of operation that the banquet and event facility or accessory banquet or event use is or will be available for use by patrons, including times used for setup, preparation, cleanup, and/or teardown after events;

(10) A release and authorization for the city, through its agents and employees, to seek information and conduct an investigation into the truth of the statements set forth on the application and the qualifications of the applicant for the license;

(11) Additional business facilities with similar activities or operations that have been owned, operated, or managed by the applicant, in whole or in part, within the past ten years;

(12) Such other information as may be required by the City Clerk, Police Department, Fire Department, or City Development Department;

(13) A written declaration by the applicant, given under oath or affirmation, under penalty of perjury, that the information contained in and attached to the application is true and correct.

(B) All applications shall be accompanied by a nonrefundable application fee in an amount set by the city's annual appropriations ordinance.

(C) It shall be a misdemeanor, punishable as provided in Chapter 1 of the city code, for any person to knowingly make any false, fraudulent, or untruthful statement, either written or oral, or in any way knowingly to conceal any material fact or to give or use any fictitious name in applying for a license under this article. Any license obtained in violation of this subsection shall be void.

(D) Each application shall also be accompanied by:

(1) A fully executed maintenance agreement acceptable to the City Attorney, assuring the upkeep and maintenance of, and the prevention of nuisances created by operation of, the banquet and event facility or accessory banquet or event use. The agreement shall remain in effect for as long as the banquet and event facility or accessory banquet or event use is operated and properly licensed, and shall include the applicant's agreement to cease operating the banquet and event facility or accessory banquet or event use until the operation is in full compliance with the requirements of the maintenance agreement. Any modifications to the banquet and event facility or accessory banquet or event use may require an amended maintenance agreement.

(2) A public liability and property damage insurance policy insuring the facility and its personnel against any liability arising out of its utilization of a banquet and event facility or accessory banquet or event use on the property. No person or entity shall maintain, utilize, or allow to be utilized any banquet and event facility or accessory banquet or event use unless the insurance required by this section is in force at the time of such operation.

(3) A fully executed indemnity agreement, approved by the City Attorney, whereby the applicant and property owner agree to indemnify and hold harmless the city and its officers, agents, and employees from any claim arising or resulting in any manner from the operation of the banquet and event facility or accessory banquet or event use.

(4) The applicant shall submit such additional information that the City Clerk, Police Department, Fire Department, or City Development Department determines during the review process to be reasonably necessary to complete its review of the license request.

(5) The applicant shall promptly advise the City Clerk of any changes it makes to the operation of a licensed banquet and event facility or accessory banquet or event use so that the City Clerk may determine whether such changes impact the validity of the license.

(Ord. No. 454, § 3, 7-18-17)

12-274. DUTIES OF THE CITY CLERK REGARDING APPLICATIONS FOR BANQUET FACILITY LICENSES.

(A) Upon receipt of a properly and fully completed application for a license, the City Clerk shall provide a copy of the application materials to the City Manager or his or her designee and shall forward a copy of the application materials to the following for their review, investigation, and recommendation:

(1) Chief of Police;

(2) Building Official;

(3) Fire Marshal;

(4) City Planner; and

(5) City Development Director.

(B) Except as provided in subsection (D), upon receipt of favorable recommendations from each of the investigating officials listed in subsection (A), the City Clerk shall issue a license to the applicant.

(C) Upon issuance of a license, the City Clerk shall notify each of the following of the issuance:

(1) Chief of Police;

(2) Building Official;

(3) Fire Marshal;

(4) City Planner;

(5) City Development Director; and

(6) Office of City Management.

(D) Denial. The City Clerk shall deny an application for any of the following reasons:

(1) The banquet and event facility or accessory banquet or event use, as proposed in the application, would not comply with all applicable laws, including, but not limited to, the city's building, fire, zoning, and health ordinances.

(2) The business is not registered with the City Clerk and/or does not have a proper certificate of occupancy for the building or property upon which the banquet and event facility or accessory banquet or event use is operating or proposed to operate.

(3) The applicant made a false, misleading, or fraudulent statement of fact or omission in the license application or any document required by the city in conjunction therewith, or has failed to submit all required information or the required fee.

(4) The applicant has had a similar permit or license denied, revoked, or suspended by the city or any other state or local agency.

(5) The applicant has not provided all of the information required to be submitted with an application pursuant to this article.

(6) The applicant or operator of the banquet and event facility or the accessory banquet or event use (a) has received two or more combined violations of city code, liquor control, nuisance, and/or property maintenance regulations within the 12 months preceding submission of the application, or has pending litigation with the city, or has pending ordinance violations in court issued by the City of Sterling Heights Police Department, Fire Department, or other city officials or officers authorized to issue citations or ordinance complaints, in any way relating to or arising from the operation of such banquet and event facility or accessory banquet or event use, and such violations or litigation has not been resolved in court or administratively, or (b) has had two or more incidents of illicit or criminal activity occurring upon the property where the banquet and event facility or the accessory banquet or event use is located within the 12 months preceding submission of the application. Notwithstanding the preceding sentence, the City Clerk may approve a license for a banquet and event facility or an accessory banquet or event use for an applicant with previous nuisance and/or ordinance violations relating to nuisances or disturbances if the applicant has obtained approval of a nuisance mitigation plan (or amendment to a previous plan) from the Planning Commission and is complying with the terms of such plan.

(7) The banquet and event facility or accessory banquet or event use is not in compliance with approved plans or other approvals on file with the city.

(E) If the City Clerk denies an application, he or she shall notify the applicant by regular mail addressed to the applicant at the address shown on the application. Such notice shall specify the following:

(1) Notice of the proposed denial.

(2) Reasons for the proposed denial.

(3) A statement that the individual or entity has the right to appeal the denial to the Board of Ordinance Appeals by submitting a written application to the City Clerk or his or her designee within 14 calendar days.

(F) The City Clerk shall grant or deny a license application under this article within 60 days of receipt of the application (or as soon thereafter as reasonably practical with respect to the initial group of applications received after this article is enacted), except that the City Clerk may extend that deadline upon request of an applicant in order for the applicant to attempt to remedy any correctable violations that would require denial if left uncorrected. The applicant may extend the deadline as often and for as long as it believes it will need, except that upon the expiration of one year from receipt of the application, the City Clerk shall issue a final grant or denial decision and close the matter. Thereafter, a new application from the applicant shall not be accepted by the City Clerk for a period of six months unless accompanied by documentation of a material change in circumstances, including but not limited to a correction or elimination of any previously outstanding violations or other reasons for denial. Banquet and event facilities or accessory banquet or event uses that are or have previously been lawfully in use prior to July 19, 2017 may continue to be utilized as banquet and event facilities or accessory banquet or event uses while the license application is pending, unless the city identifies an immediate risk or hazard to public safety requiring closure, so long as the application is properly completed and submitted to the City Clerk prior to January 5, 2018.

(G) Each license issued under this article shall be valid for a period of two years from the date it was issued. The expiration date shall be designated by the City Clerk on the license. A renewal form and any applicable fee established by the city's annual appropriations ordinance must be submitted to the City Clerk prior to expiration of the license in order for the banquet and event facility or accessory banquet or event use to continue. Upon receipt of a properly completed renewal form and any fee established by the city's annual appropriations ordinance, the license will be deemed renewed until and unless the City Clerk denies the renewal due to inaccurate or incomplete information, changed information, or for any other reason that a license may be suspended or revoked under this article.

(H) A party aggrieved, including but not limited to the applicant or an adjoining property owner or tenant, may appeal any decision under this section to the Board of Ordinance Appeals within 14 calendar days after the contested decision. An appeal must be made in writing and submitted to the City Clerk or his or her designee and shall contain the reasons supporting the appeal and any evidence that supports it. The person appealing may review the evidence that is the basis of any grant, inaction, or denial during the city's normal business hours. The city shall send notice of the meeting at which the appeal will be heard to all addresses within 300 feet of the banquet and event facility or accessory banquet or event use. The scope of the Board's review shall be limited to verifying the facts supporting a written decision to grant, not act upon, or deny a license. If the Board finds that the facts supporting the decision are correct, the grant, inaction, or denial shall not be disturbed.

(Ord. No. 454, § 3, 7-18-17)

12-275. DISPLAY AND USE OF LICENSE.

(A) Each license issued under this chapter shall be conspicuously displayed upon a wall within plain view of patrons entering the banquet and event facility or accessory banquet or event use area, along with the approved layout of the facilities, except that the layout is not required if the license is issued with a QR code that enables city personnel to scan the license and review the approved layout plans electronically. All licenses shall be made available, upon request, for inspection by any patron, police officer, or city official in order to confirm the information contained in the licenses. Within 72 hours of any change in fact, policy, or method which would alter the information provided in a license application, or on the license itself, the applicant/licensee shall notify the City Clerk of such change(s) in writing.

(B) It shall be a misdemeanor for any person to fraudulently make use of, to his or her own or another's benefit, a license issued to him, her, or another in accordance with this article.

(C) It shall be a misdemeanor for any person to counterfeit or forge the license required by this article or to deface or otherwise alter a license issued under the provisions of this article.

(D) A license issued under this article is not transferable, separable, or divisible, and the authority conferred shall be conferred only upon the individuals named on the license. Upon sale, transfer, or relocation of the facility, the license previously issued for the facility shall be null and void unless pre-approved by the City Clerk. It shall be the duty of all owners or licensees having knowledge of the sale, transfer, or relocation of the facility to immediately report such sale, transfer, or relocation to the City Clerk's office. The failure to do so shall result in an immediate suspension of the license. An application for transfer shall be in writing, shall contain the same information as required by this article for an initial application for a new license, and shall be accompanied by the same fee as required for an application for a new license.

(E) It shall be a misdemeanor for any person operating a facility licensed under this article to permit or allow an employee or any person whatsoever to violate any of the terms of this article while on the property of the facility, and it shall be a misdemeanor for any person at a licensed facility to condone or allow any unlawful activity to occur on the licensed property, whether indoors or outside.

(F) A licensee shall be guilty of a misdemeanor if the banquet and event facility or the accessory banquet or event use is operated between the hours of 2:00 a.m. and 7:00 a.m., unless the licensee has obtained a valid after hours permit from the Michigan Liquor Control Commission allowing a later closing time.

(G) Every applicant and licensee shall notify the City Clerk in writing of any changes or modifications to (i) the information submitted in the application (whether such changes occur before or after the license has been reviewed or approved and issued), or (ii) the operational components of a nuisance mitigation plan.

(Ord. No. 454, § 3, 7-18-17)

12-276. REGULAR INSPECTIONS AND SAFETY REQUIREMENTS.

(A) All property used by a licensee under this article shall be periodically inspected by the Police Chief, Building Official, Fire Marshal, City Development Director, and City Planner, or their authorized representatives, for the safety of the licensed facility and compliance with all applicable laws, codes, ordinances, and any conditions imposed by any board or commission. A search warrant shall not be required for such inspections, in accordance with the opinion of the Michigan Supreme Court in *Gora v City of Ferndale*, 456 Mich 704 (1998). It is unlawful for any licensee to deny or refuse access to the property or to hinder the official in any manner in the performance of his or her responsibilities under this article, and such refusal shall constitute sufficient grounds for immediate revocation of a license granted under the provisions of this article. The following minimum standards shall be maintained:

(1) A licensed facility must comply with all applicable construction, building, and fire codes and all other governmental laws and regulations, including all technical codes, as well as the conditions of any permits, licenses, or other approvals issued for, or governing, the use of the facility.

(2) The Planning Department may require that a licensed facility be shielded and screened through the use of walls, fencing, trees, shrubbery, and/or other materials designed to mitigate sound and light emanating from the facility or the property upon which it is located.

(3) The Planning Department may require a licensed facility to submit additional information regarding how the licensee plans to mitigate any potential nuisance caused by the congregation of patrons and/or the use of speakers, amplified music, televisions, displays, lighting, performances, or other forms of entertainment.

(4) If required by the Planning Department due to proximity of the licensed facility to nearby properties that may be residential or otherwise adversely affected by such use, a licensed facility shall post conspicuous signage visible to users of the facility advising patrons to respect neighboring properties by not yelling, screaming, littering, singing, or otherwise engaging in activities that could disturb a neighboring property, and to leave the property courteously and expediently, without loitering in the parking areas or outside of the facility.

(5) A licensed facility shall employ sufficient staff to ensure that noise levels within the facility are not disturbing any nearby residents, establishments, and/or properties, minimizing traffic congestion in parking areas, and complying with all applicable city codes and Ordinances, The facility shall also maintain staff to continuously patrol and monitor the exterior of the property to address any noise and/or nuisance issues and facilitate the dispersal of individuals loitering on the site but outside of the facility.

(6) Unless an alternative is specifically approved by the City Planner or a city board or commission, the ingress and egress points to and from a licensed facility shall be designed to muffle, mask, or prevent lights, vibration, and/or sound from inside the principal structure that could impact neighboring properties by installation of a vestibule, transition room, or hallway with a sound muffling door at each access point, or by installing a sound-muffling revolving door. All ingress and egress doors

shall remain closed unless being utilized for immediate ingress or egress, or unless the business is closed to the public and employees are utilizing the doors during daylight hours solely for cleaning, stocking, and similar business purposes.

(7) A licensed facility shall be regularly maintained in a safe, clean, litter-free, and orderly condition.

(8) If applicable, the maximum occupancy permitted in each separate area or room of a licensed facility shall be posted in a conspicuous place at the inside entrance to that individual area or room. The licensee shall ensure that the number of occupants in the area or room does not exceed the posted limit at any time. A server or other person employed by the licensee who briefly enters and exits an area or room in connection with serving patrons shall not be considered an occupant for the purposes of this subsection.

(9) All required city, county, and state permits, licenses, and approvals shall be secured prior to any banquet and event facility or accessory banquet or event use license becoming effective.

(B) Banquet and event facilities or accessory banquet or event uses (i) that have not been lawfully operating for at least 12 consecutive months preceding the date of their license application, or (ii) that have been lawfully operating for at least 12 consecutive months preceding the date of their license or renewal application but have committed more than 1 violation during that time period involving noise, nuisance, or illicit or criminal activities, shall be subject to the following additional nuisance mitigation regulations if located upon property that adjoins any property zoned for, utilized for, or depicted on the city's master plan for future residential purposes:

(1) The applicant or licensee shall prepare a nuisance mitigation plan, which shall address the actions that will be taken and maintained to mitigate noise, nuisances, and disturbances on or originating from the property of the banquet facility or accessory banquet or event use.

(2) The nuisance mitigation plan must be submitted by the applicant with the license application. The nuisance mitigation plan will be presented by the City Planner to the Planning Commission for review under the standards set forth in the Zoning Ordinance.

(3) Failure to comply with the nuisance mitigation plan as approved by the Planning Commission shall be grounds for the Planning Commission to revise or revoke the nuisance mitigation plan. Ongoing or recurring instances of noncompliance shall be submitted by the City Planner to the Planning Commission for review. A license issued under this article shall be suspended by the City Clerk in the event that the Planning Commission revokes an approved nuisance mitigation plan. The license shall be reinstated if the Planning Commission later approves a new or revised nuisance mitigation plan or if the City Planner determines that the noncompliance is otherwise corrected.

(4) Ongoing instances of unforeseen or unintended consequences adverse to other properties or which extend beyond the property line shall be submitted by the City Planner to the Planning Commission for review and consideration of potential amendments to the terms and conditions of the nuisance mitigation plan of the banquet and event facility or accessory banquet or event use.

Exception: Where the adjacent residentially zoned or used property (i) is developed with non-residential use(s) permitted in residential zoning districts that do not contain any one family or multiple family residential dwellings (such as places of group worship; schools; public facilities; recreational facilities; public utilities; private clubs, fraternal organizations, and cultural centers; child or adult day care facilities, etc.); or (ii) is separated from the banquet and event facility or accessory banquet or event use by a public thoroughfare of at least 86 feet in width, no nuisance mitigation plan is required if this section would otherwise require such a plan due solely to the banquet and event facility or accessory banquet or event use being located adjacent to residentially zoned or used property.

(Ord. No. 454, § 3, 7-18-17)

12-277. VIOLATIONS AND APPEALS.

(A) Unless otherwise specified, any violation of the provisions of this article shall result in the issuance of a municipal civil infraction citation carrying a fine of $500. A second or subsequent violation of the same provision within any consecutive 12-month period shall be deemed a misdemeanor, punishable as provided in Chapter 1 of the city code. Any and all entities, owners, managers, and operators may be issued a citation for any violation of this article if deemed to be jointly responsible for the same violation.

(B) Any second violation of the same provision of this article, and/or any third violation of any provision of this article, within any consecutive 12-month period shall cause the City Clerk to suspend the license for 30 days. Any fourth violation of this article within any consecutive 12-month period shall cause the City Clerk to review the license for revocation. The City Clerk shall solicit a review of the operation of the banquet and event facilities or accessory banquet or event uses from the Police Chief, Fire Chief, Building Official, City Development Director, and City Planner. The review shall be limited to determining whether the license should be revoked, either for (1) ongoing nuisance conditions, noise, or illicit or criminal activities on the property, (2) continued violations of the original city approvals relating to the banquet and event facility or accessory banquet or event use application, and/or (3) other law, ordinance, or code violations arising out of the use and/or maintenance of the banquet and event facility or accessory banquet or event use and reasonably related to the public health, safety, and welfare of the facility's patrons or employees, or owners, occupants, tenants, or individuals in the surrounding neighborhood. In the event that any of the reviewing city officials recommends revocation, the City Clerk shall issue notice to the licensee that the license is revoked.

(C) The licensee may submit a written request to appeal any suspension or revocation pursuant to the appeal provisions set forth in this article.

(1) All suspension appeals shall be reviewed by the City Manager or his/her designee. Review is limited to (1) finding error in the conclusion of the City Clerk regarding the number and/or nature of violations, (2) finding that the licensee has satisfactorily demonstrated that one or more of the underlying violations was due to causes outside of its control, or (3) the licensee has implemented significant remedies to prevent future violations. A written decision shall be provided to the licensee within 14 calendar days.

(2) All revocation appeals shall be heard by the Board of Ordinance Appeals at its next regular meeting scheduled at least three calendar days after submission of the appeal, or at the next regular meeting thereafter if additional time is requested by the licensee in writing.

(3) Upon submission of the appeal request, the licensee may continue to operate under the license until the decision of the City Manager or the Board is rendered unless the basis for the suspension or revocation is an immediate risk or hazard to public safety or continued disturbance of public tranquility.

(4) When considering a revocation appeal, the Board may uphold the revocation, reverse the revocation, or modify the revocation to a suspension with reinstatement conditioned upon any terms and conditions the Board determines to be reasonably necessary for the safe and lawful continued utilization of the banquet and event facility or accessory banquet or event use, including but not limited to referral to the Planning Commission if the Board determines that a required nuisance mitigation plan should be reviewed for potential revision.

(C) Ongoing violations of this article may also subject the licensee and/or property owner to the remedial and enforcement provisions set forth in Section 1-141 of the city code.

(Ord. No. 454, § 3, 7-18-17)

12-278. - 12-279. RESERVED.

CHAPTER 13: CABLE COMMUNICATIONS

ARTICLE I. GENERAL PROVISIONS

13-1. SHORT TITLE.

This chapter shall be known as the "City of Sterling Heights Cable Communications Ordinance" and may be cited as such and will be referred to as "this chapter."

(Ord. No. 222-M, § 1, 8-7-96)

13-2. DECLARATION OF PURPOSE.

The purpose of this chapter is to provide for regulation of cable communications service in the city in the interest of the public; to promote and encourage adequate, economical and efficient cable communications service to the residents of the city; to promote and to encourage harmony between cable communications companies and their subscribers and to provide for the furnishing of cable communications system service to the residents of Sterling Heights without unjust discrimination, undue preferences or advantages.

(Ord. No. 222-M, § 1, 8-7-96)

13-3. DEFINITIONS.

The following words, when used in this chapter, shall have the following meanings, unless otherwise clearly apparent from the context:

(A) ***PERSON*** or ***COMPANY***. One or more individuals, firms, corporations, associations, partnerships or organizations of any kind and any combination;

(B) ***CABLE COMMUNICATIONS SERVICE.***

(1) The one-way transmission to subscribers of (i) video programming or (ii) other programming service; and

(2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming services;

(C) ***CABLE SYSTEM.*** A facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to subscribers within the city, but such term does not include:

(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) A facility that serves subscribers without using any public right-of-way;

(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934 (the Act), except that such facility shall be considered a cable system (other than for purposes of Section 621(c) of the Act) to the extent such facility is used in the transmission of video programming directly to subscribers unless the extent of such use is solely to provide interactive on-demand services;

(4) An open video system that complies with Section 653 of Title VI of the Act;

(5) Any facilities of any electric utility used solely for operating its electric utility system.

(D) ***FRANCHISE***. A nonexclusive contract to transact local business providing cable service using the right-of-way awarded by ordinance and accepted in writing by the grantee.

(E) ***GROSS REVENUES***. Revenues derived from the operation of the cable system to provide cable service as more specifically set forth in the franchise agreement.

(F) ***COUNCIL***. The City Council of the city or its designee.

(G) ***CABLE COMMUNICATIONS COMPANY.*** Any person or company granted a franchise in accordance with this chapter.

(H) ***RIGHT-OF-WAY.*** The entire area owned or dedicated by the city or other governmental agency or entity for public use as a street, sidewalk, easement, landscape area or other public place.

(Ord. No. 222-M, § 1, 8-7-96)

13-4. FRANCHISE REQUIRED.

(A) No person shall construct, install, maintain or operate a cable communications system in the City of Sterling Heights nor shall any person provide a cable communications service or acquire ownership or control of a cable communications company in the city without such person having first obtained a franchise therefor from the city in the form of a franchise agreement between the city and the cable communications company, which franchise agreement shall include, at a minimum, compliance with the specifications of this chapter, except as otherwise set forth in such agreement.

(B) No person shall use, occupy or traverse the right-of-way or any extensions thereof or additions thereto, whether on, above or under the surface of the ground for the purposes of installing, constructing, maintaining or operating a cable communications system or facilities therefor or for the purpose of furnishing a cable communications service without such person having first obtained a franchise therefor from the city in the form of a franchise agreement between the city and the cable communications company, which franchise agreement shall include, at a minimum, compliance with all the specifications of this chapter, except as otherwise set forth in such agreement.

(C) The specifications required by this chapter are minimum requirements of a franchise agreement. Additional requirements, including but not limited to rates, charges, deposits, specifications regarding required interconnections, studios or other signal origination facilities, number of channels to be equipped and available for immediate use upon initial construction of the system, use of channels by the city, schools and other educational institutions, quality of community access, availability of equipment to users, required establishment and expansion of service area, other use of channels and other specifications or requirements of a cable communications company or system may be established in the franchise agreement.

(Ord. No. 222-M, § 1, 8-7-96)

13-5. FRANCHISE-INITIAL REQUEST; CONTENTS; FEES; TRANSFER.

(A) The request for an initial franchise to install, construct, maintain or operate a cable communications system in the City of Sterling Heights or to furnish a cable communications service shall be made in writing to the Council in such form as may be prescribed.

The request shall be accompanied by a fee of $5,000, which fee shall be used to cover expenses, direct or indirect, incurred by the city in the preparation of this chapter, amendments to this chapter, development of proposal solicitation documents and any amendments and reviewing, investigating and evaluating the proposals submitted.

(B) Upon the filing of such a request and the payment of the fee as prescribed, the Council shall consider the request and may seek such additional information as it may deem necessary to establish the legal, financial, technical and other qualifications of the applicant to provide a cable communications service in the city.

(C) If the Council determines that the applicant possesses the necessary qualifications, legal, financial, technical and otherwise to reasonably assure applicant's ability to satisfactorily install, construct, maintain and operate a cable communications system or to furnish a cable communications service to the public in the city, the Council may issue a nonexclusive franchise therefor in the city. No franchise shall be issued until the Council has held a public hearing on such request after due notice of the time and place of such hearing has been given to the public.

(D) In determining whether such a franchise shall be issued, the Council shall take into consideration, among other things, the applicant's technical qualifications; financial responsibility and ability to perform efficiently the service for which the franchise is requested, including the prior experience, if any, in providing cable communications systems or furnishing cable communications service; the proposed rate schedule; the nature and scope of the proposed system; and the timetables for development of the proposed system.

(E) Neither a franchise nor a cable system shall be sold, assigned or transferred, except in accordance with this section:

(1) In the event of a change of control of the cable communications company, ("change of control" includes a change in ownership of a majority interest), the parties to the sale or transfer shall make a written request to the city for its approval of sale or transfer. The written request shall be accompanied by information required by FCC rules and shall be presented on a form as prescribed by FCC rules;

(2) In accordance with federal law, the city shall have 120 days from receipt of the information referred to in subsection (1) above to act upon the request for approval. If the city fails to render a final decision on the request within that time, the request shall be deemed granted unless the cable communications company and the city agree to an extension of the time;

(3) During the review period described in subsection (2) above, the city may advise the cable communications company that a public hearing is deemed

necessary. In such event, the cable communications company shall have written notice of the hearing and the opportunity to participate fully in it as far in advance as possible and in no event less than 14 days before the start of the hearing;

(4) A decision of the city upon a request pursuant to this section shall be in writing and subject to review and appeal as provided in the federal law.

(F) In reviewing a request for sale or transfer, the city may inquire into the technical, legal and financial qualifications of the prospective controlling party and the cable communications company shall assist the city in so inquiring. The city shall not unreasonably withhold its approval. In no event shall a transfer or assignment of ownership or control be approved without the transferee becoming a signatory to the franchise.

(G) Notwithstanding anything to the contrary, no consent or approval by the city shall be required for a transfer or assignment to any person or entity controlling, controlled by or under the same common control as the cable communications company or for any sale, transfer or assignment other than a transfer requiring approval.

(Ord. No. 222-M, § 1, 8-7-96)

13-6. SAME-NONEXCLUSIVE; TERM; FORM.

Any franchise issued pursuant to this chapter shall be a nonexclusive franchise for a term of years, not to exceed 15 years, as the Council may approve and shall be issued in such form as shall be determined by the Council.

(Ord. No. 222-M, § 1, 8-7-96)

13-7. SAME-FEES; REPORTING, RECORDS.

(A) During the term of any franchise granted pursuant to this chapter, the person granted such franchise shall pay to the city for the use of its right-of-way as well as the maintenance, improvements and supervision thereof and for the regulation activities required by virtue of the franchise, an amount to be determined by agreement between the city and the person granted such franchise but the amount shall not be less than 5% of the gross revenues, as defined in § 13-3(e). The fee paid to the city may not be shown on any bill or invoice rendered to a subscriber unless permitted by federal or state law or regulation. The city shall be furnished with a statement with each payment, certified as correct by the cable communications company, and an annual statement for the entire year. The cable communications company shall provide to city only those records and reports which pertain specifically to cable communications company's system under this agreement and only the financial records of the revenues earned by the cable communications company from the operation of its cable system within the city.

(B) The fee shall be paid as provided in the franchise at the office of the Treasurer of the city during regular business hours. If the City Treasurer's office is closed on the due date, then payment may be made during regular business hours on the next following day on which the office is open for business.

(C) The city shall have the right, at its expense and upon 30 days written notice, to inspect the cable communications company's records showing the gross revenues from which its franchise payments are computed. The right of audit and recomputation of any and all amounts paid under this franchise shall be always accorded to the city. Except as otherwise provided by law, no acceptance of any payment by the city shall be construed as a release of or an accord and satisfaction of any claim the city might have for further or additional sums payable or for any other performance or obligation of the cable communications company. Acceptance of any payment shall be final upon completion of any audit. The books and records shall be made available to the city in the city.

(Ord. No. 222-M, § 1, 8-7-96)

13-8. CONSTRUCTION OF FACILITIES; RIGHT TO USE RIGHT-OF-WAY; RESTRICTIONS; DISPOSAL; DUTIES.

(A) A franchise granted pursuant to this chapter shall confer upon the grantee the nonexclusive right to erect, install, construct, reconstruct, replace, remove, repair, maintain and operate in or upon, under, above and across the right-of-way as existing as of the date of the grant of said franchise and all subsequent extensions thereof and additions thereto, in and belonging to the city, all necessary towers, poles, wires, cables, coaxial cables, transformers, amplifiers, underground conduits, manholes and other television and/or radio conductors, equipment and fixtures for the installation, construction, maintenance and operation of a cable communications system (including audio, video and radio signals) or the furnishing of a cable communications service.

(B) Prior to the erection or installation of any towers, poles, guys, anchors, underground conduits, manholes or fixtures for use in connection with the installation, construction, maintenance or operation of a cable communications system under a franchise granted pursuant to this chapter, the cable communications company of a franchise hereunder desiring to erect or install such facilities for use in connection with its cable communications system shall first submit to the City Engineer of the city for review and approval a concise description of the facilities proposed to be erected or installed, including engineering drawings, if requested or required, together with a map indicating the proposed location of such facilities. No erection or installation of any tower, pole, guy, anchor, underground conduit, manhole or fixture for use in a cable communications system shall be commenced by any person until approval therefor has been received from the City Engineer.

(C) Any person accepting a franchise pursuant to this chapter and erecting or installing towers or poles located in the public right-of-way or utility easements shall, upon written request by the city, grant the city reasonable attachment space or spaces upon such towers or poles without a rental charge for the attachment of wire or cable owned and used in offering a noncompetitive service by the city. The city shall pay any costs incurred by such person in providing attachment space or spaces to said city, including all necessary costs or rearrangement of such person's wires, cables or equipment and tower or pole replacement cost for a larger tower or pole, if required.

(D) Upon the termination or revocation of any franchise granted pursuant to this chapter, or should any person wish otherwise to dispose of any tower or pole erected or installed for use in connection with a cable communications system or any portion of the system, the city retains the first right and option to purchase in place such towers or poles as it may require or such portion of the system for the fair market value thereof as determined by an independent appraiser. The city shall be under no obligation to purchase all or any part of the system upon termination or revocation for cause of any franchise granted pursuant to this chapter. Further, upon the termination or revocation for cause of any franchise granted pursuant to this chapter, should the city determine that it does not desire to purchase the system or any part thereof, the franchisee shall have a period of 12 months from the date of termination or revocation to remove its towers, poles, wires, aerial or nonburied cables, fixtures or other facilities from the right-of-way; provided, however, that the cable communications company shall not disturb any underground conduit, manholes or other facilities constructed underground. At the expiration of such 12 month period, any property not removed by the cable communications company shall become the property of the city to do with as it may choose. Any cost to the city removing said property from the right-of-way shall be reimbursed to the city by the cable communications company.

(E) In areas or portions of the city where transmission or distribution facilities of public utilities providing telephone service and electric service are underground, any person granted a franchise pursuant to this chapter shall likewise install, construct, maintain and operate its transmission and distribution facilities in like manner underground to the maximum extent feasible and permitted by existing technology and conditions, subject to the approval of the City Engineer of the city as provided in subsection (B) of this section.

(F) All construction, installation, maintenance and operation of any cable communications system or of any facilities employed in connection therewith shall, except where inconsistent with city ordinances, rules, regulations, standards and specifications, be in compliance with the provisions of the National Electrical Safety Code as prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, any standards issued by the Federal Communications Commission or other federal or state regulatory agencies in relation thereto and applicable regulations of public utilities operating in the City of Sterling Heights. Every cable communications system installed, constructed, maintained or operated in the city shall be so designed, constructed, installed, maintained and operated as not to endanger or interfere with the safety of persons or property in the city.

(G) Any opening or obstruction in, disturbance of or damage to the right-of-way by any person in the exercise of any right granted pursuant to this chapter shall be properly guarded by adequate barriers, lights, signals and warnings as to prevent danger to any person or vehicle using such right-of-way and shall be properly and promptly repaired, all in a manner specified and approved by the City Engineer, at such person's expense.

(H) Any person owning or maintaining a cable communications system or facilities therefor in or on the right-of-way in the city shall, at its expense and without reimbursement from the city, upon request of the city, protect, support, temporarily disconnect, relocate or remove from the right-of-way any property of the person when required by reason of traffic conditions, public safety, street vacation, freeway or street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, tracks, the construction or change of the transmission or distribution facilities of any telephone or electric public utility or other public improvements. Any such person shall also, at the request of any private party holding an appropriate permit issued by the city, temporarily raise or lower its cable communications transmission or distribution wires or cables to permit the moving of any building or other structure, provided that the actual expense of such temporary raising or lowering shall be paid in full by the party requesting the same.

(I) If any person shall fail to commence, pursue or complete any work required by law or by the provisions of this cable communications ordinance as set forth in this chapter to be done in any right-of-way as designated by the engineer of the city, the City Engineer may cause such work to be done and such person shall pay to the city the cost thereof within 30 days of the receipt of an itemized statement of such cost.

(J) Any person operating a cable system shall, in addition to all other requirements of this chapter, within 30 days of the execution of a franchise, file with the city a corporate surety bond with a company authorized to do business in the State of Michigan and reasonably acceptable to the city in the amount of $2,500,000. The purpose of the corporate surety bond is to guarantee the timely construction and full activation of the cable system. The corporate surety bond shall be for the purpose of allowing recovery by the city of any and all damages, losses or costs suffered by the city resulting from the failure of the cable communications company to satisfactorily complete and fully activate the cable system throughout the city, pursuant to the terms and conditions of this chapter.

(K) When the cable system is completed to the reasonable satisfaction of the City Council, the corporate surety bond need no longer be maintained.

(L) The construction bond shall contain the following endorsement:

"It is understood and agreed that this bond may not be canceled by the surety nor may the intention not to renew be exercised by the surety until 60 days after receipt by the city, by registered mail, of a written notice of such intent to cancel or not to renew."

(Ord. No. 222-M, § 1, 8-7-96)

13-9. STANDARD OF SERVICE.

(A) Any person granted a franchise pursuant to this chapter shall install, construct, maintain, operate and improve its cable communications system in accordance with the accepted standards of the industry in conformity with the standards of operation or maintenance for a cable communications system which may be lawfully established by the Federal Communications Commission.

(B) Every cable communications system franchised under this chapter, at a minimum, shall make available the following:

(1) At least one specifically designated noncommercial public access channel for production and programming on this channel which may be used by the cable communications company for commercial leased access or such other programming as the cable communications company shall choose until there is a demand for use of such channel;

(2) At least two specifically designated channels for noncommercial governmental use by the city;

(3) One channel for use by the Utica Community Schools within its boundaries and one channel for use by the Warren Consolidated Schools within its boundaries. Channel positions used by the schools may be changed by the company only for good cause and with 90 day advance written notice to the School Superintendent and City Manager.

(C) Every cable communications system franchised under this chapter shall maintain and have available for public, educational and governmental use the necessary equipment and facilities for the production of programming on the access channels specified in this chapter, which equipment and facilities, at a minimum, shall include one operational studio for the production of public, educational and governmental access programs and one mobile studio facility with all necessary equipment needed for the production of said programming or in lieu thereof make a financial commitment for public, educational and governmental programming deemed sufficient by the city under this paragraph.

(D) Cable communications company shall install as part of its cable system and shall operate through the term an Emergency Alert System (EAS) (or the successor to that system) in accordance with all requirements imposed from time to time by the Federal Communications Commission, including, without limitation, the requirements that cable televisions systems transmit a visual EAS message on at least one channel (47 CFR 11.51(g)(3)) and that cable systems also provide video interruption and an audit EAS message on all channels, with the audio message further stating which channel is carrying the visual message (47 CFR 11.51(g)(2)).

In estimating cable communications company's EAS system pursuant to this section, cable communications company shall:

(1) Designate a channel (which may be the government channel) which will be used for emergency broadcasts of both audio and video;

(2) Inform customers of the designated emergency channel at least daily on at least one channel (which may be the government channel) of the multi-channel system;

(3) Maintain all channel video blanking capability able to be activated remotely by security measures deemed mutually agreeable by the city and the cable communications company;

(4) Test the emergency override system not less than every three months;

(5) Cooperate with the city on the use and operation of the emergency alert override system; and

(6) Maintain the capacity to permit the city in time of emergency to override by remote control all channels simultaneously consistent with federal regulations as stated in 47 CFR 11.55.

(E) Every cable communications system franchised under this chapter shall maintain such capacity, capability and technical standards as will enable it to interconnect with any other cable communications system located within the city and in any adjacent community.

(Ord. No. 222-M, § 1, 8-7-96; Ord. No. 222-N, § 1, 11-4-98)

13-10. RATES; DISCRIMINATION; FILING SCHEDULES; MAXIMUM RATES; INCREASES IN RATES; PROCEDURES.

(A) No rates or charges for cable communications service provided in the city which the city regulates in accordance with federal law shall be effective until the rates and charges are filed with the Clerk of the city.

(B) The city shall comply with rules of the Federal Communications Commission set forth in Subpart N (Cable Rate Regulation) of Part 76 (Cable Television Service) of Chapter I of Title 47 of the Code of Federal Regulation regarding the regulation of cable television rates for basic service and associated equipment, as amended.

(C) If subject to rate regulations, after a company submits for review its existing rates for the basic service tier and associated equipment costs or a proposed increase in these rates, the Clerk shall publish a public notice of the rates and costs giving interested parties, including the company, a reasonable opportunity to file written comments which shall be available in the office of the City Clerk for public inspection and copying during normal business hours.

(D) The city shall comply with procedures set forth in 47 CFR 0.459 regarding confidential business information submitted by the company in a rate regulation proceeding.

(E) If subject to rate regulations, a company which willfully or repeatedly fails to comply with a rate decision or refund order directed specifically at the company shall be subject to a monetary forfeiture of up to $25,000 per day and $100,000 for any single act as determined by the City Council under 47 USC 503.

(Ord. No. 222-M, § 1, 8-7-96)

13-11. INDEMNITY; PROOF OF INSURANCE; EFFECTIVE DATE OF FRANCHISE.

(A) Every cable communications company, prior to the execution of the franchise agreement, shall file with the city and at all times thereafter maintain in full force and effect for the term of the franchise, at its expense, a performance bond or irrevocable bank letter of credit from a bank approved by the city, in the amount of $100,000, conditioned upon the faithful performance by such cable communications company of its obligations under its franchise, and upon the further condition that if such cable communications company shall fail to comply with any one or more provision of this cable communications ordinance, or cable communications agreement with the city, there shall be recoverable any damages or loss suffered by the city as a result thereof, including the full amount of any compensation, indemnification or cost of removal of any property of such cable communications company as provided in this chapter plus attorney fees and costs, up to the full amount of the performance bond or letter of credit, said condition to be a continuing obligation for the duration of any franchise granted under this chapter and any renewal thereof and thereafter until such cable communications company has liquidated all of its obligations with the city which may have arisen under the franchise or from the exercise of any privilege or right granted. Nothing in this chapter shall be construed to excuse faithful performance by any cable communications company or in any

way to limit its liability for damages or otherwise.

(B) No franchise hereunder shall be effective until the provisions of subsection (A) above have been fully complied with and the failure to file with the Sterling Heights City Clerk within 90 days after tender by the city of the franchise agreement, the letter of credit, indemnity agreement, proof of general comprehensive insurance or any other documents and materials as required by subsection (A) above or any other provisions of this chapter or the franchise agreement shall render the franchise null and void without further proceedings.

(C) The insurance policies maintained pursuant to a franchise may have the limits of insurance raised from time to time to reflect changes in the consumer price index as determined by the Council upon notice to the cable communications company. The determination by the Council shall be reasonable and in accordance with its police powers and requirements for contractors doing business for the city.

All insurance policies maintained and required shall name the city as an "additional named insured" and shall contain the following endorsement:

"It is understood and agreed that this insurance policy may not be canceled by the insurer nor the intention not to renew be stated by the insurer until 30 days after receipt by the city, by registered mail, of a written notice of such intention to cancel or not to renew."

The provisions of this section regarding minimum requirements of insurance for a cable communications company shall not be construed as limiting the terms, obligations or liabilities imposed under other sections of this chapter or agreement between the cable communications company and the city.

The letter of credit shall be maintained at the required amount during the entire term of any franchise awarded even if amounts have to be withdrawn pursuant to this chapter or franchise.

The rights reserved to the city with respect to the performance bond or letter of credit are in addition to all other rights of the city and the exercise of any such right or remedy by the city shall not release the cable communications company from its obligations or any liability or affect any other rights the city may have, except as expressly provided for in a franchise or as necessary to avoid duplicate recovery from or payments by the cable communications company to city.

(D) The cable communications company and any contractor hired by the cable communications company to install, maintain, improve, restore or remove a cable communications system within the city shall not commence work under this agreement until they have obtained the insurance required within this section. All insurance coverage shall be with insurance carriers reasonably acceptable to the city. If any insurance is written with a deductible or self-insured retention, the cable communications company or contractor shall be solely responsible for said deductible or self-insured retention. The purchase of insurance and the furnishing of a certificate of insurance shall not be a satisfaction of the cable communication company's indemnification of the city. The cable communications company is responsible to meet all MIOSHA requirements for on-the-job safety. The cable communications company and any contractor hired by the cable communications company shall procure and maintain during the life of this contract the following coverage:

(1) Worker's compensation insurance in accordance with all applicable statutes of the State of Michigan. Coverage shall include employers liability coverage;

(2) Commercial general liability insurance on an "occurrence" basis with limits of liability not less than $2,000,000 per occurrence for bodily injury and personal injury and $1,000,000 per occurrence for property damage. Coverage shall include the following extensions:

a. Contractual liability;

b. Products and completed operations;

c. Independent contractors coverage;

d. Broad form general liability extensions or equivalent;

e. Coverage for X, C and U Hazards;

(3) Motor vehicle liability coverage, including Michigan No-Fault Coverage for all vehicles used in the performance of the contract. Limits of liability shall not be less than $1,000,000 per occurrence combined single limit bodily injury and property damage;

(4) Commercial general liability insurance and automobile liability insurance as described above shall include an endorsement stating the following shall be an additional named insured:

"The city, including all elected and appointed officials, boards, commissions, officers and employees."

(5) Workers' compensation insurance, commercial general liability insurance and motor vehicle liability insurance as described above shall include an endorsement stating the following:

"It is understood and agreed that this insurance policy may not be canceled by the insurer nor the intention not to renew be stated by the insurer until 30 days after receipt by the city, by registered mail, of a written notice of such intention to cancel or not renew."

Said notice shall be sent to:

City of Sterling Heights

Attention: City Clerk

P.O. Box 8009

40555 Utica Road

Sterling Heights, Michigan

48311-8009

(E) If so requested by the city, cable communications company and any contractor hired by cable communications company shall within 60 days of such request supply a copy of the insurance policy of any of the insurance coverage required under this section.

(Ord. No. 222-M, § 1, 8-7-96)

13-12. TERMINATION; REVOCATION OR SURRENDER OF FRANCHISE.

(A) Any initial franchise granted pursuant to this chapter shall expire without further proceedings ten months after its effective date in the event the person granted such franchise has not commenced construction of a cable communications system within such period, unless prior to said date the person shall have applied to the City Council and the Council shall have, for good cause shown, granted an extension of the construction periods set forth in the franchise agreement.

(B) If any person granted a franchise pursuant to this cable communications ordinance fails to provide cable communications service within and throughout any area as required under the terms of its franchise agreement, the franchise shall, on the anniversary of the effective date of such franchise next following the ten month period during which cable communications service has not been extended as required under the terms of the franchise agreement, be deemed revoked without the necessity of Council action, unless prior to said date, the person shall have applied to the City Council and the Council shall have, for good cause shown, granted an extension of the construction of service periods set forth in the franchise agreement.

(C) Any franchise granted pursuant to this chapter may be terminated and canceled without further proceedings 120 days after the appointment of a receiver or trustee to take over and conduct the business of a cable communications company, whether in receivership, reorganization, bankruptcy or other action or proceedings unless such receivership or trusteeship shall have been vacated prior to the expiration of such period; provided, however, that the receiver or trustee may apply for a transfer or assignment of such franchise, as provided in § 13-5(e) if duly approved by the court having jurisdiction in the premises, and provided further, in case of a foreclosure or other judicial sale of the plant, property or facilities of a cable communications company, with or without the appointment of a receiver or trustee, including or excluding the franchise granted under this chapter, such franchise as granted may be terminated and canceled upon 30 days written notice of termination served upon the cable communications company and the purchaser thereof, unless within the 30 day period, the purchaser shall apply to the city for a transfer or assignment to it of the same as hereinbefore provided in § 13-5(e) hereof.

(D) Any franchise granted pursuant to this cable communications ordinance, unless otherwise allowed by law, is revocable prior to its expiration for cause as

provided hereinafter. Any franchise granted pursuant to this cable communications ordinance is revocable for cause by the City Council prior to its expiration where the cable communications company has failed substantially to comply with any material provision or requirement of this chapter or the provisions of its franchise agreement. The Council shall give a written notice containing full particulars as to the provision or requirement with which compliance is claimed deficient and allow such cable communications company 60 days to comply. At the expiration of the 60 days, the Council may hold a public hearing upon ten days notice to the person granted a franchise. The hearing shall be public with the cable communications company being permitted to fully participate therein, including the right to introduce testimony and exhibits and to examine and cross-examine witnesses. The hearing shall be recorded and at the conclusion thereof the Council, if it reasonably finds that the cable communications company has not substantially complied with any material provision or requirement of this chapter or its franchise agreement, may terminate and revoke the franchise.

(E) Any person granted a franchise pursuant to this cable communications ordinance may surrender it by written notice of intent to surrender its franchise filed with the City Clerk not less than 60 days prior to the surrender date. On the surrender date specified in such notice, all rights, privileges and authority under the franchise shall terminate; provided however, that the person shall have a period of 12 months thereafter to remove its towers, poles, wires, aerial or non-buried cables, fixtures or other facilities from the streets, alleys, public rights-of-way or public places, subject to the rights of the city as set forth in § 13-8(D) above. At the expiration of such 12 month period, any property not removed by such person shall become the property of the city to do with as it may choose. Any cost to the city in removing the property from the streets, alleys, public rights-of-way or public places shall be claimed against the person under the performance bond or irrevocable bank letter of credit required under § 13-11(A).

(F) In the event a cable communications company elects to overbuild, rebuild, modify or sell the system, or the Council terminates or revokes or fails to renew this franchise, the cable communications company shall do everything in its power to insure that all subscribers receive continuous uninterrupted service. In the event of a change of cable communications company, the current cable communications company shall cooperate with the city to operate the system for a reasonable period in maintaining continuity of service to all subscribers.

(Ord. No. 222-M, § 1, 8-7-96)

13-13. HEARING AND DETERMINATION OF COMPLAINTS; PROCEDURE; LOCAL OFFICE.

(A) The City Council, or any person or department designated by it, shall upon its own motion or upon complaint of any person or subscriber of a cable communications company, have authority to hear and determine all complaints concerning the rates, charges, rules, regulations, practices, quality of service rendered or refused to be rendered, equipment furnished or refused to be furnished or any other matter relating to the service or operation of the cable communications system or any person franchised under the terms of this chapter.

(B) Upon the filing of any complaint against any person pursuant to the preceding subsection, the Council shall give such person at least 20 days notice of the time and place of a hearing to be given such person upon the matters alleged in the complaint subject to state and federal laws.

(C) To aid in the analysis and resolution of any disputed matters relative to the franchise, the city and cable communications company may, by mutual agreement (both as to whether to hire and whom to hire), employ the services of technical, financial or legal consultants, as arbitrators. All reasonable fees of the consultants shall be borne equally.

(D) Every person granted a franchise pursuant to this cable communications ordinance shall maintain a reasonably convenient customer service office/bill payment location which shall be open during all usual business hours have a publicly listed local telephone number or toll-free number and be so operated to receive subscriber complaints and requests for repairs or adjustments on a 24 hour basis. The company shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. The interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system. A written log shall be maintained listing all complaints resulting in service calls, their disposition and all service interruptions.

(E) The company shall maintain a suitable repair force of technicians in order to respond to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. The company shall establish to the satisfaction of the city a complaint procedure in order to settle disputes between the company and subscribers.

(Ord. No. 222-M, § 1, 8-7-96)

13-14. PRIORITY OF USE.

Any right or privilege granted to any person under this cable communications ordinance to use or occupy any street, alley, public right-of-way or public place shall be subordinate to any prior lawful occupancy of such property. Nothing in this chapter shall be construed as limiting in any way the city in the lawful exercise of the police power and the grant of a franchise to any person as provided in this chapter shall confer no right, privilege or exemption not specifically presented herein.

(Ord. No. 222-M, § 1, 8-7-96)

13-15. SURRENDER OF OTHER FRANCHISES.

By the application for and acceptance of a franchise pursuant to this cable communications ordinance, a cable communications company agrees that upon subsequent additions of areas to the City of Sterling Heights, either by annexation, consolidation or otherwise, any and all franchises and/or licenses held by it to provide a cable communications service or to install, construct, maintain or operate a cable communications system in such areas shall be surrendered and any rights or privileges in a right-of-way to install, construct, maintain or operate a cable communications system or to furnish a cable communications service in such areas as may subsequently be added to the city by annexation, consolidation or otherwise, shall thereafter be subject to and authorized by this chapter.

(Ord. No. 222-M, § 1, 8-7-96)

13-16. REPORTS.

Upon request, every cable communications company shall file annually with the City Engineer a current map showing the location of the transmission and distribution facilities and equipment in the city used by it in providing cable communications service.

(Ord. No. 222-M, § 1, 8-7-96)

13-17. RIGHTS OF CITY.

(A) Any franchise granted under this chapter is made subject to all applicable provisions of law relating to the city and specifically subject to the rights and powers of the city and limitations upon the cable communications company holding such franchise as may be set forth in the statutes of the United States, the State of Michigan and the Charter of the city.

(B) This chapter shall be construed in a manner consistent with all applicable federal and state laws. If the Federal Communications Commission or any other federal or state entity or court of competent jurisdiction exercise any paramount jurisdiction over the subject matter of this chapter, the paramount jurisdiction shall preempt or preclude the exercise of like jurisdiction by the city. Any modification by the body shall to the extent applicable be considered a part of this chapter as of the effective date of such modification.

(C) In the event that the state or federal government discontinues preemption in any area of cable communications over which it currently exercises jurisdiction in such manner as to expand rather than limit municipal regulatory authority, the city may, if it so elects, adopt rules and regulations in these areas to the extent permitted by law, provided that the rules and regulations shall not apply to any franchise issued pursuant to this chapter prior to the adoption of the rules and regulations to the extent they materially adversely affect the cable communications company's obligations under the franchise, including, without limitation, rules, regulations or requirements with respect to system rebuilds, channel capacity, system design, construction and performance requirements, PEG access facilities, support for any such facilities, interconnect commitments, activation of interactive capability or institutional networks.

(Ord. No. 222-M, § 1, 8-7-96)

13-18. RIGHTS OF INDIVIDUALS.

(A) Cable communications company shall not deny service, deny access, nor otherwise discriminate against subscribers, channel users or general citizens on the basis of race, color, religion, national origin or sex. Cable communications company shall comply at all time with all other applicable federal, state and local laws.

(B) Cable communications company shall not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of age, race, creed, color, national origin or sex.

(C) Neither the cable communications company, the city nor any other person shall tap or monitor or arrange for the tapping or monitoring or permit, either expressly or impliedly, any other person to tap or monitor any cable, line, signal input device or subscriber outlet or receiver for any purpose whatsoever, without the express written permission of the subscriber; provided, however, that the cable communications company shall be entitled to conduct system-wide or individually addressed "sweeps" for the purpose of verifying system integrity, controlling return-path transmission or billing for pay services.

(D) A cable communications company, or any of its agents, affiliates or employees, shall not, without the specific written authorization of the subscriber involved, sell or otherwise make available to any party:

(1) Lists of the names and addresses of such subscribers; or

(2) Any list which identifies the viewing habits of subscribers, except as the same is necessary for the construction, marketing and maintenance of a cable communications company's facilities and services hereunder and the concomitant billing of subscribers for the services. A cable communications company shall not provide information concerning the viewing habits of identifiable individual subscribers to any party for any purpose whatsoever.

The cable communications company shall not utilize the two-way communications capability of the system for unauthorized surveillance of any kind.

(E) Liability for obscenity, defamation or invasion of privacy on any access channels shall rest with the person, group of persons or any organization or corporation utilizing said access channels.

(Ord. No. 222-M, § 1, 8-7-96)

13-19. TELECOMMUNICATIONS COMMISSION.

(A) The Council shall establish a commission to be known as the Telecommunication Commission. The Commission shall consist of five residents of the city appointed by the City Council. Each member shall serve a term of three years expiring on June 30. Members of the Cable Communications Commission shall serve as the Telecommunications Commission until their terms expire and their successors are appointed. Any vacancy in the office shall be filled by the Council for the remainder of the term. No employee or person with an interest in a cable television or telecommunications company as defined by § 2-152 of this Code shall be eligible for membership on the commission. Members of the Commission may be compensated at a rate to be established and determined from time to time by the Council.

(B) The Council may appoint ex officio members to the Commission, including but not limited to Council members. The ex officio members shall have no voting rights on the Commission but shall act in an advisory capacity to provide information and assistance and shall receive no compensation for serving on the commission. The ex officio members shall serve an indefinite term at the pleasure of the Council.

(C) The Commission, in addition to the functions and responsibilities that the Council may delegate to it from time to time, by resolution, shall have the following functions:

(1) Advise the Council on matters which might constitute grounds for termination of a telecommunications permit or franchise;

(2) Recommend to the Council, after hearing, resolutions of disputes involving grantees as provided by this chapter;

(3) Advise the Council on the regulation of rates and services and make recommendations on changes in rates and services;

(4) Recommend to the Council the general policy relating to cable television, telecommunications, information technology, public, educational and governmental access channels with a view to maximizing services to residents;

(5) Encourage the use of public access channels, facilities and equipment by institutions, groups and individuals within the city;

(6) Advise the Council on general policy applying to use of the Internet, civic networks and government access channels;

(7) Encourage interconnection among cable television and telecommunication systems;

(8) Review and report to the Council concerning records and reports which a company is required to submit to the city;

(9) The Commission shall annually submit to Council a proposed budget and shall also prepare an annual report to the Council;

(10) Conduct evaluations of cable television and telecommunication systems at least every three years and make recommendations to the Council regarding amendments to this chapter.

(Ord. No. 222-M, § 1, 8-7-96)

13-20. MISCELLANEOUS PROVISIONS.

Section headings as set forth in the chapter are for convenience only and shall not be a part of this chapter nor be used to construe any provision hereof more broadly or narrowly than its text would indicate.

(Ord. No. 222-M, § 1, 8-7-96)

13-21. UNAUTHORIZED TAMPERING PROHIBITED; UNAUTHORIZED DIVERSION; TELECOMMUNICATIONS FRAUD.

(A) No person shall tap, tamper with or cause to be tapped, tampered with or connected any wire or device, whether physically, electrically, acoustically, inductively or otherwise, to any wire, cable, conduit, apparatus or equipment of a cable communications company without authorization from the cable communications company owning or controlling said wire, cable, conduit, apparatus or equipment.

(B) No officer, shareholder, partner, employee, agent or independent contractor of a telecommunications service provider shall knowingly and without authority use or divert telecommunications services for his or her own benefit or to the benefit of another person, where the total value of the telecommunications service used or diverted is less than $200.

(C) No person shall knowingly obtain or attempt to obtain telecommunications service with intent to avoid, attempt to avoid or cause another person to avoid or attempt to avoid any lawful charge for that telecommunications service by using any of the following, where the total value of the telecommunications service obtained or attempted to be obtained is less than $200:

(1) A telecommunications access device without the authority or consent of the subscriber or lawful holder of that telecommunications access device;

(2) A counterfeit telecommunications access device;

(3) A fraudulent or deceptive scheme, pretense, method or conspiracy or any device or other means, including but not limited to any of the following:

a. Using a false, altered or stolen identification;

b. The use of a telecommunications access device to violate this section by a person other than the subscriber or lawful holder of the telecommunications access device pursuant to an exchange of anything of value to the subscriber or lawful holder to allow that unlawful use of the telecommunications access device;

(4) A telecommunications device or counterfeit telecommunications device.

(D) A person who violates subsection (B) or (C) of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or three times the total value of the telecommunications service used or diverted or obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine.

(E) A person who knowingly or intentionally publishes a telecommunications access device or counterfeit telecommunications access device with the intent that it be used or knowing or having reason to know that it will be used or is likely to be used to violate subsection (C) of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100, or both.

(Ord. No. 222-M, § 1, 8-7-96; Ord. No. 179-N & 222-O, § 1, 4-6-99; Ord. No. 350, § 4, § 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 750.219a and M.C.L. § 750.540f

13-22. CONNECTION OF VIDEO TAPE RECORDERS, VIDEO GAMES AND COMPUTERS.

The provisions of § 13-21 shall not apply to any connection to a television or video tape recorders, video games, computers and other similar devices in a manner authorized by the cable communications company or to any other connection made without intent to avoid an installation or service charge by the cable communications company.

(Ord. No. 222-M, § 1, 8-7-96)

13-23. PRESUMPTIVE EVIDENCE OF UNAUTHORIZED CONNECTION.

The existence of any unauthorized physical, electronic, acoustic, inductive or other connection of any wire or device to any wire, cable, conduit, apparatus or equipment of a cable communications company is presumptive evidence that the person owning or occupying the premises at which the wire or device is located has tapped, tampered with or connection the wire or device.

(Ord. No. 222-M, § 1, 8-7-96)

13-24. PROCEDURE FOR HEARING AND DETERMINATION OF COMPLAINTS NOT APPLICABLE.

The provisions of § 13-13(A) and (B) shall not apply to any complaints concerning any matter covered by §§13-21, 13-22 or 13-23.

(Ord. No. 222-M, § 1, § 8-7-96)

13-25. DISCONTINUANCE OF SERVICE; NOTICE.

Notwithstanding any other provision of this chapter or any franchise agreement entered into pursuant to §13-4(A), a cable communications company may discontinue service to any person who is violating § 13-21.

(Ord. No. 222-M, § 1, 8-7-96)

13-26. CONTINUING VIOLATIONS.

A separate offense shall be deemed committed for each day during or on which a violation of §13-21 occurs or continues.

(Ord. 222-M, § 1, 8-7-96)

13-27. ENFORCEMENT.

The provisions of § 13-21 shall be enforced by the Sterling Heights Police Department.

(Ord. 222-M, § 1, 8-7-96)

ARTICLE II. CUSTOMER SERVICE STANDARDS

13-28. DEFINITIONS.

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

NORMAL BUSINESS HOURS. 9:00 a.m. to 5:00 p.m., Monday to Friday and 9:00 a.m. to 12:00 noon on Saturday, excluding holidays.

NORMAL OPERATING CONDITIONS. Those service conditions which are within the control of the company. Those conditions which are not within the control of the company include but are not limited to natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the company include but are not limited to special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the cable system.

SERVICE INTERRUPTION. The loss of picture or sound on one or more cable channels.

(Ord. No. 222-M, § 1, 8-7-96)

13-29. EXCEPTIONS.

Nothing in this section is intended to prevent or prohibit:

(A) The city and a company from agreeing to customer service requirements that exceed the standards set forth in this chapter;

(B) The city from enforcing through the end of the franchise term pre-existing customer service requirements that exceed the standards set forth in this article that are contained in current franchise agreements;

(C) The city from enacting or enforcing any consumer protection law; or

(D) The establishment or enforcement of any ordinance or regulation concerning customer service that imposes customer service requirements that exceed or address matters not addressed by the standards set forth in this chapter.

(Ord. No. 222-M, § 1, 8-7-96)

13-30. CUSTOMER SERVICE STANDARDS.

A company is subject to the following customer service standards certified quarterly by the company:

(A) The company will maintain a local, toll-free or collect call telephone access line which will be available to subscribers 24 hours a day, seven days a week;

(B) Trained company representatives shall be available to respond to customer telephone inquiries 9:00 a.m. to 12:00 midnight seven days a week. From midnight to 9:00 a.m., the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received from midnight to 9:00 a.m. shall be responded to by a trained company representative on the next business day;

(C) Under normal operating conditions, telephone answer time by a company representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90% of the time under normal operating conditions measured on a quarterly basis;

(D) Under normal operating conditions, the customers may receive a busy signal less than 3% of the time measured on a quarterly basis;

(E) Reasonably convenient customer service center/bill payment locations will be open at least during normal business hours;

(F) Under normal operating conditions, each of the following five standards must be met no less than 95% of the time measured on a quarterly basis:

(1) Standard installations will be performed seven business days after an order has been placed. Standard installations are those that are located not more than 125 feet from the existing distribution system;

(2) Excluding conditions beyond the control of the operator, a company shall begin working on service interruptions promptly and in no event later than 24 hours

after the interruption becomes known. The company must begin actions to correct other service problems the next business day after notification of the service problem;

(3) The appointment window for installations, service calls and other installation activities will be either a specific time or, at maximum, a four hour block during normal business hours. The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer;

(4) A company may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment;

(5) If a company representative is running late for an appointment and will not be able to keep the appointment as scheduled, the customer will be contacted, the appointment reschedules, as necessary, at a time which is convenient for the customer;

(G) The company shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Channel positions of programming carried on the system; and

(6) Billing and complaint procedures, including the business address and telephone number of the company and of the Office of Community Relations, 40555 Utica Road, P.O. Box 8009, Sterling Heights, Michigan 48311-8009, Telephone (810) 977-6123, ext. 102;

(H) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible by any reasonable means. Notice must be given to subscribers a minimum of 30 days in advance of such changes if the change is within the control of the company. Notice of a change in channel position shall reasonably identify the programming service affected. In addition, the company shall notify subscribers 30 days in advance of any significant changes in the other information required by the preceding paragraph;

(I) Bills shall be clear, concise and understandable. Bills must be fully itemized with itemizations including but not limited to basic and premium service charges and equipment charges. Bills shall clearly delineate all activity during the billing period, including operational charges, rates and credits. In case of a billing dispute, a company must respond to a written complaint from a subscriber within 30 days;

(J) Refund checks shall be issued promptly but not later than:

(1) The customer's next billing cycle following resolution of the request or 30 days, whichever is earlier; or

(2) The return of the equipment supplied by the company if service is terminated by the company;

(K) Credits will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(Ord. No. 222-M, § 1, 8-7-96; Ord. No. 222-N, § 2, 11-4-98)

13-31. ENFORCEMENT.

(A) A company shall file with the City Clerk a notarized statement signed by an officer or employee certifying compliance with these customer service standards on a quarterly basis.

(B) Failing to file a certificate shall subject a company to pay a civil fine to the city of up to $500 per day.

(C) A company in noncompliance shall on a quarterly basis file a statement specifying areas of noncompliance along with a remedial plan. Failing to file a noncompliance statement and remedial plan shall subject the company to pay a civil fine to the city of up to $500 per day.

(Ord. No. 222-M, § 1, 8-7-96)

CHAPTER 13A: CARNIVALS

13A-1. PURPOSE.

The purpose of this chapter is to provide for the inspection, licensing and regulation of carnivals; to insure that licensees are of good moral character; to insure that the location of such carnivals is in conformance with the ordinances of the city; to establish fees for the issuance of such licenses; and to provide penalties for violations.

(Ord. No. 318, § 1, 12-6-94)

13A-2. DEFINITIONS.

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

CARNIVAL. Circuses, fairs, festivals or other traveling enterprises consisting of such amusements as rides, games of skill, sideshows and devices or other temporary structures and exhibitions in any number or combination designed to serve a special purpose or perform special functions.

GAME OF SKILL. Any amusement whereby a patron is given the opportunity to obtain a prize, reward or some object of value upon the performance of some physical act in a specified manner.

OPERATOR or ***OWNER***. A person who owns or controls or who has the duty to control the operation of a carnival. This includes individuals, licensees, managers, lessees, sponsors, partnerships, corporations, societies and organizations.

RIDE. A device which carries or conveys passengers along, around or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills or excitement.

SIDESHOW. A subsidiary exhibition accompanying a carnival in which patrons are entertained or amused by viewing anomalies of nature or physical objects from a perspective which tends to make the object viewed or the viewer appear other than what it is, acts or demonstrations requiring peculiar expertise or training, performances by persons and animals displaying acrobatic or gymnastic skills or any other form of entertainment which a reasonably informed individual of common experience would refer to as a ***SIDESHOW***.

SPONSOR. Any individual, partnership, corporation, association, religious or fraternal organization or society or any other entity which undertakes to promote a carnival and provide the premises for the location, use and occupancy of any carnival within the municipal limits of the City of Sterling Heights.

(Ord. No. 318, § 1, 12-6-94)

13A-3. APPROVAL; NOTICE OF INTENT.

Any sponsor of a carnival shall obtain temporary use approval by the City Manager and a license from the City Clerk to promote a carnival to be held within the city. An application for a license to promote a carnival shall be submitted in writing to the City Clerk not less than 60 days before the proposed opening date of the carnival.

(Ord. No. 318, § 1, 12-6-94)

13A-4. APPLICATION PROCEDURE.

The application for a license to operate shall state:

(A) The name and address of the applicant;

(B) The name and address of the person sponsoring the activity, if any;

(C) The proposed location, opening and closing dates and hours of operation of the carnival;

(D) A list of all rides (including their state inspection numbers), games of skill, sideshows and devices or other temporary structures designed to serve a special purpose or perform a special function, including all booths and concessions dispensing food and/or beverages;

(E) Proof of insurance;

(F) Any other information required by the city.

(Ord. No. 318, § 1, 12-6-94)

13A-5. INVESTIGATION.

(A) The City Clerk shall forward a copy of the application to the Police Chief and Fire Chief.

(B) The Police Chief shall investigate the qualifications and background of the applicant and furnish a written report to the City Clerk accompanied by a recommendation as to whether the license should be granted or refused. As part of the investigation, the Chief of Police shall determine whether or not the applicant has been convicted of any crime involving moral turpitude, gambling, narcotics, sexual offense or has previously violated any of the provision of this article.

(C) The Fire Chief shall inspect the location to determine whether the proposed location is free from fire hazards and either approve or disapprove the application.

(Ord. No. 318, § 1, 12-6-94)

13A-6. FEES.

When an application is made for a license required under the terms of this chapter, a fee shall be paid in an amount established in the annual appropriations ordinance of the city.

(Ord. No. 318, § 1, 12-6-94)

13A-7. INSURANCE OR BOND.

A person shall not operate a carnival unless the owner or operator shall have obtained security against the owner's or operator's liability for injuries suffered by persons attending the carnival or riding amusement rides by one of the following methods:

(A) By obtaining a policy of insurance in an amount not less than $1,000,000 insuring the owner or operator against liability for injuries suffered by persons attending the carnival or an amusement ride;

(B) By obtaining a bond in an amount not less than $1,000,000 with the aggregate amount of the surety and the bond not exceeding the face amount of the bond;

(C) The liability limits of subsections (A) and (B) of this section may be reduced to $50,000 if there is only one amusement ride which is designed primarily for use by small children.

(Ord. No. 318, § 1, 12-6-94)

13A-8. RESTRICTIONS ON ISSUANCE OF LICENSE AND OPERATION.

(A) No license to operate a carnival may be issued to any owner/operator unless the person is over 18 years of age.

(B) No license to operate a carnival may be issued to any owner/operator or sponsor who intends to sell intoxicating liquor, beer or wine unless the owner/operator obtains appropriate State Liquor Control Commission approval.

(C) No license to operate a carnival may be issued to any applicant who has violated or is associated with any carnival which has violated any provisions of this article or any state statute or who has previously had a license or approval associated with a carnival revoked or suspended or violated the condition of such license.

(D) All electrical construction and connecting of electrical conductors shall be supervised by an electrician licensed by the State of Michigan or the Reciprocal Board.

(E) No carnival may be operated except between the hours of 10:00 a.m. to 12:00 midnight daily. All carnival rides shall operate between the hours of 10:00 a.m. to 12:00 midnight.

(F) No ride, tent, booth or concession shall be placed or located within 25 feet from any sidewalk or traffic right-of-way.

(G) No license issued under the terms of this article is transferable.

(Ord. No. 318, § 1, 12-6-94)

13A-9. VIOLATIONS; PENALTY.

Any person, firm or corporation who violates any provision of this chapter shall be guilty of a civil infraction and upon conviction shall be subject to a fine not exceeding $500.

(Ord. No. 318, § 1, 12-6-94)

13A-10. VARIANCE.

The Ordinance Board of Appeals may grant a variance from the licensing provisions of this article upon finding that undue hardship or practical difficulty may result from strict compliance with specific provisions or requirements.

(Ord. No. 318, § 1, 12-6-94)

13A-11. REVOCATION.

The City Manager may revoke a license issued under this chapter upon submission of a written recommendation by the City Clerk, along with a written report by the Police Chief, Fire Chief, Planning Official or Building Official advising of violations of the terms of this article or for a violation of any rules, regulations, ordinances or laws, subject to appeal to the Ordinance Board of Appeals.

(Ord. No. 318, § 1, 12-6-94)

13A-12. ORDER TO CEASE OPERATIONS.

(A) The Police Chief shall close down the operation of any carnival upon the revocation of the license to operate the carnival.

(B) The Police Chief may close down the operation of any carnival ride in the event of a mishap pending inspection by the appropriate agency.

(Ord. No. 318, § 1, 12-6-94)

CHAPTER 14: ELECTIONS

14-1. DATE FOR ODD-YEAR PRIMACY ELECTIONS.

In accordance with Public Act 378 of 1974, all regularly scheduled city odd-year primary elections shall be held on the Tuesday following the second Monday in September, effective with the city odd-year primary election to be held during 1975.

(1978 Code, § 9-1)

Statutory reference:

The act referred to above is codified as M.S.A. § 6.1644(2); M.C.L. § 168.644(b)

CHAPTER 15: EMERGENCY MANAGEMENT

15-1. PURPOSE.

The purpose of this chapter is to provide for the planning, mitigation, response, and recovery from natural and human-made disasters within the city. Michigan law authorizes a municipality with a population of 25,000 or more to appoint the Emergency Management Coordinator of the county as its own Emergency Management Coordinator. The city intends to avail itself of that option and to incorporate into the Emergency Operations Plan of Macomb County.

(Ord. No. 421, § 1, 11-7-12)

15-2. SHORT TITLE.

This chapter may be referred to as the "Emergency Management Ordinance."

(Ord. No. 421, § 1, 11-7-12)

15-3. DEFINITIONS.

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

ACT. The Michigan Emergency Management Act, Public Act 390 of 1976, being M.C.L. §§ 30.401 et seq., as amended.

ALERT STATUS. An increased state of preparedness, authorized by the City Manager and implemented through administrative policies and procedures, for purposes of responding to a potential or real threat or event.

ASSISTANT LIAISONS. The city employees assigned to assist during declared events and one person from each of the following departments appointed by that department's director: (i) the Community Relations Department, (ii) the Public Works Department, (iii) the Fire Department and (iv) the Police Department. ***ASSISTANT LIAISONS*** will serve their department in routine emergency management matters and report to the Emergency Management Liaison during events.

CONSEQUENCE MANAGEMENT. The responsibilities assigned to the Emergency Management Coordinator through federal, state and local laws and ordinances during events to alleviate the damage, loss, hardship, or suffering caused by such events. ***CONSEQUENCE MANAGEMENT*** includes measures to protect public health and safety, maintain and restore essential government services and provide emergency relief to affected governments, industries, businesses and individuals. Local mission-essential functions are carried out through the city departments with coordination from the office.

COUNCIL. The City Council for the City of Sterling Heights, Michigan.

COUNTY. The County of Macomb, Michigan.

CRISIS MANAGEMENT. The measures taken to identify, acquire, and plan the use of resources needed to anticipate, prevent, or resolve a terrorist threat or incident.

DAMAGE ASSESSMENT TEAM. Those employees in the Building Department specially trained in property damage assessment.

DISASTER. An occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including, but not limited to, fire, flood, snowstorm, ice storm, tornado, windstorm, wave action, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous materials incident, epidemic, air contamination, blight, drought, infestation, explosion, or hostile military action or paramilitary action, or similar occurrences resulting from terrorist activities, riots, or civil disorders, that requires resources beyond the capability of the public and private sectors of the city.

DISASTER RELIEF FORCE. All agencies of the state, county, and city, private and volunteer personnel, public officers and employees, and all other persons or groups of persons having duties or responsibilities identified in the city support emergency operations plan, or those called into duty or working at the direction of a party identified in the plan to perform a specific disaster or emergency related task during a state of emergency or disaster pursuant to the Act or this chapter.

DISTRICT COORDINATOR. The Michigan Department of State Police Emergency Management Division's representative for the city. The ***DISTRICT COORDINATOR*** is the liaison for the Emergency Management Coordinator to the State of Michigan in matters of emergency management.

EMERGENCY. An event less than a disaster which, in the determination of the Mayor after consultation with the City Manager, requires assistance outside of the resources of the public and private sectors of the city to supplement local efforts and capabilities to save lives, protect property and the public health and safety, or to lessen or avert the threat of a catastrophe in the city.

EMERGENCY MANAGEMENT COORDINATOR. The Emergency Management Coordinator for the County of Macomb.

EMERGENCY MANAGEMENT LIAISON. The individual appointed by the City Manager to assist the Emergency Management Coordinator in all matters pertaining to disaster prevention, mitigation, response, and relief and recovery operations within the city.

EMERGENCY MANAGEMENT PROGRAM. The Macomb County Emergency Management Program, established to coordinate mitigation, preparedness, response, and recovery activities for all emergency or disaster situations within the county and one or more of its political subdivisions. The city has elected to be part of this program.

EMERGENCY OPERATIONS CENTER. The location to which key staff members shall respond, as coordinated by the Emergency Management Liaison and the support emergency operations plan.

EMERGENCY OPERATIONS PLAN. The county plan developed and maintained by the county and the political subdivisions included in the Emergency Management Program according to standards established by the Michigan Administrative Code for the purpose of responding to all emergency or disaster situations by identifying and organizing the Disaster Relief Force.

EMERGENCY SERVICES OPERATIONS GROUP (ESOG). The city's primary emergency planning body, which shall also execute response functions during events, emergencies, and disasters. The ESOG is comprised of the operations supervisors and other staff of Police, Fire, and Public Works Departments assigned by their respective department directors. The ESOG advises the municipal security team regarding emergency services.

EVENT. Any situation or occurrence of an alert status, local state of emergency, or disaster which involves the office.

GOVERNOR. The Governor of the State of Michigan.

INCIDENT COMMANDER. The individual responsible for on-scene management of the response to an event, emergency, or disaster.

INCIDENT COMMAND SYSTEM. The National Fire Academy-approved system forming a combination of facilities, equipment, personnel, procedures and communications operating within a common organizational structure, with responsibility for the management of assigned resources to effectively accomplish stated objectives pertaining to an event. City departments will operate within the incident command system during any event.

MAYOR. The chief elected official of the City of Sterling Heights, as defined and described in the City Charter.

MUNICIPAL SECURITY TEAM. The City Manager as team leader, Assistant City Managers, City Attorney, Community Relations Director, Public Works Director, Fire Chief, Police Chief, Finance and Budget Director, Emergency Management Liaison, and Emergency Management Coordinator. The ***MUNICIPAL SECURITY TEAM*** is convened in response to an event or threat of an event to mitigate the consequences of an event or threat of an event when necessary and to strategically plan when multiple departments and agencies are needed in response to actions that can affect the city. The ***MUNICIPAL SECURITY TEAM*** oversees the emergency services operations group.

NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS). Developed by the Secretary of Homeland Security, the NIMS was developed to provide a system that would help emergency managers and responders from different jurisdictions and disciplines work together more effectively to handle emergencies and disasters. The NIMS provides a set of standardized organizational structures such as the incident command system and standardized processes, procedures, and systems. These processes and procedures are designed to improve interoperability among jurisdictions and disciplines in various areas - command and management, resource management, training, communications.

STATE OF EMERGENCY. A declaration or proclamation by the Mayor pursuant to the Act and this chapter which activates the emergency response and recovery aspects of the City of Sterling Heights Support Emergency Operations Plan, authorizes the deployment and use of any municipal forces and resources to which the Plan applies, and authorizes additional actions described in this chapter. Such declaration or proclamation may be made if an emergency is beyond the control of the city's public and private resources. The Mayor may request the County Executive to declare a state of disaster or state of emergency as defined by, and utilizing the procedures set forth in, the Act.

SUPPORT DEPARTMENTS, OFFICES, COMMISSIONS, AND VOLUNTEER GROUPS. Any city department, office, or commission, or any volunteer group, empowered through the city to be available for any event at the request of the Emergency Management Coordinator or Liaison. The support departments, offices, commissions, and volunteer groups support the lead department and the Emergency Management Coordinator or Liaison in bringing the city back to pre-event conditions.

SUPPORT EMERGENCY OPERATIONS PLAN. The plan developed by the county with the city which will become part of and shall be compatible with the County Emergency Operations Plan.

UNIFIED COMMAND SYSTEM. A structure that brings together the incident commanders of all major departments and organizations involved in responding to an event, emergency, or disaster. The ***UNIFIED COMMAND SYSTEM*** is designed to coordinate an effective response while at the same time allowing individual departments and organizations to carry out their own responsibilities.

VITAL RECORDS. Those records that contain information needed for the continuity of government functions. All departments and offices of the city will develop and implement a vital records protection system through their department and office directors.

(Ord. No. 421, § 1, 11-7-12)

15-4. EMERGENCY MANAGEMENT COORDINATOR.

(A) Upon approval by resolution of the City Council, Macomb County's Emergency Management Coordinator shall be appointed as the Emergency Management Coordinator for the city, as permitted by the Act and pursuant to a written emergency management agreement between the county and the city.

(B) The Emergency Management Coordinator shall comply with the standards and requirements established by the Department of State Police Emergency Management Division, under the authority of the Act, in accomplishing the following:

(1) Direct and coordinate the development of the Macomb County Emergency Operations Plan, in accordance with the policies and plans established by the appropriate federal and state agencies;

(2) Coordinate all emergency management functions pertaining to disaster prevention, mitigation, relief, and recovery operations within the city, including maintaining the county emergency operations centers;

(3) Coordinate County emergency management activities with those of other municipalities included in the county's emergency management program, as well as with other municipalities, the state, and adjacent counties;

(4) File the necessary paperwork required for funding, filing of flash reports, and developing assistance requests for the city with the Michigan State Police, Emergency Management/Homeland Security Division;

(5) Work with the Emergency Management Liaison when involved in emergency management activities that involve the city;

(6) Assist the Emergency Management Liaison with the development of the city's support emergency operations plan to assure that it meets specified requirements and is compatible with the Macomb County Emergency Operations Plan; and

(7) Review the support emergency operations plan with the city and the County Office of Emergency Management at least once every two years and, upon deeming it adequate, certify the plan to be current and adequate for the ensuing two years.

(Ord. No. 421, § 1, 11-7-12)

Administrative reference:

Requirements for local emergency management program, see MI ADC R. 30.51(e)(ii)

15-5. SUPPORT EMERGENCY OPERATIONS PLAN.

The support emergency operations plan shall describe the relationship between the emergency management program and the city; shall identify the city's response procedures in relation to the county response procedures; shall be maintained in accordance with the standards of currentness of the county's emergency operations plan; shall be consistent with the county's emergency operations plan; and shall contain the signatures of the City Manager, the Mayor, the Emergency Management Liaison, and the Emergency Management Coordinator and be forwarded to the county. The City Manager shall review the support emergency operations plan with the Emergency Management Coordinator at least once every two years.

(Ord. No. 421, § 1, 11-7-12)

Administrative reference:

Requirements for support emergency operations plan, see MI ADC R. 30.51(e)(iii)

15-6. EMERGENCY MANAGEMENT LIAISON.

(A) The Emergency Management Liaison shall be appointed by the City Manager to assist the Emergency Management Coordinator in all matters pertaining to disaster prevention, mitigation, response, and relief and recovery operations within the city. The City Manager shall also appoint two successors to the position of Emergency Management Liaison who shall, in the order of succession chosen by the City Manager, assume the role and duties of the Emergency Management Liaison in the event that the position becomes vacant or the individual serving in the position becomes unavailable by reason of incapacitation or inaccessibility.

(B) The Emergency Management Liaison shall:

(1) Coordinate city emergency management activities with those of the county and adjacent jurisdictions;

(2) Assist the Emergency Management Coordinator with the development of the support emergency operations plan and the incorporation of city resources into the plan;

(3) Identify city departments and agencies to be included in the support emergency operations plan as part of the disaster relief force;

(4) Identify city resources and forward information to the Emergency Management Liaison for inclusion in the city resource manual;

(5) Coordinate the recruitment, appointment, and utilization of volunteer resources;

(6) Assist the Emergency Management Coordinator with administering training programs;

(7) Coordinate city participation in exercises conducted by the county;

(8) Assist in the development of mutual aid agreements;

(9) Assist in educating the population as to actions necessary for the protection of life and property in an emergency or disaster;

(10) Encourage departments/agencies within the city to identify and implement procedures to mitigate the effects of potential disasters;

(11) Assist in the assessment of the nature and scope of an emergency or disaster and collect damage assessment information and forward it to the county;

(12) Coordinate the vital records protection program;

(13) Develop municipal standard operating procedures for disaster response which are consistent with the support emergency operations plan.

(C) Whenever this chapter assigns a duty or responsibility to the Emergency Management Coordinator, the Municipal Emergency Management Liaison shall act in the place of the Emergency Management Coordinator during emergency or disaster events that require immediate action if the Emergency Management Coordinator is unavailable, inaccessible, or delegates responsibility due to the scope of the emergency or disaster event.

(Ord. No. 421, § 1, 11-7-12)

15-7. ASSESSMENT OF AN EMERGENCY OR DISASTER IN THE CITY; FINDINGS AND RECOMMENDATIONS; NOTICE; TEMPORARY ASSISTANCE.

(A) When an event occurs that has not been declared to be a state of emergency by the Governor, and the event is considered by the Mayor to be beyond the control of the city's and private sector's resources, the Emergency Management Liaison shall immediately contact the Emergency Management Coordinator. The Emergency Management Coordinator will contact the County Executive and the District Coordinator as required by the Act. The district coordinator, in conjunction with the Emergency Management Coordinator and Emergency Management Liaison, may assess the nature and scope of the disaster or emergency, and shall recommend the personnel, services, and equipment that will be required for its prevention, mitigation, or relief. The Emergency Management Liaison shall remain the local coordinating officer throughout the event unless the Emergency Management Coordinator assumes control.

(B) Upon completing the assessment, the District Coordinator will notify the Director of State Police, who will notify the Governor, and the Emergency Management Coordinator shall notify the County Executive, Mayor, and the City Manager of the findings and recommendations and update all with the nature and scope of the event.

(C) If the Governor determines that immediate action is essential to the preservation of life and property, the Director of the State Police may initiate temporary assistance to the affected area as necessary and compatible with the policies and procedures of the Act.

(Ord. No. 421, § 1, 11-7-12)

Statutory reference:

District coordinator responsibilities, see M.C.L. § 30.414

15-8. STATE POLICE ADMINISTRATIVE RULES; PURPOSE, IMPLEMENTED, CITY RESPONSIBILITY.

State Police Administrative Rules provide the means through which the city may apply and receive disaster aid. To be eligible for disaster aid:

(1) The Emergency Management Liaison shall implement the support emergency operations plan in a timely manner for an alert status and request the Mayor to declare a local state of emergency when information indicates this action is necessary;

(2) The Mayor shall declare a local state of emergency in a timely manner and forward an authorization request through the Emergency Management Liaison to the Emergency Management Coordinator when information received on the nature and scope of the event is beyond the city's ability to cope;

(3) When resources from the public and private sector in the city are exhausted, the Mayor shall request that the County Executive declare a county state of emergency and if necessary seek assistance from the Governor for the city;

(4) The Emergency Management Coordinator or Emergency Management Liaison will direct the damage assessment team to conduct a damage assessment immediately after the emergency and provide this information to the county who will in turn provide this information to the State of Michigan for consideration of reimbursements for expenditures during the emergency. The Emergency Management Coordinator or Emergency Management Liaison may direct the Finance and Budget Director to assist the damage assessment team leader and assessor in the preparation of information to be provided to the county.

(Ord. No. 421, § 1, 11-7-12)

15-9. ASSISTANT LIAISONS; APPOINTMENT, QUALIFICATIONS, RESPONSIBILITIES, POWERS.

The Assistant Liaisons will be appointed by their department or office director. Each department director shall also appoint two people to serve as successors in the event that the Assistant Liaison is not available or requires assistance. The Assistant Liaisons provide assistance to the Emergency Management Liaison when available. The Assistant Liaisons may be directed by the City Manager, with input from the Emergency Management Coordinator Liaison, to do one or more of the following:

(1) Report to the Emergency Management Liaison at the onset of all events;

(2) Identify and provide for the protection of vital records;

(3) Attend training relevant to emergency management efforts and ensure staff is trained so as to be able to implement assigned emergency functions;

(4) Provide the Emergency Management Liaison with a list of personnel and resources available within the department and provide a list of those that may be needed during times of emergency;

(5) Participate in periodic exercises to enhance the adequacy of the respective agency's or department's response capability;

(6) Implement the directives of the Emergency Management Coordinator or Liaison, City Manager, and/or Mayor (or their designees) during a local state of emergency.

(Ord. No. 421, § 1, 11-7-12)

15-10. CONTINUITY OF GOVERNMENT AND GOVERNMENT SERVICES; MUNICIPAL SECURITY; ESOG RESPONSIBILITIES.

The support emergency operations plan will provide continuity of government at the legislative and administrative levels that includes, but is not limited to, guaranteed successors at the executive, administrative, and operational levels of the city government. The ESOG shall be responsible for strategic planning for municipal security, and for critical infrastructures that include communications, power, electric, gas, oil, industry, business, water, banking, finance, emergency services, government, transportation, foreign-represented governments, recreational venues, resident population, and special classifications, as assigned to the ESOG. The ESOG shall also be responsible for developing and maintaining a city resource manual for use in emergency or disaster response activities.

(Ord. No. 421, § 1, 11-7-12)

15-11. COUNCIL.

The Council will provide legislative responsibilities in matters of emergency management for the city and will assist in providing continuity of legislative functions throughout an event. The Council will also perform the following activities:

(1) Approve and authorize the emergency management budget;

(2) When a local state of emergency is authorized by the Mayor, such declaration or proclamation shall not be continued or renewed for a period in excess of seven days except with the consent of the Council. The City Manager will provide information to the Council prior to its decision;

(3) Oversee the continuity of government and government services;

(4) Support the Emergency Management Coordinator and Liaison in response to events to a point when the city is brought back to pre-event condition;

(5) Support the immediate coordination and utilization of all public and private resources in the city during an event;

(6) Provide a means through which the city may exercise the authority conferred by this chapter;

(7) Adopt a resolution, as required by the Michigan Department of State Police Emergency Management's Administrative Rules, to assist with the application for state and federal funding.

(Ord. No. 421, § 1, 11-7-12)

15-12. MAYOR.

The Mayor reports to the Council on matters of emergency management. The Mayor Pro Tem will act as the Mayor's successor when the Mayor is not available. A member of the Council, as determined by a vote of the Council, shall act as the Mayor's successor when both the Mayor and Mayor Pro Tem are not available. The Mayor may do one or more of the following:

(1) Authorize a local state of emergency based upon information received through the Emergency Management Coordinator or Liaison on the nature and scope of the emergency;

(2) Attend event meetings and briefings for the purpose of government continuity;

(3) Implement quarantine procedures, through the City Manager, under the direction of the Macomb County Health Department, Michigan Department of Public Health, or the Center for Disease Control in the protection of public health from a known or believed biological threat;

(4) Authorize a curfew through the City Manager to be enforced by the Police Department for the protection of public health, safety, and welfare with power to enact and maintain a curfew for events that are or may affect the city;

(5) Activate mutual aid agreements or compacts with other municipal entities in order to secure assistance in the form of personnel, equipment, or other resources that the Mayor deems necessary to assist with emergency or disaster relief efforts. The Emergency Management Coordinator or Liaison shall carry out such agreements or compacts, as required by the Act.

(Ord. No. 421, § 1, 11-7-12)

Statutory reference:

Declaring a local state of emergency, see M.C.L. § 30.410(1)(b)

Mutual aid agreements, see M.C.L. § 30.410(3)

15-13. CITY MANAGER.

The City Manager is executive head of the city government and is the overall administrative authority during all events within the city. The City Manager will appoint a minimum of two administrative persons to act as successors when the City Manager is not available. After an alert status is authorized with escalation to a declaration of disaster or emergency by the Governor and/or the President of the United States, the City Manager will provide direction for media releases coordinating the Community Relations Director's emergency functions and may take emergency actions to ensure the city returns to pre-event conditions. The City Manager may do one or more of the following:

(1) Appropriate and expend funds, make contracts, and obtain and distribute equipment, materials, and supplies for pre-event and event purposes;

(2) Provide for the health, safety, and welfare of persons and property, including emergency assistance to the victims during an event;

(3) Plan and initiate local multiple departmental response to an event within the city through the municipal security team;

(4) Appoint, employ, remove, or provide, with or without compensation, rescue teams, auxiliary fire and police personnel, engineering, emergency management, a hazardous materials team, and other disaster workers;

(5) Send emergency personnel to an event outside of the city as directed by the Governor or Director of the Michigan Department of State Police under a state or federally declared event, or when deemed appropriate by the City Manager;

(6) Convene the municipal security team and chair the process during declared events at a location conducive to strategic planning capabilities;

(7) Inform Council on the assessment information provided by the Emergency Management Coordinator or Liaison regarding the nature and scope of the emergency or disaster;

(8) After authorizing an alert status, the City Manager may order a safe evacuation process of the public under the direction of the incident commander at the scene of the event in the city;

(9) Request investigation into the cause of any declared emergency or disaster occurring within the city through the Emergency Management Liaison;

(10) Relieve city employees of normal duties and temporarily reassign them to other duties during an event or state of emergency or disaster;

(11) Direct the overall disaster or emergency relief effort, including the disaster relief force, in accordance with the support emergency operations plan.

(Ord. No. 421, § 1, 11-7-12)

15-14. REVIEW.

(A) On an annual basis, after soliciting observations and opinions from the Police Chief and Fire Chief, the City Manager shall review the performance of the Emergency Management Coordinator and Liaison and make recommendations to the City Council.

(B) With input from the Police Chief and Fire Chief, the City Manager shall review the effectiveness of the support emergency operations plan as the plan relates to the city once every two years. With the assistance of the Emergency Management Liaison, the City Manager shall make recommendations to the Emergency Management Coordinator of any changes which may be needed. After this review and the incorporation of necessary changes, the City Manager shall certify the plan to be current and adequate for the city for the ensuing two years and the Mayor shall sign the plan as required by the Administrative Code.

(Ord. No. 421, § 1, 11-7-12)

15-15. COMMUNITY RELATIONS DIRECTOR; REPORTING STRUCTURE, AUTHORITY, AND RESPONSIBILITIES.

The Community Relations Director is responsible for emergency public information and the coordination of all media activities during events and reports to the City Manager. The Community Relations Director will appoint two persons to act in his or her absence. The Community Relations Director has authority for releasing emergency public information regarding the event. The Community Relations Director may do one or more of the following:

(1) Ensure all information released to the media has been approved by the City Manager and released in a timely manner. All information of questionable accuracy

will be withheld pending verification, unless to do so would unnecessarily endanger life and property;

(2) Develop and maintain appropriate contingency guides for carrying out the emergency public information essential functions;

(3) Contact local media and determine who to contact at the media, procedures to be utilized by the media, and the willingness of the media to air/publish news releases;

(4) Maintain a list of media to be used during an event making;

(5) Ensure that air traffic control authorities are asked to restrict air space over and near the event;

(6) Coordinate with departments of government and emergency services to familiarize them with the public information system and their role in it;

(7) Employ the Fire Department Safety House when the situation requires sheltering for staff at the site;

(8) Establish staff to operate the emergency public information system during an event;

(9) Keep Council informed of the most immediate actions and plans of the city in response to an event.

(Ord. No. 421, § 1, 11-7-12)

15-16. THE PUBLIC WORKS (PW) DIRECTOR; REPORTING STRUCTURE, AUTHORITY, AND RESPONSIBILITIES.

The PW Director is responsible for all public works related activities in the city and reports to the City Manager and will appoint one person of the Department of Public Works to act in his or her absence as the Public Works Director. The PW Director has authority for handling the following:

(1) Severe storm damage and debris removal;

(2) Flood fighting efforts;

(3) Ecological emergencies;

(4) Winter storm response and snow emergencies;

(5) Energy emergencies.

The Department of Public Works is responsible for but not limited to the following:

(1) Maintaining transportation routes;

(2) Coordinating activities designed to control the flow of flood water, including sandbagging, emergency diking, and pumping operations;

(3) Implementing travel restrictions and road closures within the city, as requested by the incident commander;

(4) Identifying evacuation routes and posting obvious signing;

(5) Providing emergency generators and extraordinary lighting;

(6) Assisting with traffic when and where possible;

(7) Assisting with access control points;

(8) Assisting private and public utilities with shut-down of gas, electric, and water when directed to do so;

(9) Assisting with transportation of essential goods;

(10) Reporting damage information to the Emergency Management Coordinator and Emergency Operations Center during events;

(11) As necessary, establishing staging areas for public works resources;

(12) Assisting with damage surveys for the Federal Public Assistance Grant Program;

(13) Providing appropriate personnel and staff for the emergency operations center when activated.

(Ord. No. 421, § 1, 11-7-12)

15-17. FIRE CHIEF; REPORTING STRUCTURE, AUTHORITY AND RESPONSIBILITIES.

The Fire Chief reports to the City Manager and will appoint one person to act as the Fire Chief in his or her absence. The Fire Chief has authority for handling the following:

(1) Fires;

(2) Hazardous material events;

(3) Evacuations;

(4) Multiple casualties;

(5) Searches and rescues;

(6) Wild fires;

(7) Chemical, biological, radiological, nuclear, and explosive (CBRNE) response;

(8) Medical authority for the city.

The Fire Department is responsible for, but not limited to, the following:

(1) Responding to events and providing an incident commander;

(2) Providing personnel to staff the emergency operations center;

(3) Mobilizing and coordinating fire response units from the city and other jurisdictions;

(4) Reporting to the City Manager on the nature and scope of the Fire Department's role in the event;

(5) Providing documentation on costs incurred by the Fire Department during an event for reimbursement purposes.

(Ord. No. 421, § 1, 11-7-12)

15-18. POLICE CHIEF, REPORTING STRUCTURE, AUTHORITY AND RESPONSIBILITIES.

The Police Chief reports to the City Manager and will appoint one person to act as the Police Chief in his or her absence. The Police Chief has authority for handling the following:

(1) All law enforcement essential functions and crime scene response;

(2) Public demonstrations and civil disturbances;

(3) Cyber security or cybercrime events;

(4) CBRNE investigations;

(5) Bomb threats;

(6) Strikes and demonstration activity;

(7) Emergency public warning;

(8) Emergency communications;

(9) Transportation accidents.

The Police Department is responsible for the following:

(1) Responding to events and providing an incident commander;

(2) Providing personnel from the Police Department to staff the emergency operations center;

(3) Reporting to the City Manager on the nature and scope of an event;

(4) Providing direction and control of traffic;

(5) Implementing and controlling an event scene perimeter;

(6) Providing protection of valuables in multi-casualty events and protection of property during evacuations;

(7) Providing protection of key persons and facilities involved with the event;

(8) Implementing crisis management at the onset of an event and, in conjunction with federal and state agencies, throughout an escalating event.

(Ord. No. 421, § 1, 11-7-12)

Statutory reference:

Emergency procedure, see M.C.L. § 30.412

15-19. RESPONSIBILITIES OF THE FIRE MARSHAL; DUTIES WITHIN THE MICHIGAN EMERGENCY MANAGEMENT STANDARDS.

The Fire Marshal will:

(1) Coordinate emergency temporary shelter for victims through volunteer agencies for up to 48 hours from the onset of the event;

(2) Provide for the orderly hosting of evacuees from other jurisdictions that have been or are threatened because of an event in that jurisdiction;

(3) Direct the Police Department to safeguard the evacuated persons and property which is located within the city limits.

(Ord. No. 421, § 1, 11-7-12)

15-20. POWERS, RESPONSIBILITIES OF THE EMERGENCY MANAGEMENT COORDINATOR AND LIAISON DURING DECLARED EVENTS; EXTREME EMERGENCY MEASURES.

During an event, the Emergency Management Coordinator and/or Liaison is:

(1) Vested with full authority of Council to provide consequence management and mission-essential functions;

(2) Authorized and expected to advise the Mayor and City Manager on all matters pertaining to the event;

(3) Authorized to deploy Assistant Liaisons;

(4) Authorized to engage the Finance and Budget Director and the damage assessment team to initiate the cost recovery process;

(5) Authorized to engage other volunteer or professional individuals or groups considered to be beneficial to mitigate an event;

(6) Authorized to coordinate, with the City Manager, the location from which staff will respond. The municipal security team and individuals/entities from volunteer, private sector, and government agencies may be notified to respond. The EOC may be activated for the duration of time necessary to bring the city back to pre-event conditions. Upon consultation with the City Manager, the EOC may thereafter be deactivated.

The Emergency Management Liaison throughout an event will work directly with the County Coordinator. To preserve life and property during an event, the Emergency Management Coordinator or Emergency Management Liaison may take the following emergency measures:

(1) Commandeer any or all city buildings, personnel, equipment, and other resources of the city in the mitigation of the threat or action;

(2) Request the Mayor to implement quarantine procedures when, in the opinion of experts from the County or State Health Departments or the Center for Disease Control, a threat to the public health of the city exists due to a biological or CBRNE event;

(3) Request that the City Manager provide for an evacuation order of person(s) known or believed to be in danger because of a condition affecting the city;

(4) Provide for the hosting of persons from another jurisdiction that may be in danger from a situation existing in another jurisdiction;

(5) In cooperation with the Police Department, provide for the protection of key individuals and property through those means necessary that will provide for the continuity of government and government services from hazards that threaten the city;

(6) Request the City Manager to provide additional funds in handling an event to bring the city back to pre-event conditions;

(7) Request assistance from the American Red Cross, Salvation Army, or other nonprofit volunteer agencies and/or organizations to augment city personnel and/or relief and recovery programs in the implementation of emergency activities. Volunteer individuals shall be part of the disaster relief force and shall be subject to the rules and regulations and supervision set forth by their respective nonprofit agency and/or organization.

(Ord. No. 421, § 1, 11-7-12)

15-21. CITY REQUEST FOR DECLARATION OF STATE OF DISASTER OR EMERGENCY; NECESSARY RULES AND ORDINANCES.

(A) When an event occurs in the city and is beyond the control of local public and private agencies to handle by utilizing the procedures set forth in § 15-7, the Mayor shall advise the Emergency Management Coordinator, who shall then contact the state police emergency management division district coordinator and request that the Governor declare that a state of disaster or state of emergency exists in the city. The Mayor may also request assistance from the County Executive and if applicable, ask the County Executive to declare a county state of emergency. If the event becomes beyond the control of county resources, both public and private, the County Executive may contact the Governor to declare that a state of emergency exists within the county and the city. The Mayor and City Manager shall comply with any orders issued by the County Executive, and the director of the Department of State Police thereafter, and shall cooperate with the county and/or director in matters of emergency management.

(B) The city, county, or an agency appointed by the Governor may make, amend, and rescind ordinances or rules necessary for emergency management purposes and supplementary to a rule, order, or directive issued by the Governor or agency exercising a power delegated to it by the Governor. The ordinance or rule shall be temporary and shall no longer be in effect upon the Governor's declaration that a state of emergency is terminated. Emergency ordinances may be adopted upon convening a quorum of the Council and may be adopted after a single reading, without notice, and shall take immediate effect. In the event that a quorum of the Council cannot be convened due to the emergency or disaster, the City Manager may issue administrative orders that shall have the immediate and interim force and

effect of an emergency ordinance adopted pursuant to this section.

(Ord. No. 421, § 1, 11-7-12)

Statutory reference:

Emergency procedure, see M.C.L. § 30.412

15-22. EMERGENCY OPERATORS AND PUBLIC WARNING; RESPONSIBILITIES FOR THE WARNING AND DUTIES TO PERFORM.

The 9-1-1 center's emergency operators are responsible for warning the public and key officials during emergencies and disasters. Severe weather events planning, emergency management policy, and procedure setting are the responsibility of the office. Implementation of policy procedures and training is the obligation of 9-1-1 center supervision. Emergency operators shall provide for response to emergency management policy and procedures and carry them out as directed through the Emergency Management Liaison. They shall do the following:

(1) Assume responsibility for the primary activation of the emergency sirens under public warning;

(2) Contribute to the emergency exercise and training programs offered through the office; and

(3) Assume responsibility for notification of EOC staff to report to the EOC when directed by a member of the municipal security team.

(Ord. No. 421, § 1, 11-7-12)

Statutory reference:

District coordinator responsibilities, see M.C.L. § 30.414

15-23. OBSTRUCTING EMERGENCY FIELD FORCES WHILE ENGAGED IN A DECLARED EMERGENCY OR DISASTER EXERCISE.

It shall be unlawful for a person(s) to interfere with, hinder, impede, obstruct, or disrupt in any manner emergency or disaster relief forces engaged in relief activities during an event, emergency, disaster, or emergency exercise within the city. It shall likewise be unlawful for any person to wear, carry, or display any emblem, insignia, or other means of identification as a member of the disaster relief forces of the city, or to otherwise represent oneself to another as a member of the disaster relief forces, unless authority to do so has been granted to that person by city, state, or federal officials. Violations of this section shall be punishable as prescribed in Chapter 1, Section 9 of the City Code.

(Ord. No. 421, § 1, 11-7-12) Penalty, see §1-9

15-24. LIABILITY.

(A) As provided in the Act, personnel of emergency or disaster relief forces while on duty, if they are employees of a county, municipality, or other governmental agency, have the powers, duties, privileges, and immunities of and receive the compensation incidental to their regular employment. If they are not employees of a county, municipality, or other governmental agency, they shall nevertheless have the same rights and immunities as provided for by law for employees of the state. The city and its agents or representatives shall not be liable for personal injury or property damage sustained by, or caused by, any member of the disaster relief force, nor is the city liable for the death of or injury to a person or persons, or for damage to property, as a result of engaging in disaster relief activity. The employees, agents, or representatives of the state or a political subdivision of the state and nongovernmental disaster relief force workers or private or volunteer personnel engaged in disaster relief activity are immune from tort liability to the extent provided in M.C.L. § 691.1407. As used in this section, the phrase "disaster relief activity" includes training for or responding to an actual, impending, mock, or practice disaster or emergency. The right of a person to receive benefits or compensation to which he or she may otherwise be entitled under the workers compensation law, any pension law, or any act of Congress, will not be affected as a result of said activity. All personnel of disaster relief forces shall, while on duty, be subject to the operational control of the authority in charge of disaster relief activities in the area in which they are serving.

(B) As provided in the Act, any person owning or controlling real estate or other premises who voluntarily and without compensation grants the city the right to inspect, designate, and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons or for any other event function during a declared local state of emergency, declaration of disaster, or an authorized practice emergency exercise, shall not be civilly liable for the death of or injury to any person on or about such real estate or premises under such license, privilege, or other permission or for loss of or damage to the property of such person. However, the person owning or controlling the real estate or other premises is legally obligated to make known any hidden dangers or safety hazards that are known to the owner or occupant of the real estate or premises that might possibly result in the death or injury or loss of property to a person using the real estate or premises.

(Ord. No. 421, § 1, 11-7-12)

Statutory reference:

Powers, duties, and liabilities of relief forces, see M.C.L. § 30.411.

CHAPTER 16: RESERVED

CHAPTER 17: EARTH CHANGES

ARTICLE I. SOIL EROSION AND SEDIMENTATION CONTROL

17-1. PURPOSE; DESIGNATION OF MUNICIPAL ENFORCING AGENT.

(A) The purpose of this chapter is to control soil erosion and the resulting sedimentation of the waters of the state by ensuring compliance with Part 91, Soil Erosion and Sedimentation Control (SESC), of Public Act 451 of 1994, the Natural Resources and Environmental Protection Act (NREPA), as amended, and the Administrative Rules adopted thereunder. This chapter has been adopted under the authority granted by Part 91 of the Act, being MCL 324.9101 et seq.

(B) The requirements of this chapter, Part 91 of the Act, and related Administrative Rules shall be enforced by the Office of Engineering, which is hereby designated as the Municipal Enforcing Agency ("MEA") under Part 91 of the Act.

(Ord. No. 384 § 1, 8-15-06)

Statutory reference:

Authority to adopt ordinance, see M.C.L. § 324.9106

Designation of enforcing agency, see M.C.L. § 324.9106(1)

17-2. DEFINITIONS.

As used in this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ACCELERATED SOIL EROSION. The increased loss of land surface that occurs as a result of human activities.

ACT. The Natural Resources and Environmental Protection Act (NREPA), Public Act 451 of 1994 as amended.

ADJACENT PROPERTY. Any property, public or private, not contained within the application, whether or not owned by the applicant.

AGRICULTURAL PRACTICES. All land farming operations except the plowing or tilling of land for the purpose of crop production or the harvesting of crops.

CERTIFICATE OF COMPLETION. A signed written statement by the City Engineer or his or her duly authorized representative that specific construction has been inspected and found to comply with all plans and specifications.

CITY COUNCIL. The Sterling Heights City Council.

CITY ENGINEER. The City Engineer or his or her duly authorized representative.

EARTH CHANGE. A human made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state. EARTH CHANGE does not include the practice of plowing and tilling soil for the purpose of crop production.

EARTH MATERIALS. Any materials which are normally part of the natural earth, including topsoil, sand, gravel and clay but not including valuable minerals, oil and gases.

EXCAVATION or ***CUT.*** Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated and shall include the conditions resulting therefrom.

FLOODPLAIN. That area which would be inundated by storm runoff or floodwater equivalent to that which would occur with a rainfall or flood of 100 year recurrence frequency.

GARDENING. Activities necessary to the growing of plants for personal use, consumption, or enjoyment.

GRADING. Any stripping, excavating, filling, balancing, stockpiling, or any combination thereof, and shall include the land in its excavated or filled condition.

LAKE. The Great Lakes and all natural and artificial inland lakes or impoundments that have definite banks, a bed, visible evidence of a continued occurrence of water, and a surface area of water that is equal to, or greater than, 1 acre. LAKE does not include sediment basins and basins constructed for the sole purpose of storm water retention, cooling water, or treating polluted water.

LANDFILL. Any disposal area or tract of land, building, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over or otherwise accept or retain refuse as herein defined.

NONEROSIVE VELOCITY. A speed of water movement that is not conducive to the development of accelerated soil erosion.

PERMANENT SOIL EROSION AND SEDIMENTATION CONTROL MEASURES. Those control measures which are installed or constructed to control soil erosion and sedimentation and which are maintained after project completion.

PERSON. A natural person, firm, corporation, partnership or association.

SEAWALL MAINTENANCE. An earth change activity landward of the seawall.

SEDIMENT. Solid particulate matter, including both mineral and organic matter, that is in suspension in water, is being transported, or has been removed from its site of origin by the actions of wind, water, or gravity and has been deposited elsewhere.

SEDIMENT BASIN. A naturally occurring or constructed depression used for the sole purpose of capturing sediment during or after an earth change activity.

SOIL EROSION or ***EROSION.*** The wearing away of land by the action of wind, water, gravity, or a combination of wind, water, or gravity.

SOIL EROSION AND SEDIMENTATION CONTROL PERMIT. A permit issued to authorize work to be performed under this chapter.

SOIL EXCAVATION. The removal or earth change of any kind or nature from a site of gravel, clay, sand, soil or other earthen materials.

STREAM. A river, creek, or other surface watercourse which may or may not be serving as a drain as defined in Act No. 40 of the Public Acts of 1956, as amended, being MCL 280.1 et seq., and which has definite banks, a bed, and visible evidence of the continued flow or continued occurrence of water, including the connecting waters of the Great Lakes.

STRIPPING. Any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

TEMPORARY SOIL EROSION AND SEDIMENTATION CONTROL MEASURES. Interim control measures which are installed or constructed to control soil erosion and sedimentation until permanent soil erosion and sedimentation control is effected, and which are not maintained after project completion.

WATERS OF THE STATE. The Great Lakes and their connecting waters, inland lakes and streams as defined in the rules promulgated under Part 91 and wetlands regulated under Part 303, Wetland Protection, of the Act.

(Ord. No. 384 § 1, 8-15-06)

17-3. COMPLIANCE WITH CHAPTER PREREQUISITE TO APPROVAL OF SITE PLAN OR PLAT.

(A) No site plan, plot plan or plat shall be approved under this chapter unless said site plan, plot plan, or plat shall include soil erosion and sediment control measures consistent with the requirements of this chapter and related land development regulations. The soil erosion and sedimentation control measures shall be set forth in a soil erosion and sedimentation control (SESC) plan designed to effectively reduce accelerated soil erosion and sedimentation. The SESC plan must identify factors that may contribute to soil erosion or sedimentation, or both. The SESC plan shall be made available for inspection at all times at the site of the earth change.

(B) The SESC plan shall include, but not be limited to, all of the following:

(1) A map or maps at a scale of not more than 200 feet to the inch or as otherwise determined by the City Engineer. A map shall include a legal description and site location sketch that includes the proximity of any proposed earth change to lakes or streams, or both; predominant land features; and contour intervals or slope description.

(2) A soils survey or a written description of the soil types of the exposed land area contemplated for the earth change.

(3) Details for proposed earth changes, including all of the following:

(a) A description and the location of the physical limits of each proposed earth change.

(b) A description and the location of all existing and proposed on-site drainage and dewatering facilities.

(c) The timing and sequence of each proposed earth change.

(d) The location and description for installing and removing all proposed temporary soil erosion and sedimentation control measures.

(e) A description and the location of all proposed permanent soil erosion and sedimentation control measures.

(f) A program proposal for the continued maintenance of all permanent soil erosion and sedimentation control measures that remain after project completion, including the designation of the person responsible for the maintenance. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which the permanent soil erosion and sedimentation control measures are located.

(C) The City Engineer, or a designee who is trained in soil erosion and sedimentation control methods and techniques, shall review and approve a soil erosion and sedimentation control plan. The Office of Engineering shall respond within 30 calendar days following receipt of a properly submitted application for a soil erosion and sedimentation control permit by approving or disapproving the application, or requiring modification of the application. The applicant shall be notified by first-class mail. If an application is disapproved, the Office of Engineering shall advise the applicant by certified mail of the reasons for disapproval and conditions required for approval. The Office of Engineering need not notify an applicant of approval or disapproval by mail if the applicant is given written approval or disapproval of the application in person. A permit given to the applicant either in person or by first-class mail constitutes approval. The permit shall be kept readily available at the site of the earth change for inspection upon request.

(Ord. No. 384 § 1, 8-15-06)

Administrative rules:

Plan requirements, see R 323.1703

Application review, see R 323.1707

17-4. COMPLIANCE WITH CHAPTER REQUIRED FOR OCCUPANCY.

No final certificate of occupancy for any building will be issued unless the applicant for said certificate shall have obtained a certificate of completion indicating compliance with grading requirements, the soil erosion and sedimentation control plan, and completion of all permanent soil erosion and sedimentation control measures.

(Ord. No. 384 § 1, 8-15-06)

17-5. SESC PERMITS, SESC APPLICATION/PLANS, AND FEES.

(A) Permit requirement. Except as exempted by sections 17-15 of this chapter, no person shall remove any earth materials, perform or undertake any grading, operate a soil excavation site or landfill, deposit land within the City, nor undertake any earth change unless a valid soil erosion and sedimentation control permit has been issued by the Office of Engineering. A landowner or designated agent shall submit an application for a permit to the Office of Engineering.

(B) Permit application. A separate application shall be required for each soil erosion and sedimentation control permit. Plans, specifications, and timing schedules shall be submitted with each application for a permit. The plans shall be prepared or approved and signed by a registered professional engineer or by an architect. The Office of Engineering may waive the preparation or approval and signature by the registered professional engineer or architect when the work entails little hazard to the adjacent property and does not include the construction of a fill upon which a structure may be erected.

(C) Application procedure. The written application for a permit required by this chapter shall be made on forms provided by the Office of Engineering. Each application shall contain:

(1) Full names and address of all parties with an interest in the premises, setting forth their legal interest;

(2) A full, complete legal description of the premises where the proposed earth change is to take place.

(3) The application shall contain or be accompanied by a written statement of the extent, development, improvement, and general purpose of the proposed operations and the program therefor. This statement shall list all types of materials to be removed and/or filled and the specific area of the site where each of the materials or fill is to be removed or placed, a detailed statement as to the method of operation, the type of machinery or equipment to be used, and the estimated period of time that such operation shall cover. Any details of similar operations carried on by the applicant shall also be provided.

(4) Each application shall be accompanied by a statement by a registered civil engineer or land surveyor as to the cubic yards of the material to be removed and/or fillers and a detailed statement as to the total volume and extent of the earth change.

(D) Application data required. A soil erosion and sedimentation control plan which meets the requirements of Rule 1703 and Section17-3(B) of this chapter must accompany a soil erosion and sedimentation control permit application. The plans and specifications accompanying the permit application shall also contain the following data:

(1) A location map at a scale of not less than one inch to 200 feet, indicating the site location as well as the adjacent properties within 500 feet of the site boundaries;

(2) A boundary line survey of the site on which the work is to be performed;

(3) A plan of the site at a scale of one inch to 100 feet, showing:

(a) Name, address and telephone number of the owners, developer, and petitioner;

(b) A timing schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures;

(c) A certified statement of the quantity of excavation and fill involved;

(d) Existing topography at a maximum of two foot contour intervals;

(e) Proposed topography at a maximum of two foot contour intervals;

(f) Location of any structure or natural feature on the site;

(g) Location of any structure or natural feature on the land adjacent to the site and within 50 feet of the site boundary lines;

(h) Adjoining land uses;

(i) Location of existing and proposed utilities;

(j) Location of borrow and soil storage areas;

(k) Location of all public facilities and services;

(l) Location of existing and proposed streets, roadways, parking areas, entrances, and exits;

(m) Location of public and private water supplies, wells, springs, streams, swamps, or other bodies of water within one-quarter of a mile of the site of the proposed earth change;

(n) Location of any proposed additional structures or development on the site;

(o) Elevations, dimensions, location, extent, and the slope of all proposed grading (including building and driveway grades);

(p) The estimated total cost of the required temporary and permanent soil erosion and sedimentation control measures;

(q) Plans of all drainage provisions, retaining walls, cribbing, planting, anti-erosion devices or other temporary or permanent soil erosion and sedimentation control measures to be constructed in connection with, or as a part of, the proposed work, together with a map showing the drainage area of land tributary to the site and estimated runoff of the area served by any drains;

(r) Other information or data as may be required by the Office of Engineering such as a soil investigation report which shall include but not be limited to: data regarding the nature, distribution, and supporting ability of existing soils and rock on the site.

(E) Fees. When an application is made for a permit as required under the terms of this chapter, a fee shall be paid by the applicant in an amount as established by City Council. The City Council may establish fees for plan review and/or for inspections made to determine compliance with this chapter, which fees shall be paid prior to commencement of any work regulated by this chapter.

(F) Issuance. Upon a determination that a permit applicant has met all of the requirements of Part 91 of the Act, the Administrative Rules, and this chapter, the Office of Engineering shall issue a permit for the proposed earth change. The issuance of the permit shall not constitute an exemption from any other permits that may be required by federal or state law, local ordinance, or regulation or rule, relating to the underlying project for which the earth change will be undertaken.

(Ord. No. 384 § 1, 8-15-06)

Statutory reference:

Permit required for earth change, see M.C.L. § 324.9112(1)

Administrative rules:

SESC plan requirements, see R 323.1703

Application for permit, see R 323.1706

Issuance, see R 323.1707

17-6. BOND REQUIREMENT.

A soil erosion and sedimentation control permit shall not be issued unless the permittee shall first deposit with the city, in the form of cash, a cashier's check or irrevocable bank letter of credit acceptable to the city, whichever the applicant selects, in an amount sufficient to assure the installation and completion of such protective or corrective measures required by the Office of Engineering. The total cost shall be estimated by a registered professional engineer or architect and shall be subject to review by the Office of Engineering, except that the Office of Engineering shall have discretion on a project-by-project basis to offer applicants for permits involving small-scale projects the option of accepting the Office of Engineering's own cost estimate. The deposit shall be made upon the conditions that the permittee shall comply with all of the provisions of this chapter and all of the terms and conditions of the permit and shall complete all of the work contemplated under the permit within the time limit specified in the permit or, if no time limit is specified, within one year after the date of the issuance of the permit. For purposes of this section, the term "small-scale projects" shall mean projects involving earth changes for which a soil erosion and sedimentation control permit is required, but for which the cost of retaining a professional engineer or architect to obtain a cost estimate would be, in the discretion of the Office of Engineering, cost prohibitive, impractical, or unduly burdensome due to the nature and scale of the project.

(Ord. No. 384 § 1, 8-15-06)

Statutory reference:

Deposit as condition for issuance of permit, see M.C.L. § 324.9108

17-7. EXTENSION OF TIME.

If the permittee is unable to complete the work within the specified time, he or she may, at least ten days prior to the expiration of the permit, present in writing to the Office of Engineering a request for an extension of time setting forth the reasons for the requested extension. In the event such an extension is warranted, the Office of Engineering may grant additional time for the completion of the work, but no extension shall release the owner from the requirements under the preceding section of this chapter.

(Ord. No. 384 § 1, 8-15-06)

17-8. FAILURE TO COMPLETE WORK.

In the event the permittee fails to complete the work or fails to comply with all of the requirements, conditions and terms of the permit, this chapter, Part 91 of the Act, and/or the Administrative Rules, the Office of Engineering may order such work as is necessary to eliminate any danger to persons or property or waters of the State and to leave the site in a safe condition and he or she may authorize completion of all necessary temporary or permanent soil erosion and sedimentation control measures. The permittee or the person issuing the letter of credit or making the cash deposit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the city in causing any and all such work to be done. Any unused portion of the cash deposit, cashier's check, or amount collected under the irrevocable letter of credit shall be refunded to the permittee.

(Ord. No. 384 § 1, 8-15-06)

17-9. DENIAL OF PERMITS.

Soil erosion and sedimentation control permits shall not be issued where:

(1) The proposed work would cause hazards to the public safety and welfare;

(2) The work as proposed by the applicant will damage any public or private property or utilities, or alter or interfere with any existing drainage in such a manner as to cause damage to any adjacent or off-site property, or result in the deposit or placement of debris or sediment off-site, or on any public way, waterway, wetland, waters of the State, or storm water management system, or create an unreasonable hazard to person or property;

(3) The land area for which an earth change is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability, or any other such hazard to persons or property; or

(4) The land area for which the earth change is proposed may not lie within the floodplain of any stream or watercourse (not specifically designated and delineated by the city as an area subject to flood hazard), unless the application is approved by all appropriate federal, state, and county agencies, and the application complies with all applicable city ordinances.

(Ord. No. 384 § 1, 8-15-06)

17-10. MODIFICATION OF APPROVED PLANS.

All modifications of the approved soil erosion and sedimentation control plans must be submitted and approved by the Office of Engineering. All necessary sustaining reports shall be submitted with any proposal to modify the approved plan. No earth change work in connection with any proposed modification shall be permitted without the approval of the Office of Engineering.

(Ord. No. 384 § 1, 8-15-06)

Administrative rules:

Application review, see R 323.1707

17-11. RESPONSIBILITY OF PERMITTEE.

During earth change operations, the permittee shall be responsible for:

(1) The prevention of damage to any public utilities or services within the limits of the earth change and along any routes of travel of the equipment;

(2) The prevention of damage to adjacent property. No person shall conduct an earth change on land so close to the property line as to endanger any adjoining public street, sidewalk, alley, or any public or private property without supporting and protecting such property from settling, cracking, or other damage which might result;

(3) Carrying out the proposed work in accordance with the approved plans and in compliance with all the requirements of the permit, this chapter, Part 91 of the Act, and the Administrative Rules;

(4) The prompt removal of all soil, miscellaneous debris, or other materials applied, dumped, or otherwise deposited on public streets, highways, sidewalks, or other public thoroughfares during transit to and from the construction where such spillage constitutes a public nuisance or hazard.

(Ord. No. 384 § 1, 8-15-06)

17-12. GENERAL REQUIREMENTS.

(A) All earth changes shall be conducted in a manner that will effectively reduce accelerated soil erosion and resulting sedimentation.

(B) All persons engaged in earth changes shall design, implement, and maintain acceptable soil erosion and sedimentation and control measures in conformance

with Part 91 of the Act and the Administrative Rules, as well as in conformance with all of the provisions of this chapter.

(C) Unless the person preparing the soil erosion and sedimentation control plan shows, to the satisfaction of the Office of Engineering, that altering the control measures or including other control measures will prevent accelerated soil erosion and sedimentation during the earth change, the following soil erosion and sedimentation control measures shall be incorporated into the soil erosion and sedimentation control permit application;

(1) All earth changes shall be designed, constructed, and completed in such a manner as to limit the exposed area of any disturbed land for the shortest possible period of time as determined by the Office of Engineering.

(2) Sediment caused by accelerated soil erosion shall be removed from runoff water before it leaves the site of the earth change.

(3) Temporary or permanent measures shall be designed and constructed for the conveyance of water around, through, or from the earth change area to limit the water flow to a nonerosive velocity.

(4) Temporary soil erosion and sedimentation control measures shall be installed before or upon commencement of the earth change activity and shall be maintained on a daily basis. The temporary soil erosion and sedimentation control measures shall be removed after permanent soil erosion and sedimentation control measures are in place and the area is graded and stabilized with permanent soil erosion and sedimentation control measures pursuant to approved standards and specifications as prescribed by the Michigan Department of Environmental Quality Administrative Rules.

(5) Permanent soil erosion and sedimentation control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within five calendar days after final grading or the final earth change has been completed. If it is not possible to permanently stabilize a disturbed area after an earth change has been completed or where significant earth change activity ceases, temporary soil erosion and sedimentation control measures shall be maintained until permanent soil erosion and sedimentation control measures are in place and the area is stabilized.

(6) All temporary and permanent erosion and sedimentation control measures shall be installed and maintained according to the approved plan.

(7) Control measures shall be installed and maintained in accordance with the standards and specifications of all of the following:

(a) The product manufacturer.

(b) The Macomb County conservation district.

(c) The Department of Environmental Quality.

(d) The Michigan Department of Transportation.

(e) This chapter.

(8) If a conflict exists between the standards and specifications, then the City Engineer shall determine which specifications are appropriate for the project.

(9) Compliance with all of the provisions of this chapter shall not relieve the applicant or permittee from complying with all other applicable ordinances of the city.

(Ord. No. 384 § 1, 8-15-06)

Administrative rules:

Earth change requirements generally, see R 323.1702

Earth change requirements, see R 323.1709

Standards and specifications, see R 323.1710

17-13. MAINTENANCE REQUIREMENTS.

A person who owns land on which an earth change has been made that may result in or contribute to soil erosion or sedimentation of the waters of the state shall implement and maintain soil erosion and sedimentation control measures that will effectively reduce soil erosion or sedimentation from the land on which the earth change has been made. Persons carrying out soil erosion and sediment control measures under this chapter, and all subsequent owners of property concerning which such measures have been taken, shall maintain all permanent anti-erosion devices, retaining walls, structures, plantings and other protective devices.

(Ord. No. 384 § 1, 8-15-06)

Statutory reference:

Owner's duties, see M.C.L. § 324.9116

17-14. MINIMUM DESIGN STANDARDS FOR EROSION AND SEDIMENT.

All SESC plans and all grading plans and specifications, including extensions of previously approved plans, shall include provisions for erosion and sediment control in accordance with but not limited to the standards contained in the "Standards and Specifications for Soil Erosion and Sediment Control" published by the Macomb County Soil Conservation District. Copies of the standards shall be available for inspection in the office of the City Clerk and the City Engineer.

17-15. EXEMPTIONS FROM PERMIT REQUIREMENTS.

(A) A permit under the terms of this chapter shall not be required in the following instances:

(1) Earth changes that disturb less than one acre of land or which are more than 500 feet from the water's edge of a lake, stream, or river;

(2) Normal road and driveway maintenance, such as grading or leveling, that does not increase the width or length of the road or driveway and that will not contribute sediment to lakes or streams;

(3) An earth change of a minor nature that is stabilized within 24 hours of the initial earth disturbance and that will not contribute sediment to lakes or streams;

(4) All other activities exempted from the permit requirements by Section 9115 of Part 91 of the Act and the Administrative Rules adopted thereunder, including the logging industry, the mining industry, or the plowing or tilling of land for the purpose of crop production or the harvesting of crops. As used in this subsection, the term "mining" does not include the removal of clay, gravel, sand, peat, or topsoil.

(B) The Office of Engineering may grant a permit waiver for an earth change after receiving a signed affidavit from the landowner stating that the earth change will disturb less than 225 square feet and that the earth change will not contribute sediment to lakes or streams.

(C) Although operations under this section are exempt from permit requirements, the operations are not exempt from compliance with, and enforcement of, Part 91 of the Act and the Administrative Rules, or the construction and other permit regulations specified in this chapter and elsewhere in this code of ordinances.

(D) A state agency or an agency of a local unit of government authorized under Section 9110 of Part 91 of the Act to implement soil erosion and sedimentation control procedures with regard to earth changes undertaken by it is exempt from obtaining a permit, but shall notify the Office of Engineering of each proposed earth change.

(Ord. No. 384 § 1, 8-15-06)

Statutory reference:

Exemptions, see M.C.L. § 324.9115

Administrative rules:

Permit requirements, see R 323.1704

Permit exemptions and waivers, see R 323.1705, 323.1706

17-16. SOIL EROSION PERMITS.

SOIL EROSION. If a soil erosion permit is required by the Act, no operation shall take place until a permit has been obtained. There shall be compliance at all times with the requirements of the soil erosion permit and this chapter.

(Ord. No. 384 § 1, 8-15-06)

17-17. DRIFTING OR BLOWN MATERIAL UNLAWFUL.

DRIFTED OR BLOWN MATERIAL. The drifting or airborne transmission beyond the property line of dust, particles, or debris from any open stockpile, working areas, or unplanted areas shall be unlawful and may be summarily caused to be abated.

(Ord. No. 384 § 1, 8-15-06)

17-18. INSPECTION.

(A) The Office of Engineering shall inspect all work relating to the requirements of this chapter. By accepting a permit issued under this article, the owner and/or operator of any operation shall be presumed to have consented to regular and routine inspections of the property for compliance with this chapter. The consent shall be authority to go on to any property under permit for purposes of any inspection.

(B) Upon satisfactory execution of all approved SESC plans and other requirements, the Office of Engineering shall issue a certificate of completion. If the Office of Engineering finds any existing conditions not as stated in any application, soil erosion and sedimentation control permit, or approved plan, it may refuse to approve further work until approval of a revised SESC plan which will conform to the existing conditions.

(Ord. No. 384 § 1, 8-15-06)

17-19. ENFORCEMENT; PENALTIES.

(A) The Office of Engineering may issue a cease and desist order or revoke a permit upon a finding by the Office of Engineering that there is a violation of Part 91 of the Act, or the Administrative Rules, or this chapter, or a finding that there is a violation of a permit or an approved soil erosion and sedimentation control plan.

(B) Notwithstanding the existence or pursuit of any other remedy, the city may maintain an action in its own name in any court of competent jurisdiction for an injunction or other relief against any person to restrain or prevent violations of this chapter, Part 91 of the Act, or the Administrative Rules.

(C) The City Engineer, or the duly authorized agents of the Office of Engineering, may enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions and practices which may be a violation of this chapter, Part 91 of the Act, or the Administrative Rules.

(D) If the Office of Engineering determines that soil erosion or sedimentation of adjacent properties or the waters of the state has or will reasonably occur from land in violation of Part 91 of the Act, or the Administrative Rules, or this chapter, the Office of Engineering may seek to enforce a violation by notifying the person who owns the land, by mail, with return receipt requested, of the determination. The notice shall contain a description of the violation and what must be done to remedy the violation and shall specify a time to comply. Within five days after the notice has been issued, the owner of the land shall implement and maintain soil erosion and sedimentation control measures that conform with the requirements of this chapter, Part 91 of the Act, and the Administrative Rules. After the five days, if the Office of Engineering determines that the condition of the land may contribute to soil erosion or sedimentation of adjacent properties or to the waters of the state, and if proper soil erosion and sedimentation control measures are not in place in conformance with this chapter, Part 91 of the Act, and the Administrative Rules, the City Engineer or a designee may enter upon the land and construct, implement, and maintain proper soil erosion and sedimentation control measures which are in conformance with this chapter, Part 91 of the Act, and the Administrative Rules. However, the cost of the work, materials, labor, and administration shall not exceed $10,000.00 without prior written notice to the person who owns the land, in the original notice of violation mailed under this subsection, that the expenditure of more than $10,000.00 may be made. If more than $10,000.00 is to be expended under this subsection, then the work shall not begin until at least 10 days after the notice of violation has been mailed.

(E) All expenses incurred by the city under division (D) to construct, implement, and maintain soil erosion and sedimentation control measures shall be reimbursed to the city by the person who owns the land. The city shall have a lien for the expenses incurred. However, with respect to single-family or multifamily residential property, the lien for such expenses shall have priority over all liens and encumbrances filed or recorded after the date of such expenditure. With respect to all other property, the lien for such expenses shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, also known as Public Act 206 of 1893, codified as MCL 211.1 to 211.157.

(F) The City Engineer and his or her designees are hereby authorized to issue a municipal civil infraction citation for a violation of this chapter, Part 91 of the Act, and the Administrative Rules. A person who violates this chapter is responsible for a municipal civil infraction, punishable by a fine in the amount established by Chapter 1 of the code of ordinances, except that:

(1) A person who knowingly violates this chapter or knowingly makes a false statement in an application for a permit or in a soil erosion and sedimentation control plan is responsible for the payment of a civil fine of up to $10,000.00 for each day of violation, as established by Chapter 1 of the code of ordinances; and

(2) A person who knowingly violates this chapter after receiving a notice of determination under division (D) is responsible for the payment of a civil fine of not less than $2,500.00 and not more than $25,000.00 for each day of violation, as established by Chapter 1 of the code of ordinances.

(3) Civil fines collected under this subsection shall be deposited with the City Treasurer. A default in payment of a civil fine or costs ordered under this subsection may be remedied by any means authorized under the Revised Judicature Act of 1961, also known as Public Act 236 of 1961, codified as MCL 600.101 to 600.9948. In addition to a fine assessed under this section, a person who violates this chapter is liable to the state for damages for injury to, destruction of, or loss of natural resources resulting from the violation. The court may order a person who violates this chapter to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation.

(Ord. No. 384 § 1, 8-15-06)

Statutory reference:

Injunction, see M.C.L. § 324.9113(1)

Entry for inspection, see M.C.L. § 324.9113(2)

Notice of violation, see M.C.L. § 324.9117

Time for compliance, see M.C.L. § 324.9118

Entry to obtain compliance, see M.C.L. § 324.9119

Reimbursement of expenses, see M.C.L. § 324.9120

Penalties, see M.C.L. § 324.9121

Administrative rules:

Cease and desist order, see R 323.1712

17-20. VARIANCE AND APPEALS.

Where it is alleged that there is error or misinterpretation in any order, requirements, decisions, grant, or refusal made by the Office of Engineering, the Board of Ordinance Appeals established pursuant to Division 11 of Chapter 2 of the code of ordinances shall have the power to hear specific applications and may amend or change such order, requirements, decisions, grant, or refusal so that it is in harmony with the general purpose and intent of this chapter. However, no decision of the Board of Ordinance Appeals shall be contrary to the requirements of Part 91 of the Act and the Administrative Rules.

(Ord. No. 384 § 1, 8-15-06)

17-21. ADOPTION BY REFERENCE.

To the extent that they do not conflict with a more restrictive provision of this chapter, and to the extent that their requirements are not already set forth within the text of this chapter, the Administrative Rules promulgated by the Department of Environmental Quality pursuant to Part 91 of the Act, as amended and as may be amended from time to time and including all amendments through the effective date of this section, are hereby adopted and incorporated by reference as if fully set forth herein. A complete copy of the Administrative Rules is available to the public at the office of the city clerk for inspection.

(Ord. No. 384 § 1, 8-15-06)

Statutory reference:

Adoption by reference, see M.C.L. § 324.9106(1)

Administrative rules:

Full text, see R 323.1701 et seq.

17-22 - 17-49. RESERVED.

ARTICLE II. ADDITIONAL EARTH CHANGE REQUIREMENTS

17-50. PERFORMANCE STANDARDS - GENERAL REQUIREMENTS.

With a permit or without a permit, if one is not required, undertaking any earth change or the carrying on of any alterations, modifications, or changes in geographical or geological structures which shall include all soil excavation and removal and filling of land or the creation or alteration of waterways, canals, and the like for either immediate use or for filling or removal at other places, shall comply with the following performance standards for sound, vibration, and the like.

(A) Sound. The pressure level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

Sound Level	***Adjacent Use***	***Where Measured***
75 dBA	Residential	Common property line
85 dBA	Commercial	Common property line
90 dBA	Industrial and other	Common property line

The sound levels shall be measured using a weighted decibel measurement (referenced to 20 micropascals) and with a type of audio output meter approved by the U.S. Bureau of Standards. Objectionable noises due to intermittence, beat, frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

(B) Vibrations. All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of three-thousandths of one inch (.003) measured at any property line of its source.

(C) Odors. The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air, or as to produce a public nuisance or hazard beyond lot lines, is prohibited.

(D) Gases. The escape of or emission of any gas in concentrations so as to be injurious, destructive, or explosive shall be unlawful and may be summarily caused to be abated.

(E) Glare or heat. Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

(F) Light. Exterior lighting shall be so installed that the surface of the source of light shall not be visible from any bedroom window and shall be so arranged as far as practical to reflect light away from any residential use and in no case shall more than one footcandle power of light cross a lot line five feet above the ground in a residential district.

(G) Smoke, dust, dirt, and fly ash. It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminates for a period or periods aggregating more than four minutes in any one-half hour which are:

(1) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart as published by the United States Bureau of Mines which is made a part of this article by reference. However, the umbrascope readings of smoke densities may be used when correlated with the Ringelmann Chart.

A Ringelmann Chart shall be on file in the office of the City Engineer.

(2) Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in subsection (1) above, except when the emission consists only of water vapor. The quantity of gasborne or airborne solids shall not exceed 20 one-hundredths grains per cubic foot of the carrying medium at a temperature of 500°F.

(H) Roads. Roads on landfill and soil excavation sites shall be designed and constructed so that traffic will flow smoothly and will not be interrupted by inclement weather. Nonpaved roads between the site and the nearest paved roads and paved roads off-site within one-quarter mile of the site entrance which are used by vehicles and/or equipment traveling to or from the site and all roads on-site shall not be used unless they are treated by sufficient oil, water, and/or chemical substance, whichever would be appropriate for the surface and frequently enough so that they are dustfree whenever used by vehicles and/or equipment. Roads on-site shall mean roads designated on approved plans, and such other areas used by vehicles and/or equipment for travel on a regular basis, other than for travel on an infrequent basis necessitated by the operation of the landfill such as trucks and/or equipment going to and from a regular course of travel to the area which is currently being filled.

(I) Mud, dirt, clay, and the like on public roads. The owner and/or permit holder of any site where there is soil removal and/or any filling shall take whatever steps are necessary to avoid any motor vehicle carrying or tracking onto any public right-of-way from the site any sediment, mud, dirt, clay, refuse, and the like. If mud, dirt, clay, refuse, and the like is carried or tracked onto a public right-of-way and it does or might constitute a nuisance or hazard to public safety, the owner and/or permit holder shall clean the said right-of-way when and as often as is necessary, presuming weather conditions permit. In any case, an owner and/or permit holder shall not leave any such debris on a public right-of-way after the end of any working day. If notified during a working day by the city of a condition which requires cleaning, the matter shall be taken care of within one hour, weather permitting. If a nuisance or hazardous condition is left after a working day or not cleaned up within the one hour after receiving a request from the city and weather does not prevent the cleanup, the city may issue an ordinance complaint for the violation of this section due to the allowance of the condition to remain on the highway and/or clean the right-of-way and charge the owner and/or permit holder with the cost thereof, which may be collected in any court having general jurisdiction.

(J) Hours of operation. Hours of operation shall be 7:00 a.m. to 8:00 p.m. unless otherwise specified by the City Engineer. No operation shall be permitted on Sundays and legal holidays. In emergency situations this time period may be modified by the City Engineer, provided such emergency order shall not be effective for more than 72 hours.

(K) Drainage. Natural drainage shall not be blocked, diverted, or altered in such a manner as to cause the natural water flow to back up onto adjacent property or to flow in a different course or rate of flow upon leaving the property upon which the blocking, diversion, or alteration occurs, unless an application is made and a permit is issued by the City Engineer pursuant to plans which provide for a drainage flow which will not be detrimental to surrounding properties. No area designated for, and/or used as a drainage retention area, shall be altered, filled in, abandoned, or used for other purposes, unless it is done pursuant to a permit issued under this subparagraph. A permit shall be required under this subparagraph notwithstanding that a permit is not otherwise required by this article. Permit requirements and procedure shall be as adopted by the City Council, from time to time, by resolution.

(L) Floodplain, watercourse, and wetlands. There shall be no excavation, soil removal, filling, or depositing of materials in any floodplain, watercourse, and/or

wetlands, said terms being defined by the city zoning ordinance, without a permit, if required.

(Ord. No. 384 § 1, 8-15-06)

17-51. EXCAVATIONS.

(A) Setbacks. No cut or excavation shall be closer than 100 feet from the nearest street, highway or alley right-of-way line, nor from the nearest perimeter property line; provided, however, that the Office of Engineering may prescribe more strict requirements in order to give sublateral support to surrounding property where swell or geographic conditions warrant it.

(B) Standing water. No soil, sand, clay, gravel, or other similar material shall be removed in such a manner as to cause water to stand or accumulate or to result in a place of danger or menace to the public health or safety. The premises shall at all times be graded so that surface water drainage is not interfered with. Where removal or grading operations result in a body of water forming, the owner or operator of the quarry shall erect "Keep Out - Danger" signs on the required fence around the excavation not more than 200 feet apart.

(C) Fencing. Where an excavation, subject to this article, is in excess of five feet in depth, the permit holder shall erect a fence around the perimeter of the site of at least six feet in height of wire to prevent unauthorized access to the site. Any gates required shall be kept locked when operations are not carried on.

(D) Topsoil replacement. Whenever topsoil exists suitable for growing vegetation at the time the operations begin, a sufficient quantity of the existing topsoil shall be stockpiled on said site so that the entire site, when excavation operations are completed, may be recovered with a minimum of four inches of topsoil. The replacement of such topsoil shall be made immediately following the termination of the excavation operation. In the event, however, that such operations continue over a period of time greater than 30 days, the operator shall replace the stored topsoil over the stripped area as he or she progresses. The replacement of the topsoil shall be in a manner suitable for growing vegetation.

(E) Slopes. The slopes of the banks of the excavation shall in no event exceed a minimum ratio of three feet horizontal to one foot vertical, and where ponded water results from the operation, the slope must be maintained and extended into the water to a depth of five feet. Suitable vegetation shall be planted on all finished slopes to deter erosion.

(Ord. No. 384 § 1, 8-15-06)

CHAPTER 18: RESERVED

CHAPTER 19: FENCES

19-1. TITLE.

This chapter shall be known and may be cited as the "City of Sterling Heights Fence Ordinance."

(Ord. No. 211, § 1, 7-24-79)

19-2. DEFINITIONS.

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

ADJACENT PROPERTY OWNER. Any person whose property is adjacent to or immediately across from the proposed location of a sight-obscuring fence or privacy screen.

CONSTRUCTION SITE BARRIER. A structure erected on a temporary basis to protect a construction site from vandalism and unauthorized entry.

FENCE. A structure erected for the purpose of separating properties or enclosing or protecting the property within its perimeter. A ***FENCE*** shall not include construction site barriers, landscape treatments or privacy screens as defined herein.

LANDSCAPE TREATMENT. A non-sight-obscuring, decorative wooden, split rail or metal structure used to enhance, accent or protect the landscaping of the sate.

PRIVACY SCREEN. A non-sight-obscuring decorative structure, erected adjacent to or around a patio, deck, court yard or swimming pool designed to screen the area behind it or within its confines from observation by persons outside its perimeter.

SIGHT-OBSCURING. Opaque or having such qualities as to constitute a complete visual barrier to persons outside the perimeter of the sight-obscuring object. A fence which partially obscures sight shall not be considered sight-obscuring if the distance or open space between boards, slats, rails, stanchions or balusters (which shall not exceed four inches in width) equals or exceeds three inches when viewed and measured at 90 degree angles. (See Figure 1).

(1978 Code, § 12-2; Ord. No. 211, § 1, 7-24-79; Ord. No. 211-D, § 1, 11-4-92)

19-3. PERMITS REQUIRED.

It shall be unlawful for any person, firm or corporation to construct or cause to be constructed any fence or privacy screen upon any property within the limits of the City of Sterling Heights without first having obtained a permit therefor in the manner hereinafter provided. The owner of the property, as determined by the records of the Assessment Department of the City of Sterling Heights, shall be responsible for obtaining the permit, unless the owner can affirmatively demonstrate that he or she has hired a contractor to erect the fence or privacy screen. If a contractor has been hired to erect the fence or privacy screen, then such person, firm or corporation shall be responsible for obtaining the permit.

(1978 Code, § 12-3; Ord. No. 211, § 1, 7-24-79) Penalty, see §1-9

19-4. APPLICATION AND FEE.

Any person desiring to erect, build or construct, or cause to be erected, built or constructed, a fence or privacy screen upon property in the City of Sterling Heights shall first apply to the Building Department for a permit and shall pay a fee as set forth in the annual appropriations ordinance. A permit shall be issued by the Building Department only after it has reviewed the completed application and has determined that the proposed fence or privacy screen complies with all city ordinances and state law.

(1978 Code, § 12-4; Ord. No. 211, § 1, 7-24-79; Ord. No. 388, § 11, 1-3-07)

19-5. FENCE AND PRIVACY SCREEN CONSTRUCTION.

All fences and privacy screens shall be of an ornamental type, constructed of either metal, ornamental 9 to 11½ gauge wire, wrought iron, wood or other durable ornamental material similar in nature and meeting performance standard criteria set forth in the Building Code. A decorative fence or privacy screen constructed of any of the preceding materials shall be permitted, provided the Building Official determines that the proposed fence is of structurally sound construction. All supporting posts, cross-members and protruding bolts, screws and/or hardware of sight-obscuring fences and privacy screens shall be inside the lot and face toward the interior of the property of the person who erects, constructs or causes to have constructed the sight-obscuring fence or privacy screen. All fences abutting a public street shall be erected with the supporting posts, cross-members, screws and/or hardware facing the property whose owner is responsible for securing the permit. In addition, masonry pillars used in conjunction with a fence made of approved materials shall be permitted upon the same terms and conditions as the fence itself.

In appropriate circumstances a masonry wall may be permitted upon terms and conditions set by the Board of Ordinance Appeals.

(1978 Code, § 12-5; Ord. No. 211, § 1, 7-24-79; Ord. No. 211-C, § 1, 11-5-80; Ord. No. 211-D, § 2, 11-4-92; Ord. No. 211-E, § 1, 11-4-98; Ord. No. 211-F, § 1, 11-3-

99)

19-6. LANDSCAPE TREATMENTS.

Landscape treatments as defined herein shall be permitted provided that they do not exceed three feet in height, 32 feet in total length, 16 feet in one continuous direction and are erected at least one foot from the sidewalk.

(1978 Code, § 12-6; Ord. No. 211, § 1, 7-24-79)

19-7. PRIVACY SCREENS.

Privacy screens are permitted in the rear yard provided that they do not exceed six feet in height and are located no closer than three feet from any lot line. Privacy screens are not permitted in the front yard.

(1978 Code, § 12-7; Ord. No. 211, § 1, 7-24-79)

19-8. FENCE LOCATION.

(A) *Interior lots.* A fence, including one of sight-obscuring design, may be erected upon any side or rear lot line and along the front yard setback line, provided the fence is not less than three feet nor more than six feet above grade level at any location, and provided further that adequate access for firefighting is provided. Fences are not permitted to extend into the front yard.

(B) *Corner lots.* The following regulations as to height and placement of fences shall apply on corner lots.

(1) *Sight-obscuring fences.* Except as provided in this section, a sight-obscuring fence of not less than three feet nor more than six feet above grade level in any location may be erected upon any side or rear lot line, provided that such fence does not encroach into the required front yard. In addition, a sight-obscuring fence of such size may project not more than ten feet into the required front yard which would be a side yard if it were an interior lot. Adequate access for firefighting must be provided.

(2) *Non-sight-obscuring fences.* Except as provided in subparagraph (3), non-sight-obscuring fences of not less than three feet nor more than six feet above grade level in any location may be erected upon any side or rear lot line and along any front building line, provided the fence does not encroach into the required front yard, and provided further that adequate access for firefighting is provided. Non-sight-obscuring fences of not less than three feet nor more than four feet above grade level in any location may be erected in the required front yard which would be a side yard if it were an interior lot.

(3) *Adjacent rear yards.* Where the rear yards of two corner lots are immediately adjacent to the side yard of an interior lot, fences may not be erected within the required front yard of either or both lots which would be the required side yard if those corner lots were interior lots. Except as provided above, fences shall not be permitted to project into the front yard.

(1978 Code, § 12-8; Ord. No. 211, § 1, 7-24-79; Ord. No. 211-A, § 1, 12-11-79; Ord. No. 211-D, § 3, 11-4-92; Ord. No. 211-F, § 2, 11-3-99)

19-9. BARBED WIRE FENCES.

It shall be unlawful for any person, firm or corporation to erect, build or construct, or cause to be erected, built or constructed, a barbed wire fence partially or wholly around any property, street, alley, lane or public highway or in front of any public place or space. Furthermore, fences with sharp or pointed tops, affixed spikes, projecting nails or other pointed instruments of any kind or description are prohibited.

(1978 Code, § 12-9; Ord. No. 211, § 1, 7-24-79) Penalty, see §1-9

19-10. ELECTRICAL FENCES.

It shall be unlawful for any person, firm or corporation to erect, build, construct or maintain any fence charged or connected with an electrical current in such manner as to transmit such current to persons, animals or things which may come in contact with such charged fence.

(1978 Code, § 12-10; Ord. No. 211, § 1, 7-24-79) Penalty, see §1-9

19-11. APPEALS AND VARIANCES TO FENCE ORDINANCE REQUIREMENTS.

(A) *Generally.* The Board of Ordinance Appeals shall have the authority to hear and decide appeals from and review any order requirement, decision or determination made by any administrative official charged with enforcing or administering the terms of this chapter. The Board of Ordinance Appeals shall have the authority upon appeal in specific cases to authorize such variance or modification in the provisions of this chapter with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this chapter and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this chapter shall be granted unless it appears by a preponderance of the evidence that all of the following facts and conditions exist:

(1) There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the city;

(2) The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the vicinity;

(3) The granting of such variance or modification will not be detrimental to the public welfare or materially injurious to the property or improvements in the vicinity of the property;

(4) The granting of the variance will not adversely affect the purposes or objectives of any master plan of the city.

Notice of the meeting at which the request for variance shall be considered shall be given to all property owners whose property abuts the property for which the variance is sought, at least five days prior to the date at which the request is to be considered. If the variance is approved, the property owner shall file a notice of variance with the County Register of Deeds relating to the property.

The decision of the Board of Ordinance Appeals shall be final after the expiration of ten working days. Any requests for reconsideration by the Board shall be filed in writing with the Board within ten working days after the date that the decision is rendered and shall be based upon new information not presented at the hearing. A person may not file a new application based upon the same facts until the expiration of one year after the Board's decision is rendered.

(B) *Appearance fee.* The City Council may set a fee, in the annual appropriations ordinance, for applicants to appear before the Board of Ordinance Appeals requesting an appeal or a variance to the requirements of this chapter.

(1978 Code, § 12-11; Ord. No. 211, § 1, 7-24-79; Ord. No. 279, § 4, 10-3-89; Ord. No. 211-D, § 4, 11-9-92; Ord. No. 388, § 12, 1-3-07)

19-12. ENCROACHMENT.

All fences shall be built by the party desiring the same so as not to have any part of the fence encroaching upon adjoining property. All fences shall be erected so that no part of the fence shall encroach upon adjacent property. The property owner who is erecting the fence (or having it erected) shall be responsible for determining the location of property lines.

(1978 Code, § 12-12; Ord. No. 211, § 1, 7-24-79; Ord. No. 211-D, § 5, 11-9-92)

19-13. COMPLIANCE WITH OTHER ORDINANCES AND STATE LAW.

All fences shall comply with the relevant sections of the zoning ordinance, all other ordinances of the City of Sterling Heights and all applicable state law.

(1978 Code, § 12-13; Ord. No. 211, § 1, 7-24-79)

Cross reference:

Corner clearance, see zoning ordinance § 28.03;

19-14. DENIAL OF RESPONSIBILITY OF CITY.

The City of Sterling Heights shall not be responsible for the enforcement of any agreement relative to mutual or separate payment for the cost of construction of fences, nor shall the city be responsible for the determination of the location of any fence to be erected, built or constructed on a lot line.

(1978 Code, § 12-14; Ord. No. 211, § 1, 7-24-79)

19-15. MAINTENANCE AND REPAIR.

(A) Any person who erects, builds or constructs any fence or privacy screen upon property which such person owns or leases shall be responsible for the repair, upkeep and maintenance of the fence or privacy screen and any area adjacent thereto.

(B) Any person who contracts with another or causes another to erect, build or construct a fence or privacy screen shall be responsible for the repair, upkeep and maintenance of that fence or privacy screen and any area adjacent thereto.

(C) Any person who owns property upon which a fence or privacy screen has been constructed by a previous owner shall be responsible for the care, upkeep and maintenance of the fence or privacy screen. If a previously constructed fence is located upon a lot line, each successive owner of the fence shall be responsible for its care, upkeep and maintenance. If ownership of the fence located upon a lot line is joint or cannot be determined, then each party owning property adjacent to the fence shall be responsible for the care, upkeep and maintenance of the fence facing his or her property. For purposes of this paragraph, the owner of a fence shall be deemed to be any person, persons or their successors who purchase or otherwise acquire the property from the person who originally erected or caused a fence to be erected thereon.

(1978 Code, § 12-15; Ord. No. 211, § 1, 7-24-79; Ord. No. 211-D, § 6, 11-9-92)

19-16. ADMINISTRATION AND ENFORCEMENT.

The provisions of this chapter shall be administered and enforced by the Building Official or code enforcement official of the city, or their designates, as determined by the City Manager.

(Ord. No. 211-D, § 7, 11-9-92)

FIGURE 1

Click to view image

CHAPTER 20: FIRE PREVENTION AND PROTECTION

ARTICLE I. IN GENERAL

20-1-20-20. RESERVED.

ARTICLE II. FIRE PREVENTION CODE

DIVISION 1. GENERALLY

20-21. TITLE.

This article shall be known as and may be cited as the "Fire Prevention Code of the City of Sterling Heights."

(1978 Code, § 13-21; Ord. No. 366, § 1, 11-6-02; Ord. No. 374§ 1, 12-21-04)

20-22. INTERNATIONAL FIRE CODE ADOPTED.

A certain document, two copies of which are on file in the office of the City Clerk, being marked and designated as the International Fire Code, 2015 edition, including Appendix D, as published by the International Code Council, is hereby adopted as the Fire Code of the City of Sterling Heights for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials, and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the city and providing for the issuance of permits for hazardous uses or operations; and each and all of the regulations, provisions, conditions, and terms of such International Fire Code, 2015 edition, published by the International Code Council, on file in the office of the City Clerk are hereby referred to, adopted, and made a part hereof as if fully set out in this Chapter, with the additions, insertions, deletions, and changes prescribed in Section 20-23.

(1978 Code, §13-22; Ord. No. 185-A, §1, 2-7-84; Ord. No. 185-B, §1, 6-16-86; Ord. No. 268, §1, 7-5-88; Ord. No. 287, §1, 2-19-91; Ord. No. 310, §1, 3-6-94; Ord. No. 336, §1, 9-1-98; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, §1, 12-21-04; Ord. No. 393, § 1, 1-6-08; Ord. No. 413, § 1, 5-17-11; Ord. No. 455, §1, 12-19-17)

Charter reference:

Authority to adopt technical regulations by reference, see §6.07

State law reference:

State Fire Prevention Act, see M.C.L. § 29.1 et seq.

Authority, Home Rule City Act, see M.C.L. § 117.3(k)

20-23. LOCAL AMENDMENTS TO INTERNATIONAL FIRE CODE.

The International Fire Code, 2015 edition, shall govern generally all fire prevention and protection matters in the City of Sterling Heights. To further the goal of protecting the public health, safety, and welfare of the residents and businesses of the city, the following sections of the International Fire Code, 2015 edition, and Appendix D therein, are amended or added as set forth in the following paragraphs:

Section 101.1 shall be amended to read as follows:

101.1. Title. These regulations shall be known as the Fire Code of the City of Sterling Heights, hereinafter referred to as "this code."

Section 102.3 shall be amended to read as follows:

102.3. Change of use or occupancy. The provisions of the Michigan Building Code shall apply to all buildings undergoing a change of occupancy.

Section 102.4 shall be amended to read as follows:

102.4. Application of building code. The design and construction of new structures shall comply with the Michigan Building Code. Repair, alterations and additions to existing structures shall comply with the Michigan Building Code.

Section 102.6 shall be amended to read as follows:

102.6. Historic buildings. The construction, alteration, repair, enlargement, restoration, relocation or movement of existing buildings or structures that are designated as historic buildings, when such buildings or structures do not constitute a distinct hazard to life or property, shall be in accordance with the provisions of the Michigan Building Code. Fire protection in designated historic buildings shall be provided with an approved fire protection plan as required in Section 1103.1.1.

Section 102.10 shall be amended to read as follows:

102.10. Conflicting provisions. Where there is a conflict between a general requirement and a specific requirement within this code, the specific requirement shall be applicable. Nothing in this code shall be construed, interpreted, or applied to abrogate, nullify, or abolish any law, ordinance, or code adopted by the jurisdiction relating to structures, processes, and premises and safeguards from the hazard of fire and explosion arising from the storage, handling, or use of structures, materials, or devices specifically provided herein. When any provision of this code is found to be in conflict with any building, zoning, safety, health, or other applicable law, ordinance, or code of the city existing on the effective date of this code or hereafter adopted, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public, as determined by the Fire Chief or the Fire Chief's designee, shall prevail. Where, in a specific case, different sections of this code specify different materials, methods of construction, or other requirements, the most restrictive shall govern. In the event any conflict exists between this code and any law, ordinance, code provision, standard, or recommended practice, which conflict is not resolved by the terms of this or any other section of this code, the City Manager of the City of Sterling Heights or the City Manager's designee shall determine which code shall be applicable.

Section 103.2 shall be amended to read as follows:

103.2. Appointment. The fire code official is the Fire Chief, or a duly authorized representative, and is appointed as provided by the City Charter or other applicable law.

Section 103.4.1 shall be amended to read as follows:

103.4.1. Legal defense. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the City Attorney if such defense is covered and approved by the city's legal defense insurance carrier. The code official or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted for actions in pursuance of the provisions of this code; and any officer of the Fire Department, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

Section 104.1.1 shall be added to read as follows:

104.1.1. Restriction of employees. An official or employee connected with the enforcement of this code, except one whose only connection is that of a member of the Board of Appeals established under the provisions of Section 108, shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a structure or the preparation of construction documents thereof, unless that person is the owner of the structure; nor shall such officer or employee engage in any work which conflicts with official duties or with the interests of the Fire Department or city.

Section 104.1.2 shall be added to read as follows:

104.1.2. Rules and regulations specified. All rules promulgated under the authority of 104.1 shall have the same effect and enforceability as any other provision of this code. Such promulgated rules and regulations shall include but not be limited to:

A. The requirements identified as the Sterling Heights Fire Department, Fire Prevention Division Construction Requirements.

B. All regulations promulgated by, and on file at, the Sterling Heights Fire Department, including but not limited to the following subjects:

1. Fire Protection Systems;
2. Fire Alarm Systems;
3. Fire Protection for Gasoline Dispensing Devices;
4. Fire Protection for Commercial Cooking Equipment;
5. Open Burning;
6. Safe Operations/Maintenance at Gasoline Stations;
7. Emergency Planning and Preparedness;
8. Hazardous Chemical Reporting (Right-to-Know);
9. Draftstopping;
10. No Parking – Fire Lane Signs;
11. Key Safe;
12. Yard Hydrant Identification;
13. Smoke Vent Identification;
14. Hazardous Stack Marking;
15. Fire Hydrant Impact Protection;
16. Fire Hydrant Access Gates;
17. Fire Apparatus Access Roads;
18. Addresses and Thoroughfare Signs;
19. Utility Meter and Appliance Impact Protection;
20. Security Gates – Emergency Operation;
21. Tents and Other Membrane Structures;
22. Temporary and Portable Cooking Facilities;
23. Consumer Fireworks Sales;
24. Fireworks Displays;
25. Proximate Audience Pyrotechnics;
26. Special Amusement Buildings;
27. Indoor Art & Craft Fairs, Festivals, and Similar Events; and
28. Outdoor Carnivals, Festivals, Fairs, and Similar Events.

C. Sterling Heights Fire Department, Fire Prevention Division, Fire Marshal Bulletins.

Section 104.1.3 shall be added to read as follows:

104.1.3. Rules and regulations continued. All written policy statements promulgated and/or issued by the code official for clarification of a provision of this code, or as a guide for a provision of this code, or as a rule or regulation regarding an issue not specifically or thoroughly addressed in the code shall have the same effect and enforceability as any other provision of this code.

Section 104.10 shall be amended to read as follows:

104.10. Fire investigations. The code official, the Fire Department, or other responsible authority shall have the authority to investigate the cause, origin, and

circumstances of any fire, explosion, or other hazardous condition. Such investigation shall be initiated immediately upon the occurrence of such fire, explosion, or incident; and if it appears that such an occurrence is of a suspicious nature, the code official shall immediately take charge of the physical evidence; and, in order to preserve any physical evidence relating to the cause or origin of such fire or explosion, the code official shall take means to prevent access by any person to the structure or premises until such evidence has been properly processed. The code official shall notify those persons designated by law to pursue investigations into such matters and shall further cooperate with the authorities in the collection of evidence and prosecution of the case and shall pursue the investigation to its conclusion. Information that could be related to trade secrets or processes shall not be made part of the public record except as directed by a court of law.

Section 104.10.2 shall be added to read as follows:

Section 104.10.2. Motor vehicle arson reduction program. By resolution adopted in the year 2001, the city is a participant in the auto insurance fire loss program established by Michigan Public Act 413 of 2000, which provides that automobile insurers must require their insureds to complete and submit a report, on a prescribed form, prior to the payment of any fire-related claim of $2,000 or more, when it is determined by the insurer or the Fire Department or the Police Department that the fire may not have been accidental. The Fire Marshal shall work in conjunction with the Police Department to successfully implement the city's participation in the program.

Section 104.11.2 shall be amended to read as follows:

104.11.2. Obstructing operations. No person shall obstruct the operations of the Fire Department in connection with extinguishment or control of any fire, or actions relative to other emergencies, or disobey any lawful command of the Fire Chief or officer of the Fire Department in charge of the emergency, or any part thereof, or any lawful order of a police officer assisting the Fire Department, or interfere with the compliance attempts of another individual.

Section 104.11.4 shall be added to read as follows:

104.11.4. Unlawful boarding or tampering. A person shall not, at any time and without authorization from the Fire Chief or authorized fire official, cling to, attach himself or herself to, climb upon or into, board, or swing upon any Fire Department emergency vehicle, whether the same is in motion or at rest, or sound the siren, horn, bell, or other sound-producing device thereon or to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps, or any equipment or protective clothing on, or a part of, any Fire Department emergency vehicle.

Section 104.11.5 shall be added to read as follows:

104.11.5. Injuring Fire Department personnel. No person shall injure, or attempt or conspire to injure, Fire Department personnel who are performing official duties.

Section 105.1.1 shall be amended to read as follows:

105.1.1. Permits required. Permits required by this code shall be obtained from the code official unless otherwise provided. Unless listed in table 105.1.1, when a permit is required by this code, the code official shall have discretion to require an inspection and approval in lieu of a formal permit. A permit shall not be issued until the designated fees, if any, have been paid. The permit fees, inspection fees, and any other fees shall be set by the city council in its annual appropriations ordinance. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the code official.

Table 105.1.1 shall be added to Section 105 to read as follows:

Table 105.1.1

PERMIT REQUIREMENTS

Chapter/Section	Description	Permit Required	Permit Fee
Chapter 3 and Section 307	Open Burning	X	X
Chapter 33 and Section 3307	Blasting/Explosives	X	X
Chapter 33 and Section 3308	Fireworks	X	X

Section 105.1.2 shall be amended to read as follows:

105.1.2. Types of permits. There shall be two types of permits as follows:

A. Operational permit. An operational permit allows the applicant to conduct an operation or a business for which a permit is required by Section 105.6 for either:

(1) A prescribed period.

(2) Until renewed or revoked.

B. Construction permit. A construction permit allows the applicant to install or modify systems and equipment for which a permit is required by Section 105.7. All applications for construction permits shall be submitted to the Building Official for review and issuance or denial. The Building Official shall submit the applications to the fire marshal for review and recommendations.

Section 105.2 shall be amended to read as follows:

105.2. Application. Application for a permit required by this code shall be made to the code official in such form and detail as prescribed by the code official. Applications for permits shall be accompanied by such plans as prescribed by the code official. All applications for permit shall include the date of birth and driver's license number of the applicant, which shall be verified at the time the application is taken.

Section 105.6.15 shall be amended to read as follows:

105.6.15. Explosives. An operational permit is required for the manufacture, storage, handling, sale, or use of any quantity of explosive, explosive material, fireworks, or pyrotechnic special effects within the scope of Chapter 33 of the 2015 International Fire Code. Pursuant to Michigan law, the City shall issue or deny fireworks display permits, as set forth elsewhere in Chapter 20 of the City Code.

Section 105.7 shall be amended to read as follows:

105.7. Required construction permits. The code official shall review and provide a response and/or recommendations to the Building Official regarding construction permits for work as set forth in Sections 105.7.1 through 105.7.12.

Section 107.2.2 shall be added to read as follows:

107.2.2. Test and inspection records. All inspection and test reports relating to the requirements of this Code shall be electronically transmitted to the fire department, within seven (7) days, through an electronic information data manager designated by the City to facilitate the collection and transmission of such reports. The reports shall be in a format designated by the electronic information data manager.

Section 107.2.2.1 shall be added to read as follows:

107.2.2.1. Registration required. Effective January 1, 2018, every service provider that performs inspections, repairs, and/or tests within the City, and any entity that performs self-inspections or in-house inspections within the City, shall be registered with, and approved by, the Fire Marshal and shall register with the City's designated electronic information data manager in order to comply with subsection 107.2.1.1 before performing any inspections and/or tests within the City. No fee shall be assessed for registering as required by this subsection. Failure to comply with this subsection shall be punishable first by a written warning notice, followed for subsequent violations by the issuance of a municipal civil infraction, punishable as set forth in Section 1 of the City Code. The Fire Chief shall designate, and the electronic information data manager shall advise each service provider and affected entities or properties of, the inspections and tests for which the requirements of this subsection will apply. By way of example and not limitation, the requirements of this subsection will apply to fire alarm inspections, backflow inspections, fire pump tests, and inspections or testing of sprinkler systems, fire extinguishers, and emergency lighting. The Fire Chief may only waive the electronic reporting

requirements of this subsection for cases of extreme hardship outside the control of the company or entity that performed the inspection and/or test.

Section 107.2.2.2 shall be added to read as follows:

107.2.2.2. Approved service providers. Effective January 1, 2018, every business subject to fire inspections and/or tests within the City shall utilize a service provider that has registered with, and been approved by, the Fire Marshal. A list of such providers shall be made available at no charge upon request by a business within the City, and will be periodically updated on the City's website. Inspections and/or tests that are conducted in violation of this subsection shall not be accepted or deemed valid for purposes of compliance with the Code. A service provider may only be disapproved or removed from the approved registrations for good cause, which includes but is not limited to lack of technological capability to comply with this subsection; refusal to comply with this subsection; a history of noncompliance without reliable assurance of future compliance; indebtedness to the City; property maintenance violations; convictions, pleas, or actions involving fraud or moral turpitude; and such other good cause as the Fire Chief may establish in an operating guideline and which is reasonably related to the protection of the public health, safety, and welfare.

Section 107.2.2.3 shall be added to read as follows:

107.2.2.3. Exception for Installers. Service providers that install new fire suppression or fire alarm systems are not required to register as service providers under subsection 107.2.1.2 before performing such installations. However, all required permits from the Building Department must be obtained prior to such installation.

Section 108.1 shall be amended to read as follows:

108.1. Membership of Board. The City has created a Board of Code Appeals to hear and decide appeals of orders, decisions, or determinations made by the code official relative to the application and interpretation of this code. The members, qualifications, and procedures for the Board of Code Appeals are set forth in Chapter 2 of the City Code. The code official shall be an ex officio member of the Board of Code Appeals when it convenes to address issues and matters which arise under this code, but shall have no vote on any matter before the Board.

Section 108.2 shall be amended to read as follows:

108.2. Application for appeal. Any person shall have the right of appeal to the Board of Code Appeals from a decision of the code official. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better method of fire prevention is used, or that a variance to the provisions of this code should be approved in accordance with provisions of Section 108.4.

The application for appeal shall be in writing and shall be accompanied by an application fee as established by the City's annual appropriations ordinance. The application shall explain the exact nature of the appeal and shall be received by the code official within 20 days after the notice of violation was served to be considered timely. An appeal will be considered by the Board of Appeals in the event that it is filed after 20 days only upon a showing of good cause to the code official as to why the appeal was not filed within the time period provided herein.

Section 108.3 shall be replaced with the following:

108.3. Variances. The Board shall have the authority upon appeal in specific cases to authorize such variance or modification to the provisions of this code with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this code and so that public safety and welfare is secured and substantial justice done. No such variance shall be granted unless the Board finds by a preponderance of the evidence that all of the following facts and conditions exist:

A. There are exceptional or extraordinary circumstances or conditions applicable to the property or the building involved that do not apply generally to other property or buildings in the city.

B. The granting of such variance will not be detrimental to the public welfare or materially injurious to the property or improvements in the vicinity of the property.

C. The granting of the variance will not adversely affect the objectives set forth in this Fire Code.

If the variance is approved, the property owner shall file a notice of variance with the County Register of Deeds relating to the property which shall include any conditions imposed upon the approval.

Section 109.3.3 shall be amended to read as follows:

109.3.3. Prosecution of violations. If the notice of violation is not complied with promptly, the code official is authorized to request the City Attorney to institute the appropriate legal proceedings at law or in equity to restrain, correct, or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. The Police Department shall be requested by the code official to make arrests for any offense against this code or orders of the code official affecting the immediate safety of the public.

Section 109.3.5 shall be added to read as follows:

Section 109.3.5. Appearance tickets. When in the opinion of the code official and/or his or her designate, there exists an apparent or actual violation of a provision of this code or other codes or ordinances under the code official's jurisdiction and the violation is of a nature that requires immediate attention or abatement, the code official and/or his or her designate(s) are hereby empowered to issue appearance tickets to the party or parties responsible for correction and/or abatement of the violation. The appearance ticket shall serve as notice that immediate action is required to abate hazardous condition(s) or situation(s) and shall require the appearance of the responsible party or parties in a court of law for violating the provisions of this code.

Section 109.4 shall be amended to read as follows:

109.4. Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of its requirements or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the code official, or of a permit or certificate used under provisions of this code, shall be subject to the penalties set forth in Chapter 1 of the City Code. Regardless of any provision to the contrary in the City Code, a person who disobeys or resists an order of the code official to vacate a premises or structure or to undertake or omit to undertake an act which the code official deems to constitute an immediate threat to public safety, shall be guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine up to $500.00, or both. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 110.1 shall be amended to read as follows:

110.1. General. During the inspection of a premises, if a building or structure or any building system, in whole or in part, constitutes a clear and inimical threat to human life, safety, or health, the code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section and shall refer the building to the building department for any repairs, alterations, remodeling, removing, or demolition required. By way of illustration only, the following are deemed to be hazardous conditions:

(A) Hazardous conditions liable to cause or contribute to the spread of fire in or on said premises or structure or endanger the occupants thereof;

(B) Conditions that interfere with the efficiency or operation of any fire protection equipment and systems;

(C) Obstructions to or on fire escapes, stairs, passageways, doors, or windows, that are liable to interfere with the egress of occupants or the operation of the Fire Department in case of a fire;

(D) Accumulations of dust or waste material in air-conditioning or ventilating systems or grease in kitchen or other exhaust ducts;

(E) Accumulations of grease on kitchen cooking equipment, or oil, grease, or dirt upon, under, or around any mechanical equipment;

(F) Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material;

(G) Hazardous conditions arising from defective or improperly utilized or installed electrical wiring, equipment, or appliances;

(H) Defective exit and emergency lighting systems;

(I) Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible, explosive, or otherwise hazardous materials;

(J) Dangerous or unlawful amounts of combustible, explosive, or otherwise hazardous materials; and

(K) All equipment, materials, processes, or operations that are in violation of the provisions or intent of this code.

Section 110.1.1 shall be amended to read as follows:

Section 110.1.1. Unsafe conditions. Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe. Unsafe structures or equipment shall be reported to the Building Official who shall take appropriate action as deemed necessary under the provisions of the Building Code. When a structure is rendered unsafe, dangerous, or hazardous due to fire, explosion, or other conditions whether man-made or natural and the Building Official is not readily available, the code official may order the structure be secured against trespass.

Section 111.4 shall be amended to read as follows:

Section 111.4. Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be responsible for a municipal civil infraction and subject to a fine of $100 for the first offense. If the person continues to work in violation of a stop work order under this section after receiving a municipal civil infraction citation, the person shall be guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of not less than $250 and not more than $500, or both.

Section 202 shall be amended to include the following definition:

MICHIGAN BUILDING CODE. References to the International Building Code or the Michigan Building Code shall mean the most recent edition of the Michigan Building Code, as promulgated by the Director of Consumer and Industry Services, and as adopted in Chapter 11 of the City Code and enforced by the city, or any code or document which succeeds or replaces such document.

Section 202 shall be amended to amend the following definitions:

BONFIRE. An outdoor fire utilized for occasional special events and which burns only seasoned dry firewood intended to minimize the generation of air contaminants. A permit is required for all bonfires.

OPEN BURNING. The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. ***OPEN BURNING*** does not include road flares, smudgepots, and similar devices associated with safety or occupational uses typically considered open flames. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues, or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

POWERED INDUSTRIAL TRUCK. A forklift, tractor, platform lift truck or motorized hand truck powered by an electrical motor or internal combustion engine. ***POWERED INDUSTRIAL TRUCKS*** do not include farm vehicles or automotive vehicles for highway use.

RECREATIONAL FIRE. An outdoor fire burning only dry, seasoned firewood or commercially available charcoal briquettes on the ground in a prepared pit having a total fuel area of 4 feet or less in diameter and 2 feet or less in height for pleasure, warmth, or cooking food for human consumption. A permit is required for all recreational fires.

Section 305.1 shall be amended to read as follows:

305.1. Clearance from ignition sources. Clearance between ignition sources, such as light fixtures, heaters and flame-producing devices, electrical service equipment, and combustible materials shall be maintained in an approved manner.

Section 307.1.2 shall be added to read as follows:

307.1.2. Allowable open burning. The following types of open burning shall be allowed without prior notification to the code official and without a permit, and shall be constantly attended:

A. Barbecues when cooking food for human consumption using only charcoal briquettes, LP-gas, or natural gas for fuel.

B. Outdoor fireplaces may burn only dry, seasoned firewood, and shall not burn between the hours of 11:00 p.m. and 11:00 a.m., and must be utilized in accordance with manufacturer's specifications.

Example: Fire pits and chimeneas purchased from stores are acceptable, so long as the pit or chimenea is constructed of metal or ceramic, has a solid top, has steady legs to keep it off of the ground and anchor it against falling over, has a spark arrestor constructed of iron, heavy wire mesh, or other non-combustible material with openings not larger than 1/2 inch, and has a spark arrestor or screen on the top and/or sides. No fuels (logs, wood, etc.) shall be allowed to protrude out of the top of the pit or from the sides.

C. Controlled fires by qualified instructors for fire suppression training, e.g., firefighter training, industrial fire brigade training, employee training for portable fire extinguishers.

D. Heating of building materials or for the warmth of workers at construction sites burning only charcoal, dry, seasoned firewood, or other approved fuel, in an approved container.

Section 307.2 shall be amended to read as follows:

307.2. Permit required. A permit shall be obtained from the code official in accordance with Section 105.6 prior to kindling a bonfire or a recreational fire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled. Applications shall be submitted in writing at least ten days prior to the proposed event and shall be in such form and contain such information as required by the code official.

Section 307.3 shall be amended to read as follows:

307.3. Extinguishment authority. The Code Official is authorized to order the extinguishment by the permit holder, another person responsible for the fire, or the Fire Department of open burning that creates or adds to a hazardous or objectionable situation, or which constitutes air pollution, defined in the Natural Resources and Environmental Protection Act as the presence in the outdoor atmosphere of air contaminants in quantities, of characteristics, under conditions and circumstances, and of a duration that are or can become injurious to human health or welfare, to animal life, to plant life, or to property, or that interfere with the enjoyment of life and property in this state.

Section 307.4 shall be amended to read as follows:

307.4. Location. The location for open burning shall not be less than 50 feet from any structure, other combustible appurtenances or material, public rights-of-way, and property lines, and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure.

Exceptions:

1. Fires in approved containers that are not less than 15 feet from a structure, other combustible material, public rights-of-way, and property lines.
2. (Deleted)

Section 307.4.1 shall be amended to read as follows:

307.4.1. Bonfire dimensions, duration, and location. A bonfire shall not be more than 6 feet by 6 feet by 6 feet in dimension and shall not burn longer than 4 hours. The location of a bonfire shall be in accordance with Section 307.4.

Section 307.4.2 shall be amended to read as follows:

307.4.2. Recreational fire dimensions, duration, and location. A recreational fire shall have a fuel area of 4 feet or less in diameter and 2 feet or less in height and shall not burn longer than 4 hours. The location of a recreational fire shall be in accordance with Section 307.3.

Section 308.1.4 shall be amended to read as follows:

308.1.4. Open-flame cooking devices. Charcoal burners and other open-flame cooking devices shall not be operated or stored on combustible balconies or within 10 feet of combustible construction.

Exceptions:

1. One- and two-family dwellings.
2. Where buildings, balconies, and decks are protected by an automatic sprinkler system.

Section 308.1.6.3 shall be amended to read as follows:

308.1.6.3. Sky lanterns. Sky lanterns shall not be used, ignited, launched, offered for sale, exposed for sale, sold at retail, or kept with intent to sell at retail. Additional regulations governing sky lanterns are set forth in Chapter 20 of the City Code.

Section 310.7.1 shall be amended to read as follows:

310.7.1. Multi-family dwellings. Lighted matches, hookah devices, chimineas, candles, lit fireworks, or any other type of open or exposed flame is prohibited on or within 10 feet of a combustible balcony, patio, landscaped area (for example, wood chips or mulch), or porch of a multi-family dwelling unit. Any unexposed flame devices or burning/burnt remnants of a flame shall be discarded immediately utilizing only an approved method or device.

Section 503.2.9 shall be added to read as follows:

503.2.9. Modifications. The code official shall have the authority to require or permit modifications to the requirements of this section, through the implementation of Fire Prevention Regulations or during plan and permit review processes, including but not limited to access widths, speed calming devices, dead-end road turnaround dimensions, and fire lane parking restrictions, where they are inadequate for fire or rescue operations or where necessary to meet the public safety objectives of the City.

Section 503.4.1 shall be amended to read as follows:

503.4.1. Traffic calming devices. Traffic calming devices are prohibited unless approved by the Fire Department in accordance with a Fire Department regulation enacted by the Fire Chief.

Section 503.6.1 shall be added to read as follows:

503.6.1. Approved means of emergency operation. Unless the security gate is constantly attended (24 hours per day, 7 days per week) by a responsible person employed for the purpose of monitoring and administering the security gate, the following rules shall apply:

1. The gate(s) shall be provided with an approved Siren Operated Sensor (S.O.S.) designed to trigger any brand of gate operator within 3-5 seconds. It shall have a minimum 10 minute hold. It shall have a battery back-up system for continuous duty or open and hold until line power is restored. In all cases the gate(s) must be accessible to 9-1-1 emergency responders. A suitable label/sign shall be installed to remind Fire, Police, and E.M.S. that an S.O.S. system is installed.
2. If the facility has a fire alarm system the gate(s) shall be opened and held open automatically on initiation of the alarm.
3. An approved manual override shall be provided. If the manual override requires a key it shall conform to the system approved by the Fire Department.
4. A code number shall be required to allow the Police Department to make silent entry.
5. Swing gates shall open in the direction of entry. The gate width shall be indicated on the exit side so that vehicles may stop far enough away to allow for safe exiting.
6. The gates shall be set back from the approach a minimum of 30 feet to allow emergency vehicles to be pulled off of the road while initiating gate opening.
7. Applicants for gated access roads must be willing to change to another approved type of access system if such a system is required at a future date. All maintenance and revisions shall be at the expense of the entity responsible for maintaining the gate.

Section 503.6.2 shall be added to read as follows:

503.6.2. Violation, penalty. No person shall permit, cause, or otherwise allow Section 503.6.1 to be violated. Failure to ensure constant attendance, or failure to ensure compliance with the listed rules, shall constitute a misdemeanor punishable as provided in Chapter 1 of the City Code. Employers, owners or presidents of corporations, or other persons with similar authority may be charged with a violation of this section for failure to supervise and ensure compliance with Section 503.6.1. Any person who fails or refuses to afford immediate access through security gates to Fire, Police, or other emergency personnel who are engaged in rendering emergency services or otherwise performing lawful duties shall be guilty of a misdemeanor.

Section 505.1 shall be amended to read as follows:

505.1. Address numbers. All buildings shall have permanent conspicuous addresses in accordance withChapter 11 of the City Code. The code official may require supplemental building identification or modify the size or location of such identification as deemed necessary to insure that each and every building is properly identified.

Section 506 shall be replaced and shall read as follows:

SECTION 506

RAPID ENTRY SYSTEMS

506.1. Required. All buildings and locations within the City that are currently equipped with a rapid entry key box shall be required to replace the key box if it is not the Knox Box® type and size approved by the code official in accordance with UL 1037 as the exclusive key box system to be utilized throughout the City. Commercial buildings not currently equipped with a rapid entry key box, including properties with a locked gate or driveway which allows access to a commercial building or business, shall install an approved key box within 90 days of any forced entry emergency response by the Fire Department into such building or through such gate or driveway, or within 90 days of finished reconstruction in the event that the building was so severely damaged as to not be able to install a key box sooner. In addition, and in the sole discretion of the Fire Marshal, a rapid entry key box shall be required in any building where lack of access may result in loss of life and/or large property or environmental damage, based on factors including, but not limited to, fire load, occupant load, exposures, building construction, age of building, and storage or use of hazardous materials.

506.2. Maintenance. The responsible party shall immediately notify the code official when any or all of the locks or keys have been changed and shall keep the immediate area of the key box free and clear of any and all obstructions. The responsible party shall provide the proper keys for the key box to the Fire Department and shall not have access to a key that can open the key box.

506.3. Requirements. The responsible party is required at all times to keep a key(s) in the key box that will allow access to, and/or into, the structure. The key box shall contain, but not be limited to, the following items as designated by the code official:

a. Labeled keys to locked points of egress, whether in interior or exterior of the building;
b. Labeled keys to the locked mechanical and electrical rooms;
c. Labeled keys to locked elevator rooms and controls;
d. Labeled keys to any fence or secured areas;
e. Labeled keys to areas of the building where fire alarm panels and fire protection systems are located;
f. Labeled keys to any other areas as required by the code official;
g. A card containing the emergency contact people and phone numbers for the building;

h. Floor plans of the rooms within the building showing locations of shut-offs;

i. Hazardous materials information;

j. An inventory of the keys inside all key boxes;

k. Digital codes for access to any gates or any electronic door locks within the building;

l. Any other keys, instructions, and/or information required by the Fire Department's administrative regulations and guidelines.

506.4. Registration and installation. The responsible party shall apply for a registration for a key box on forms provided by and obtained from the code official. A registration is required prior to the installation of a key box in order to verify the proper mounting location and installation of the key box. The key box shall be installed on the exterior of the building at a location and in a manner approved by the code official. No key box shall be installed, voluntarily or otherwise, without first obtaining the approval of the code official. The responsible party shall be responsible for the cost to purchase, install, and maintain the key box.

506.4.1. Waiver. The requirement for a key box may be waived by the code official if, in the opinion of the code official, the size of the building or other unusual circumstances render the key box ineffective for its intended purpose, or if the building houses a business, firm, or other entity that provides sensitive personal services or routinely stores or handles potentially hazardous or expensive, rare, or unique materials. Businesses, firms, or other entities that are legally required to maintain customer, client, trade, or patient confidentiality may opt out of the key box requirement.

506.4.2. Opt out. Any property owner not otherwise exempt may opt out of the key box program if such owner or owner's authorized insurance agent furnishes the code official with a letter of understanding from the insurer of the subject premises directed to the City of Sterling Heights and neighboring fire departments acknowledging its understanding that the City and the fire departments are not authorized to obtain access to the premises during an emergency by way of a lock-box key, and that damage resulting from forced emergency entry and/or delayed entry may occur. Additionally all owners of such premises shall execute and deliver to the code official an agreement, in the form and substance required by the City Attorney, holding the City of Sterling Heights and all neighboring fire departments free, harmless, and indemnified from any claim relating in any way to forced emergency entry damage or delayed access.

506.5. Compliance dates. All properties with existing key boxes that are not the type and size approved by the code official shall comply with this section by February 1, 2017. All newly constructed buildings not yet occupied or buildings currently under construction and all buildings or businesses applying for a certificate of occupancy shall comply, if required by the code official to install a key box, within 90 days of the adoption of this Section 506 or prior to issuance of the certificate of occupancy, whichever time period is longer. The cost of purchasing and installing, along with any cost associated with implementation of the program at a specific property, will be borne by the responsible party. The code official shall ensure that written notification is sent to all responsible parties regarding the key box program requirements and the exemptions and opt out conditions at least 90 days before a building is required to be in compliance. Such notice shall be sent by regular mail to the name and address of record in the assessor's office and/or on file as a business registration with the City Clerk.

506.6. Regulations. The Fire Department shall create administrative guidelines and regulations governing placement and approval of key boxes, the keeping and use of Knox Box® keys, and Knox Box® access. Any administrative guidelines and regulations imposing an obligation or duty upon a building, property, and/or responsible party shall have the force and effect of law as if fully set forth in this Section 506.

506.7. Definitions. As used in this chapter:

COMMERCIAL BUILDING. A building protected by an automatic fire suppression and/or standpipe system or protected by an automatic fire alarm system (automatic dialer, central station, external audible/visual alarm), but does not include owner-occupied freestanding residential homes, government buildings, or multi-family apartment buildings with units that have direct outdoor access doors and individual addresses.

KEY. Any device that functions as a means to afford access and/or to unlock that which secures or controls entrance to a building, property, or other location, including but not limited to a standard key, an electronic card, or a code.

KNOX BOX®. A key box known by its brand name, and the type of key box required by the City for uniformity, security, access, and long-term durability.

RESPONSIBLE PARTY. The property owner of a building or property that is subject to this Section 506. In the event that the owner is a corporate entity, a property manager, business manager, or other individual responsible for the daily and legal operations of the business or enterprise on the property may be cited by the code official as the "responsible party" under this section.

506.8. Applicability. This section shall not apply to owner-occupied one and two family dwellings. However, any dwelling and any building or property may participate on a voluntary basis by purchasing a Knox Box® key box independently or through a discount program arranged with Knox Box® by the Sterling Heights Fire Department.

Section 507.5.1 shall be amended to read as follows:

507.5.1. Where required. Where a portion of the facility or building hereafter constructed or moved into or within the city is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire Code Official.

Exceptions:

1. For Group R-3 and Group U occupancies, the distance requirement shall be 600 feet.

2. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance requirement shall be 600 feet.

Fire hydrants shall be located not more than 100 feet from a Fire Department connection or standpipe connection, unless a different distance is approved by the code official. Hydrants shall be in- service and accessible, as prescribed by the code official, before construction and/or alterations begin as follows:

a. For all residential Group R buildings or complexes; and

b. For all other use groups, except that the code official may modify the requirements for in-service hydrants and access thereto for use groups other than residential when circumstances make such requirements impossible or impractical.

Section 507.5.3(4) shall be added to read as follows:

4. For additional regulations covering private water supply systems, seeChapter 20, Article III, Section20-51 et seq. of the Sterling Heights City Code.

Section 507.5.4 shall be amended to read as follows:

507.5.4. Obstructions.

1. Posts, fences, vehicles, growth, trash, storage, and other materials or objects shall not be placed or kept near fire hydrants, Fire Department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible or accessible. No person shall place objects or otherwise engage in activity which deters or hinders the Fire Department from gaining immediate access to fire protection equipment or fire hydrants.

2. No person shall obscure from view, damage, deface, obstruct, or restrict the access to any fire hydrant or any Fire Department connection for the pressurization of fire suppression systems, including fire hydrants and Fire Department connections that are located on public or private streets and access lanes or on private property.

3. If, upon the expiration of the time noted in a notice of violation, obstructions in violation of this section are not removed, the code official may proceed to remove the obstructions. Costs incurred in the performance of work necessary to remove the obstructions shall be paid from the general fund with the approval of the City Manager or the City Manager's designee, and the City Attorney shall institute appropriate action for the recovery of such costs.

Section 507.5.4.1 shall be added to read as follows:

507.5.4.1. Access gates. When fire hydrants provide coverage for multiple sites and fences are erected that obstruct access from one site, the code official may

require that access gates be installed in said fence to provide access to the hydrant from both sites.

Section 507.5.7 shall be added to read as follows:

507.5.7. Unauthorized use of hydrants. No person shall use or operate any fire hydrant, intended for use of the Fire Department for fire suppression purposes, without a permit issued by the city. This section shall not apply to the use of hydrants by persons employed by, and authorized to make such use on behalf of the city.

Section 609.1 shall be amended to read as follows:

609.1. General. Commercial kitchen exhaust hoods shall comply with the requirements of the International Mechanical Code, and all Type I hood exhaust systems shall be cleaned, inspected, and maintained as required by the most current edition of NFPA 96 and all applicable Fire Department regulations.

Section 609.5 shall be added to read as follows:

609.5. Exterior smoke. Commercial kitchen exhaust systems shall minimize the expulsion of visible smoke into the atmosphere outside of the structures within which they are installed. Any system that does not prevent the transfer of grease-laden smoke onto a rooftop, neighboring property, or area accessible by the public shall be in violation of this subsection, and the owner or operator of such system shall be responsible for citations and corrective measures required by the code official. In such circumstances, the code official may order the cooking operations of the business shut down until a new system is installed, or the existing system is modified, and the code official is satisfied that the transfer of grease-laden smoke will no longer occur.

Section 703.1 shall be amended to read as follows:

703.1. Maintenance. The required fire-resistance rating of fire-resistance-rated construction, including but not limited to walls, firestops, shaft enclosures, partitions, smoke barriers, floors, fire-resistive coatings, and sprayed fire-resistant materials applied to structural members and fire-resistant joint systems, shall be maintained. Such elements shall be visually inspected by the owner annually and properly repaired, restored, or replaced where damaged, altered, breached, or penetrated. Records of inspections and repairs shall be maintained and a certification of compliance shall be filed with the code official on the form and in the manner directed by Fire Department regulations. Where concealed, such elements shall not be required to be visually inspected by the owner unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile, or similar movable entry to the space. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer openings, and holes made for any reason shall be protected with approved methods capable of resisting the passage of smoke and fire. Openings through fire-resistance-rated assemblies shall be protected by self- or automatic-closing doors of approved construction meeting the fire protection requirements for the assembly. Penetrations through barrier walls must comply with the requirements of an approved testing agency, such as Underwriters Laboratories Inc.

Section 703.1.4 shall be added to read as follows:

703.1.4. Multi-unit dwellings. Condominium associations, landlords, and apartment building owners shall provide either (1) the draft stop certification required by Section 703.1 on an annual basis, or (2) proof of installation of fire/smoke barrier wall warning signs if the building was constructed prior to February 29, 2004 (the date of adoption of the 2003 Michigan Building Code). Such certification and warning signs shall be in the form directed by regulations promulgated by the Fire Department.

Exception: The requirements of this subsection shall not apply to condominium buildings or apartment buildings consisting of freestanding dwellings or which contain attic area of less than 3,000 square feet.

Section 901.2.2 shall be added to read as follows:

901.2.2. Required licenses and certifications. All fire protection systems shall be installed by a contractor/installer/technician licensed or certified for the particular type of system. Such licenses and/or certifications shall include:

1. State of Michigan Department of Consumer and Industry Services or the current regulatory and licensing body regulating applicable sections of Public Act 207 of 1941, and Public Act 144 of 1982, Michigan Compiled Laws.
2. State of Michigan Mechanical Contractor's License through the Department of Labor.
3. Certification from the company/manufacturer whose equipment the installer/technician is authorized to install and/or service.

Section 901.5.2 shall be added to read as follows:

901.5.2. Separate tests. For fire protection systems installed in buildings designed for multiple tenants/uses, and when the system is installed/extended as the tenant spaces are developed, the individual tenant space systems shall be tested independently of the main system components and a contractor's material and test certificate is required for each tenant space.

Section 901.8 shall be amended to read as follows:

901.8. Removal of or tampering with equipment. It shall be unlawful for any person to obstruct, remove, tamper with, or otherwise disturb any fire hydrant, fire detection and alarm system, fire suppression system, or other fire appliance required by this code except for the purpose of extinguishing fire, training or testing purposes, recharging or making necessary repairs, or when approved by the code official. Whenever a fire appliance is removed as herein permitted, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. Defective and unapproved fire appliances or equipment shall be replaced or repaired as directed by the code official.

Section 903.4.2 shall be amended to read as follows:

903.4.2. Alarms. Approved audible and visible devices shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

Section 907.2.11.6 shall be amended to read as follows:

907.2.11.6. Power source. In new construction, required smoke alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery back-up shall be connected to an emergency electrical system in accordance with Section 604. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection. In addition to the requirements of the Housing Law of Michigan, Public Act 64 of 2004, all residential multi-family properties shall utilize a 10-year lithium sealed battery for the battery backup of smoke alarms in all common areas, and all residential rental properties shall utilize a 10-year lithium sealed battery for the battery backup of smoke alarms in each dwelling unit. The term "residential rental properties" includes, but is not limited to, hotels, motels, bed and breakfast facilities, homes, and other residential spaces offered for use as short-term or long-term dwellings in exchange for payment or other forms of consideration.

Exception: Smoke alarms are not required to be equipped with battery backup where they are connected to an emergency electrical system that complies with Section 604.

Section 907.8.6 shall be added to read as follows:

907.8.6. Maintenance. It shall be the responsibility of the owner of any Group R (residential) occupancy, which is occupied by tenants, to maintain in an operative condition at all times all smoke alarm devices and systems required by this code. It shall also be the responsibility of the owner to certify in writing to the code official on or before July 1st of each year that the prescribed maintenance has been performed and that any defective smoke alarms have been repaired or replaced.

Section 907.8.7 shall be added to read as follows:

907.8.7. Compliance dates. Owners of single family dwellings or a unit in a multiple family dwelling under individual ownership (condominium) shall comply with the provisions of this section upon resale or reoccupancy, whichever occurs first, in accordance with the provisions of this ordinance. Owners of multiple-family dwellings (three families or more) occupied by tenants shall comply with Section 907.8.8.

Section 907.8.8 shall be added to read as follows:

907.8.8. Certification at change of occupancy. At every change of occupants of every dwelling unit occasioned by or incidental to a sale, lease, or sublease of said

unit, it shall be the duty of the grantor thereof (the seller, lessor, or sublessor as the case may be) to certify before occupancy to the new occupant that all smoke alarms as required by this ordinance or other applicable laws are installed and in proper working condition. Upon the resale of any single-family or multiple-family dwelling, the code official of the City of Sterling Heights shall be provided certification by the seller that all smoke alarms are installed in accordance with the applicable codes and ordinances and are in proper working condition.

Section 912.2.1.1 shall be added to read as follows:

912.2.1.1. Fire Department connection signal. All Fire Department connections shall be indicated by an audible and visible alarm device activated by the water-flow switch, which device shall be located in the immediate area of the Fire Department connection and at a height that will permit constant visibility.

Section 912.4 shall be amended to read as follows:

912.4. Access. Immediate access to Fire Department connections shall be maintained at all times and without obstruction by fences, bushes, trees, walls, or any other object for a minimum of 3 feet on either lateral side and an unobstructed approach with a minimum width of 10 feet, unless a wider approach is required by the code official.

Section 2304.1.1 shall be added to read as follows:

2304.1.1. Automatic fire suppression. An automatic fire extinguishing system shall be installed at all gasoline dispensing devices open to the general public if required by, and in accordance with, all applicable Fire Department regulations.

Section 3103.1 shall be amended to read as follows:

3103.1. General. Tents and membrane structures used for temporary periods shall be white in color and shall otherwise comply with this section. Other temporary structures erected for a period of 180 days or less shall comply with the International Building Code.

Section 3308.8 shall be added to read as follows:

3308.8. Combustible building materials. Combustible building materials shall not be brought onto the site before fire hydrants are activated and fire apparatus access roads are constructed, unless otherwise approved by the code official.

Section 3310.1 shall be amended to read as follows:

3310.1. Required access. Approved vehicle access for fire fighting shall be provided to all construction or demolition sites. Vehicle access shall be provided to within 100 feet of temporary or permanent Fire Department connections and to within 20 feet of fire hydrants. Vehicle access shall be provided by either temporary or permanent roads, capable of supporting vehicle loading under all weather conditions. Access roads shall be provided by the contractor or property owner.

Section 5601.1 shall be amended to read as follows:

5601.1. Scope. The provisions of this chapter shall govern the possession, manufacture, storage, handling, sale, and use of explosives, explosive materials, fireworks, and small arms ammunition. Article V of Chapter 20 of the City Code shall supersede and preempt the provisions of this chapter to the extent that any of their respective provisions are in conflict regarding fireworks.

Section D103.6 of Appendix D shall be amended to read as follows:

D103.6. Signs. Where required by the code official, fire apparatus access roads shall be marked with permanent NO PARKING - FIRE LANE signs substantially complying with Figure D103.6. Signs shall have a minimum dimension of 12 inches wide by 18 inches high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the fire apparatus road as required by Section D103.6.1 or D103.6.2.

Section D103.6.1 of Appendix D shall be amended to read as follows:

D103.6.1. Roads 20 to 26 feet in width. Fire apparatus access roads 20 to 26 feet wide shall be posted on one or both sides, as directed by the code official, as a fire lane.

(1973 Code, § 13-23; Ord. No. 185-A, § 2, 2-7-84; Ord. No. 185-B, § 2, 6-16-86; Ord. No. 185-C, § 1, 11-5-86; Ord. No. 268, § 2, 7-5-88; Ord. No. 287, § 2, 2-19-91; Ord. No. 287-A, §§ 1, 2, 11-6-91; Ord. No. 310, § 1, 3-6-94; Ord. No. 279-A, § 6, 7-2-96; Ord. No. 336, § 1, 9-1-98; Ord. No. 361, §§ 2,3,4, 5-7-02; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, §1, 12-21-04; Ord. No. 393, § 2, 1-2-08; Ord. No. 413, §§ 2 - 16, 5-17-11; Ord. No. 429, §1, 7-16-13; Ord. No. 443, §1, 1-5-16; Ord. No. 452, §3, 6-20-17; Ord. No. 455, §2, 12-19-17)

20-24-20-49. RESERVED.

ARTICLE III. MAINTENANCE, TESTING AND CERTIFICATION OF PRIVATE WATER SUPPLY SYSTEMS AVAILABLE FOR FIRE SUPPRESSION

Editor's Note:

With the exception of a few obsolete dates, this Article has not been amended unless specifically noted.

20-51. PURPOSE OF ARTICLE.

The purpose of this Article is to acknowledge that there are private water supply systems within the city which are available to be used for fire suppression in certain residential and industrial facilities which must be maintained to protect the buildings and their occupants against the risks of fire. The city determines it is advantageous to establish a certification program by which the owners of such private water supply systems certify to annual testing and maintenance of the system. This Article establishes procedures to ensure that such systems are maintained and that annual certification will be provided by the owner to the city. It also provides that such systems may continue but shall not be modified, altered or expanded except with city approval.

(Ord. No. 345, § 1, 1-18-00; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04)

20-52. PRIVATE WATER SUPPLY SYSTEMS.

Private water supply systems existing as of November 1, 1999 which furnish a supplemental water supply for fire suppression may continue to be utilized as part of an overall fire protection system as provided in this Article.

(Ord. No. 345, § 1, 1-18-00; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04)

20-53. REQUIREMENTS OF PRIVATE WATER SYSTEM.

Private water supply systems which are available to be used for fire suppression may continue to be utilized in accordance with the requirements of this section.

(A) The private water supply system and all appurtenant existing fire hydrants shall be available for use by the city and its Fire Department employees in the event of a fire or other emergency.

(B) All existing hydrants which are a part of the private water supply system shall be modified or adapted to comply with the requirements of the current standards of the City of Sterling Heights Engineering Office, as they may be amended from time to time.

(C) The owner of the private water supply system shall provide the city with a "drawing to scale" showing the location of the private hydrants which are a part of the private water supply system.

(D) The private water supply system shall not be modified, altered, expanded or abandoned without the prior approval of the city to ensure that adequate water supply is available from public and private sources to provide satisfactory fire protection to the buildings on the site and their occupants. Private hydrants shall not be placed into or removed from service without the approval of the code official. This provision shall not prohibit the performance of maintenance to keep the private water supply system in good working order.

Editor's Note:

The new provision was transferred from former Section 20-37(B).

(E) The owner of the property served by the private water supply system shall maintain the private water supply system in good working order at all times. The owner shall notify the City Fire Department immediately at any time that the system or any part is not functional.

(F) The owner shall conduct on an annual basis (or more frequently as determined necessary by the owner) testing of the private water supply system to the standards and regulations of the City Fire Department to determine that the private water supply system is operational and is being maintained in good working order. The testing shall be based upon the written standards established by the manufacturer of the system, the American Water Works Association Publication M17, National Fire Protection Association Standards Reference Nos. 25 and 1201 or an alternative standard furnished by the owner and approved by the Fire Department.

(G) The owner shall furnish to the city no later than November 1 of each year a certification in a form established by the city attesting that the private water supply system is in good working order, the date of such testing, the results of such testing, a description of any remedial work done upon the system as a result of the testing results and the standard used in conducting the testing. The certification shall be signed by the owner or his or her authorized designee, dated and notarized.

(Ord. No. 345, § 1, 1-18-00; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04)

20-54. INSPECTION OF PRIVATE WATER SUPPLY SYSTEMS.

The Fire Department may inspect the private water supply system to determine that the system is in good working order if it has reasonable cause to believe that system is not being maintained as required by this Article or that the requirements of this Article are not being satisfied. The owner shall pay an inspection fee in accordance with a fee schedule adopted by City Council resolution. The owner shall make the private system available for inspection upon reasonable notice by the Fire Department.

(Ord. No. 345, § 1, 1-18-00; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04)

20-55. ADDITIONAL TESTING AND CERTIFICATION.

If the Fire Department has reasonable cause to believe that (a) the private water supply system or any part of it is not functioning or is not being maintained as required by this Article, or (b) that the current certification filed with the city by the owner is inaccurate or fraudulent, the city may require that the owner conduct additional testing even if there is a valid annual certification on file with the city. The owner shall conduct the testing within 30 days of the date of notice from the city that the additional testing and certification are required.

(Ord. No. 345, § 1, 1-18-00; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04)

20-56. MISLEADING, FALSE OR FRAUDULENT STATEMENTS IN CONNECTION WITH TESTING OR CERTIFICATION.

A person shall not make any misleading, false or fraudulent statement in connection with any testing performed or any certification furnished to the city to satisfy the requirements of this Article.

(Ord. No. 345, § 1, 1-18-00; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04)

20-57. MODIFICATION, ALTERATION, EXPANSION OR ABANDONMENT OF PRIVATE WATER SUPPLY SYSTEM.

When the owner of any private water supply system available to be used for fire suppression desires to modify, alter, expand or abandon a private water supply system regulated by this Article, the owner shall be required to execute and deliver to the city an agreement for on-site fire protection system satisfactory to the city, which shall include, among other requirements, indemnification of the city for claims, damages or losses arising from the use of such system.

(Ord. No. 345, § 1, 1-18-00; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04)

20-58-20-74. RESERVED.

ARTICLE IV. FIRE SERVICES AND EXTRAORDINARY MEASURES

Editor's Note:

This Article is transferred from existing Sections F-111.2,1, F-111.3, F-111.3.1(a), and F-111.3.1(b), which were previously added to the BOCA Code by the city. Due to their incidental relationship to fire prevention, these provisions will now exist as independent City Code provisions, rather than portions of the IFC.

20-75. WITHHOLDING OF SERVICES.

The Fire Chief or his or her designate may withhold fire suppression and/or rescue services for any/all areas of the city that may not be secure/safe due to civil disturbance.

(Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04)

20-76. EXTRAORDINARY EMERGENCY MEASURES; RECOVERY OF COSTS.

The owners and/or operators of any property, instrumentalities, equipment or vehicles which cause in whole or in part or contribute to in whole or in part through either negligent or intentional acts or omissions to an occurrence which requires the city to take extraordinary emergency measures as defined herein shall be jointly and severally responsible for immediate repayment to the city of such costs and damages incurred. Owners shall be liable for either intentional or negligent acts or omissions of persons or entities acting with either express, implied, or apparent authority or control who either cause or contribute in whole or in part to such an occurrence which requires the taking of such extraordinary emergency measures to enforce the code.

(Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04)

20-77. DEFINITIONS.

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

COSTS or ***DAMAGES*** . Includes reimbursement for wages, including overtime, fringes and benefits for city employees involved in extraordinary emergency measures, expenses incurred by the city to outside contractors, independent consultants and others engaged by the city in connection with the taking of such extraordinary emergency measures taken in connection with enforcing the code, expenses associated with equipment damaged, lost or destroyed through no negligence of the city or its personnel and expenses associated with claims as a result of injuries sustained by employees or injuries or damages for which the city is held responsible occurring to third persons or property, including but not limited to all costs of defense associated with actions arising from the taking of such extraordinary emergency measures.

ENFORCE THE CODE . Includes deployment of equipment and personnel to contain or control an emergency situation, investigation including cause and origin following such emergency condition, investigation, preparation and attendance at court proceedings, administrative proceedings or other proceedings permitted or allowed by statute associated with such emergency conditions.

EXTRAORDINARY EMERGENCY MEASURES . Measures or actions taken by the Fire Department or other municipal departments, the Emergency Management Coordinator, (or action taken as directed by the Environmental Protection Agency, Michigan Department of Natural Resources or other agencies with jurisdiction over environmental safety) in response to the dumping or spilling of any hazardous liquid or solid materials and the securing of an unsafe vacant structure where such securing is required to eliminate an unsafe hazardous condition or an attractive nuisance. This shall include, but not be limited to, actions taken to contain clean-up or mitigate any unsafe condition caused by the dumping, spilling or other unsafe presence of hazardous materials. ***EXTRAORDINARY EMERGENCY MEASURES*** shall not include ordinary fire and life safety inspections, ordinary Fire Department responses such as accidental fires, emergency medical runs, motor vehicle accidents, or other ordinary service calls, except where the Fire Department incurs extraordinary expenses to persons other than the city or its employees.

OPERATOR . Any person or entity which is in possession or control of any property, instrumentalities, equipment, or vehicles which are involved in an occurrence which requires the city to take extraordinary emergency measures to enforce the code. Operator shall also mean any person or entity who, through either negligence or intentional acts or omissions, causes or contributes in whole or in part to an occurrence resulting in enforcement of the code.

OWNER . Any person or entity which has a legal interest in real or personal property which is involved in an occurrence which requires the city to take extraordinary emergency measures to enforce the code.

(Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04)

20-78. CIVIL CAUSE OF ACTION.

It shall be the responsibility jointly and severally of any and all owners and/or operators of real or personal property upon demand to promptly pay in full costs or damages. The city shall be permitted within two years from the date costs or damages are incurred to commence a civil action seeking recoupment of costs or damages. Where such civil action is filed, as a separate item of damages, the city shall be permitted to recover actual attorney fees and expenses in litigation if it prevails with respect to any disputed items in litigation. Parties paying damages shall be entitled to contribution and release in accordance with procedures set forth in M.C.L. §§ 600.2925a through 600.2925d, as amended.

(Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04)

20-79-20-99 RESERVED.

ARTICLE V. FIREWORKS

20-100. DEFINITIONS.

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

ACT. The Michigan Fireworks Safety Act, Public Act 256 of 2011, MCL 28.451 et seq., as amended from time to time.

FIREWORKS. Any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, homemade fireworks, and special effects.

HOMEMADE FIREWORKS. Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507.

MINOR. An individual who is less than 18 years of age.

NFPA 1. The "Uniform Fire Code," 2006 edition, developed by NFPA.

NFPA 72. The "National Fire Alarm Code," 2002 edition, developed by NFPA.

NFPA 101. The "Life Safety Code," 2009 edition, developed by NFPA.

NFPA 1123. The "Code for Fireworks Display," 2010 edition, developed by NFPA.

NFPA 1124. The "Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles," 2006 edition, developed by NFPA.

NFPA 1126. The "Standard for the Use of Pyrotechnics Before a Proximate Audience," 2011 edition, developed by NFPA.

NOVELTIES. The term "novelties" means that term as defined under APA Standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

(1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in division (1) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.

(3) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(4) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

PERMANENT BUILDING or ***PERMANENT STRUCTURE***. Any building or structure that is affixed to a foundation on a site that has fixed utility connections and that is intended to remain on the site for more than 180 consecutive calendar days.

(Ord. No. 361, § 1, 5-7-02; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, §1, 12-21-04; Ord. No. 419, § 1, 6-19-12; Ord. No. 442, §1, 8-18-15; Ord. No. 463, §1, 4-16-19)

SUBDIVISION A. SALE OF FIREWORKS

20-101. CONSUMER FIREWORKS CERTIFICATE; APPLICABLE CODES AND STANDARDS.

(A) No person shall sell consumer fireworks unless the person annually obtains and maintains a consumer fireworks certificate from the cepartment, as required by the Michigan Fireworks Safety Act. Violations of this subsection shall be prosecuted and punishable as provided in the Act.

(B) The issuance of a consumer fireworks certificate does not itself authorize the sale of fireworks at the certified retail location. Consumer fireworks shall not be sold at a retail location until the Bureau verifies compliance with Section 5 of the Act, NFPA 1124, and all applicable administrative rules promulgated by the Department.

(C) The holder of a consumer fireworks certificate shall prominently display the original or copy of the certificate in each retail location to which the certificate applies. Each day the consumer fireworks certificate is not displayed is a separate violation. A person who violates this subsection is responsible for a civil fine of $200.

(D) A person shall not sell consumer fireworks from a retail location unless all of the following conditions are met:

(1) Except as provided in division (2), the retail location and any adjacent or directly associated retail storage satisfies the applicable requirements of NFPA 101 and NFPA 1124 for consumer and low-impact fireworks that are not in conflict with the Act and the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. Any provision of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, that is inconsistent with the applicable requirements of NFPA 101 and NFPA 1124 is superseded to the extent of the inconsistency or conflict.

(2) If the retail location is a permanent building or structure, the building or structure is equipped with a fire suppression system in compliance with NFPA 1124. Beginning December 28, 2018, and notwithstanding the NFPA 1124 requirements regarding automatic sprinkler systems, if the retail location is in a permanent multi-tenant building or structure, the building or structure must be equipped with an automatic sprinkler system. The requirement for an automatic sprinkler system described in this division does not apply to the retail location of a person that held a consumer fireworks certificate for a retail location of the same address in a permanent building or structure during the calendar year prior to December 28, 2018.

(3) The retailer at that retail location is licensed under the General Sales Tax Act.

(4) The retailer has a valid federal taxpayer identification number. However, this requirement does not apply to a retailer that is a sole proprietorship.

(E) A person that fails or neglects to comply with division (D) is responsible for a state civil infraction punishable by a fine of not more than $2,500 for each

violation. The department shall determine the amount of the fine in accordance with the requirements of the Act. Each day that a person is in noncompliance constitutes a separate violation.

(F) During any period of time in which a person is selling consumer fireworks, the person shall add as an additional insured, or obtain and maintain public liability and product liability insurance coverage for, each retail location at which the person is selling consumer fireworks, in an amount not less than $10,000,000 per occurrence. If the department determines that a person has failed or neglected to comply with this subsection, the department shall order the person to immediately cease operations and pay a civil fine of not more than $5,000.

(G) A person shall not sell low-impact fireworks unless that person registers with the low impact fireworks retail registry not less than 10 days before selling the fireworks in each calendar year in accordance with the requirements of the Act. A person who sells low-impact fireworks at retail and who has not registered as required by this subsection shall cease the sale of low-impact fireworks until the person complies with this subsection.

(H) A person shall not engage in the retail sale of consumer fireworks over the telephone, internet, or other like manner unless the consumer fireworks are picked up or shipped from a permanent location for which the person holds a valid consumer fireworks certificate.

(I) A person shall not sell consumer fireworks to a minor. A person who violates this subsection is responsible for a municipal civil infraction punishable as provided in Chapter 1 of the City Code. The age of an individual purchasing consumer fireworks shall be verified by any of the following:

(1) An operator's or chauffeur's license issued under the Michigan Vehicle Code.

(2) An official state personal identification card.

(3) An enhanced driver license or enhanced official state personal identification card.

(4) A military identification card.

(5) A passport.

(6) Any other bona fide photograph identification that establishes the identity and age of the individual.

(J) Nothing within these requirements shall limit the Fire Marshal or Police Department from exercising sound judgment and strict enforcement of measures necessary for the safety and welfare of the city and its populace.

(K) Nothing within these requirements shall exempt retailers from ensuring that the proposed site is in compliance with all property maintenance regulations and other applicable city ordinances, or from submitting to the city all applications and supporting documentation required by any other provisions of the City Code and/or the city's zoning ordinance pertaining generally, without specific reference to fireworks, to retail sales, permanent or temporary structures, temporary sales, and land use regulations.

(Ord. No. 419, § 1, 6-19-12; Ord. No. 463, § 2, 4-16-19)

State law reference:

MCL 28.451 et seq.

Administrative rules:

SeeR 29.201 et seq.

20-102. AGE OF MAJORITY REQUIRED FOR PURCHASE; SUPERVISION.

(A) Consumer fireworks shall not be sold to persons under the age of 18. Violation is a state civil infraction punishable by a civil fine of not more than $500.00.

(Ord. No. 419, § 1, 6-19-12)

20-103. SAFETY REVIEW.

The Fire Marshal may, at any time, undertake a review of any fireworks sales or storage area for which a consumer fireworks certificate has been issued or is required, or any discharge of fireworks, to determine whether any violations of state law or local ordinance are occurring which might endanger the public health, safety, and welfare, or which might warrant revocation of the certificate or permit.

(Ord. No. 419, § 1, 6-19-12)

20-104 - 20-110. RESERVED.

SUBDIVISION B. MANUFACTURE AND STORAGE OF FIREWORKS

20-111. PROHIBITION.

No person shall manufacture any fireworks within the city.

(Ord. No. 361, § 1, 5-7-02; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04; Ord. No. 419, § 1, 6- 19-12) Penalty, see § 1-9

20-112-20-114 RESERVED.

SUBDIVISION C. FIREWORKS AND PYROTECHNIC DISPLAYS

20-115. IGNITION, DISCHARGE, AND USE OF CONSUMER FIREWORKS.

(A) A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises. "Property of another person" includes hotel and motel property, apartment property, and condominium property, where an owner, management company, or association has or retains authority and control over the use of the property or common areas. A person who violates this subsection is responsible for a municipal civil infraction punishable as provided in Chapter 1 of the City Code. A person who receives a municipal civil infraction citation for violating this subsection and who commits another violation of this subsection within 72 hours of the first violation shall be guilty of a misdemeanor, punishable as provided in Chapter 1 of the City Code.

(B) An individual who uses, ignites, or discharges consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance is responsible for a municipal civil infraction punishable as provided in Chapter 1 of the City Code.

(C) An individual who violates the smoking prohibition under NFPA 1124, 7.3.11.1 (smoking within 50 feet of a consumer fireworks retail sales area) or who does not post signage regarding the smoking prohibition that satisfies the requirements of NFPA 1124 is responsible for a municipal civil infraction punishable as provided in Chapter 1 of the City Code.

(D) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks in a manner that is intended to harass, scare, or injure livestock. A person who violates this subsection is guilty of a misdemeanor punishable as provided in Chapter 1 of the City Code.

(E) (1) Consumer fireworks shall not be ignited, discharged, or used in the city. An individual who violates this subsection is responsible for a municipal civil infraction punishable by a fine of $1,000 for each violation. The amount of $500 from each fine collected for a violation of this division shall be remitted to the Police Department.

(2) ***Exceptions***. Consumer fireworks may be ignited, discharged, or used in the city:

(a) Between 11:00 a.m. on December 31 until 1:00 a.m. on January 1;

(b) Between 11:00 a.m. and 11:45 p.m. on the Saturday and Sunday immediately preceding Memorial Day;

(c) Between 11:00 a.m. and 11:45 p.m. on June 29 to July 4;

(d) Between 11:00 a.m. and 11:45 p.m. on July 5, if that date is a Friday or Saturday; and

(e) Between 11:00 a.m. and 11:45 p.m. on the Saturday and Sunday immediately preceding Labor Day.

(F) (1) State law prohibits any ordinance enacted under the Fireworks Safety Act from regulating the ignition, discharge, or use of consumer fireworks on the days and during the times set forth in division (E). However, state law does not prohibit enforcement of other ordinances not adopted under the Fireworks Safety Act, nor does state law provide immunity for noise and community disturbances committed as a result of igniting, discharging, or using consumer fireworks. Therefore, other violations of the City Code committed during or as a result of the ignition, discharge, or use of consumer fireworks may still be enforced, including but not limited to:

(a) Disturbing the public peace;

(b) Violating the city's noise ordinances;

(c) Violating the city's nuisance ordinances; or

(d) Creating or depositing litter in violation of the city's littering ordinances.

(2) All other city ordinances not adopted pursuant to the Act and not directly or specifically targeted at the use of consumer fireworks shall continue to apply and may be enforced at any time of the year.

(G) No adult person other than the person igniting, discharging, or using a consumer firework shall be within 25 feet of a consumer firework that is being ignited, discharged, or used, and no minor shall be within 50 feet of a consumer firework that is being ignited, discharged, or used, unless such adult or minor is on his or her own neighboring property. Any person with control over the property who allows any adult or minor to violate this division shall also be in violation of this division. The City Council hereby finds that a motivating factor for the use of consumer fireworks is the presence and reaction of spectators, and the purpose of this subsection is to discourage family members, neighbors, guests, onlookers, and spectators from too closely gathering around the use of consumer fireworks, thereby subjecting themselves to potential injury by a person who is allowed under state law to ignite consumer fireworks without any regulation of such activity. This division shall be liberally construed to achieve the goal of protecting spectators from potential harm.

(H) It shall be a misdemeanor punishable as provided by Chapter 1 of the City Code if, as a result of having ignited, discharged, or used a consumer firework, any harm or damage is caused to any person or the property of another.

(I) Every fireworks vendor advertising consumer fireworks for sale within the city shall provide notice, as set forth in this subsection, to every purchaser of consumer fireworks by including an 8½" x 11" flyer with every purchase and by displaying a sign affixed to each side of any display area or temporary facility or consumer fireworks retail stand, as both are defined by the Michigan Administrative Code, where fireworks are sold at retail. To be in compliance with this subsection, the font on a flyer shall be no smaller than 14 point boldface type, and the lettering on a sign shall be visible and discernible from every point of sale and, for temporary facilities, from a distance of at least 20 feet outside the footprint or boundaries of the facility. Each day that a vendor remains out of compliance with the requirements of this subsection shall be chargeable as a separate offense. At a minimum, each flyer and/or sign shall contain any information required by the City Manager, the Police Chief, or the Fire Chief, as well as all of the following information:

NOTICE OF CITY AND STATE LAWS

1. STATE LAW PERMITS, UNDER MCL 28.457, THE IGNITION, DISCHARGE, AND USE OF CONSUMER FIREWORKS (IN GENERAL, THE TYPE THAT LEAVE THE GROUND) AT THE FOLLOWING TIMES, AND SUCH ACTIVITIES ARE PROHIBITED IN STERLING HEIGHTS ON ANY DAYS AND TIMES OTHER THAN THE FOLLOWING TIMES: BETWEEN 11:00 A.M. AND 11:45 P.M. ON THE SATURDAY AND SUNDAY IMMEDIATELY BEFORE MEMORIAL DAY AND LABOR DAY, JUNE 29TH TO JULY 4TH, AND JULY 5TH IF THAT DATE IS A FRIDAY OR SATURDAY, AND BETWEEN 11:00 A.M. ON DECEMBER 31ST UNTIL 1:00 A.M. ON JANUARY 1ST (A TOTAL OF 12 OR 13 CALENDAR DAYS PER YEAR).

2. FIREWORKS THAT MAKE NOISE THAT CAN BE HEARD FROM ANY PUBLIC PLACE MAY NOT BE USED AFTER 11:00 P.M.

3. FOR FIREWORKS THAT LEAVE THE GROUND, ONLY THE PERSON IGNITING THE FIREWORKS MAY BE WITHIN 25 FEET, AND MINORS MAY NOT BE WITHIN 50 FEET.

4. FIREWORKS THAT LEAVE THE GROUND MAY NOT BE DISCHARGED ON GOVERNMENT PROPERTY, INCLUDING PARKING AREAS, STREETS, AND SIDEWALKS, OR ON PROPERTY OWNED BY ANOTHER UNLESS YOU HAVE EXPRESS PERMISSION FROM THE GOVERNMENT OR THE PROPERTY OWNER TO DISCHARGE FIREWORKS.

5. FIREWORKS THAT LEAVE THE GROUND MAY NOT BE USED BY A PERSON WHO IS UNDER THE INFLUENCE OF ALCOHOLIC LIQUOR AND/OR ANY CONTROLLED SUBSTANCE (INCLUDING PRESCRIPTIONS).

6. DISTURBING THE PEACE, NOISE AND NUISANCE VIOLATIONS, AND LITTERING ARE MISDEMEANORS. YOU ARE RESPONSIBLE FOR CLEANING UP ANY FIREWORKS DEBRIS THAT ENDS UP ON PROPERTY THAT IS NOT YOUR OWN.

7. POLICE AND FIRE OFFICIALS MAY CITE YOU FOR MISDEMEANOR OR CIVIL INFRACTION VIOLATIONS OF STATE LAWS AND CITY ORDINANCES, WITH FINES RANGING FROM $150 TO $1,000 FOR EACH CIVIL INFRACTION VIOLATION. OFFICIALS MAY ALSO CONFISCATE ILLEGAL FIREWORKS AND FIREWORKS BEING USED UNLAWFULLY. YOU WILL BE RESPONSIBLE FOR THE COST OF DISPOSING OF THOSE FIREWORKS.

The reverse side of every flyer shall depict a standard calendar for the applicable year, with each day on which consumer fireworks may be used highlighted for easy reference. The title on the calendar side of the flyer shall read: "Consumer fireworks may only be used on 12 or 13 calendar days each year, subject to the rules on the reverse side. Permitted days are highlighted on the calendar below."

(J) Any individual who violates the restrictions in divisions (E), (G), or (I), or who aids, abets, perpetuates, participates in, or otherwise promotes the actions of the individual that violate said restrictions, may be cited and prosecuted for the applicable ordinance violation(s) and/or shall be responsible for a municipal civil infraction, punishable as provided in Chapter 1 of the City Code. If the unlawful activity does not cease or resumes within 72 hours after issuance of a municipal civil infraction citation, the owner, occupant, or other person with control of the real property where the violations are occurring and/or the person who has or shares control of the fireworks shall be guilty of a misdemeanor, punishable as provided in Chapter 1 of the City Code.

(K) Any city police officer or official who identifies a firework that is in violation of the Act or this article shall secure the firework and immediately notify the department of the alleged violation. The Police Department shall investigate the alleged violation and, if it determines that a violation has occurred, except for a violation of section 20-101(G), may seize the firework as evidence of the violation. The Police Department shall store, or cause to be stored, the evidence seized under this subsection pending disposition of any criminal or civil proceedings arising from the violation. If the person subject to criminal or civil proceedings is found guilty, responsible, or liable for the violation, the person shall be required to pay the storage expense for the evidence seized. Following a final disposition of an appeal of a conviction under the Act or this article that affirms the conviction or finding of responsibility, the police department may dispose of or destroy any fireworks retained as evidence in that prosecution.

(L) A law enforcement officer and/or fire official may confiscate and impound all fireworks and fireworks paraphernalia involved in causing a misdemeanor violation of this article or which are found to be within the access and control of the violator(s). If the impounded items are lawful to possess, they may be retained as evidence until any court proceedings or citations have been adjudicated and any probationary periods have been completed. If the impounded items are unlawful to possess, the Police Department or Fire Department shall dispose of or destroy the items in accordance with evidence protocols that will still allow for effective prosecution of the charged offenses without actual retention of the items. If any fireworks are retained by the city, they shall be stored in compliance with the Act and rules promulgated under the Act. The person from whom fireworks are seized under the Act or this article shall pay the actual costs of storage and/or disposal of the seized fireworks. The Police Department may dispose of the seized fireworks by providing them to a disposal organization approved by the Chief of Police or designee, or by allowing them to be used by city police, fire, and code enforcement agencies for training purposes.

(M) Unless otherwise specified herein, novelties are not subject to any of the regulations in this article, except that they may not be utilized in such a manner as to cause, create, or perpetuate a violation of any other section of the City Code of Ordinances.

(N) (1) Sky lanterns shall not be used, ignited, launched, offered for sale, exposed for sale, sold at retail, or kept with intent to sell at retail.

(2) Exception: Upon approval of the Fire Marshal, sky lanterns may be used when necessary for religious ceremonies and the Fire Marshal is satisfied, after

reviewing a completed application for an operational permit, that adequate safeguards will be implemented. However, all such sky lanterns must be tethered in a manner that prevents them from leaving the immediate area, must be used in the manner and with the safeguards approved by the Fire Marshal, and must be constantly attended until extinguished and collected by the applicant.

(Ord. No. 419, § 1, 6-19-12; Ord. No. 430, § 1, 8-6-13; Ord. No. 442, § 2, 8-18-15; Ord. No. 463, § 3, 4-16-19)

State law reference:

MCL 28.451 et seq.

Administrative rules:

R 29.2901 et seq.

20-116. DISPLAY FIREWORKS; PERMIT REQUIRED.

No person shall discharge any Display Fireworks without a permit issued by the City Council. Pyrotechnic special effects shall not be discharged or displayed without a permit issued by the Fire Marshal. Permit applicants shall follow the procedures set forth in §§ 20-121 through 20-125 of this article. Permits are not transferable and shall not be issued to a minor.

(Ord. No. 361, § 1, 5-7-02; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04; Ord. No. 393, § 3, 1-2- 08; Ord. No. 419, § 1, 6-19-12) Penalty, see § 1-9

State law reference:

MCL 28.466

20-117. RESPONSIBILITY.

(A) An owner, occupant, or other person with control of real property shall not allow, permit, or otherwise assent to the possession or display of Display Fireworks on the property or an adjacent public way if such possession or display is in violation of this subdivision.

(B) An owner, occupant, or other person with control of real property shall be presumed to have assented to the possession or display of Display Fireworks on the property or adjacent public way in violation of this subdivision if law enforcement or fire officials observe and document the existence of unlawful fireworks on the premises or the adjoining public way, or the existence of the remnants of unlawful fireworks on the premises or adjoining public way indicative of the use or display of such fireworks.

(C) In addition to the penalty provided inChapter 1, a person who pleads to or is found responsible for a violation of subsection (A) shall clean up any fireworks remnants on or adjoining the person's property, or pay the city's costs for such clean up, and reimburse the city's actual costs for destruction of any unlawful fireworks and materials impounded by law enforcement or fire officials during investigation of the unlawful activity under subsection (A).

(D) A violation of subsections (A) or (C) is a municipal civil infraction, punishable as provided inChapter 1 of the City Code. If the unlawful activity does not cease after issuance of a municipal civil infraction citation, the owner, occupant, or other person with control of the real property shall be guilty of a misdemeanor, punishable as provided in Chapter 1 of the City Code.

(Ord. No. 407, § 5, 7-21-09; Ord. No. 419, § 1, 6-19-12)

20-118-20-120. RESERVED.

SUBDIVISION D. PROCEDURES

20-121. APPLICATION; RENEWAL.

(A) Every applicant for a permit to use or discharge Display Fireworks and/or pyrotechnic special effects shall submit to the Fire Department, with a nonrefundable application fee, a current and fully completed application on a form provided by the Department.

(B) The fees shall be set by the city's annual appropriations ordinance in an amount to cover the cost of investigation, review, and inspection by the city of the premises which will be used for the use or discharge of Display Fireworks and/or pyrotechnic special effects.

(C) A permit shall not be issued to a nonresident person, firm, or corporation for ignition of articles pyrotechnic or Display Fireworks until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.

(D) All applications shall contain the following information:

(1) The name, residence address, and telephone number of a resident agent who is a natural person (no post office boxes will be accepted as legal addresses);

(2) The name, residence address, and telephone number of the applicant:

(a) If the applicant is a corporation, the name, residence address, and telephone number of each of the officers and directors of the corporation and of each stockholder owning more than 10% of the stock of the corporation if that individual is or will be involved in the management and/or operation of the business. The applicant shall also provide the name, residence address, and telephone number of each individual who will be involved in the management and/or operation of the business, as well as documentation that the corporation is in good standing in the state of incorporation;

(b) If the applicant is a partnership, the name of the partnership and the name, residence address, and telephone number of each of the partners having at least a 10% ownership interest, as well as any individual who is or will be involved in the management and/or operation of the business;

(c) If the applicant owns stock or has a financial interest in any other business which sells or manufactures fireworks, the name, address, and telephone number of the corporation and the name, address, and telephone number of each such business;

(3) The address and legal description of the property where the fireworks will be displayed, or where pyrotechnic special effects will be displayed;

(4) Authorization for the city, its agents and employees to seek information and conduct a safety inspection of the premises where fireworks will be displayed, or where pyrotechnic special effects will be displayed. The applicant shall give such additional information and identification necessary to discover the truth of the matters required to be set forth in the application; and

(5) The application shall be signed and sworn to by the applicant.

(E) Permits. In addition to the other conditions set forth in this section, permit applications shall be subject to background investigations to determine whether the applicant has ever been involved in criminal or fraudulent activities, or has ever had a license or permit suspended or revoked for cause.

(1) If, as a result of the investigation, the Fire Marshal or Chief of Police has reasonable cause to believe that the applicant may cause or present a danger to public safety if granted a fireworks display permit, the City Council may deny the application.

(2) If, as a result of the investigation, the Fire Marshal or Chief of Police has reasonable cause to believe that the applicant may cause or present a danger to public safety if granted a pyrotechnic special effects display permit, the Fire Marshal may deny the application.

(F) Applicants for a permit to use, discharge, or display fireworks or pyrotechnic special effects must demonstrate financial responsibility in the form of a bond or insurance policy in an amount, character, and form deemed necessary by the City Council for the protection of the public.

(G) Before granting a permit to use, discharge, or display fireworks, the City Council shall rule on the competency and qualifications of the operator of the display as required under NFPA 1123, and the time, place, and safety aspects of the display.

(H) Cost of policing. Fireworks displays vary in size and scope, and displays of large magnitude cause the city to incur significant additional expenses for police, fire, and emergency services. Therefore, in addition to the nonrefundable application fee, an applicant for a permit to use, discharge, or display fireworks shall deposit

with the city, as a condition of enjoying the privileges inherent in receipt of a permit, an amount reasonably calculated to reimburse the city for the cost of additional police and emergency services. The city shall hold such amount, to be determined by the City Council at the time the permit application is considered, in escrow until after the fireworks display. In determining the amount, the City Council may utilize its past experiences and the experiences of other communities. The city shall itemize its additional police and emergency services expenses incurred as a result of the fireworks display and may draw from the escrowed funds to achieve full reimbursement. Remaining funds shall be returned to the permit applicant. In the event that the escrowed funds are insufficient to cover the city's actual costs under this division (H), the city shall serve an invoice upon the permit applicant with a demand for payment. Failure of a permit applicant to comply with any of the provisions of this division (H) shall be a misdemeanor, punishable as provided in Chapter 1 of this code.

(I) Term.

(1) Permits for the use or discharge of Display Fireworks or pyrotechnic special effects are valid only for the date(s) and time(s) stated on the permit itself. Each subsequent use or discharge of Display Fireworks or pyrotechnic special effects shall require a new permit, and the applicant shall follow the application process set forth in this article.

(J) Display permit conditions. The issuance of a permit for the use or discharge of Display Fireworks or pyrotechnic special effects shall be conditioned upon compliance with all of the terms and conditions of this article, as well as the provisions of Chapter 33 of the International Fire Code. In addition, the issuance of such a permit shall be conditioned upon the following:

(1) The applicant and property owner must execute a written agreement, in a form approved by the City Attorney, to allow police, fire, and emergency personnel designated by the city to be present on the premises before, during, and after the fireworks or pyrotechnic special effects display for purposes of supervising and inspecting the display and surrounding conditions for public safety hazards and violations of city codes and ordinances; and

(2) The applicant and property owner must execute an indemnification agreement, in a form approved by the City Attorney, to indemnify the city for any and all liability or damages incurred by any person or entity as a result of the fireworks or pyrotechnic special effects display.

(Ord. No. 361, § 1, 5-7-02; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04; Ord. No. 393, § 4, 1-2- 08; Ord. No. 419, § 1, 6-19-12)

State law reference:

MCL 28.451 et seq.

20-122 INVESTIGATION.

(A) Upon receipt of the fully completed application, fees, and such other information as may be required or requested by the Fire Department, the Fire Marshal shall schedule a safety inspection to examine the premises where fireworks will be displayed, or where pyrotechnic special effects will be displayed.

(B) If the Fire Marshal finds reasonable cause to believe that other code violations exist which are not fire safety related, the Fire Marshal may refer the application to the Building Official, or his or her designated representative, who shall cause a thorough inspection of the premises to be made to ensure that the premises are in compliance with all pertinent provisions of state law and local ordinances. The results of such inspections shall be returned to the Fire Marshal within 30 days of the date the application was referred.

(C) For fireworks display permits, the Fire Marshal shall forward his or her recommendation to the City Council for consideration of the permit application within 120 days of receipt of the properly completed application. For pyrotechnic special effects display permits, the Fire Marshal shall issue a decision to grant or deny the permit within 60 days of receipt of the properly completed application.

(Ord. No. 361, § 1, 5-7-02; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04; Ord. No. 393, § 4, 1-2- 08; Ord. No. 419, § 1, 6-19-12)

20-123. CERTIFICATE OR PERMIT; REFUSAL, SUSPENSION, REVOCATION, OR NONRENEWAL.

A permit issued under this article may be refused by the Fire Marshal or suspended, revoked, or not renewed by the City Council for cause. The term CAUSE as used in this Article, shall include the doing or omitting of any act or permitting any condition to exist on the premises for which a permit is issued, which act, omission, or condition is contrary to the health, safety, and welfare of the public, is unlawful, irregular, or fraudulent in nature, is unauthorized or beyond the scope of the permit issued, or is forbidden by this Article or any applicable law. Cause shall include but not be limited to:

(A) Fraud or material misrepresentation in the application;

(B) Fraud or material misrepresentation in the operation of the business or during a safety inspection;

(C) Any material violation of this article or of the regulations authorized herein;

(D) Any violation of federal or state law or local ordinance which creates a risk to the health, safety, or welfare of the community;

(E) Conducting the business in an unlawful manner or in such a manner as to constitute a maintenance of a nuisance upon or in connection with the premises for which a permit is issued. For purposes of this Article, NUISANCE shall be given its normal and customary meaning and shall include the nuisances found within Chapter 33 of this code as well as, but not be limited to, the following:

(1) Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire, or other applicable regulatory codes;

(2) A pattern or practice of patron conduct which is in violation of the law and/or interferes with the health, safety, and welfare of the properties in the area.

(F) Failure by the owner or operator to permit inspection of the premises by the city's agents or employees in connection with the enforcement of this Article;

(G) Failure to pay personal property taxes, other city obligations and real property taxes by February 14 of each year.

(Ord. No. 361, § 1, 5-7-02; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04; Ord. No. 419, § 1, 6- 19-12)

20-124. PROCEDURE FOR NONRENEWAL, REVOCATION, OR SUSPENSION.

(A) Before any action is taken concerning revocation or suspension of a permit, the city shall serve the holder of the permit by personal service or first class mail, served or mailed at least ten days prior to a hearing, with notice of hearing before the City Council or a hearing panel designated by the City Council to conduct a hearing and forward a recommendation to the City Council, which notice shall contain the following:

(1) Date, time, and place of the hearing;

(2) Notice of the proposed action;

(3) Reasons for the proposed action;

(4) Names of witnesses known at the time who will testify;

(5) A statement that the holder of the permit may be represented by legal counsel, present evidence and testimony, and confront and cross-examine adverse witnesses;

(6) A statement requiring the holder of the permit to notify the City Attorney's office at least three days prior to the hearing date if he, she, or it intends to contest the proposed action and to provide the names of witnesses known at that time who will testify on his, her, or its behalf.

(B) Upon completion of the hearing, and after a decision by the City Council, the city shall submit to the holder of a permit a written statement of the findings and determination of the City Council within 30 days.

(Ord. No. 361, § 1, 5-7-02; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04; Ord. No. 419, § 1, 6- 19-12)

20-125. DENIAL; HEARING.

(A) Any person whose initial request for a pyrotechnic special effects display permit, is denied by the Fire Marshal shall have a right to a hearing before the City

Council, provided a written request for such a hearing is filed with the City Manager within ten days following such denial. The City Council shall have the right to affirm and sustain any refusal to issue a permit or the City Council may grant any such permit.

(B) In addition to the information required in this article, an applicant whose permit under this article was denied by the Fire Marshal should be prepared to submit and discuss any additional information required by the City Council for the appeal hearing.

(Ord. No. 361, § 1, 5-7-02; Ord. No. 366, § 1, 11-6-02; Ord. No. 374, § 1, 12-21-04; Ord. No. 393, § 4, 1-2- 08; Ord. No. 419, § 1, 6-19-12)

20-126 - 20-130. RESERVED.

SUBDIVISION E. PENALTIES

20-131. VIOLATIONS AND PENALTIES.

(A) Unless otherwise provided in this Article, if a person knowingly, intentionally, or recklessly violates this Article, the person is guilty of a crime as follows:

(1) Except as otherwise provided in this section, a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not more than $500.00, or both.

(2) If the violation causes damage to the property of another person, a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

(3) If the violation causes serious impairment of a body function of another person, or death to another person, the violations shall be prosecuted as felonies pursuant to the Act.

(B) In addition to any other penalty imposed for the violation of the Act or this Article, a person who tenders a plea of guilty, no contest, or responsible to a violation of this Article shall be required to reimburse the city for the costs of storing and disposing of seized fireworks that the city confiscated for a violation of the Act or this Article.

(Ord. No. 419, § 1, 6-19-12)

CHAPTER 21: RESERVED

CHAPTER 22: FOOD AND FOOD ESTABLISHMENTS

ARTICLE I. IN GENERAL

22-1-22-15. RESERVED.

ARTICLE II. DRIVE-IN AND FAST FOOD RESTAURANTS

22-16. TITLE.

This article shall be known and cited as the "Drive-In and Fast Food Restaurant Ordinance."

(1978 Code, § 14-16; Ord. No. 80A, § 2, 5-4-82)

22-17. DEFINITIONS.

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

DRIVE-IN RESTAURANT. A business establishment serving food and/or beverages that is so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve motor vehicles or serve patrons while in the motor vehicles or to serve patrons at the establishment who will consume the food and/or beverages while in the motor vehicle and on the premises of the drive-in establishment.

FAST FOOD RESTAURANT. A business establishment where food and/or beverages are ordered and purchased at a counter, or cafeteria style, either for carry-out or for consumption on the premises. Typically these establishments serve a larger geographical area, prepare the food and/or beverages in advance of anticipated sales and do not provide individualized service at each table in order to achieve faster service. This term does not include a drive-in restaurant.

WASTE MATERIALS. Paper cups, straws, napkins, garbage, liquids and all other waste material intended for disposal which, if not placed in a proper receptacle, tends to create a nuisance by rendering the property unclean, unsafe and unsightly.

(1978 Code, § 14-17; Ord No. 80-A, § 3, 5-4-82; Ord. No. 179-G, § 2, 2-17-86)

22-18-22-20. RESERVED.

22-21. BUSINESS PROHIBITED BETWEEN CERTAIN HOURS.

No food, frozen dessert or beverages shall be sold or served at a drive-in restaurant to any patron outside of an enclosed building or in any motor vehicle between the hours of 1:00 a.m. and 6:00 a.m., except Saturday and Sunday mornings between the hours of 2:00 a.m. and 6:00 a.m.

(1978 Code, § 14-21)

22-22. PAVEMENT.

All parking and driveway areas of a drive-in restaurant shall be surfaced with a permanent type of pavement consisting of concrete, asphalt or bituminous material adequately graded to prevent the collection of standing water.

(1978 Code, § 14-22)

Cross reference:

Concrete work, see §§ 48-60 et seq.

22-23. LIGHTING OF PARKING AREAS.

All parking areas of a drive-in restaurant shall be adequately lighted in a manner not to unduly reflect on adjoining premises.

(1978 Code, § 14-23)

Cross reference:

Requirements of zoning ordinance as to exterior lighting, see zoning ordinance § 24.06

22-24. CONTROL OF WASTE MATERIALS GENERALLY.

(A) The owner and/or manager of a drive-in or fast food restaurant shall, at least once every 24 hours, dispose of all waste materials deposited by patrons on the premises and shall provide sufficient waste receptacles on the premises for the deposit of waste materials and shall keep such materials from being strewn or littered about the premises or blowing onto adjoining property.

(B) The owner or manager of any drive-in or fast food restaurant may be charged with the cost of cleaning up or removing debris found on the premises and on the public highway or highways adjacent to said premises. The City Manager, the Health Officer, the Building Official or any other enforcement officer shall have the right, if he or she sees debris on the premises occupied by the drive-in or fast food restaurant or on the highways adjacent thereto, to cause the same to be cleaned up and removed from the premises and shall certify the cost of said cleaning up and removal to the City Council.

(1978 Code, § 14-24; Ord. No. 80-A, § 5, 5-4-82)

Cross reference:

Garbage and refuse, see Ch. 23

22-25. DEPOSIT OF WASTE MATERIALS ON PREMISES.

No person shall place, throw or deposit any waste material on the premises of a drive-in or fast food restaurant, except in receptacles provided for that purpose.

(1978 Code, § 14-25; Ord. No. 80-A, § 6, 5-4-82)

Cross reference:

Anti-litter ordinance, see §§ 23-31 et seq.

22-26. NOISE AND DISTURBANCES.

(A) It shall be the duty of the owner and the manager of a drive-in restaurant or fast food restaurant to maintain quiet and good order upon the premises at all times and not to permit disorderly conduct or loitering by patrons or by any other person. Loudspeakers may be permitted only for the purpose of giving instructions to and by employees but shall not be of sufficient volume so as to be able to be heard at the lot line.

(B) No person on the premises or leaving or entering the premises of a fast food restaurant or drive-in restaurant shall race the engine of a motor vehicle or bring it to a sudden stop or start, blow the horn or make any other loud noise so as to disturb the peace, quiet and good order of the premises or neighborhood.

(1978 Code, § 14-26; Ord. No. 80-A, § 7, 5-4-82)

Cross reference:

Noise generally, see Ch. 31

22-27-22-28. RESERVED.

22-29-22-38. RESERVED.

ARTICLE III. MOBILE UNITS FOR SALE OF ICE CREAM AND SIMILAR PRODUCTS

22-39. MOBILE VENDING UNIT DEFINED; LICENSE REQUIRED.

(A) For the purpose of this article, a ***VENDING UNIT*** is defined as any motor vehicle, motorcycle, moped, cycle or trailer used for the temporary selling, delivering, hawking or peddling of foodstuffs or refreshments of any type, including but not limited to ice cream and ice cream products, hot dogs, hamburgers, popcorn, potato chips, cotton candy, candied apples, doughnuts, candy, gum, pop and coffee.

(B) No person shall operate any vending unit without first having obtained from the city a license.

(1978 Code, § 14-39; Ord. No. 53-A, § 1, 1-5-82)

Cross reference:

Licenses generally, see Ch. 29

22-40. APPLICATION FOR LICENSE.

Any person desiring a license required by this article shall file with the City Clerk a written application for the license. The application shall contain the following information:

(1) The name and address of the owner and the operator of the vending unit;

(2) The application shall set forth whether or not the owner or operator of the vending unit has been convicted of any offense against the laws of the United States or the laws of the State of Michigan or the ordinances of the City of Sterling Heights, and if the owner or operator has been so convicted, the place, date and name of the crime of which convicted, together with the name and address of the court in which the conviction was had and the sentence, if any, imposed;

(3) All applications shall be referred to the Police Department which shall cause an inspection to be made of the vending unit for compliance with the requirements of Chapter 49 of this Code. The Police Department shall make a written report to the City Council within 30 days.

(4) The operator shall furnish the results of a health examination to the city on forms provided by the city, the health examination to have taken place not more than 90 days prior to filing of the application;

(5) The operator shall file with the application two recent photographs of himself or herself of a size which may be attached to the license, one of which shall be attached to the license, when issued, and the other of which shall be filed with the application;

(6) Every operator shall prominently display his or her license, together with his or her photograph, on his or her vending unit so the license may be easily seen by patrons of the vending unit.

The application shall be accompanied by the yearly license fee.

(1978 Code, § 14-40; Ord. No. 53-A, § 1, 1-5-82)

22-41. FEE; EXPIRATION OF LICENSE.

Any person operating a vending unit shall pay a license fee as established by the annual appropriations ordinance to the City Clerk, and all such licenses shall expire on December 31 of each year.

(1978 Code, § 14-41; Ord. No. 53-A, § 1, 1-5-82; Ord. No. 388, § 13, 1-3-07)

22-42. NOISE-MAKING DEVICES PROHIBITED.

No license shall be issued for any vending unit which plays any music, rings bells or uses any other noise-making device to attract attention to itself.

(1978 Code, § 14-42; Ord. No. 53-A, § 1, 1-5-82)

Cross reference:

Noise generally, see Ch. 31

22-43. NIGHT OPERATION.

Vending units shall not be operated later than 8:00 p.m., except during the months of June, July, and August when the hours of operation shall be allowed until 9:00 p.m.

(1978 Code, § 14-43; Ord. No. 53-A, § 1, 1-5-82)

22-44. OPERATION NEAR SCHOOLS.

No vending unit shall be operated within 250 feet of an elementary school during school hours.

(1978 Code, § 14-44; Ord. No. 53-A, § 1,1-5-82)

22-45. EQUIPMENT.

No vending unit shall be operated upon any highway or other place open to the general public, including any area designed for the parking of motor vehicles, unless equipped with lamps as set forth in § 49-63(7) of this Code.

(1978 Code, § 14-45; Ord. No. 53-A, § 1, 1-5-82)

CHAPTER 23: GARBAGE AND REFUSE

ARTICLE I. IN GENERAL

23-1. DEFINITIONS.

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

ABANDONED PROPERTY. Personal property of an occupant that has been:

(1) Left behind by an occupant who has surrendered or abandoned possession of real property for any reason, including in response to eviction proceedings commenced by an owner, governmental agency, or other party entitled to possession;

(2) Disposed of by an owner, governmental agency, or other party entitled to possession after an occupant has surrendered or abandoned possession of real property in response to eviction proceedings brought by such party; or

(3) Disposed of by a court officer under an order of eviction restoring or granting possession to an owner, governmental agency, or other party entitled to possession.

CITY MANAGER. The City Manager or an authorized designate.

COMMERCIAL REFUSE. The rejected, unwanted or discarded or abandoned material generated by commercial establishments and uses, such as office buildings, personal service establishments, technical and scientific research facilities, professional service offices, clinics, churches and the waste from industrial establishments.

CONSTRUCTION REFUSE. All unwanted, rejected, discarded or abandoned materials resulting from the alteration, repair, demolition or construction of buildings or structures.

COURT OFFICER. A bailiff, sheriff, deputy sheriff, court officer, or other person authorized by a court of competent jurisdiction to restore or grant possession of real property to an owner, governmental agency, or other party following eviction proceedings.

EVICTION PROCEEDINGS. Legal action taken or commenced by an owner or other person entitled to possession to obtain or recover possession of real property, including summary proceedings to recover possession of premises, land contract forfeiture actions, land contract and mortgage foreclosures, quiet title actions, partition actions, and any written communications or notices given by an owner demanding possession of real property prior to or in connection with any such legal actions.

GARBAGE. Waste resulting from the handling, preparation, cooking or spoiling of food. The term shall not include discarded food from food processing plants, large quantities of condemned food products or large quantities of wind-fallen fruit subject to rapid decomposition.

HAZARDOUS WASTE. Any substance defined as a "hazardous substance" or "hazardous waste" under any federal or state law or regulation.

LAWN DEBRIS. Residential grass clippings, leaves, weeds, twigs, prunings, shrub clippings, garden waste, old potting soil and dirt incidental to minor yard work. Twigs, prunings and shrub clippings shall not exceed pencil-thin.

LAWN DEBRIS COLLECTION SEASON. A period each year scheduled by the City Manager during which a separate lawn debris collection service is provided throughout the city.

MECHANICAL CONTAINER. Any dumpster or other metal container with a capacity of two cubic yards or greater used to store refuse that is capable of being emptied by mechanical means, including metal containers used by an owner or court officer to contain abandoned property for later disposal .

OCCUPANT. An individual or entity residing in or having possession of real property, including an owner in possession, mortgagor, land contract purchaser, tenant, sub-tenant, or trespasser, or an assignee of any of them. Occupant is broadly defined to include an owner in possession, mortgagor, land contract purchaser, tenant, sub-tenant, trespasser or an assignee of any of them.

ORDER OF EVICTION. An order of eviction or other order issued by a court of competent jurisdiction restoring or granting possession of real property to an owner, governmental agency or other person entitled to possession of real property.

OWNER. An individual or entity that owns or is entitled to control of real property, including a legal title holder, land contract seller, landlord, trustee, secured party entitled to possession of real property, receiver, or property manager, or an agent acting on behalf of any of them.

PERSONAL PROPERTY. Furniture, goods, belongings, equipment, and fixtures of an occupant that are on vacant real property or the premises of a residence or other building or structure located upon real property.

REAL PROPERTY. Land, and buildings, structures, and other occupiable improvements such as residences, condominiums, duplexes, apartment buildings, multiple family dwellings, commercial and industrial buildings, shopping centers, commercial or industrial parks, or any part of any of them that is used, occupied, or offered for sale, rent, or occupancy by an owner or occupant.

REFUSE. All solid waste, including abandoned property, garbage, rubbish and yard waste but excluding lawn debris.

RUBBISH. Wastepaper, household plastic, empty tin cans and glass containers if cleaned of contents, wood or wood products of under three inch diameter and three feet in length, paper products, books, magazines, glass, crockery, stone, concrete and similar materials.

SECURED PARTY. An individual or entity which has a mortgage, lien, or other security interest in or relating to real property, including a mortgagee, land contract vendor, lien holder, governmental agency, or other party which has a security interest in real property under federal, state, or local law.

SPECIAL COLLECTION. Any collection of waste at a time other than the regularly scheduled once per week collection or of a volume or quantity of waste exceeding the limitations of this article whether requested by an owner or occupant or done by the city to eliminate a violation of the City Code.

WASTE. Refuse or lawn debris.

YARD WASTES. Tree or shrub branches, sod, dirt and other wastes resulting from yard care excluding lawn debris.

(1978 Code, § 15-1; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115D, § 1, 4-7-92; Ord. No. 115-E, § 1, 1-7-97; Ord. No. 392, §§ 1 - 2, 12-18-07)

23-2. RECEPTACLES-GENERALLY.

(A) *Size generally.* It shall be the duty of every owner, tenant or occupant of any building, and the owner of any property or use which generates refuse, to provide receptacles of sufficient size to hold the accumulated refuse between scheduled refuse collections.

(B) *Unapproved receptacles.* Stationary receptacles, large steel drums, paint pails, cardboard barrels, cardboard boxes, paper bags and other containers of a like nature are not approved receptacles and collection may not be made by the city when such receptacles are used.

(C) *Broken and the like receptacles.* A receptacle that is broken or otherwise fails to meet the requirements of this article may be deemed to be rubbish and may be collected as such by the city without notice to the users.

(D) *Excess weight.* Refuse placed in receptacles that exceeds the weight limitations or otherwise does not conform to the provisions of this article may not be collected by the city.

(E) *Certain waste not collectible.* The city will not be responsible for collection of frozen waste adhering to the receptacle or for any resulting damage to receptacles.

(F) *Residential refuse.* The following shall be approved receptacles for residential refuse:

(1) Portable watertight and verminproof containers of substantial construction with handles or bails and a tight-fitting cover. These containers are to have a capacity of at least ten gallons, but not more than 32 gallons, and each must not exceed 60 pounds in weight when full.

(2) Securely closed plastic bags of sufficient strength to contain refuse without breakage of up to 32 gallons and not exceeding 40 pounds.

(G) *Commercial refuse.* The following provisions shall apply to commercial refuse:

(1) In every case where the owner, occupant or user of any premises generally accumulates less than one cubic yard of refuse within a one week period, bagged collection as provided by § 23-2(F)(2) shall be made available upon request up to a maximum of six bags per week.

(2) In every case where the owner, occupant or user of any premises generally accumulates more than one cubic yard of refuse within any one week period, the owner, occupant or user shall provide a container or containers of the type designed to be handled mechanically by refuse collection trucks and the owner, occupant or user is responsible to arrange for private collection and disposal.

(1978 Code, § 15-2; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, §§ 2, 3, 4, 5, 4-7-92; Ord. No. 115-E, § 2, 1-7-97)

23-3. SAME-INTERFERENCE AND THE LIKE.

No person, other than the owner of refuse receptacles or his or her agents or employees or licensees of the city, shall disturb, remove or attempt to remove refuse receptacles or their covers or disturb or remove or attempt to remove any refuse not in containers whether the same is on public or private property.

(1978 Code, § 15-3; Ord. No. 115-C, § 1, 1-20-87)

23-4. PREPARATION FOR COLLECTION; COST RECOVERY PROGRAM.

(A) Garbage must be thoroughly drained of liquids and be wrapped in several thicknesses of paper before being placed in receptacles for collection.

(B) Large residential refuse items shall be broken down or disassembled and placed in approved receptacles or securely tied compact bundles which do not exceed 50 pounds in weight, three feet in length and three feet in girth.

(C) Bulky residential refuse items, such as large appliances and furniture, which cannot be broken down or disassembled, shall be placed for collection in a manner to facilitate handling.

(D) Bulky commercial refuse items, such as large appliances, furniture, carpeting, equipment or machinery shall not be placed for collection. Such developments shall make their own arrangements for collection or disposal of such items.

(E) Apartment complexes and schools which utilize the city's waste collection services and which use mechanical containers for collection shall not place bulky items such as mattresses, carpeting, hot water heaters, furniture, appliances and the like in any mechanical containers for collection. Such properties shall make their own arrangements for collection or disposal of such items.

(F) The City Manager or his or her designate shall have the authority to determine the number and size of mechanical containers which will be collected by the city waste collector from multiple-family developments and from schools. Due to the disproportionate cost to the city and its taxpayers, mechanical container collection services shall not be provided to apartment complexes and schools, and refuse collection services shall not be provided to mobile home parks by the city's waste collector without participation by such properties in the city's cost recovery program. The program shall be administered by the City Manager or a designate, and shall require payment of the fee adopted in the city's annual appropriations ordinance. Properties that do not participate in the program shall be responsible for arranging private disposal.

(1978 Code, § 15-4; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 7, 4-7-92; Ord. No. 115-E, § 3, 1-7-97; Ord. No. 375, § 1, 3-1-05)

23-5. DISPOSAL OF CONSTRUCTION REFUSE.

It shall be the duty of the owner, contractor, occupant or other person responsible for construction work to remove from the premises, within a reasonable time after the completion of such construction work, all surplus construction material and all refuse building and all construction refuse. Such materials shall be removed outside the city limits or disposed of within the city in accordance with the directions of the City Manager.

(1978 Code, § 15-5; Ord. No. 115-C, § 1, 1-20-87)

Cross reference:

Building regulations, see Ch. 11

23-6. STORAGE, TRANSPORTATION AND DISPOSAL OF HAZARDOUS WASTE.

Hazardous waste shall be the responsibility of the producer or owner thereof and shall not be disposed of within the city or allowed to be stored or transported within the city without the written approval of the City Manager or his or her authorized agent and then only under the supervision of a person appointed by him or her who has knowledge of the safety measures necessary to protect the public health and safety during the storing, transporting or disposing of hazardous waste.

(1978 Code, § 15-6; Ord. No. 115-C, § 1, 1-20-87)

23-7. UNLAWFUL ACCUMULATIONS OF WINDBLOWN REFUSE.

It shall be unlawful to cause or permit any refuse to accumulate that can be blown away by the wind anywhere in the city, excepting in a covered container.

(1978 Code, § 15-7; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 8, 4-7-92) Penalty, see §1-9

23-8. PROHIBITED MATERIALS.

No person may place for collection any materials which could ignite waste in a receptacle or waste collection vehicle.

(1978 Code, § 15-8; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 9, 4-7-92)

23-9. CURBSIDE COLLECTION.

(A) It shall be the responsibility of all persons to have their refuse at the point of collection by 7:00 a.m. of the day specified for collection. No waste shall be placed

at the curb or street for collection prior to 1:00 p.m. the afternoon before the scheduled collection day or after 3:00 p.m. on Fridays.

(B) During the week while refuse is being stored and accumulated for ultimate disposal, all refuse must be stored inside of a building. However, refuse may be stored outside of a building in an approved receptacle as set forth in § 23-2(F)(1). Outside storage of refuse in any front yard as defined by § 31.01 of the zoning ordinance is prohibited.

(C) After the collection of the waste, the empty receptacle shall be removed from the curb or street by the owner or occupant or user and replaced in the storage area as soon as possible but in no case later than ten hours after collection has been made.

(1978 Code, § 15-9; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 10, 4-7-92; Ord. No. 115-E, § 4, 1-7-97)

23-10. MECHANICAL CONTAINER COLLECTION.

(A) Commercial or industrial establishments and churches which generally generate more than one cubic yard (approximately six bags) of refuse per week shall be responsible for arranging private disposal. Mechanical containers must be used to contain refuse generated by such establishments.

(B) All mechanical containers must be maintained in good repair, waterproof, rodentproof and equipped with lids. Lids shall be closed except when the container is being filled or emptied.

(C) It shall be unlawful for any establishment for which mechanical container collection is required under this chapter to permit storage of refuse upon any portion of the premises outside of buildings that is not confined in mechanical containers. Those establishments approved for curbside collection may place refuse for collection at specified locations and times up to a maximum of six bags per week.

(D) It shall be unlawful to make any mechanical container collection within 1,000 feet of any property used or zoned for residential purposes prior to 7:00 a.m. or after 9:00 p.m. on Monday through Friday, prior to 9:00 a.m. or after 6:00 p.m. on Saturday or prior to 12:00 noon or after 6:00 p.m. on Sunday, except in special cases authorized by the City Manager or his or her designate.

(1978 Code, § 15-10; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 11, 4-7-92; Ord. No. 115E, § 5, 1-7-97) Penalty, see §3-9

23-11. DEPOSIT OF REFUSE ON PUBLIC PROPERTY.

No person may deposit or cause to be deposited, sort, scatter or leave any waste, filth or other offensive materials or build or maintain any structure or thing whatsoever containing the same in any public street or alley or on public property in the city except as permitted in this chapter.

(1978 Code, § 15-11; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 155D, § 12, 4-7-92; Ord. No. 115-E, § 6, 1-7-97)

23-12. DEPOSIT OF REFUSE ON PRIVATE PROPERTY.

(A) No person may deposit or cause to be deposited, sort, scatter or leave any waste, filth or other offensive materials or build or maintain any structure or thing containing the same on any private property in the city except as permitted in this chapter.

(B) No person may deposit or cause to be deposited any refuse in a mechanical container which is not owned, leased or authorized to be used by such person.

(1978 Code, § 15-12; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 13, 4-7-92; Ord. No. 115E, § 7, 1-7-97)

23-13. DISPOSAL OF WASTE GENERALLY.

All waste collected for disposal from within the city limits shall be disposed of at such facilities as may be designated by the City Manager.

(1978 Code, § 15-13; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 14, 4-7-92)

23-14. RIGHT OF OWNER OR PRODUCER TO DISPOSE OF WASTE GENERATED.

Nothing in this article shall be interpreted to prohibit or deny the owner or producer of waste from disposing of such waste in compliance with the provisions of this chapter or for contracting for private waste disposal or private trash collection that does not conflict with applicable city code.

(1978 Code, § 15-14; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 15, 4-7-92)

23-15. BURYING REFUSE.

(A) No person may bury waste within the city limits unless in accordance with the city code and any applicable federal and state law.

(B) No person may bury any dead animal except in accordance with federal and state law.

(1978 Code, § 15-15; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 16, 4-7-92)

23-16. PRIVATE COLLECTOR'S LICENSE.

(A) No person may engage in the business of collecting waste in the city without first obtaining a license. A person who has contracted with the city for waste collection may be licensed by the city in the contract.

(B) No person may contract with any other person to collect waste within the city limits, unless such other person is licensed by the city to collect waste.

(C) The license shall expire on December 31 of each year, unless revoked or suspended prior to that date.

(D) Application for a license shall be filed with the City Clerk in the form and manner as required by this section. The application shall include all information necessary to determine compliance with this article, including but not limited to:

(1) The full names, dates of birth, proof of identification, business addresses and residential addresses of all owners, proprietors, officers and managers of the applicant; and the names and addresses of each officer if the applicant is a corporation;

(2) The firm names under which the applicant intends to do business;

(3) Whether or not the applicant or person conducting or managing the applicant's business has been convicted of any crime, felony, misdemeanor or the violation of any municipal ordinance and, if so, full particulars.

(E) Each and every application for a license shall be in writing and filed in quadruplicate with the City Clerk and shall be accompanied by the application fee established by the annual appropriations ordinance.

(F) No such license shall be issued except upon payment of the fee required by the annual appropriations ordinance and upon posting of a surety bond, cash or irrevocable letter of credit satisfactory to the city guaranteeing the faithful and prompt discharge of all obligations of the licensee to the city. These performance requirements may be waived by the city in a city waste collection contract.

(G) No such license shall be issued except upon determination by the City Manager or his or her authorized representative that the equipment to be used conforms to the requirements of this article and that the applicant has not been convicted of larcenous felonies or violation of any law regarding waste disposal. The City Manager or his or her authorized representative may deny, suspend or revoke any license for violation of any provisions of this article or any other ordinance or law pertaining to such business or for such other cause as he or she deems reasonable. Prior revocation of a license shall be sufficient grounds for the refusal by the City Manager or his or her authorized representative to approve any future application by such licensee.

(H) The licensee shall have the right to a hearing before the Board of Ordinance Appeals on any of action of denial, suspension or revocation, provided a written request is filed with the City Clerk within five days after issuance of notice of denial, suspension or revocation. The Board of Ordinance Appeals may confirm such denial, suspension or revocation or may authorize and reinstate such license. The action of the Board of Ordinance Appeals shall be final.

(I) Such license shall be carried on the person at all times during the operation for which it was issued and produced for examination, when requested.

(J) Upon issuance of the license, the city shall issue an identification sticker for each waste collection vehicle to be used in collection to show compliance with this article. The sticker shall be affixed to the waste refuse collection vehicle in the place designated by the city for easy identification.

(K) The provisions of this article shall not apply to any person who collects recyclable waste products for deposit at city-operated recycling centers under rules and regulations made by the City Manager under § 23-24(A).

(1978 Code, § 15-16; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 17, 4-2-92; Ord. No. 388, § 14, 1-3-07)

Cross reference:

Licenses generally, see Ch. 29

23-17. COLLECTION VEHICLES-GENERALLY.

Vehicles used for collection and transportation of waste within or through the city shall be watertight, covered and conform to all laws regulating axle and load limitations.

(1978 Code, § 15-17; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 18, 4-7-92)

Cross reference:

Securing loads, see § 49-85;

Vehicle equipment, size and load, see §§ 49-55 et seq.

23-18. ROUTES.

The city may designate the route to be taken by trucks or haulers of waste through the city and to a disposal site.

(1978 Code, § 15-18; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 19, 4-7-92)

Cross reference:

Truck routes, weight limitations, see § 49-83

23-19. SPECIAL COLLECTIONS.

(A) A person may request a special collection for waste by contacting the Office of Public Works. Upon receipt of such a request, the Office of Public Works shall contact the city waste collector so that a collection can be arranged. The person requesting the special collection shall pay for the estimated cost of the special collection in accordance with a fee schedule established by the City Council prior to the special collection.

(B) The city may arrange to have the city waste collector make a special collection of waste determined to constitute a violation of this chapter in accordance with the provisions of § 23-21.

(C) This section shall not require the city or its waste collector to make any special collection of waste which does not conform to the requirements of this article by reason of volume, contents, hazardous nature, bundling, containerization or otherwise not to make special collections for businesses which generate waste in excess of the amounts for which regular weekly collection is provided under this article or under the city waste contract.

(1978 Code, § 15-19; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 20, 4-7-92)

23-20. SPECIAL COLLECTION FEES; ENFORCEMENT.

(A) The fee for any special collection authorized by § 23-19 shall be in accordance with a fee schedule established by the City Council.

(B) Any fee for special collection which remains unpaid for 30 days after the invoice date shall constitute a lien against the premises from which the waste is generated or collected. The City Manager may certify the delinquency to the City Assessor and in such case the fee shall be entered upon the next tax roll as a lien against the premises which shall be collected in the same manner with the same interest and penalties as special assessments against such premises.

(C) All fees for additional refuse collections for school districts shall be in accordance with the special collection fee schedule.

(D) Enforcement of the lien to collect the special collection fee shall not be the exclusive means of collection and the city may collect such fee in any manner permitted by law.

(E) In addition to any other remedy the city may discontinue collection from any premises for which there is an outstanding delinquent collection fee. Such discontinuance shall not exempt or release the owner or occupant of the premises from any other penalties provided by this article.

(F) The Department of Public Works may authorize adjustment of an invoice where the owner or occupant of the property from which the special collection was made did not request or receive the services itemized on the invoice.

(1978 Code, § 15-20; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 21, 4-7-92; Ord. No. 115-E, § 8, 1-7-97)

23-21. REJECTION OF WASTE; TAGGING OF WASTE; NOTICE TO CORRECT VIOLATION.

(A) If any owner or occupant of any property places any waste which is rejected by the city waste collector because it does not conform to the requirements of this chapter, the city waste collector shall give notice to the owner or occupant of the premises by tagging the rejected waste. The tag shall advise the owner or occupant of the reason the waste was not collected and shall direct the owner or occupant to correct the violation within 24 hours, and it shall warn the owner or occupant that if the violation is not corrected, the Department of Public Works may make a special collection for which the owner or occupant will be charged.

(B) If the Department of Public Works determines the owner or occupant of the premises upon which rejected waste is located has failed to correct the violation within the time period specified on the notice, the Department of Public Works may have the city waste collector make a special collection of the rejected waste.

(C) If the city waste collector makes a special collection of rejected waste, the owner or occupant shall be charged a fee equal to the special collection charge incurred by the city, plus an administrative fee. The owner or occupant of the premises shall be sent an invoice for the costs of special collection (including an administrative fee established by the annual appropriations ordinance) which shall be payable within 30 days of the date of the invoice.

(1978 Code, § 15-21; Ord. No. 115-C, § 1, 1-20-87; Ord. No. 115-D, § 22, 4-7-92; Ord. No. 115-D, § 9, 1-7-97; Ord. No. 388, § 15, 1-3-07)

23-22. RESPONSIBILITY FOR COMPLIANCE.

The owner or occupant of property abutting a right-of-way shall be presumed to have generated any waste placed for collection in the right-of-way. For purposes of determining ownership of property, it shall be presumed that the person whose name appears on the most recent tax assessment roll of the city is the owner of the property.

(Ord. No. 115-D, § 23, 4-7-92)

23-23. APPEALS.

The Board of Ordinance Appeals shall have the authority to hear and decide appeals from and review any order, decision or determination made by any administrative official charged with enforcing or administering the terms of this chapter.

Where, owing to special conditions, a literal enforcement of the provisions of this chapter would involve practical difficulties or cause unnecessary hardships, the Board of Ordinance Appeals shall have the power upon appeal in specific cases to modify the provisions of the chapter, imposing such conditions and safeguards as it may reasonably determine as may be in harmony with the spirit of this chapter and so that public safety and welfare are secured and substantial justice done.

(Ord. No. 115-D, § 24, 4-7-92)

23-24. CONSTRUCTION AND ENFORCEMENT OF CHAPTER; CITY MANAGER'S RULES; SUPERVISION OF COLLECTION AND REMOVAL.

(A) The City Manager is authorized to make such rules and regulations as from time to time appear to be necessary to carry out the intent of this article, provided that such rules are not in conflict with this article or any other provision of the city code.

(B) 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 preparation, collection and disposition of municipal waste.

(C) The collection of waste shall be under the supervision of the City Manager, and it shall be the duty of the City Manager to enforce the provisions of this article. The Police Department shall assist with the enforcement of this chapter.

(D) The City Manager shall have the authority to deny collection services for failure to comply with the provisions of this chapter.

(Ord. No. 115-D, § 25, 4-7-92)

23-25. RESTRAINING VIOLATIONS.

All violations of this chapter are declared to be a public nuisance per se and may be abated by order of a court of competent jurisdiction.

(Ord. No. 115-D, § 26, 4-7-92)

23-26. STORAGE OF LAWN DEBRIS.

(A) *Storage*. Lawn debris may be stored only in accordance with the following:

(1) Lawn debris may be stored on the premises which generated the lawn debris in approved bags or containers for less than one week prior to a scheduled city collection;

(2) Lawn debris may be stored in a compost pile or compost bin in compliance with city codes regulating composting.

(B) *Disposal.* Lawn debris shall be disposed of in accordance with the following:

(1) Lawn debris may be placed in approved bags or containers for collection on a regularly scheduled collection day. Lawn debris shall not be mixed with other refuse;

(2) Lawn debris may not be disposed of in a receptacle which is not owned, leased or authorized for use by the person generating and disposing of the lawn debris;

(3) Lawn debris may not be disposed of in any public right-of-way or any other public or private place except as provided in this section;

(4) Lawn debris placed for collection which does not conform to the requirements of this section shall be tagged as rejected waste in accordance with §23-21 of this chapter;

(5) No person shall deposit lawn debris for curbside collection that was not generated from his or her premises.

(Ord. No. 115-D, § 27, 4-7-92)

23-27. RESERVED.

23-28-23-30. RESERVED.

ARTICLE II. ANTI-LITTER ORDINANCE

23-31. TITLE.

This article shall be known and may be cited as the "Anti-Litter Ordinance."

(1978 Code, § 15-31)

Statutory reference:

Authority of city to enact and enforce ordinance for control and elimination of litter, see M.S.A. §§ 28.603(6); M.C.L. § 752.906

Littering, see M.S.A. §§ 28.603(1) et seq. (M.C.L. §§ 752.901 et seq.); M.C.L. §§ 324.8901 et seq.

23-32. DEFINITIONS.

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

AUTHORIZED PRIVATE RECEPTACLE. A litter storage and collection receptacle as set forth in Article I of this chapter.

LITTER. All rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances.

PARK. A park, reservation, playground, beach recreation center or any other public area in the city owned or used by the city and devoted to active or passive recreation.

PRIVATE PREMISES. Any dwelling, house, building or other structure designed or used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(1978 Code, § 15-32; Ord. No. 115-D, § 31, 4-7-92; Ord. 350, § 5, 10-17-00)

23-33. DEPOSIT OF LITTER IN PUBLIC PLACES GENERALLY; DUTY TO KEEP SIDEWALKS FREE OF LITTER.

(A) No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city, except in public receptacles or in authorized private receptacles for collection or in official city dumps.

(B) No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

(C) No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalk in front of their business premises free of litter.

(1978 Code, § 15-33)

23-34. MANNER OF PLACEMENT OF LITTER IN RECEPTACLES.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place.

(1978 Code, § 15-34)

23-35. RESERVED.

23-36. LITTERING BY PERSONS IN VEHICLES.

No person, while a driver or passenger in any vehicle, shall throw or deposit litter upon any street or other public place within the city.

(1978 Code, § 15-36)

23-37. TRUCK LOADS CAUSING LITTER.

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load or contents of litter from being blown or deposited upon any street, alley or other public place, nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances or foreign matter of any kind.

(1978 Code, § 15-37)

Statutory reference:

Provisions of traffic ordinance prohibiting spilling of vehicle loads, see §49-85

23-38. LITTERING PARKS.

No person shall throw or deposit litter in any park within the city, except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(1978 Code, § 15-38)

Cross reference:

General provisions concerning control of waste material in parks, see §38-10

23-39. LITTERING OCCUPIED PRIVATE PROPERTY.

No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(1978 Code, § 15-39)

23-40. LITTERING VACANT PRIVATE PROPERTY.

No person shall throw or deposit litter on any open or vacant private property within the city, whether owned by such person or not.

(1978 Code, § 15-40)

23-41. OWNER TO MAINTAIN PREMISES FREE OF LITTER.

The owner or person in control of private property shall, at all times, maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(1978 Code, § 15-41)

23-42. REMOVAL OF LITTER FROM VACANT PRIVATE PROPERTY.

(A) The City Manager is authorized and empowered to notify the owner of any open or vacant private property within the city, or the agent of the owner, to properly dispose of litter located on the owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered mail, addressed to the owner at his or her last known address as determined from the tax assessment roll.

(B) If the owner or his or her agent so notified fails to properly dispose of litter dangerous to the public health, safety or welfare within ten days after receipt of written notice provided for in subsection (A), or within 30 days after date of such notice in the event the same is returned to the city post office because of its inability to make delivery of the notice, provided the same was properly addressed to the last known address of such owner or agent, the City Manager may authorize the city waste collector to make a special collection of the litter pursuant to §§ 23-19 and 23-20 of this chapter. When the city waste collector makes a special collection of litter the owner or occupant shall be charged a fee equal to the special collection charge incurred by the city plus an administrative fee established by the annual appropriations ordinance. The owner or occupant of the premises shall be sent an invoice for the costs of the special collection which shall be collectible in the same manner and subject to the same interest and penalties as special collection charges in § 23-20.

(1978 Code, § 15-42; Ord. No. 115-D, § 32, 4-7-92; Ord. No. 388, § 16, 1-3-07)

Cross reference:

Removal of accumulations of refuse and assessments therefor, see §§47-19 et seq.

23-43. REMOVAL OF DEBRIS FROM HIGHWAY.

A person who removes a vehicle that is wrecked or damaged in an accident on a highway, road or street shall remove all glass and other injurious substances dropped on the highway, road or street as a result of the accident.

A person who violates this section is responsible for a civil infraction and is subject to a civil fine of not more than $500.

(Ord. No. 350, § 6, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.8902(2); M.C.L. § 324.8905a(a)(1)

23-44. ADDITIONAL FINES FOR CRIMINAL OR CIVIL ACTIONS.

(A) In addition to any other penalty or sanction provided in §1-9 or this article for a criminal or civil action brought under this article, the court may require the defendant to pay the cost of removing all litter which is the subject of the violation and the cost of damages to any land, water, wildlife, vegetation or other natural resource or to any facility damaged by the violation of this article. Money collected under this subdivision shall be distributed to the city.

(B) In addition to any other penalty or sanction provided for in §1-9 or this article, the court shall impose, under the supervision of the court, community service in the form of litter gathering labor, including but not limited to litter connected with the particular violation. This subsection shall not apply when a civil infraction citation is paid without court appearance.

(Ord. No. 350, § 7, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 324.8905b

23-45 – 23-50. RESERVED.

ARTICLE III. DISPOSAL OF ABANDONED PROPERTY BY OWNERS AND OTHER PARTIES

23-51. MANDATORY USE OF MECHANICAL CONTAINERS FOR DISPOSAL OF ABANDONED PROPERTY.

(A) An owner who lawfully recovers possession of real property shall place and use on the real property (or arrange for such placement and use) one or more mechanical containers as defined in this Chapter of the Code to contain the abandoned property until the mechanical container is removed from the real property for disposal within the time limitations of this article.

(B) An owner who uses a court officer's services to recover or obtain possession of real property under an order of eviction shall make prior arrangements (either by private contract or through a court officer) for the placement of one or more mechanical containers meeting the requirements of this article on the real property prior to having the court officer remove or dispose of the occupant's abandoned property.

(C) An occupant, owner, or court officer who uses a mechanical container in connection with the disposal of abandoned property shall tightly close all lids and side doors after depositing the abandoned property into the mechanical container to prevent spillage on the real property or neighboring properties.

(D) An owner shall remove a mechanical container that is used under this article to contain abandoned property from the real property within 48 hours of its placement, unless the mechanical container used for such disposal is authorized under the provisions of division (H).

(E) An owner shall pay the expenses of placement, removal, and disposal of the contents of mechanical containers used to dispose of abandoned property whether such placement was arranged by private contract or through a court officer. An owner who pays for the use of a mechanical container may recover such expenses from the occupant who has vacated or been evicted from the real property.

(F) A court officer who agrees to arrange for placement and use of a mechanical container for an owner may require advance payment or an escrow deposit for the use of such equipment. To the extent permitted by law, the court officer shall have a lien against the real property to secure payment of any unpaid charges for the placement and use of a mechanical container under this article.

(G) A court officer may require indemnification from an owner using his or her services to obtain or recover possession of real property as a condition of arranging the furnishing of mechanical containers in connection with executing an order of eviction.

(H) Nothing contained in this article shall prevent an owner of real property that already uses mechanical containers for regular, periodic pick-up and disposal from using such mechanical containers for containing abandoned property, provided the mechanical containers:

(1) Have sufficient unused capacity to contain the abandoned property;

(2) Meet the requirements of this article, except removal from the real property within 48 hours; and

(3) Are emptied and returned to their usual, lawful location within 48 hours of their placement for use under this article.

(I) Notwithstanding the provisions of divisions (A) and (B), an owner may dispose of abandoned property without using a mechanical container if such abandoned property can be disposed of in accordance with the terms of Article I of this chapter and other applicable laws.

(Ord. No. 392, § 3, 12-18-07)

23-52. REQUIREMENTS FOR MECHANICAL CONTAINERS USED TO DISPOSE OF ABANDONED PROPERTY.

Except for mechanical containers used in accordance with the provisions of §23-51(H), mechanical containers used by an owner or court officer to dispose of abandoned property shall have wheels, side doors for access, and sufficient capacity to contain all of the abandoned property within them.

(Ord. No. 392, § 3, 12-18-07)

23-53. ABATEMENT REMEDIES.

(A) The city shall have the right to summarily abate any nuisance condition that violates the terms of this article if the owner fails to cure the violation within 48 hours of the time written notice of the violation is delivered by mail or personal delivery to the owner. Such remedies shall include, but not be limited to:

(1) Removing any abandoned property located upon the real property that is not contained in a mechanical dumpster meeting the requirements of this article, and disposal of it as refuse, using the City's own personnel and resources, or contracting with a private company to furnish such equipment and perform such services;

(2) Removing any mechanical container located on real property that contains abandoned property, and disposing of its contents.

(B) Additional nuisance conditions or violations not specifically set forth above may be addressed by the City through the Ordinance Board of Appeals process set forth in Chapter 11 of the City Code, by prosecution or other enforcement action in the district court, or by legal action in the circuit court with prior authorization from the City Council.

(Ord. No. 392, § 3, 12-18-07)

23-54. NUISANCE PER SE.

Any condition on real property that violates the regulations of this article constitutes a nuisance per se that shall be abated by a court of competent jurisdiction if the city elects to abate the nuisance by commencement of an action in a court of competent jurisdiction.

(Ord. No. 392, § 3, 12-18-07)

23-55. REIMBURSEMENT FOR EXPENSES OF ABATEMENT.

Expenses incurred by the city in abating any violation of this article, including attorneys fees, court costs, title searches, administrative fees imposed under the Appropriations Ordinance, and any other costs incurred in connection with any abatement action, shall be paid by the owner within 30 days of the date of a city invoice for such services. The city shall have a lien against the real property to secure payment. If the invoice remains unpaid after 30 days, the amount of the invoice shall be placed upon the tax roll, and shall be subject to the same penalties, interest, and collection procedures that are applicable to delinquent taxes.

(Ord. No. 392, § 3, 12-18-07)

23-56. PENALTIES FOR VIOLATION.

A person who violates this article shall be subject to the penalties set forth in Chapter 1 of the City Code. Each day on which a violation of this article continues shall constitute a separate violation. The imposition of a fine and/or payment of the city's abatement costs shall not be construed to excuse or to permit the continuation of any violation. A person who violates the provisions of this article shall also be subject to penalties for violation of the Property Maintenance Code and the provisions of the city code regulating blight and nuisance.

(Ord. No. 392, § 3, 12-18-07)

ARTICLE IV. CURBSIDE RECYCLING

23-61. LEGISLATIVE FINDINGS.

The City Council finds:

(A) Maximizing the recycling economy in the city and throughout the country will create and sustain additional well-paying jobs, stimulate the economy, save energy, and conserve valuable natural resources;

(B) Recycling is an important action that people can take to be environmental stewards;

(C) Municipal recycling rates in the United States steadily increased from 6.6% in 1970 to 28.6% in 2000, but since 2000 the rate of increase has slowed considerably;

(D) A decline in manufacturing has reduced both the supply of and demand for recycling materials;

(E) Recycling allows the recovery of critical materials necessary to sustain the recycling economy and protect national interests;

(F) In 2010, the United States recycling industry collected, processed, and consumed over 130,000,000 metric tons of recyclable material, valued at $77,000,000,000;

(G) Recycling saves energy by decreasing the amount of energy needed to manufacture the products that people build, buy, and use;

(H) Many manufacturers use recycled commodities to make products, saving energy and reducing the need for raw materials;

(I) Using recycled materials in place of raw materials can result in energy savings of 92% for aluminum cans, 87% for mixed plastics, 63% for steel cans, 45% for recycled newspaper, and 34% for recycled glass;

(J) Many city residents already utilize the city's recycling centers, and many have expressed interest in utilizing a curbside recycling program if one were offered and available;

(K) Various waste hauling entities are also engaged in the recycling business and will provide curbside recycling for city residents and businesses if the economies of scale justify such a program;

(L) An exclusive license to provide a curbside recycling program in the city would ensure the necessary economy of scale to secure interest from entities that can provide such a program;

(M) Additionally, an exclusive license would ensure that only one entity utilizes city streets and rights-of-way, thereby minimizing roadway wear and tear;

(N) The city already provides similar exclusivity to a towing contractor and a waste hauler to provide public towing services and public waste pickup services throughout the city;

(O) Therefore, the City Council finds that it is in the best interests of the city, its residents, its businesses, and its guests to authorize an exclusive license for a single-stream subscription-based curbside recycling program.

(Ord. No. 417, § 1, 3-6-12)

23-62. LICENSING PROCESS.

(A) Prior to awarding an exclusive license for a curbside recycling program, the city shall request proposals from qualified entities that may desire to be awarded such a license. The City Manager or his designee shall review the proposals that are received from potential licensees and may work with each potential licensee to revise and clarify the terms of the potential licensee's proposal. The City Manager or his designee shall then rate and rank the proposals, as revised, and present them to City Council for consideration. The City Council may thereafter, in its discretion, grant an exclusive license under this article. The exclusive license shall be awarded by resolution or motion, which shall incorporate the terms of the request for proposals and the selected entity's proposal terms. In the event of a conflict in terms, the terms of the request for proposals shall control, unless the resolution or motion awarding the license provides otherwise.

(B) It shall be unlawful for any entity, other than a licensee, to collect, disturb, or transport curbside recyclables for a fee, if that service is offered and/or provided by a licensee pursuant to this article. For purposes of this subsection, the term "curbside recyclables" shall mean recyclable materials that have been deposited or placed on or near the curb of a roadway for retrieval by another party.

(Ord. No. 417, § 1, 3-6-12)

23-63. LICENSE TERMS.

All of the license terms shall be established by the city's request for proposals, unless otherwise provided in the selected entity's proposal and included in the awarding resolution or motion as controlling. Terms shall include, but not be limited to, service, compensation, customer relations, vehicles, employees, routes, collection days, recycling containers, record-keeping, privacy protections, storage, transport, promotional campaigns, reward programs, indemnity, insurance, default options, performance deposit, license termination, customer pre-payment protections, participation thresholds, license term, renewal options, and alternative proposal options.

(Ord. No. 417, § 1, 3-6-12)

23-64. LICENSE SUSPENSION AND REVOCATION.

(A) The license awarded pursuant to this article may be suspended by the City Manager or his designee until remedial measures required by the City Manager or his designee are successfully implemented by the licensee to cure the default or offending activity. If such remedial measures are not successfully implemented, or the default or offending activity is of such a nature that remedial measures will, in the estimation of the City Manager, be futile, the City Manager may instead suspend the license pending a rudimentary due process hearing before the Solid Waste Commission or, if the Solid Waste Commission has been dissolved or a quorum cannot be convened within 14 calendar days, the City Council at its next regular meeting. At the conclusion of the hearing, the City Manager's recommendation for revocation shall either be adopted, modified or rejected. If the recommendation is adopted, the City Manager shall revoke the license effective the next business day. If the recommendation is modified, the City Manager shall implement the modifications. If the recommendation is rejected, the City Manager shall lift the suspension and the licensee may resume its obligations under the license.

(B) Suspension and revocation may be imposed at any time for any violation by the licensee or its agents of any law, ordinance, proposal term, or term of the request for proposals relating to the license. During a period of suspension, and following revocation, the city's costs for addressing any transition to a new contractor, replacement services, temporary suspension of services, customer notifications, customer assistance, customer refunds, and other costs relating to the lack of service from the licensee or the transition to a new licensee may be recouped from the licensee's performance deposit.

(Ord. No. 417, § 1, 3-6-12)

23-65 – 23-69. RESERVED.

CHAPTER 24: RESERVED

CHAPTER 25: HUMAN RELATIONS

ARTICLE I. DISCRIMINATION PROHIBITED

25-1. TITLE.

This article shall be known and may be cited as the "Sterling Heights Non-Discrimination Ordinance."

(Ord. No. 480, § 1, 1-18-22)

Statutory reference:

Elliott-Larsen Civil Rights Act, see M.C.L. §§ 32.2101 et seq.

25-2. POLICY STATEMENT.

It is hereby found that Sterling Heights is a diverse community consisting of many people of different races, colors, religions, national origins, sexes, ages, heights, weights, physical and mental abilities, marital statuses, family statuses, sexual orientations, and gender identities. Sterling Heights recognizes that discrimination on these bases violates the public policy of the City and finds that such discrimination is injurious to the public health, safety, and general welfare of the City and its inhabitants.

(Ord. No. 480, § 1, 1-18-22)

25-3. INTENT.

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

(B) The prohibitions against discrimination as provided for in this article are intended to supplement state and federal civil rights law prohibiting discrimination in the areas of employment, public accommodations, and housing; provided, however, this article shall be construed and applied in a manner consistent with First Amendment jurisprudence regarding the freedom of speech and exercise of religion.

(C) Nothing in this article shall require preferential treatment of any person or group on the basis of race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity.

(Ord. No. 480, § 1, 1-18-22)

25-4. DEFINITIONS.

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

AGE. Chronological age except as otherwise provided by law.

CITY MANAGER. The City Manager of the City of Sterling Heights or his or her designee.

CONTRACTOR. A person who by contract furnishes services, materials, or supplies. "Contractor" does not include persons who are merely creditors or debtors of the City, such as those holding the City's notes or bonds or persons whose notes, bonds, or stock is held by the City.

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

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

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

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

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

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

EMPLOYER. Any person employing one or more persons.

EMPLOYMENT AGENCY. A person who undertakes to procure employees for an employer or procures opportunities for individuals to be employed by an employer.

FAMILIAL STATUS. One or more individuals under the age of 18 residing with a parent or other person having custody or in the process of securing legal custody of the individual or individuals or residing with the designee of the parent or other person having or securing custody, with the written permission of the parent or other person. For purposes of this definition, "parent" includes a person who is pregnant.

GENDER IDENTITY. A person's actual or perceived gender, including a person's self-image, appearance, expression, or behavior, whether or not that self-image, appearance, expression, or behavior is different from that traditionally associated with the person's biological sex as assigned at birth as being either female or male.

HOUSING FACILITY. Any dwelling unit or facility used or intended or designed to be used as the home, domicile, or residence of one or more persons, including, but not limited to, a house, apartment, rooming house, housing cooperative, hotel, motel, tourist home, retirement home, or nursing home.

LABOR ORGANIZATION. An organization of any kind or structure in which employees participate or are members and which exists for the purposes, in whole or in part, of dealing with employers concerning the terms and conditions of employment of its participants or members, whether or not such organization is subordinate to or affiliated with a national or international labor organization.

MARITAL STATUS. The state of being married, never married, divorced, or widowed.

NATIONAL ORIGIN. Includes the national origin of an ancestor.

PERCEIVED. Refers to the perception of the person who acts, and not to the perception of the person for or against whom the action is taken.

PERSON. An individual, agent, association, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, unincorporated organization, the state or a political subdivision of the state or an agency of the state, or any other legal or commercial entity.

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

PLACE OF PUBLIC ACCOMMODATION. A business, or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

RACE. A division of humankind possessing traits that are transmissible by descent and sufficient to characterize it as a distinct human type.

RELIGION. A personal set or institutionalized system of religious attitudes, beliefs, and practices.

RELIGIOUS ORGANIZATION. An organization, church, group, or body of communicants that is organized not for pecuniary profit that regularly gathers for worship and religious purposes, and includes a religious-based private school that is not organized for pecuniary profit.

SEX. Gender. "Sex" includes, but is not limited to, pregnancy, childbirth, or a medical condition related to pregnancy or childbirth that does not include nontherapeutic abortion not intended to save the life of the mother.

SEXUAL ORIENTATION. Male or female homosexuality, heterosexuality, or bisexuality, whether by orientation or practice. Sexual orientation does not include the physical or sexual attraction to a minor by an adult.

(Ord. No. 480, § 1, 1-18-22)

25-5. DISCRIMINATORY HOUSING PRACTICES.

Except as otherwise provided in this article:

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

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

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

(Ord. No. 480, § 1, 1-18-22)

25-6. DISCRIMINATORY PUBLIC ACCOMMODATIONS PRACTICES.

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

(Ord. No. 480, § 1, 1-18-22)

25-7. DISCRIMINATORY EMPLOYMENT PRACTICES.

Except as otherwise provided in this article:

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

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

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

(Ord. No. 480, § 1, 1-18-22)

25-8. OTHER PROHIBITED PRACTICES.

(A) No person shall adopt, enforce, or employ any policy or requirement which discriminates in providing housing, employment, or public accommodations.

(B) No person shall discriminate in the publication or distribution of advertising material, information, or solicitation regarding housing, employment, or public accommodations.

(C) No agent, broker, labor organization, employment agency, or any other intermediary shall discriminate in making referrals, listings, or providing information with regard to housing, employment, or public accommodations.

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

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

(Ord. No. 480, § 1, 1-18-22)

25-9. NON-DISCRIMINATION BY CITY CONTRACTORS.

(A) All contractors proposing to do business with the City shall satisfy the nondiscrimination administrative policy adopted by the City Manager in accordance with the guidelines of this section.

(B) A contractor shall, as a condition of being deemed a responsible bidder, at the time of its submission to the City in responding to an invitation for bids or request for proposals, certify in writing that it is in compliance with the provisions of the City's non-discrimination policies, which shall be deemed to include the provisions of this article.

(C) A breach of any obligation under this article shall be deemed a material breach of any contract with the City, and the contractor shall be liable for any costs or expenses incurred by the City in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under the breached contract.

(Ord. No. 480, § 1, 1-18-22)

25-10. DISCRIMINATORY EFFECTS.

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

(Ord. No. 480, § 1, 1-18-22)

25-11. EXCEPTIONS.

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

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

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

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

(D) To discriminate based on a person's age when such discrimination is required by state, federal, or local law.

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

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

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

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

(I) To provide discounts on products or services to students, minors, and senior citizens.

(J) To discriminate in any arrangement for the sharing of a dwelling unit.

(K) To restrict use of lavatories and locker room facilities on the basis of sex.

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

(M) To restrict participation or membership in an instructional program, athletic event, private club, or on an athletic team on the basis of age or sex.

(Ord. No. 480, § 1, 1-18-22)

25-12. INFORMATION AND INVESTIGATION.

(A) Any person claiming a violation of this article shall file a signed, written complaint with the City Manager setting forth the details, including the names, dates, witnesses, and other factual matters relevant to the claim, within 90 days of the incident forming the basis of the complaint.

(B) No person shall provide false information to the City regarding an alleged violation of this article.

(C) In the course of the investigation, the City Manager may direct a person to produce books, papers, records, or other documents which may be relevant to the investigation of an alleged violation of this article. If the person does not comply with the City Manager's directive, the City Attorney may file petition on behalf of the City with the Macomb County Circuit Court for an order requiring production of the materials.

(D) Within 30 days of a written complaint being filed, the City Manager shall determine whether the complaint alleges a violation that is already proscribed by Michigan or federal law and, if so, shall advise the complainant in writing that the City has made no findings or determinations regarding the complaint and the complainant should contact the appropriate state or federal agency if the complainant still desires an investigation of the complaint. If the complaint alleges a violation of this article that is not currently recognized or proscribed by Michigan or federal anti-discrimination statutes, the City Manager shall advise the complainant in writing that the complaint has been received and an investigation will be undertaken. After the completion of the investigation, the City Manager shall provide written notice of the results of the investigation to the complainant and to the person accused of the violation if that person was notified of the complaint as part of the investigation. If the investigation results in a determination that no violation of this article occurred, the City Manager shall advise the complainant in writing that the complaint is dismissed. If, after reasonable investigation, the City Manager is unable to make a conclusive determination of the validity of the complaint, the City Manager shall advise the complainant in writing that the complaint is closed without formal findings but may be reinstated if new material evidence or information becomes available. If the investigation results in a determination that a violation of this article occurred, the City Manager shall notify the complainant and the subject of the complaint in writing. The notification shall indicate one of the following:

(1) The City Manager believes that the complaint may be resolved by conciliation agreement, with an explanation of the process and instructions for undertaking the negotiation and execution of such an agreement; or

(2) The City Manager has determined that the complaint, by its nature, cannot be resolved by conciliation agreement, and therefore a citation for a violation of this article has been issued to the subject of the complaint.

(E) If a conciliation agreement is not executed after reasonable efforts by the City Manager to fashion an agreement acceptable to the City and the subject of the complaint, the City Manager may issue a citation for the violation(s) of this article or, if the violation(s) are ongoing, the City Manager may direct the City Attorney to pursue injunctive relief to enforce this article by filing an appropriate complaint on behalf of the City with the Macomb County Circuit Court.

(F) If the subject of the complaint possesses any City license(s) and a conciliation agreement is not executed, the City may revoke such license(s). If the subject of the complaint possesses any state or federal licenses, or is accredited or endorsed by any entity or agency, the City may notify all such entities of the City's determination and the City's request for termination of any or all licenses, accreditations, and/or endorsements.

(G) The City Manager shall adopt administrative procedures for implementing the investigation process required by this subsection.

(Ord. No. 480, § 1, 1-18-22)

25-13. CONCILIATION AGREEMENTS.

Conciliation agreements are agreements made by the subject of a complaint under this article to undertake certain actions intended to terminate discrimination, reverse the effects of discrimination, and deter future discrimination. The City Manager shall consult with the complainant before finalizing a conciliation agreement, but the complainant need not be a party to the agreement if the City Manager deems the agreement to be a satisfactory resolution of the complaint at issue. A violation of a conciliation agreement shall be deemed a violation of this article.

(Ord. No. 480, § 1, 1-18-22)

25-14. PROSECUTION.

Prosecution for violation of this article may be initiated only after the City Manager has completed the investigation required by this article, has determined that a violation occurred, and has determined that a conciliation agreement is not warranted under the circumstances or cannot be achieved. However, prosecution shall only be undertaken if the City Manager has determined not to direct the City Attorney to pursue injunctive relief pursuant to Section 25-12.

(Ord. No. 480, § 1, 1-18-22)

25-15. PENALTIES.

(A) A violation of any provision of this article shall be punishable as prescribed in Chapter 1 of the City Code, plus all costs of the preceding investigation and the costs for any witness time and the City Attorney's time in prosecuting the violation.

(B) Nothing contained in this article shall be construed to limit in any way the remedies, legal or equitable, which are available to the City or any person for the prevention or correction of discrimination, other than as otherwise set forth herein.

(Ord. No. 480, § 1, 1-18-22)

25-16. PRIVATE ACTIONS FOR DAMAGES OR INJUNCTIVE RELIEF.

(A) As an alternative to pursuing the administrative complaint process set forth in this article, an individual may bring a civil action in a court of competent jurisdiction for appropriate injunctive relief or damages or both against the person(s) alleged to have acted in violation of this article, but only if the individual has not filed a complaint with the City Manager, or has filed a complaint but withdrawn it prior to commencement of the City Manager's investigation. The individual shall acknowledge in his or her complaint, or on a form provided by the City Manager, that the City Manager's commencement of an investigation will preclude any private civil remedies.

(B) As used in this section, "damages" means damages for injury or loss caused by each violation of this article, including reasonable attorney fees.

(Ord. No. 480, § 1, 1-18-22)

25-17. CONSTRUCTION.

This article shall not be construed to impair or alter any governmental immunity established by law and shall not be enforceable against any governmental entities or operations not subject to municipal regulation.

(Ord. No. 480, § 1, 1-18-22)

CHAPTER 26: JUNK YARDS AND AUTOMOBILE WRECKING YARDS

ARTICLE I. IN GENERAL

26-1. TITLE.

This chapter shall be known and cited as the "Junk Yard Ordinance."

(1978 Code, § 17-1) (Ord. No. 445, § 1, 3-1-16)

26-2. DEFINITIONS.

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

ACT. All references to the ***ACT*** in this chapter shall refer to the Secondhand Dealers and Junk Dealers Act, Public Act 350 of 1917, as amended, and currently codified as M.C.L. §§ 445.401 *et seq.*

AUTOMOBILE WRECKING YARD. Any place, site, or location where wrecked autos or autos unfit for highway use are stored, disassembled, dismantled, torn down, or disposed of or where old or wrecked autos are dismantled and parts salvaged therefrom.

AUTOS; AUTOMOBILES. Includes all motor vehicles.

JUNK YARD. Any open area where waste, used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, lumber, 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. A used car lot where the disassembling, wrecking, storage, sale, or salvage of parts of wrecked cars is carried on shall be considered a ***JUNK YARD*** subject to the provisions of this chapter.

(1978 Code, § 17-2) (Ord. No. 394, § 1, 3-18-08; Ord. No. 445, § 1, 3-1-16)

26-3. COMPLIANCE WITH CHAPTER.

All persons licensed under this chapter shall operate their junk yards and automobile wrecking yards in conformity with the rules, regulations, and conditions set out in this chapter. The violation of any of such rules and regulations shall be grounds for the refusal to renew or the revocation of an existing license. Every licensee, by virtue of accepting a license under this chapter, shall be held to have faithfully covenanted with the City Council to operate and maintain his or her business site in conformity herewith. The licensee shall also comply with all other city ordinances and regulations.

(1978 Code, § 17-3) (Ord. No. 445, § 1, 3-1-16)

26-4. REMEDIES FOR VIOLATION OF CHAPTER.

It is declared that the operation or maintenance of a junk yard or automobile wrecking yard in violation of the provisions of this chapter is declared to be a nuisance per se and the city, in addition to the issuance of citations for ordinance and code violations, may apply to a court of competent jurisdiction for an injunction to enjoin and abate such nuisance upon authorization by the City Council.

(1978 Code, § 17-4) (Ord. No. 445, § 1, 3-1-16)

Cross reference:

Nuisances, see Ch. 33

26-5. LOCATION REQUIREMENTS GENERALLY.

No junk yard or automobile wrecking yard shall be established or licensed under this chapter, unless at least 50% of the property fronting on the public highway on each side of the proposed location, for a distance of one-half mile in each direction, is being used for business purposes.

(1978 Code, § 17-5) (Ord. No. 445, § 1, 3-1-16)

Cross reference:

Zoning ordinance, see App. A

26-6. LOCATION NEAR CHURCH, SCHOOL, STREET AND THE LIKE.

(A) No part of the site used for a junk yard or automobile wrecking yard shall lie within 500 feet, in a direct line, from the nearest point of any property used for a church, synagogue, school, public library, hospital, sanitarium, or private residence, except the residence owned by the licensee of such yard upon the site described in the license application.

(B) No part of premises used as a junk yard or automobile wrecking yard shall lie within 300 feet of an intersection, public street, or highway.

(C) No junk yard or automobile wrecking yard shall be established, expanded, or maintained if any portion of the yard is within 1,000 feet of the nearest edge of the right-of-way of any interstate or primary or secondary highway, except the following:

(1) Those which are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the highway, or otherwise removed from sight, in accordance with the rules of the State of Michigan.

(2) Those located within areas which are zoned for industrial use.

(3) Those which are not visible from the main-traveled way of an interstate primary or secondary highway.

(1978 Code, § 17-6) (Ord. No. 445, § 1, 3-1-16)

Statutory reference:

Junk yards adjacent to highways, see M.C.L. § 252.203

26-7. GENERAL CONSTRUCTION REQUIREMENTS.

All building structures used in connection with a junk yard or automobile wrecking yard shall be of good substantial construction and shall be completely finished on the outside. Frame buildings shall be covered on the outside with good siding, shingles, brick, or other equivalent material and painted with at least two coats of good paint.

(1978 Code, § 17-7) (Ord. No. 445, § 1, 3-1-16)

Cross reference:

Building regulations, see Ch. 11

26-8. ENCLOSING WALL.

Every junk yard or automobile wrecking yard shall be entirely enclosed within an obscuring masonry wall, eight feet in height on all sides and of sufficient strength to serve as a retaining wall. Such wall shall be set back as required by the zoning ordinance. No signs or posters will be allowed on the wall, except those advertising the licensee's business. The wall will be constructed in a good and substantial manner and kept in good repair and in a neat and presentable condition. No junk, old automobiles or other property used in connection with such business shall be parked, disassembled or permitted to be outside of the enclosure.

(1978 Code, § 17-8) (Ord. No. 445, § 1, 3-1-16)

Cross reference:

Fences and walls, see Ch. 19

26-9. SIGNAGE; BUSINESS HOURS; INSPECTIONS.

(A) Every junk yard shall post in a conspicuous place in or upon its place of business a sign having its name and occupation.

(B) A junk yard or automobile wrecking yard may remain open for business during the hours of 7:00 a.m. to 9:00 p.m.

(C) City officials and their designees may inspect the premises of a licensee at any time during normal business hours.

(1978 Code, § 17-9) (Ord. No. 394, § 2, 3-18-08; Ord. No. 445, § 1, 3-1-16)

Statutory reference:

Signage, see M.C.L. § 445.404(1)

Inspections, see M.C.L. § 445.402(4)

Hours, see M.C.L. § 445.407

26-10. BURNING PROHIBITED; USE OF WELDING AND CUTTING TORCHES; PREMISES TO BE FREE FROM FIRE HAZARDS.

(A) There shall be absolutely no burning of any kind on any junk yard or automobile wrecking yard. All welding and cutting torches shall be used so as not to glare or annoy surrounding owners or occupants of land.

(B) Each junk yard or automobile wrecking yard licensee shall conduct his or her business on the premises in such a manner as to keep it free from fire hazards.

(1978 Code, § 17-10) (Ord. No. 445, § 1, 3-1-16)

Cross reference:

Fire prevention and protection, see Ch. 20

26-11. RECORD OF PURCHASES, EXCHANGES AND SALES.

Every junk yard shall make and maintain a separate book or other written or electronic record, numbered consecutively, and open to inspection by a member of the Police Department and the Michigan State Police, in which shall be written or entered in the English language at the time of the purchase or exchange of any article a description of the article, and all of the following:

(1) The name, description, fingerprint, operator's or chauffeur's license or state identification number, registration plate number, and address of the person from whom the article was purchased and received. The junk yard shall make a copy of the operator's license, chauffeur's license, or state identification card as part of the book or record.

(2) The day and hour the purchase or exchange was made.

(3) The location from which the item was obtained.

(4) Payment for an item shall be made only by check or by an electronic payment system. The record shall indicate the method of payment.

(1978 Code, § 17-11)(Ord. No. 394, § 3, 3-18-08; Ord. No. 445, § 1, 3-1-16)

Statutory reference:

Record keeping requirements, see M.C.L. § 445.404(2)

26-12. REPORT OF PURCHASES.

(A) Articles purchased or exchanged shall be retained by the purchaser for at least 15 days before disposing of them, in an accessible place in the building where the articles are purchased and received. A tag shall be attached to the articles in some visible and convenient place, with the number written thereupon, to correspond with the entry number in the book or other record.

(B) The purchaser shall prepare and deliver on Monday of each week to the Police Chief, before 12:00 noon, a legible and correct paper or electronic copy, in the English language, from the book or other written or electronic record, containing a description of each article purchased or received during the preceding week, the hour and day when the purchase was made, the description of the person from whom it was purchased, and a copy of the documentation required by this article regarding the person from whom it was purchased. The statement shall be verified in a manner acceptable to the Police Chief.

(C) This section does not apply to old rags, waste paper, and household goods except radios, televisions, record players, and electrical appliances and does not require the purchaser to retain articles purchased from individuals, firms, or corporations having a fixed place of business after those articles shall have been reported.

(D) If the purchaser or receiver, by exchange or otherwise, is a peddler or goes about with a wagon to purchase or obtain by exchange or otherwise, any of such articles, and does not have a place of business in a building, he or she need not retain such articles for 15 days before selling them, provided on Monday of each week he or she files with the Police Chief a report showing the place of business of the person to whom such sale was made; and a copy of the record required to be kept in a separate book of the articles purchased or received during the preceding week, including a description of such articles sold, to whom sold, and the place of business.

(1978 Code, § 17-12) (Ord. No. 394, § 4, 3-18-08; Ord. No. 445, § 1, 3-1-16)

Statutory reference:

Retention, tagging, and reporting requirements, see M.C.L. § 445.405

Peddler regulations, see M.C.L. § 445.406

26-13. PROHIBITED PURCHASES.

(A) No junk yard or automobile wrecking yard licensee shall purchase, receive, or take from any minor under the age of 18 years any parts, salvage, junk, or refuse of any kind, whether by purchase, sale, or gift.

(B) No person shall purchase or receive by sale, barter, or exchange or otherwise, any article mentioned in this act from any person who is at the time intoxicated, or from an habitual drunkard, or from any person known by said buyer or receiver to be a thief, or any associate of thieves, or receiver of stolen property, nor from any person the person has reason to suspect of being such.

(1978 Code, § 17-13) (Ord. No. 445, § 1, 3-1-16)

Statutory reference:

Prohibited purchases, see M.C.L. § 445.408

26-14. LOITERING BY MINORS.

Licensees shall prohibit the loitering of minors about the premises.

(1978 Code, § 17-14) (Ord. No. 445, § 1, 3-1-16)

26-15. SCRAP METALS.

Nothing in this chapter shall be construed to diminish the requirements that scrap processor and junkyard operators must comply with the Scrap Metal Regulatory Act, being 2008 P.A. 429, as amended.

(Ord. No. 445, § 1, 3-1-16)

Statutory reference:

Scrap Metal Regulatory Act, see M.C.L. §§ 445.421 et seq.

26-16-26-24. RESERVED.

ARTICLE II. LICENSE

26-25. LICENSE REQUIRED.

No person shall engage in the business of, carry on or operate any junk yard or automobile wrecking yard in any place in the city without a license as provided for in this article. All licensees shall comply with all applicable requirements of the Act and this chapter. The business authorized by a license issued pursuant to this chapter shall only be conducted in the location and place designated in the license.

(1978 Code, § 17-25) (Ord. No. 394, § 5, 3-18-08; Ord. No. 445, § 1, 3-1-16)

Statutory reference:

Licensing provisions, see M.C.L. §§ 445.401, 445.402

26-26. APPLICATION.

(A) Any person desiring to operate a junk yard or automobile wrecking yard shall make application in writing to the City Clerk and shall furnish the following and such other information as may be required by the city in considering such application:

(1) Full name and address of applicant or applicants and/or operators of such proposed yard. If an association, give the full name. If a corporation, give full name and the official address thereof with the date and state in which incorporated, full name and address of the resident agent and attach to the application a copy of the certificate from the corporation securities commission that the said corporation is in good standing;

(2) Name and address of all other owners, copartners, officers and directors, if a corporation, including stockholders, if a closed corporation. A closed corporation shall be considered any corporation having complete stock ownership in five or less persons;

(3) Legal description of site in which operation is contemplated, together with a complete statement of ownership of the premises; also a site plan showing the location of the boundary lines of the premises;

(4) A full and complete disclosure of the type of operation to be carried on;

(5) Name and address of any other junk yard or automobile wrecking yard operated by applicant or any officer or director of said firm or corporation;

(6) Fingerprints of applicant and other persons mentioned in subsection (2) above;

(7) A description of any building to be considered on the premises and any improvements to be made thereto;

(8) A statement as to the use made of property fronting on the public highway on each side of the proposed site for a distance of one-half mile in each direction;

(9) Distance in each direction from proposed site to nearest intersection, public street or highway;

(10) Accurate description of character of site and its use for a distance of 1,000 feet in each direction from the boundary line of the site proposed to be used in the business;

(11) A statement as to whether or not the contemplated operation will involve the use of force or pounding, what machinery is to be used and whether or not any objectionable noise will be created.

(12) A statement as to whether or not any combustible or inflammable material will be used in the operation or stored on the premises and, if so, for what purpose or purposes and what safety precautions will be taken to avoid fires;

(13) A statement as to whether or not the operation contemplated will be under the immediate supervision of the applicant;

(14) Full names and addresses of all persons to be employed in the operation of the business;

(15) Individual affidavit accompanying application on each of the persons mentioned in subsection (2) above attesting that each of the persons applying have not been convicted of a felony or misdemeanor from five years to date of application;

(16) Place of residence of applicant for three years preceding the date of application;

(17) As a further part of the affidavit and as a condition of the original granting of each license and operation of such junk yard, the applicant or applicants shall obtain, from 65% of the freeholders and occupants of land residing in the city within a 3,000 foot radius of any part of the proposed site where the said business is proposed to be conducted, a written statement or waiver addressed to the City Council recommending that such license be granted;

(18) A sworn statement as to the truth of the statements in the application.

(B) Accompanying the application shall be a fee established by the annual appropriations ordinance for servicing and processing the application.

(1978 Code, § 17-26) (Ord. No. 388, § 17, 1-3-07; Ord. No. 445, § 1, 3-1-16)

26-27. ISSUANCE OR DENIAL; FEE.

(A) The City Clerk shall transmit the application to the City Council, which shall consider the same within a reasonable time, either granting or denying the license for the operation of the said junk yard or the said automobile wrecking yard. The City Council shall deny a license or the renewal thereof whenever it appears that:

(1) The contemplated site is located on land zoned for anything other than heaviest industrial use under the current city zoning ordinances;

(2) The person making application or any member of the firm, officer, agent of the corporation or controlling stockholder of the corporation shall have been convicted of a felony or misdemeanor contrary to the requirement of § 26-26(15);

(3) It reasonably appears the granting of a license will create a hazard to the public health, safety, morals or general welfare;

(4) Upon investigation, the applicant or a partner of the applicant or officer or substantial stockholder of a corporation is a person who habitually associates with known criminals;

(5) It appears that the contemplated operation will be a nuisance to the surrounding owners of the occupied land; or

(6) The junk yard or automobile wrecking yard is or will be in violation of any provision of this chapter.

(B) No license shall be issued for any junk yard or automobile wrecking yard until such yard is fully complete and a certificate of such completion and of compliance with this chapter has been furnished by the Building Official.

(C) The annual license fee shall be in the amount established by the annual appropriations ordinance. After the approval of the City Council and upon the payment of the said fee, the City Clerk shall be authorized to issue a license for the operation of a junk yard or an automobile wrecking yard.

(1978, § 17-27) (Ord. No. 388, § 18, 1-3-07; Ord. No. 445, § 1, 3-1-16)

26-28. EXPIRATION; RENEWAL; TRANSFER.

(A) All licenses issued under this article shall be for the period of one year from the date of issuance. Every licensee in good standing desiring to renew his, her, or its license under this article shall submit a "License Renewal" form, as prepared and furnished by the City Clerk, to the City Clerk's office. A nonrefundable renewal fee shall be paid to the City Clerk's office, such fee to be established by the annual appropriations ordinance to cover the costs to the city of investigating and processing renewal requests. The renewal form shall contain any and all changes and updates to the information in the licensee's original application and shall be signed and sworn to by the applicant. The Police Department, Fire Department, Building Official, and City Planner shall advise the City Clerk of any history of violations and any outstanding operational concerns. The City Clerk may conduct any additional investigations deemed necessary or prudent for the renewal process. Renewal shall be recommended by the City Manager upon the recommendation of the City Clerk for one-year renewal periods unless the City Clerk shall discover a lack of suitable character, pending or significant violations, or a basis for denying an initial application under this article. The City Council shall make the final determination regarding each one-year renewal recommended by the City Manager. Renewal forms must be submitted to the City Clerk's office at least 60 days prior to the expiration of the license.

(B) Licenses shall be nontransferable and good only for one site. In the event of a sale or transfer of a junk yard or automobile wrecking yard, the new owner shall apply for and be granted a license before entering into the operation of said business.

(1978 Code, § 19-28) (Ord. No. 445, § 1, 3-1-16)

26-29. LICENSE - REFUSAL, SUSPENSION, REVOCATION, OR NONRENEWAL.

A license requested under this article, or any one-year renewal, may be denied by the City Clerk for failure to meet the minimum requirements set forth in this article. Any license issued under the provisions of this article may be suspended or revoked by the City Council for cause. The term ***CAUSE***, as used in this article, shall include the doing or omitting of any act or permitting any condition to exist on the premises for which a license is issued, which act, omission, or condition is contrary to the health, safety, and welfare of the public, is unlawful, irregular, or fraudulent in nature, is unauthorized or beyond the scope of the license issued, or is forbidden by this article or any applicable law. ***CAUSE*** shall include but not be limited to:

(1) Fraud or material misrepresentation in the application for license or renewal paperwork;

(2) Fraud or material misrepresentation in the operation of the licensed business;

(3) Any material violation of this article or of the regulations authorized herein;

(4) Any violation of federal or state law or local ordinance which creates a risk to the health, safety, or welfare of the public or to the community or brings into question whether the licensee is of suitable character to operate the business;

(5) Conducting the business in an unlawful manner or in such a manner as to constitute a maintenance of a nuisance upon or in connection with the licensed premises. For purposes of this article, ***NUISANCE*** shall be given the normal and customary meaning and shall include but not be limited to the following:

(a) Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire, or other applicable regulatory codes;

(b) A pattern or practice of patron conduct which is in violation of the law and/or interferes with the health, safety, and welfare of the properties in the area; or

(c) Failure to maintain the grounds and exterior of the licensed premises, including permitting litter, debris, or refuse to exist on the premises outside of proper repositories or to blow or be deposited upon adjoining properties;

(6) Failure by the licensee to permit the inspection of the licensed premises by the city's agents or employees in connection with the enforcement of this article;

(7) Failure of the licensee to timely pay personal property taxes, other city obligations, and real property taxes arising from the licensee's use and occupancy of the property. A licensee who does not own the real property is not responsible for the payment of the real property taxes unless a lease or contract requires such payment;

(8) Any conviction of any person or principal licensed under this article of any crime, such as receiving stolen property, acting as a fence, or in any manner violating the criminal law of the State of Michigan in the handling, transfer, or storage of junk or used auto parts, shall be likewise grounds for suspension or revocation of the license.

(1978 Code, § 19-29) (Ord. No. 445, § 1, 3-1-16)

26-30. PROCEDURE FOR REVOCATION OR SUSPENSION.

(A) Before any action is taken concerning revocation or suspension of a license, the City Clerk shall serve the licensee by first class mail, mailed at least ten days prior to a hearing with notice of hearing before the City Council, which notice shall contain the following:

(1) Date, time, and place of the hearing;

(2) Notice of the proposed action;

(3) Reasons for the proposed action;

(4) Names of witnesses known at the time who will testify;

(5) A statement that the licensee may be represented by legal counsel, present evidence and testimony, and confront and cross-examine adverse witnesses;

(6) A statement requiring the licensee to notify the Sterling Heights City Attorney's office at least three days prior to the hearing date if he, she, or it intends to contest the proposed action and to provide the names of witnesses known at that time who will testify on his, her, or its behalf.

(B) Upon completion of the hearing, the City Council shall authorize the City Clerk to send to the licensee a written statement of its findings and determination within 30 days.

(C) During the procedure for revocation or suspension, the licensee will be permitted to continue to operate until such time as the statement of findings and determination is served upon the licensee by mail or otherwise, unless continued operation is deemed by the Fire Chief to be an immediate and substantial risk to the licensee and/or the public.

(Ord. No. 445, § 1, 3-1-16)

26-31. LICENSE REFUSAL; HEARING.

(A) Any applicant whose initial request for a license is refused by the City Clerk shall have a right to a hearing before the City Council, provided a written request therefor is filed with the City Manager within ten days following such refusal. The City Council shall have the right to affirm and sustain, for cause as defined above,

any refusal to issue a license, or the City Council may grant any license, with or without conditions deemed appropriate by the City Council.

(B) In addition to the information required in this article, an applicant whose application for, or renewal of, a license under this article was denied by the City Clerk should be prepared to submit and discuss any additional information required by the City Council for the appeal hearing.

(Ord. No. 445, § 1, 3-1-16)

26-32. APPEAL.

Any licensee whose license is suspended or revoked, or whose renewal or license denial has been upheld by the City Council, may appeal to the Circuit Court, but all findings of fact made by the City Council shall be final.

(Ord. No. 445, § 1, 3-1-16)

CHAPTER 27: LAND DIVISION AND COMBINATION

27-1. PURPOSE.

The purpose of this chapter is to carry out the provisions of the Michigan Land Division Act (Public Act 288 of 1967, as amended, formerly known as the Subdivision Control Act); to prevent the creation of parcels of property which do not comply with applicable ordinances and the Land Division Act; to minimize potential boundary disputes; to maintain and promote orderly development of the community; and otherwise provide for the health, safety and welfare of the residents and property owners of the city by establishing reasonable standards for prior review and approval of land divisions and combinations of land within the city.

(Ord. No. 338, § 1, 1-19-99)

27-2. DEFINITIONS.

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

ACCESSIBLE. Referring to a parcel, the parcel meets one or more of the applicable following requirements: (i) if a one family residential parcel, the parcel is located upon an existing public street constructed to the requirements of the codes, ordinances and engineering standards of the city, and the parcel has width not less than the minimum width for such a lot or parcel under the applicable section of the zoning ordinance; (ii) if a one family residential parcel, the parcel is located adjacent to right-of-way meeting the minimum standards of the city subdivision regulations, within which a public street meeting the requirements of the codes, ordinances and engineering standards of the city will be constructed as a condition of the parcel division and the parcel has frontage on a public street not less than the minimum width for such a lot or parcel under the applicable section of the zoning ordinance; (iii) if a parcel other than one family residential, the parcel has an existing driveway easement or public or private street constructed in accordance with the minimum requirements for such access under the codes, ordinances and engineering standards of the city, which access leads to an existing public street; or (iv) if a parcel other than one family residential, the parcel can have a driveway easement or public or private street which will lead to an existing public street, which access will be constructed in accordance with the applicable minimum requirements for such access under the codes, ordinances and engineering standards of the city as a condition of approval of the parcel division.

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.

COMBINE or ***COMBINATION***. The addition or joining of a parcel, tract, lot or any part of the foregoing with an existing parcel, tract, lot or any part of such area of land to facilitate development or use as a separate zoning parcel or lot under the terms of the City Code and ordinances.

DIVIDE or ***DIVISION.*** Partitioning or splitting of a parcel or tract of land by the proprietor of such land 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 satisfies the requirements of sections 108 and 109 of the Land Division Act. 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 Land Division Act or the requirements of other applicable local ordinances.

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.

GOVERNING BODY. The City Council of the City of Sterling Heights.

LAND DIVISION ACT. Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, as amended.

(Ord. No. 338, § 1, 1-19-99)

27-3. REQUEST FOR DIVISION OR COMBINATION, EXEMPTIONS.

Land in the city shall not be divided or combined without the prior review and approval of the City Assessor, or other official designated by the City Council, in accordance with this chapter and the Land Division Act; provided that a parcel proposed for subdivision through a recorded plat pursuant to the Land Division Act or a parcel which is proposed to be divided into units through an approved condominium plan pursuant to the Condominium Act shall be exempt from this requirement. A division or combination of land relating to land which has a separate legal description previously created as a result of creating a condominium in compliance with the Condominium Act or a subdivision in compliance with the Subdivision Control Act of 1967, as amended, shall require review and approval under this chapter, unless the condominium plan or subdivision plan is amended in compliance with the applicable statute.

(Ord. No. 338, § 1, 1-19-99)

27-4. REQUIREMENTS FOR SUBMISSION OF APPLICATION FOR LAND DIVISION OR COMBINATION.

An application for land division or combination shall be submitted through the City Assessor for review by the City Assessor, Building Official, City Planner, City Engineer and City Treasurer. Each application shall be accompanied by the following, unless deemed unnecessary by the appropriate reviewing official.

(A) A completed application on such form as may be prescribed by the city.

(B) Proof of fee ownership of the land proposed to be divided or combined.

(C) A survey map of the land proposed to be divided or combined, as prepared pursuant to the survey map requirements of Public Act 132 of 1970, as amended, by a registered land surveyor or civil engineer licensed by the State of Michigan which shows the dimensions and legal descriptions of the existing parcels or tracts, the location of all existing or proposed structures and other land improvements, the location of any existing easements and the accessibility of the parcels for vehicular traffic and utilities from the existing public roads.

(D) Three copies of a complete, tentative parcel map drawn to scale, which shall be not less than one inch equals 20 feet for property totaling under three acres and at least one inch equals 100 feet for those totaling three acres or more. The parcel map shall be prepared by a registered land surveyor or civil engineer licensed by the State of Michigan and shall include the following requirements:

(1) Dated, north arrow, scale and name of the individual or firm responsible for the completion of the tentative parcel map;

(2) Proposed lot lines and their dimensions;

(3) Location and nature of proposed ingress and egress locations to any existing public or private streets;

(4) The location of any public or private street, driveway or any easements located or to be located within any proposed lot or parcel. Copies of the instruments describing and granting such easements shall be submitted with the application;

(5) General topographical features including contour intervals no greater than ten feet and including a delineation of any wetland or floodplain areas;

(6) The location of any existing buildings, structures, public or private streets and driveways within 50 feet of all proposed property lines;

(7) The zoning classification of all proposed lots or parcels;

(8) Small scale sketch of properties and streets within one-quarter mile of the area;

(9) Proposed method of handling storm water drainage and servicing the resultant properties with water and sanitary sewer;

(10) If the parcel or lot which is the subject of the requested land division or combination is located at the end of a stub street, the tentative parcel map must include the design of a proposed cul-de-sac meeting the city standards set forth in the city zoning ordinance and subdivision regulations or alternative street layout plan meeting city standards. Installation of the proposed cul-de-sac or street extension must be completed prior to the approval of the land division.

(E) The history and specifications of any previous division(s) and combination(s) of land of which the proposed division or combination was a part sufficient to establish the parcel to be divided or combined was lawfully in existence as of March 31, 1997, the effective date of the Land Division Act.

(F) Proof that all taxes which are due and payable and all special assessments which are outstanding pertaining to the land proposed to be divided or combined have been paid in full.

(G) 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.

(H) A detailed written description of the development planned for such land which is the subject of the request for division or combination, including a description of any proposed association or other entity which shall be responsible for operation and maintenance of any private streets, open spaces or other similar uses or activities.

(I) All divisions or combinations shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetlands, floodplains and other areas which buildings are prohibited to be constructed and with sufficient area to comply with all required set back provisions, minimum floor areas, off-street parking spaces and maximum allowed area coverage of buildings and structures on the site.

(J) A statement signed and sealed by a registered architect or professional engineer indicating the use group, type of construction, height and area calculations of all existing buildings and structures which are located within 50 feet of the proposed property lines of the parcel or lot created from a division or combination.

(K) An application fee, as established by the annual appropriations ordinance, to cover the costs of administrative review associated with the proposed land division or combination under this chapter and the Land Division Act.

(Ord. No. 338, § 1, 1-19-99; Ord. No. 388, § 19, 1-3-07)

27-5. PROCEDURES FOR REVIEW OF APPLICATIONS FOR LAND DIVISION/COMBINATION APPROVAL.

(A) Upon receipt of a completed Land Division/Combination Application package for review, the City Assessor shall circulate the application to the reviewing officials designated in § 27-4. Upon receipt of recommended approvals by all such reviewing officials, the Assessor shall approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and welfare or disapprove within 45 days after receipt of a complete application conforming to the requirements of this chapter and the Land Division Act and shall promptly notify the applicant of the decision and, if denied, the reason(s) for any denial.

(B) Any person or entity aggrieved by the decision of the assessor may within 21 days of the decision appeal the decision to the City Council which shall consider the appeal at the next available regular meeting after providing a 20 day written notice to the appellant of the time and date of the meeting at which the appeal will be considered. The City Council may refer the appeal to the Planning Commission for a recommendation prior to making its decision on the appeal.

(C) Any person or entity aggrieved by the decision of the Planning Commission under §27-6(F)(3) may, within 21 days of the decision, appeal the decision to the City Council which shall consider the appeal at the next available regular meeting after providing a 20 day written notice to the appellant of the time and date of the meeting at which the appeal will be considered.

(D) Approval of a division or combination is not a determination that the resulting parcels comply with other applicable provisions of the City Code or other ordinances or regulations.

(E) The city and its officers and employees shall not be liable for approving a land division or combination if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.

(F) A decision approving a land division or combination is effective for 90 days after which it shall be considered revoked unless the new legal description(s) is filed with the County Land File Division records so that a new tax identification number can be assigned as a result of the land division or combination.

(G) The Assessor or other designated official shall maintain an official record of all approved and accomplished land divisions, combinations and transfers of division rights.

(Ord. No. 338, § 1, 1-19-99)

27-6. STANDARDS FOR APPROVAL OF LAND DIVISION OR COMBINATION.

A proposed land division or combination shall be approved if the following criteria are met:

(A) All parcels created by the proposed division(s) or combination(s) comply with the applicable lot (parcel) yard and area requirements of the zoning ordinance, including but not limited to minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures;

(B) The proposed division(s) or combination(s) complies with all requirements of the Land Division Act and this chapter;

(C) All parcels created and remaining have existing adequate accessibility as defined in §27-2 of this chapter or an area available to provide such accessibility to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, master road plan, road ordinance or this chapter. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create four or more parcels.

(D) There is adequate storm drainage and public utilities to serve the parcels created by the division or combination, as determined by the City Engineer, or as a condition of approval of the division or combination, suitable easements are provided to allow the extension of adequate storm drainage and public utilities in the future.

(E) All taxes and special assessments on the properties sought to be divided or combined have been paid.

(F) The ratio of depth to width of any parcel created by the division or combination does not exceed a four to one ratio. The permissible depth of a parcel created by a land division or combination 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 permissible minimum width shall be defined in the applicable zoning ordinance or in the absence thereof as specified in subparagraph (F)(1) and (2) of this section.

(1) The minimum width for a lot or parcel on a cul-de-sac or other irregularly shaped lot or parcel shall be measured at the front yard setback line. Such lots or parcels shall have a minimum width as set forth in the zoning ordinance.

(2) For corner lots or parcels, the depth of the property shall be measured along the longest front property line which is parallel to or is generally parallel to the public or private street right-of-way or easement. The width of the corner lot or parcel shall be that front property line which is parallel to or is generally parallel to the public or private street right-of-way or easement and is the shorter of the two front lot lines. Where such lines are of equal length, the Planning and Zoning Manager shall determine which property line to use for purposes of determining width to depth for purposes of this section.

(3) The Planning Commission may permit the division or combination of a lot or parcel which does not comply with the above provisions, provided that the

following findings are made:

a. The greater depth to width ratio is necessitated by conditions of the land which make compliance with this section impractical. Such conditions may include topography, road access, soil conditions, wetlands, floodplains, water bodies or other similar unique conditions;

b. The division or combination of land and use of such land will not conflict with other federal, state, county or city ordinances or regulations, unless an appropriate variance of approval is granted as required or permitted by such ordinances or regulations.

(G) The proposed division or combination shall not cause any existing building or structure to become nonconforming.

(H) If the parcel or lot which is the subject of the proposed land division or combination is located at the end of a stub street, the applicant agrees, as a condition of approval of the land division or combination, to design and install a cul-de-sac meeting the city standards set forth in the city zoning ordinance and subdivision regulations or an alternative street layout meeting the city standards which has been approved by the City Engineer. Installation of the proposed cul-de-sac or street extension must be completed prior to the approval of the land division.

(I) The proposed division or combination would not result in a parcel containing more than one zoning classification, unless the city has determined that multiple zoning classifications on a resultant parcel promotes orderly and harmonious development between adjacent parcels, such as creating a desirable transitional buffer between adjacent parcels of different zoning classifications.

(J) The proposed division or combination complies with such additional written regulations, additional conditions and safeguards which have been established by the city deemed to ensure compliance with the requirements of this chapter.

(Ord. No. 338, § 1, 1-19-99)

27-7. ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS.

Notwithstanding the inability of a proposed land division or combination to comply with all of the requirements for approval in this chapter, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable zoning ordinance, Building Code or other provisions of this chapter or the City Code may be approved where the Board of Zoning Appeals or City Council has, prior to adoption of this chapter, granted a variance to the lot, yard, depth to width ratio, frontage and/or area requirements with which the parcel failed to comply.

(Ord. No. 338, § 1, 1-19-99)

27-8. CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION/COMBINATION APPROVAL REQUIREMENT.

(A) Any division or combination of land in violation of any provisions of this chapter shall not be recognized as a land division or combination on the assessment roll and no construction thereon which requires the issuance of a construction or building permit shall be permitted. The city shall have the authority to initiate injunctive or other relief to prevent any violation or continuance of violation of this chapter.

(B) An unlawful division or attempted division shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged to be paid, together with any damages sustained by the purchaser, recoverable in an action at law.

(C) Violation of this chapter shall subject the violator to the misdemeanor penalties and enforcement actions set forth in §1-9 of the city code and as may otherwise be provided by law.

(D) In addition to the penalties prescribed by §1-9 of the City Code, any person who violates any of the provisions of this chapter shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

(Ord. No. 338, § 1, 1-19-99) Penalty, see §1-9

CHAPTER 28: LIBRARY

28-1. ESTABLISHED AS SEPARATE DEPARTMENT; CITY MANAGER'S JURISDICTION;BOARD OF TRUSTEES GENERALLY.

The Public Library shall be established as a separate department of the city to be administered under the direction of the City Manager. A Board of Library Trustees is established which shall advise the City Council in matters of policy and the City Manager in matters of administration with regard to establishment, development and operation of the library. The Board of Library Trustees shall consist of five members appointed by the City Council. Initially, appointments to the Board shall be as follows: two trustees shall be appointed for a term ending June 30, 1974; two trustees shall be appointed for a term ending June 30, 1973; and one trustee shall be appointed for a term ending June 30, 1972. Thereafter, prior to the first day of July, one member or two members, as the case may be, shall be appointed annually for a term of three years. Each member of the Library Board of Trustees shall serve until the successor is appointed and qualifies. All Library Board members shall serve without compensation.

(1978 Code, § 19-1)

Cross reference:

Boards and commissions generally, see §2-95 et seq.

28-2. ORGANIZATION, QUORUM AND THE LIKE OF BOARD OF TRUSTEES.

The Board of Library Trustees shall organize by electing annually, at its first regular meeting in July, a President, Vice-President, Secretary and such other officers as may be necessary for the proper conduct of the duties of the Board. The Secretary shall notify the City Council of the names of all such officers promptly after their appointment. Three members of the Board shall constitute a quorum for the transaction of business. The Board of Library Trustees shall conform to all the rules and regulations promulgated by the Charter and by the City Council that will be applicable to all other boards and commissions.

(1978 Code, § 19-2)

28-3. GENERAL POWERS AND DUTIES OF TRUSTEES.

It shall be the duty of the Board of Library Trustees to recommend bylaws, rules and regulations for the control and governing of the library system for consideration and action by the City Manager. The Board of Library Trustees shall recommend a reasonable schedule of fines for the infringement of established rules and regulations and a schedule of fees for the use of library services for consideration and action by the City Council. The Board, in the name of the city, may accept donations, contributions and gifts for either general or specific purposes of the public library. All monetary donations, contributions and gifts shall be deposited with the City Treasurer to be set aside in a separate library account. The Board may recommend the purchase of books, periodicals, magazines, library equipment and supplies as deemed necessary and proper. And further, the Board may recommend contracts, rules, regulations and conditions affecting relations between the Sterling Heights public library and other libraries in the area and in the State of Michigan for consideration and action by the City Council.

(1978 Code, § 19-3)

28-4. APPOINTMENT OF LIBRARY DIRECTOR; HIRING OF DEPUTY LIBRARY DIRECTOR AND OTHER EMPLOYEES.

The Library Director shall be appointed as provided in §2-20 of this code. A Deputy Library Director and other employees shall be hired in accordance with the Charter.

(1978 Code, § 19-4; Ord. No. 201-C, § 4, 12-16-86)

28-5. LIBRARY BUILDINGS.

The City Council shall provide suitable quarters for housing the library. The quarters may include temporary facilities and/or mobile units. Whenever the construction of a library building or buildings is contemplated, it shall be the duty of the City Manager to have detailed plans and specifications prepared for same. The plans and specifications shall be reviewed by the Board of Library Trustees and thereafter submitted to the City Council for approval or rejection with the written recommendation of the Board. The contract or contracts for such construction shall be let by the City Council as provided by the Charter.

(1978 Code, § 19-5)

28-6. RECORDS AND REPORTS.

The Board of Library Trustees shall keep a complete record of its proceedings and the same shall be a public record. At the end of the fiscal year and at any other times when requested by the Manager or City Council, the librarian shall prepare a complete report covering all business of the library and such statistics, information and suggestions as may be requested or as the librarian may deem to be of general interest.

(1978 Code, § 19-6)

28-7. BUDGET ESTIMATES.

Not later than March 1 of each year, the Board of Library Trustees shall, after review and consultation with the librarian, furnish to the City Manager recommendations regarding proposed library programs for the ensuing fiscal year, which the Manager shall review and consider in preparing the library budget to be submitted to the City Council. Prior to submission of the library budget to the City Council, the Manager shall review the proposed budget with the Library Board of Trustees.

(1978 Code, § 19-7)

28-8. RECEIPTS AND DISBURSEMENTS; PURCHASES.

All funds received by the library shall be deposited with the City Treasurer and the Treasurer may establish a petty cash fund for the handling of emergency disbursements and maintenance of fines and fees. All supplies and materials shall be obtained through the central purchasing agency of the city in compliance with administrative rules applying to all other city departments or in accordance with a legal contract executed by the city for the purpose of providing such supplies and materials.

(1978 Code, § 19-8)

Cross reference:

Purchasing, see § 2-203 et seq.

28-9. USE OF FACILITIES.

The library shall be maintained for the use and benefit of the residents of the city and by reciprocal agreement for all members of the Library Cooperative of Macomb. All residents of the city and all residents of every member community of the Library Cooperative of Macomb shall have free use of said library, subject only to such reasonable rules, regulations and fees as may be adopted by the City Council and subject further to the right of the City Manager, upon recommendation of the librarian, to exclude from use of the library any and all persons who shall willfully violate the rules and regulations.

(1978 Code, § 19-9; Ord. No. 142-A, § 1, 5-16-78)

28-10. CONTRACTS FOR LIBRARY SERVICES; APPOINTMENT OF CITY REPRESENTATIVE TO LIBRARY COOPERATIVE BOARD.

The City Council is empowered to contract with another library, libraries or any cooperative library systems authorized by state law in order to provide library services to the city and its residents and to allow the residents of the city to share in the benefits and services of other member communities of such contractual library system. The City Council shall appoint a citizen of Sterling Heights to act as its representative on any library cooperative board of which the city may be a member.

(1978 Code, § 19-10; Ord. No. 142-A, § 1, 5-16-78)

28-11. LIBRARY THEFT.

(A) Any person who removes, procures or possesses any library materials, including books, pamphlets, maps, charts, paintings, pictures, photographs, periodicals, newspapers, magazines, manuscripts, exhibits, phonograph records, audio tapes, video tapes, compact discs, film or sculpture, owned or on loan to the library without authority to do so shall be guilty of a misdemeanor. In addition to any penalty imposed, a person found guilty for violating this subsection will be required to make restitution for missing or damaged library materials.

(B) Any person who fails to return library materials within 14 days after notice sent by first class mail shall be responsible of a municipal civil infraction.

(1978 Code, § 19-11; Ord. No. 142-B, § 1, 5-5-87; Ord. No. 328, §§ 6, 10, 11-5-97) Penalty, see § 1-9

CHAPTER 29: LICENSING OF BUSINESSES

29-1. TITLE AND PURPOSE.

(A) This chapter shall be known and cited as the "Sterling Heights Business Licensing Ordinance."

(B) The critical governmental purposes of this chapter are:

(1) To replace, to the greatest extent possible, the existing business registration requirements of Chapter 12 of the City Code;

(2) To provide for a comprehensive database of businesses and individuals conducting business within the city for effective first responder and emergency services through more efficient wayfinding, the ability to access up-to-date emergency contact information, identification of the types and quantities of any hazardous materials at the site, and the identification of "lock box" and other security and alarm information;

(3) To provide for better efficiency and economy in furnishing public utility services;

(4) To track and analyze business trends, patterns, and needs in the community;

(5) To provide a means by which illicit businesses and activities may be identified, stopped, and eliminated from the city;

(6) To expedite notice to local businesses regarding important city concerns, such as snow emergencies, business opportunities, business development, consumer trends, and marketing; and

(7) To assist with more comprehensive and informed planning and zoning uses of land and structures.

(Ord. No. 471, § 1, 8-5-20)

29-2. APPLICABILITY AND SCOPE; EXEMPTIONS AND LIMITATIONS.

(A) *In general.* It shall be unlawful for any person to operate, engage in, or conduct a business without a valid license issued pursuant to this chapter. For purposes of this section, the term "valid license" means a license that is not pending, expired, suspended, or revoked.

(B) *Scope.* For purposes of this chapter, the term "business" means, but is not limited to, the following operations and activities:

(1) Any business, trade, or commercial activity that is physically conducted or operated, in whole or in part, within the city, whether or not specifically enumerated

herein;

(2) Amusement device establishments;

(3) Arcade, billiards, or similar type of recreation activity;

(4) Auctioneer;

(5) Antique shop;

(6) Apartment building or complex;

(7) Athletic club;

(8) Banquet facility;

(9) Bar, club, pub, tavern, or similar establishment;

(10) Bicycle sales and rentals;

(11) Boat/watercraft sales and rentals;

(12) Body art facility;

(13) Bowling alley;

(14) Carnival, circus, and/or festival companies (business offices);

(15) Christmas tree sale;

(16) Convalescent home or center;

(17) Convenience store;

(18) Dance studio/dance hall;

(19) Daycare/child care;

(20) Driver training;

(21) Equipment sales;

(22) Exercise, tanning, and/or similar spa or facility;

(23) Fumigator/exterminator;

(24) Gas station;

(25) Golf course/driving range;

(26) Grocery store;

(27) Group home;

(28) Hair salon;

(29) Hall rental;

(30) Home rental, rooming house, and/or bed and breakfast;

(31) Hotel/motel;

(32) HVAC services/sales;

(33) Ice cream store or truck;

(34) Jeweler;

(35) Junk yard/junk dealer;

(36) Lawn care and/or landscaping service;

(37) Live entertainment;

(38) Massage establishment or school;

(39) Massage therapist, masseuse, and/or masseur;

(40) Moving services;

(41) Nail salon;

(42) Pawn shop;

(43) Peddler;

(44) Personal entertainment services, including but not limited to escorts, modeling, psychic readings, and tarot;

(45) Pet store or animal facility;

(46) Recycling;

(47) Restaurant, café, and/or coffee shop;

(48) Retail sales;

(49) Sales and sales solicitations;

(50) Scrap yard;

(51) Secondhand merchant;

(52) Shoe repair;

(53) Shopping centers;

(54) Smoking-related sales, including but not limited to tobacco, vaping, and hookah;

(55) Snow removal service;

(56) Sports exhibitors;

(57) Storage, including but not limited to vehicle storage/parking;

(58) Tailor;

(59) Temporary sales, such as going out of business, estate, and fire sales;

(60) Theaters;

(61) Trade centers/trade shows/booths;

(62) Transient merchant;

(63) Transportation service;

(64) Tree service;

(65) Vehicle, boat, and watercraft parts sales;

(66) Vehicle customization

(67) Vehicle repair;

(68) Vehicle sales and rentals;

(69) Vehicle washing/detailing;

(70) Venues providing live entertainment for their patrons;

(71) Any business, trade, or activity required by any other chapter of this Code to be licensed.

(C) *Exemptions.*

(1) The provisions of this chapter regarding auctioneers shall not apply to sheriffs, constables, or other public or court officers or to any person acting under the license, direction, or authority of any court, state or federal, selling property in the course of their official duties or to any person selling property under and by virtue of any state or federal law or regulation.

(2) The provisions of this chapter shall not apply to any business or activity which is licensed pursuant to the laws of the State of Michigan and/or of the United States of America, but only to the extent that the involved activity actually requires the license and the State of Michigan and/or United States of America actually regulates the business or activity. The fact that the county regulates a business or other activity does not have any bearing on it being required to have a city license.

a. For purposes of illustration only, and not for purposes of limitation, a business may offer the services of employees licensed by the State of Michigan, but the business itself may not be licensed by the State of Michigan. Such a business is still required to be licensed to operate within the city pursuant to this chapter.

b. Any business that is exempt from the licensing requirements of this chapter due to state or federal licensing must still submit a properly-completed business registration to the City Clerk pursuant to Chapter 12 of the City Code, so that the purposes of this chapter may be fulfilled for every business, regardless of a licensing exemption.

(D) *Limitations.* The requirements of this chapter are only meant to apply to businesses or activities which:

(1) Engage in the business or activity within the city; and

(2) Actually involve contact between the customer, patron, or prospective customer and the business or activity.

(E) *Licenses non-transferable.* All licenses issued under this chapter are non-transferable. Upon the transfer of ownership of any business, the new owner shall obtain a new license for the business in accordance with the requirements of this chapter and shall pay the required fee.

(Ord. No. 471, § 1, 8-5-20)

Charter reference:

Authority of Council relative to licenses, see §5.18

29-3. APPLICATIONS.

Applications for a business license required by this chapter shall be made in writing to the City Clerk on the form provided by the City Clerk. Each application shall include, at a minimum:

(1) Name of the applicant, including but not limited to:

a. Name depicted on signage at the business site (if any);

b. Name depicted on literature/letterhead;

c. Name depicted on marketing materials and solicitations; and

d. Corporate name as listed on state and local filings (if different).

(2) Business address of the applicant within the city (if any);

(3) Mailing address (if different);

(4) Information relating to the primary owners, management agent(s), and/or emergency contact(s) of the applicant, including but not limited to:

a. Full legal name and preferred nickname;

b. Residential address;

c. Business telephone number(s);

d. Personal telephone number(s);

e. Business e-mail address(es);

f. Alarm company information;

g. Lock box information;

h. Approximate or average number of employees; and

i. Preferred addresses and telephone numbers for emergency contact.

(5) Type and nature of business, including all primary and secondary purposes and activities;

(6) Short narrative statement explaining how the business is operated and its activities;

(7) Description of licensing required by other agencies and/or governmental entities, and status of that licensing (including copies of same);

(8) Certification by an owner or person responsible for any code or law violations that all inspections, permits, and use approvals have been obtained from the city and any other applicable governmental entity (by way of example, a local Health Department); and

(9) Such additional information as may be required by another provision of the City Code, or as required by city officials in order to issue the license or registration sought by the applicant.

(B) Applicants for a business license required by this chapter must also identify whether any specialty license endorsements are being sought. For purposes of this chapter, a "specialty license endorsement" is required for each of the following enterprises if licensing for the enterprise is required elsewhere in the City Code, and for all other enterprises for which a license is required by the City Code but not specifically identified here:

(1) Amusement device user/distributor;

(2) Auctions;

(3) Automobile wrecking yard;

(4) Banquet use;

(5) Body art facility;

(6) Café;

(7) Carnival;

(8) Close-out sale;

(9) Filming;

(10) Fireworks display;

(11) Hotel/Motel;

(12) Indoor smoking;

(13) Itinerant merchant;

(14) Junk yard;

(15) Massage establishment;

(16) Mobile vending;

(17) Outdoor patio;

(18) Pawn shop;

(19) Pet store;

(20) Recreational rentals;

(21) Restaurant (Health Department certifications only);

(22) Secondhand merchant (registration only);

(23) Shopping center owner/operator; and

(24) Soliciting – charitable, religious, political (registration only).

(C) The application for each specialty license endorsement shall be completed as required in the chapter of the City Code governing the licensing process for the type of business for which the endorsement is sought.

(Ord. No. 471, § 1, 8-5-20)

29-4. FEES.

Each applicant shall pay a general business license fee applicable to all businesses required to be licensed under this chapter, as well as specialty endorsement fee(s) if applicable due to the nature of one or more activities of the business, as established in the city's annual appropriations ordinance for general business licenses and licenses for specific enterprises. Until the fee is paid, the City Clerk will not accept an application or deem it to be complete. Fees shall not be prorated. In the event a license is denied, the city shall refund the application fee less 25% as an administrative processing charge. Specialty endorsement fees, however, shall not be refunded in the event of denial.

(Ord. No. 471, § 1, 8-5-20)

29-5. LICENSE PERIOD.

(A) Unless otherwise provided elsewhere in the City Code, every license and specialty license endorsement issued by the City Clerk shall be for a period of one full year commencing on the date of issuance and thereafter commencing on April 1 each subsequent renewal year. Renewal notices will be mailed or e-mailed to all licensees by the City Clerk in January of the year in which the license will expire. The licensee must enclose payment with the properly and fully completed renewal forms and submit all required information to the City Clerk by March 1 in order to ensure continuing operation after March 31 of the year in which the license will expire. A late fee established by the annual appropriations ordinance shall be imposed for renewal applications submitted after March 1. License renewals may be accomplished by mail or online unless the City Clerk notifies the licensee in writing that the licensee must renew in person. Licensees who renew more than seven days late will be assessed a 10% penalty on the total cost of the license. A new license application is required for any licensee who fails to renew its license within 60 days of the license's expiration date.

(B) Any business found to be operating without a required business license may, in addition to any citations that may be issued, be afforded 30 days to obtain a license or 14 days to submit a renewal application before being required to cease operations, but only if the business operations are otherwise lawful and have been granted all other required approvals from the city and any other agency with jurisdiction over the business. Submission of a complete application or renewal, including all required fees, shall allow the business to continue operations pending a final determination by the City Clerk.

(C) An application for renewal will not be considered a renewal if the business or ownership have changed since the preceding license or renewal was approved. Instead, such an application will be reviewed as an original application for a license.

(D) If a specialty license endorsement is valid for more than one year, only the general business license must be renewed in the year when the specialty license endorsement is not set to expire.

(E) If the licensing period for a specialty license endorsement is established by another chapter of the City Code, that time period shall control, but a licensee renewing its general business license may renew the specialty license endorsement at the same time if permitted by administrative regulations established by the City Manager. If the licensee elects not to do so, the full fee for the specialty license endorsement renewal established in the annual appropriations ordinance shall be applicable at the time the specialty license endorsement renewal application is submitted.

(Ord. No. 471, § 1, 8-5-20)

29-6. INITIAL LICENSE; ENDORSEMENT BY CLERK.

(A) After the effective date of this chapter, every existing or new business in the city that is required by this chapter to be licensed must submit the required business license application and fee(s) by March 1, 2021 in order to continue or begin operations. Existing businesses that fail to comply shall cease operations on April 1, 2021 until an application is submitted. Upon acceptance of a complete and proper application by the City Clerk, including applicable fees, an existing business may resume operations until the following April 1 or until the application is denied, whichever shall occur first. New businesses, however, shall not begin operations

until a license has been issued in accordance with this chapter.

(B) A late fee established by the annual appropriations ordinance shall apply to all initial business license applications that are submitted late by any business existing and operating on the effective date of the ordinance that enacted the requirements of this chapter.

(C) The City Clerk may issue a new license that is valid until April 1, 2022 for any new business that is formed after the effective date of this chapter, even if the application is submitted in advance of March 31, 2021.

(D) A license issued for any business that applies for an initial license less than six months before April 1 of the next upcoming year shall be valid until April 1 of the year following thereafter.

(E) Each license and specialty license endorsement issued by the city shall be endorsed by the City Clerk.

(Ord. No. 471, § 1, 8-5-20)

Charter reference:

Duty of Clerk to issue and sign licenses, see §7.03(G)

29-7. INSPECTIONS AND INVESTIGATIONS PRIOR TO ISSUANCE.

(A) Original applications for a general business license may be referred by the City Clerk to the Police Department, Fire Department, Building Department, Office of Planning, the Department of Public Works, the Office of Engineering, the Office of Code Enforcement, and the Treasurer to determine whether any cause exists to deny the application. If no cause for denial is received in writing by the City Clerk within 60 days of referring the application, the City Clerk is authorized to issue the license. The City Clerk may extend the time period for response for good cause.

(B) Additional investigations, whether required by any other provision in the City Code or initiated by the City Clerk, shall be made in accordance with the timelines established by this section.

(Ord. No. 471, § 1, 8-5-20)

29-8. INSPECTIONS AND SAMPLING AFTER ISSUANCE.

(A) Whenever inspections of the premises used for or in connection with the operation of a licensed business operation or activity are provided for or required by ordinance or are reasonably necessary to ensure compliance with any ordinance or law, it shall be the duty of the licensee or person having charge of the premises to be inspected to admit thereto, for the purpose of making the inspection, any official or employee of the city who is authorized or directed to make such inspection at any reasonable time admission is requested. It shall be assumed that said request, if made when the business operation or activity is being carried on, or during normal business hours, is reasonable.

(B) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with an ordinance provision or compliance with law, it shall be the duty of the licensee to give to an authorized official or employee of the city requesting same sufficient samples of such commodity for such analysis.

(C) In addition to any other penalty which may be provided, the City Clerk may revoke the license or permit of any person holding same who refuses to permit such official or employee who is authorized to make an inspection or to take a sample to make the inspection or to take the sample or who interferes with or hinders the official or employee while in the performance of his or her duty in making the inspection or taking such sample. No license shall be revoked for such cause, unless written demand is made upon the licensee or person having charge of the premises, in the name of the city, stating that such inspection or sample is desired at the time said inspection or sample is requested.

(D) In the event an inspection conducted pursuant to this section results in the discovery of violations of this chapter, the City Code, or any other law, ordinance, code, or regulation, the City Clerk may suspend the license of the business if continued operation would result in a danger to the public health, safety, or welfare, or if the operation is determined to be a use that is not permitted at the site. (Ord. No. 471, § 1, 8-5-20)

29-9. APPLICANT'S BUILDINGS AND PREMISES TO COMPLY WITH CITY ORDINANCES AND POLICIES.

No license shall be issued if the building(s) or premises to be used for the business do not fully comply with existing city ordinances and policies, or if the business is not current on its water bill, property tax, false alarm payments, or any other obligation to the city, or if the business or use of the premises is not in compliance with zoning regulations unless otherwise permitted by law.

(Ord. No. 471, § 1, 8-5-20)

29-10. CHANGE OF LOCATION AFTER ISSUANCE.

The location of any licensed business may be changed, provided ten days notice thereof is given to the City Clerk in the absence of any provision to the contrary and provided all other city requirements are met. Upon receipt of such notice, the City Clerk shall refer the notice to the departments and offices set forth in this chapter for investigating license applications so they may advise the City Clerk whether the new location is in compliance with all laws, codes, regulations, and ordinances.

(Ord. No. 471, § 1, 8-5-20)

29-11. POSTING OF LICENSE.

Any person conducting a licensed business in the city shall keep his or her license posted in a prominent place on the premises used for such business so that it is readily visible to all patrons, employees, and visitors. Individuals engaging in mobile business activities within the city shall post the license in a prominent place on any mobile conveyance utilized for the business activities, or if no mobile conveyance is used or part of the business operation, shall display a copy of the license to any person with whom the individuals interact while undertaking such mobile business activities upon request of such person.

(Ord. No. 471, § 1, 8-5-20)

29-12. DENIAL, SUSPENSION, AND REVOCATION.

(A) When the City Clerk believes that cause exists to deny, suspend, or revoke a license, the City Clerk shall provide written notice to the business or operator at issue. The notice shall explain the nature of the cause and indicate that the applicant/licensee must submit written documentation within 14 days of the date the notice is sent to show cause why the license should not be denied, suspended, or revoked. The notice shall be sent by first class mail to the applicant/licensee at its last known business address. The notice will be deemed to be sent when mailed, whether actually received or not. If the applicant/licensee does not submit any written documentation to show cause why the license should not be denied, suspended, or revoked, the City Clerk shall issue a formal notice, within five days after the 14 day show cause period has expired, indicating the license is denied, suspended, or revoked if such outcome remains warranted under the circumstances in the determination of the City Clerk. The notice shall advise the applicant/licensee of its right to appeal to the License Appeal Committee by filing a written request to appeal with the City Clerk's office within 14 days of the date the notice was deposited in the mail.

(B) If submitted by the business as set forth in division (A), the City Clerk shall review any written show cause documentation within 14 days of receipt, or as soon thereafter as circumstances allow.

(C) Within five days of reviewing the written documentation from the business, or as soon thereafter as circumstances allow, the City Clerk shall render a decision approving, denying, suspending, revoking, or affirming the license. The City Clerk shall immediately notify the applicant/licensee of the decision in writing by first class mail. If the decision is to deny, suspend, or revoke the license, the City Clerk shall also notify the applicant/licensee of its right to appeal the decision to the License Appeal Committee by filing a written request to appeal with the City Clerk's office within 14 days of the date the notice was deposited in the mail.

(D) If an applicant's license is denied, or if a licensee's license is suspended or revoked, in accordance with a decision of the City Clerk that the applicant/ licensee does not appeal within the time provided, the applicant/licensee shall not thereafter conduct, operate, or carry on the business for which it applied for licensing or for which it was licensed unless and until the license is restored or a new license is issued. Violations of this section shall be punishable as set forth in Chapter 1 of the City Code, and the city may take additional abatement action through the Board of Ordinance Appeals or the court system to ensure enforcement of the denial, suspension, or revocation.

(E) For purposes of this chapter, suspension of a license may be indefinite pending remediation of a condition that warranted the suspension. The City Clerk may impose remediation deadlines, the expiration of which may be tolled for good faith progress or circumstances beyond the licensee's control, or which may result in revocation of the license.

(Ord. No. 471, § 1, 8-5-20)

29-13. APPEALS TO THE LICENSE APPEAL COMMITTEE.

(A) The License Appeal Committee shall consist of three city officials, to be selected by the applicant/licensee from the following seven city officials when submitting its written request to appeal:

(1) Police Chief (or designee):

(2) Fire Chief (or designee);

(3) Risk Manager (or designee);

(4) City Planner (or designee);

(5) City Development Director (or designee);

(6) Public Works Director (or designee);

(7) Building Official (or designee).

(B) The selected members of the License Appeal Committee shall be notified of their selection by the City Clerk within five days of receipt of the appeal from the applicant/licensee. Within five days thereafter, the City Clerk shall mail written notice of the date/time selected by the City Clerk for the appeal review, which shall be at least five business days from the date of the mailing. In the event of a schedule conflict, the applicant/licensee may request a different date/time for the review, and the City Clerk shall schedule same for a date/time within five business days of the original date/time.

(C) In the event a city official is chosen by the applicant/licensee to serve on the License Appeal Committee but prefers to recuse himself/herself due to personal knowledge of, or involvement with enforcement regarding, any aspect of the business' operations or personnel, the city official shall advise the City Clerk of the recusal in writing, and the City Clerk shall select the next city official from the list set forth above in numerical order directly following that city official on the list.

(D) Any person aggrieved by any decision of the City Clerk concerning a denial, revocation, or suspension of a license shall have a right to appeal to the License Appeal Committee. The written appeal shall include a copy of the decision appealed from and a statement of the reasons supporting the appeal. Filing of an appeal does not authorize an applicant to conduct business as if the license had been approved, but filing of an appeal will stay the effect of the City Clerk's decision to suspend or revoke a license until the License Appeal Committee decides the appeal unless considerations of public health, safety, and welfare warrant otherwise.

(E) The License Appeal Committee shall evaluate the information provided by the City Clerk and any information provided by the applicant/licensee that it deems relevant to the cause for denial, suspension, or revocation. The review shall be de novo. The applicant/licensee may be represented by counsel, and shall notify the City Clerk at least two days in advance of that fact so that the City Attorney may be invited to attend as well.

(F) The License Appeal Committee shall render a written determination within five days after the appeal review, and the written determination shall be mailed to the applicant/licensee upon receipt from the License Appeal Committee. The determination may overturn the denial, suspension, or revocation; it may affirm the denial, suspension, or revocation; or it may modify the denial, suspension, or revocation, including but not limited to imposing conditions designed to rectify the reasons for the denial, suspension, or revocation.

(G) The determination of the License Appeal Committee is final. If the determination is to uphold or impose a denial, suspension, or revocation, the determination shall take effect on the date set forth in the License Appeal Committee's written determination. The applicant/licensee shall not thereafter conduct, operate, or carry on the business for which it applied for licensing or for which it was licensed unless and until the license is restored or a new license is issued. Violations of this section shall be punishable as set forth in Chapter 1 of the City Code, and the city may take additional abatement action through the Board of Ordinance Appeals or the court system to ensure enforcement of the denial, suspension, or revocation.

(Ord. No. 471, § 1, 8-5-20)

29-14. DETERMINATION OF CAUSE.

The term ***CAUSE***, as used in this chapter for applicants and licensees, means and includes the following acts, omission, or events when done, not done, or caused by a licensee, the licensee's officers or principal employees, or the licensee's employees when acting within the scope of their employment pursuant to their supervisor's direction:

(A) The doing or omitting of any act or permitting any condition to exist in connection with any business for which a license is issued under the provisions of this chapter, or any premises or facilities used in connection therewith, which act, omission, or condition is injurious to the health, safety, or welfare of the public; is unlawful or fraudulent; is unauthorized or beyond the scope of the license granted; or is forbidden by the provisions of the City Code or rule or regulation of the city, or any state or federal law, applicable to the business for which the license was issued;

(B) The conviction of the licensee for any crime involving moral turpitude;

(C) Fraud, misrepresentation, or any false statement made in the application for license or registration;

(D) Any violation of this chapter;

(E) Conducting a business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or welfare of the public;

(F) Failure or inability of a licensee to meet and satisfy the requirements and provisions of this chapter, every ordinance of the city, and every requirement of state and federal law;

(G) Failure to pay personal property taxes, water and/or sewer charges, or any other obligation owed to the city.

(Ord. No. 471, § 1, 8-5-20)

29-15. VIOLATIONS.

(A) No person shall engage in or conduct any business for which a license is required by this chapter without having first obtained such a license, or when such a license is expired, suspended, and/or revoked. Owners, managers, and persons with apparent authority over operation of the business may all be jointly and severally deemed responsible. Citations for any violation of this chapter may be issued by the City Clerk, any police officer, or any code officials of the city, and such violations shall be punishable as municipal civil infractions as set forth in Chapter 1 of the City Code.

(B) No person shall knowingly provide false information to the city in an application for, or as part of a renewal of, a license required by this chapter.

(C) Nothing in this section shall be deemed or construed to limit the remedies otherwise available to the city to address any violation of this chapter, including but not limited to license suspension, license revocation, and abatement proceedings for ongoing violations.

(Ord. No. 471, § 1, 8-5-20)

29-16. PRIVACY.

The City Clerk shall withhold from public disclosure any personal information provided to the city pursuant to the requirements of this chapter, except where disclosure is required by law.

(Ord. No. 471, § 1, 8-5-20)

CHAPTER 30: MASSAGE ESTABLISHMENTS

ARTICLE I. GENERAL PROVISIONS

30-1. SHORT TITLE.

This chapter may be known and may be cited as the City of Sterling Heights "Massage Licensing Ordinance."

(Ord. No. 468, § 1, 2-4-20)

30-2. INTENT.

(A) The purpose of this chapter is to promote the public health, safety, and welfare by licensing and regulating massage parlors, massage schools, and other similar businesses offering massage therapy services.

(B) The City Council finds and determines that licensing standards pertaining to massage therapy business activities are necessary to protect the public health and safety and the personal safety of massage therapists.

(C) The City Council further finds that public health and safety is best served by the adoption of a model ordinance providing for regulation of massage businesses in a manner that is consistent throughout the City of Sterling Heights.

(D) The purpose of this chapter is to insure the protection of the public health and safety and the personal safety of massage therapists through the establishment of certain licensing standards pertaining to massage therapy business activities within the city and to recognize massage therapy as a legitimate business occupation and health enhancement service.

(E) This model ordinance shall provide for the consistent regulation and licensing of massage therapy business activities throughout the city. The requirements are designed and intended to prevent illegal massage, human trafficking, prostitution, and related crimes without hindering legitimate massage establishments and their massage therapists. Establishments that offer massage therapy as a subterfuge for human trafficking, prostitution, paid sexual contact, and other similar crimes are harmful to the public health, safety, and welfare. The City Council recognizes that human trafficking is a significant problem in the United States, and it can involve the use of massage establishments or massage activities as a front where victims are forced into involuntary servitude, deceived into debt bondage, and forced against their will to perform sex acts. Statistics compiled by the federal government have ranked human trafficking only behind drugs and arms trafficking as the most profitable criminal activity. More than 80% of victims are female, and 80% of trafficking involves sexual exploitation. Physical injury and disease are often consequences of human trafficking, and many victims are under the age of 18. For these reasons and more, the adoption of ordinance provisions in order to assist with detecting and preventing human trafficking is warranted.

(F) The holding of any massage-related license issued pursuant to this chapter is hereby declared to be a privilege, and not a right.

(G) The provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, and general welfare of the people of the city receiving services from massage establishments.

(Ord. No. 468, § 1, 2-4-20)

30-3. DEFINITIONS.

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

ACCOMMODATE. Providing massage to an individual within the confines of a single room.

CITY. The City of Sterling Heights.

EMPLOYEE. Any person who renders any service in connection with the operation of a massage establishment, massage school, or other similar business and receives consideration for such services, either from the operator of the establishment or its patrons. Employees include but are not limited to massage therapists, and the term ***EMPLOYEE*** includes leased personnel, contractors, and similar employment relationships.

LICENSEE. The person or entity to whom a license has been issued to operate a massage establishment in the City of Sterling Heights.

MASSAGE. The manipulation of body muscle or tissue through any method of applying pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in the practice of massage therapy, under such circumstances that it is reasonably expected that the person providing the massage shall receive consideration therefor. As used in this chapter, the term ***MASSAGE*** includes Reiki that is practiced or offered by anyone who is not a Licensed Reiki Master Teacher (LRMT).

MASSAGE ESTABLISHMENT. Any building, room, place, or establishment where massages are provided or massage therapy is practiced for consideration upon the human body by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse, practical nurse operating under a physician's directions, registered speech pathologist, or physical or occupational therapist who treats only patients recommended by a licensed physician and operates only under such physician's direction, whether with or without the use of mechanical, therapeutic, or bathing devices. A massage establishment shall include but is not limited to massage schools, massage parlors, health spas, health clubs, spa facilities, physical fitness facilities, barber shops, beauty parlors, cosmetology schools, salons, sauna baths, Turkish bathhouses, steam baths, and any similar establishment where massage services are offered or practiced. This term shall not include a regularly licensed hospital, medical clinic, nursing home, or any other medical facilities such as chiropractic, physical therapy, and occupational therapy offices, where massages are provided as an incidental or accessory use to the main use of the premises, or where the performance of massage is under the on-site supervision of and in conjunction with the professional practices of physicians, surgeons, chiropractors, osteopaths, physical therapists, or other medical professionals with valid licenses issued by the State of Michigan; it shall not include transient workplace locations during normal business hours where the massage is performed upon employees of the workplace pursuant to a policy of medical insurance or as a benefit provided by the employer as part of a workplace health program; it shall not include kiosks or similar areas at locations open to the public, such as mall hallways or hospital waiting rooms, where all massage therapy services are performed in public view; and it shall not include an organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. Nevertheless, massage therapists who perform massage therapy at any of the exempt locations must still be licensed as required by the state.

MASSAGE THERAPIST. Any individual who engages in the practice of massage, massage therapy, and/or massology. The term shall be used as the gender-neutral equivalent of masseur and masseuse, and shall include any person who administers to another person an alcohol rub, fomentation, bath, electric, or magnetic massage procedure, manipulation of the body, or other similar procedure.

OUTCALL MASSAGE SERVICE. Any individual or business that engages in or provides massages at a location designated by the customer, client, or patron, rather than at a massage establishment.

OWNER. A person who conducts or owns a massage establishment, massage school, or other similar business.

PATRON. Any individual who receives a massage at a massage parlor, massage school, or other massage establishment, but not physical therapy or chiropractic services at the offices of a properly licensed health care professional, under such circumstances that it is reasonably expected that he or she shall provide consideration therefor.

PRACTICE OF MASSAGE THERAPY. The application of a system of structured touch, pressure, movement, and holding to the soft tissue of the human body in which the primary intent is to enhance or restore the health and well-being of the client. Practice of massage therapy includes complementary methods, including the external application of water, heat, cold, lubrication, salt scrubs, body wraps, or other topical preparations; and electromechanical devices that mimic or enhance the actions possible by the hands. Practice of massage therapy does not include medical diagnosis; practice of physical therapy; high-velocity, low-amplitude thrust to a joint; electrical stimulation; application of ultrasound; prescription of medicines; administration of massage to the face, head, neck, or shoulders as part of cosmetic or beautification processes at a school of cosmetology or beauty school; or Reiki that is practiced or offered by anyone who is a Licensed Reiki Master Teacher (LRMT).

REIKI. The practice of applying hands, either on or very close to the body, for the purpose of manipulating the energy of the human body without manipulating the soft tissues of the human body.

SPA FACILITY. A type of massage establishment that offers or engages in personal services that call for the patron to disrobe including, but not limited to, health spa, body wrap, hydro therapy, mineral wrap, magnetic healing, body polish, body wash, float bath, Turkish bathhouse, steam bath, or salon.

(Ord. No. 468, § 1, 2-4-20)

Statutory reference:

Public Health Code Part 179A definitions, see M.C.L. § 333.17951

ARTICLE II. LICENSING OF ESTABLISHMENTS

30-4. LICENSE REQUIRED.

It shall be a violation of this article for any person to own or operate a massage establishment, including any massage school, without a license. For reasons of public health, safety, and welfare relating to past internal and neighboring investigations, public resources, and local demand, a maximum of 18 massage establishment licenses shall be issued and active at any given time. As of March 1, 2020, all existing Massage Establishments that are properly licensed shall be considered an "Existing Establishment." Existing Establishments are eligible and authorized to apply for annual renewals, even if the renewal of the license would result in more than the maximum number of massage establishment licenses being active within the City. However, if the license is revoked, or if the business changes ownership or location, or if the licensing requirements of this chapter are not met, then the Massage Establishment automatically forfeits its Existing Establishment status.

(Ord. No. 468, § 1, 2-4-20)

30-5. APPLICATION FOR ESTABLISHMENT LICENSE.

(A) Any person desiring a license to operate a massage establishment shall file with the City Clerk an application, under oath, on a form provided by the City Clerk, and the City Clerk shall accept and process the application in accordance with this chapter so long as less than the maximum permitted number of massage establishment licenses have been issued and are active at the time the application is filed. Licenses that are in the renewal review process shall be deemed to be issued and active until renewal is denied. Applications shall include the following information:

(1) The full name of the applicant and whether the applicant is an individual or a corporation, partnership or other business entity, as well as a permanent residential address for the applicant or, if the applicant is an entity, for its owners, investors, partners, and any person with an economic or ownership interest in the entity;

(2) The name under which the establishment will be operated;

(3) The business address and all telephone numbers where the establishment will be operated;

(4) A copy of the signed lease for the business premises and written consent of the owner to utilize the premises for the described purpose, if the premises are not owned by the applicant;

(5) The date of the meeting at which special approval land use was granted by the Planning Commission of the city (if applicable under the Zoning Ordinance);

(6) The full name, address, and phone number of each individual who will manage or be principally in charge of the operation of the establishment, and a complete list of the names and residence addresses of all massage therapists and employees to be utilized by the business, along with documentation establishing that the massage therapists are licensed by and meet the training requirements of state law for obtaining an individual massage therapist license, with such information to be updated immediately with any new or changed information not found on the initial list;

(7) A detailed summary or description of the nature and type of services to be provided at the establishment, and whether any off-site services will be provided and, if so, the proposed locations;

(8) The days and times the establishment will be open to provide services;

(9) A release and authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth on the application and the qualifications of the applicant for the license;

(10) Additional massage establishment locations owned and/or operated by the applicant, in whole or in part, within the past ten years, and all of the applicant's previous experience in the massage establishment industry, whether under the same or different corporate or individual name(s);

(11) Such other information as may be required by the Clerk;

(12) A written declaration by the applicant, given under oath or affirmation, under penalty of perjury, that the information contained in and attached to the application is true and correct.

(B) Additionally, if the applicant is an individual, a group of individuals, or an entity owned and/or operated by less than ten individuals, the application must include the following information about each individual:

(1) Address(es) for the previous three years;

(2) Previous related experience, including but not limited to whether the applicant has previously held any license as a massage therapist, the location for which such a license was held, the status of such license and, if such license was suspended or revoked, the reasons therefor;

(3) The applicant's height, weight, eye and hair color and sex;

(4) The applicant's social security number and birth date accompanied by written proof, consisting of either a birth certificate, driver's license, or passport;

(5) A listing of all of the applicant's criminal convictions and/or guilty or no contest pleas, if any, fully disclosing the jurisdictions in which convicted or in which the plea was tendered, the offense on which originally arrested/charged and the offense for which ultimately convicted or for which the plea was tendered, and the date of same along with the resulting penalty;

(6) The names, addresses, and telephone numbers of three character references. These references shall not be relatives of any of the individuals involved with submitting the application.

(C) Additionally, if the applicant is a corporation, partnership, or other business entity, the application shall include the following information about each individual who owns at least a 10% share in the corporation or interest in the partnership or other business entity or serves as a director or officer of the corporation or who holds a lien on the establishment or on the equipment therein, each of whom shall be considered to be an applicant:

(1) The individual's full name and residence address;

(2) The individual's addresses for the previous three years;

(3) A listing of the individual's business, occupation, or employment for the previous three years, identifying the time period, address, and telephone number for each, and a listing of previous related experience, including but not limited to whether the individual has ever held any license as a massage therapist, the location for which any such license was held, the status of such license, and if such license was suspended or revoked, the reasons therefor;

(4) The individual's height, weight, eye and hair color and sex;

(5) The individual's Social Security number and birth date accompanied by written proof, consisting of either a birth certificate, driver's license, or passport;

(6) A listing of all of the individual's criminal convictions and/or guilty or no contest pleas, if any, fully disclosing the jurisdictions in which convicted or in which the plea was tendered, the offense on which originally arrested or charged, and the offense for which ultimately convicted or for which the plea was tendered and the date of same along with the resulting penalty;

(7) The names, addresses, telephone numbers, and notarized written statements of at least three character references for the individual who are bona fide permanent residents of the United States and who attest that the applicant and anyone with any ownership interest is of good moral character. These references shall not be relatives or business associates of the individual, and at least one must be from a resident of the City of Sterling Heights or, if the applicant does not know any City residents, a resident of Macomb County;

(8) The name and address of any business that provides massage services, whether incidentally or otherwise, owned or operated by the applicant or any of the individuals required to submit their personal information pursuant to this division.

(D) All applications shall be accompanied by the following items:

(1) A nonrefundable application fee in an amount set by the city's annual appropriations ordinance;

(2) If applicable, proof that an assumed name certificate has been filed with the Macomb County Clerk or the State of Michigan;

(3) If applicable, the articles of incorporation and a certificate of good standing issued by the State of Michigan, as well as proof of zoning compliance;

(4) Two front face portrait photographs, at least two inches by two inches, and a complete set of fingerprints taken by the Sterling Heights Police Department for each individual required to submit personal information pursuant to divisions (B) and (C) of this section, except that, in lieu of photos of all corporate shareholders, a corporate applicant may submit photographs of all officers and managing agents of said corporation and a complete set of the same officers' and agents' fingerprints. In the case of a partnership, photographs and fingerprints for each partner are required.

(E) It shall be unlawful for any person to knowingly make any false, fraudulent, or untruthful statement, either written or oral, or in any way knowingly to conceal any material fact or to give or use any fictitious name in applying for a license under this chapter. Any license obtained by violation of this division shall be void.

(F) Each application shall also be accompanied by a public liability and property damage insurance policy insuring the establishment and its personnel against any liability arising out of its operation as a massage establishment or the provision of massage services on the premises. Such policy shall provide for proof of professional liability insurance with limits of liability not less than $500,000.00 per occurrence. The insurance policy requirements of this division may be met by submitting proof that the minimum insurance coverage is provided to the applicant as a benefit of membership in a professional massage organization, such as the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB), the American Massage Therapy Association (AMTA), or similar entity, and proof that the applicant's dues for membership in such organization are current and paid through at least an additional 90-day period from the date of the application. No person or entity shall maintain, operate, or cause to be operated any massage establishment unless the insurance required by this section is in force at the time of such operation.

(Ord. No. 468, § 1, 2-4-20) Penalty, see §1-9

30-6. DUTIES OF THE CITY CLERK REGARDING APPLICATIONS FOR ESTABLISHMENT LICENSES.

(A) Upon receipt of a properly and fully completed application for a license, including payment of all applicable fees, the City Clerk shall forward a copy of each application to the following for their review, investigation, and recommendation in accordance with this chapter:

(1) Chief of Police;

(2) Building Official;

(3) Fire Marshal;

(4) City Planner;

(5) City Development Director;

(6) City Manager.

(B) Except as provided in division (D), upon receipt of favorable recommendations from the investigating bodies mentioned under this article, the City Clerk shall issue a license to the applicant.

(C) Upon issuance of a license, the City Clerk shall notify each of the following of the issuance:

(1) Chief of Police;

(2) Building Official;

(3) Fire Marshal;

(4) City Planner;

(5) City Manager.

(D) *Denial.* The City Clerk shall deny an application for any of the following reasons:

(1) The applicant has been convicted of, or pled guilty or no contest to, any crime involving dishonesty, fraud, or deceit, or has pled to or been convicted of any offense involving the use of force or violence upon the person of another, or an offense involving sexual misconduct, or an offense involving narcotics, controlled substances, or dangerous weapons.

(2) The operation or facility, as proposed in the application, would not comply with all applicable laws, including, but not limited to, the City's building, fire, zoning, and health ordinances.

(3) The applicant made a false, misleading, or fraudulent statement of fact or omission in the license application or any document required by the City in conjunction therewith, or has failed to submit all required information or the required fee.

(4) The applicant has had a massage business, massage license, or other similar permit or license denied, revoked, or suspended without reinstatement by the City or any other state or local agency.

(5) The applicant and/or each employee is not at least 18 years of age by the date of the application.

(6) The applicant has not provided all of the information required to be submitted with an application pursuant to this article.

(7) The Chief of Police has issued an unfavorable recommendation in accordance with the criteria set forth in this article.

(8) The Building Official has issued an unfavorable recommendation in accordance with the criteria set forth in this article.

(9) The Fire Chief has recommended against issuance due to fire safety concerns derived from the International Fire Code and/or other provisions of the City Code.

(10) The City Planner has advised that the location is not in compliance with the Zoning Ordinance.

(11) The City Development Director has advised that the applicant and/or any of its businesses within the City has outstanding code violations that have not been remediated.

(12) The applicant and/or any of its businesses within the City are in default to the City or have outstanding balances owed to the City for any obligation, including but not limited to taxes, false alarm invoices, and/or inspection fees.

(13) The maximum number of active licenses permitted by this chapter would be exceeded by granting the application.

(E) If the City Clerk denies an application, he or she shall notify the applicant by regular mail addressed to the applicant at the address shown on the application. Such notice shall specify the following:

(1) Notice of the proposed action.

(2) Reasons for the proposed action.

(3) A statement that the individual or entity has the right to appeal the decision to the Ordinance Board of Appeals by submitting a written application to the City Manager.

(4) A statement that the individual or entity may present evidence at the appeal hearing and confront and cross-examine adverse witnesses.

(Ord. No. 468, § 1, 2-4-20)

30-7. INVESTIGATION AND RECOMMENDATION OF THE CHIEF OF POLICE.

(A) The Chief of Police or his or her representative shall have 60 days to investigate the application and the background of the applicants. The Chief of Police shall cause to be conducted an investigation of the premises where the massage business is to be carried on for the purpose of assuring that such premises comply with all the sanitation requirements as set forth in this chapter and with all city ordinances relating to public health, safety, and welfare. Based on this investigation, the Chief of Police or his or her representative shall make either a favorable or unfavorable recommendation to the City Clerk as to the issuance of the establishment license. If the recommendation is unfavorable, the Chief of Police or his or her representative shall also provide a concise statement of the reasons for this recommendation.

(B) The Chief of Police or his or her representative shall issue an unfavorable recommendation regarding the issuance of an establishment license if:

(1) The operation, as proposed in the application, would not comply with all applicable laws;

(2) Any individual required to submit personal information pursuant to § 30-5(B) or (C) has been convicted of or pled guilty to any crime involving dishonesty, fraud, or deceit, or has pled to or been convicted of any offense involving the use of force or violence upon the person of another, or an offense involving sexual misconduct, or an offense involving narcotics, controlled substances, or dangerous weapons;

(3) The applicant has made any false, misleading, or fraudulent statements of fact or material omissions in the application or in any document required to be submitted in conjunction with the application;

(4) The applicant has, in any location, previously held a similar license and the license has previously been revoked or suspended without reinstatement, or has operated or been involved as an employee or manager of a massage establishment, regardless of its licensure status, that has been closed or otherwise shut down by any governmental authority or as a response to enforcement efforts by any law enforcement or public health agency;

(5) Any individual required to submit personal information pursuant to § 30-5(B) and (C) has not obtained the age of 18 years by the date of application.

(Ord. No. 468, § 1, 2-4-20)

30-8. INVESTIGATION AND RECOMMENDATION OF THE BUILDING OFFICIAL.

(A) The Building Official, or his or her representative, shall have 60 days to inspect the premises to be utilized as an establishment within the meaning of this chapter. Based upon this investigation and inspection, the Building Official, or his or her representative, shall make either a favorable or unfavorable recommendation to the City Clerk as to the issuance of an establishment license. If the recommendation is unfavorable, the Building Official, or his or her representative, shall also provide a concise statement of the reasons for his or her recommendation.

(B) The Building Official or his or her representative shall make an unfavorable recommendation regarding the issuance of a license if the premises do not comply with each of the following requirements:

(1) A recognizable and legible sign shall be posted at the main entrance identifying the establishment as a massage business. All such signs shall comply with the applicable provisions of the City Code and the City's Zoning Ordinance;

(2) Minimum lighting shall be provided in accordance with the building code and, in addition, at least one artificial light of not less than 60 watts shall be provided in each enclosed room or booth where massage services are being performed on a patron;

(3) Minimum ventilation shall be provided in accordance with the Building Code;

(4) The premises must have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages;

(5) Adequate massage facilities enabling the accommodation of at least two patrons shall be provided. Adequate facilities, for the purpose of this section, shall be defined as separate enclosed rooms, having doors capable of being closed but not locked;

(6) Barrier-free dressing and toilet facilities with hot and cold running water shall be provided for patrons and employees. One toilet and one wash basin shall be provided by every massage establishment for patrons, and a minimum of one separate wash basin shall be provided by every massage establishment for the use of employees. Both wash basins shall have soap in a dispenser and hot and cold water available at all times, and the employee wash basin shall be located within or as close as practicable to the area devoted to the administration of massages. Single-use towels shall also be provided at each wash basin, placed in permanently installed dispenser. If male and female patrons are to be accommodated simultaneously at a massage establishment, separate dressing and toilet facilities shall be provided for male and female patrons;

(7) All of the physical facilities for the massage establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, bathtubs, steam or vapor rooms or steam or vapor cabinets, showers, and toilet rooms shall be kept thoroughly cleaned each day the business is in operation;

(8) There shall be no entrance or exit way which provides direct access to another type of business, residence, or living quarters;

(9) There shall be no "table shower" or similar facilities or apparatus.

(Ord. No. 468, § 1, 2-4-20)

30-9. USE OF LICENSE.

(A) Each license issued under this chapter shall expire on December 31 of each year and must be renewed prior thereto in order to be valid for the subsequent calendar year. A renewal form and any applicable fee must be submitted to the City Clerk prior to expiration of the license in order for the use to continue. Upon receipt of a properly completed renewal form and any applicable fee between December 1 and December 15 of each year, the license will be deemed renewed until and unless the City Clerk denies the renewal due to inaccurate or incomplete information or for any of the reasons a license may be denied, suspended, or revoked under this chapter.

(B) Each license issued under this chapter shall be conspicuously displayed upon a wall of the massage establishment which is in an area open to the public. All licenses shall be made available, upon request, for inspection by any patron, police officer, or city official in order to confirm the information contained in the licenses. Within 72 hours of any change in fact, policy, or method which would alter the information provided in a license application, or on the license itself, the applicant/licensee shall notify the City Clerk of such change(s) in writing.

(C) It shall be unlawful for any person to fraudulently make use of, to his or her own or another's benefit, a license issued to him, her, or another in accordance with this chapter.

(D) It shall be unlawful for any person to counterfeit or forge or to deface or otherwise alter a license issued under the provisions of this chapter.

(E) A license issued under this chapter is not transferable, separable, or divisible, and the authority conferred shall be conferred only upon the individuals named on the license. Upon sale, transfer, or relocation of a massage establishment, the license therefore shall be null and void unless pre-approved by the City Clerk. It shall be the duty of all owners or licensees having knowledge of the sale, transfer, or relocation of a massage establishment to immediately report such sale, transfer, or relocation to the City Clerk's office. The failure to do so shall result in an immediate suspension of the license. An application for transfer shall be in writing, shall contain the same information as required by this chapter for an initial application for a new license, and shall be accompanied by the same fee as required for an application for a new license.

(F) It shall be unlawful for any person operating an establishment to permit or allow an employee, student, or massage therapist or any person whatsoever to violate

any of the terms of this chapter while on the premises of the establishment, and it shall be unlawful for any person at a licensed establishment to condone or allow any unlawful activity to occur on the licensed premises, whether within or outside the actual licensed building. It shall be the responsibility of an owner, operator, manager, or licensee to insure that each person employed or engaged by him or her as a massage therapist has a valid license issued by the State of Michigan.

(G) No person shall sell, give, dispense, provide, possess, or keep, or cause to be sold, given, dispensed, provided, possessed, or kept, any alcoholic beverage or controlled substances on the premises of any massage establishment.

(H) It shall be unlawful for any massage establishment to accommodate two or more patrons in the same room, except that two patrons may be accommodated in the same room if the two patrons knowingly and voluntarily request that their massage services be provided in the same room, and they execute a consent form indicating that they know each other and they each consent to obtaining massage services in the same room with the other patron.

(I) All massage establishments subject to this chapter are declared to be public places and during business hours shall not lock or obstruct the exits and entrances to the establishment or otherwise prevent free ingress or egress of persons.

(J) No massage establishment shall be kept open between the hours of 9:00 p.m. and 8:00 a.m.

(K) No massage establishment shall place, publish or distribute any advertisement, picture or statement which is known or through the exercise of reasonable care should be known to be false, deceptive, or misleading in an effort to induce any person to purchase or utilize massage services.

(L) A massage establishment shall have the premises supervised at all times when open for business. Any business rendering massage services shall have one person who is qualified and licensed as a massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, and shall not violate, or permit others to violate, any applicable provision of this chapter. The violation of any such provision by any agent or employee of the licensee shall constitute a violation by the licensee. Any such violation by a licensee shall also constitute a violation by the owner, president, and/or other supervisory official of the licensee, in his or her individual capacity, for permitting another to violate this chapter. Any such violation may be the basis for suspending, revoking, or not renewing a license.

(M) The licensee or the person designated by the licensee of a massage establishment shall maintain a register of all persons employed or engaged as massage therapists, including but not limited to any volunteers or independent contractors. Included in the register will be a copy of each massage therapist's license. Such register shall be available at the massage establishment for inspection by representatives of the city and/or county or state health departments during regular business hours. Before a massage therapist may offer massage services or practice massage therapy at the massage establishment, the licensee must provide all of the information required under this chapter as part of the initial massage establishment licensing process for each massage therapist, and the City Clerk must have issued an approval notice to the licensee after the police investigation required by this chapter for initial licensing has been completed with a favorable recommendation. In the event of an unfavorable recommendation, the licensee shall not allow the massage therapist to have any involvement with the massage establishment.

(N) Every patron shall furnish, and every licensee shall require that every patron furnish, proof of identity by showing a valid driver's license, voter registration certificate, state identification card, or equally reliable identification, and provide a date of birth. The identity and date of birth of every patron, the date and time of the massage, and the identity of the massage therapist administering the massage shall be recorded and maintained on the premises by the licensee for a period of three years and be available at the massage establishment for inspection by representatives of the city and/or county or state health departments during business hours.

(O) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective patrons. Any website and any printed material maintained or prepared by the licensee or its personnel shall also include the price rates for all services.

(P) The premises of the massage establishment shall not be made available for accommodating any person as sleeping quarters. No beds, water mattresses, cots, or equipment designed for sleeping shall be permitted on the premises.

(Q) It shall be unlawful for any person in a massage establishment to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

(R) It shall be unlawful for any person, in a massage establishment, to expose his or her sexual or genital parts, or any portion thereof, to or in the presence of any other person. It shall also be unlawful for any person in a massage establishment to expose the sexual or genital parts, or any portions thereof, of any other person.

(S) No person granted a license pursuant to this chapter shall operate a massage establishment or as a massage therapist under a name not specified in the person's license, nor shall any licensee conduct business under any designation or location not specified in the licensee's license.

(Ord. No. 468, § 1, 2-4-20) Penalty, see §1-9

30-9A. REGULAR INSPECTIONS; SANITATION AND SAFETY REQUIREMENTS.

(A) All premises used by a licensee under this chapter are declared to be public places and shall be periodically inspected by the Building Official or Fire Marshal, or their authorized representatives, for the safety of the structure and adequacy of the plumbing, ventilation, heating, and illumination. Police officers, code enforcement officials, and/or building department inspectors may at reasonable times during business hours, or during times when the licensed premises are occupied by an employee or owner of the massage establishment, make inspections of each massage business establishment, including all rooms within the establishment, without prior notice for the purpose of determining compliance with the provisions of this chapter. During business hours, no doors to the exits and entrances of a licensed establishment shall be locked or obstructed in any way so as to prevent free ingress and egress of persons. A search warrant shall not be required for such inspections, in accordance with the opinion of the Michigan Supreme Court in Gora v City of Ferndale, 456 Mich 704 (1998). It is unlawful for any licensee to deny or refuse access to the premises or to hinder the official in any manner in the performance of his or her responsibilities under this chapter, and in addition to the misdemeanor penalties set forth in Chapter 1 of the City Code, such refusal shall constitute sufficient grounds for immediate revocation by the City Clerk of a license granted under the provisions of this chapter. The following minimum standards shall be maintained:

(1) Walls shall be clean, waterproof, and painted with washable, mold-resistant paint in all rooms where water or steam baths are given, and (except in reception and administrative areas) shall be made of nonporous materials which may be readily disinfected;

(2) Floors shall be free from any accumulation of dust, dirt, or refuse;

(3) All equipment used in the massage operation shall be maintained in a clean and sanitary condition;

(4) Towels, linen, and items for personal use of massage therapists and patrons shall be clean and freshly laundered. Closed cabinets shall be used for the storage of clean linen, towels, and other materials used in connection with administering massages. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. All soiled linens, towels, and other materials shall be kept separate from the clean storage areas. No common or shared use of towels or linens is permitted. Closed containers shall be provided for wet towels and waste material;

(5) All equipment, shower stalls, toilets, lavatories, and other such accoutrements shall be regularly treated with disinfectants and shall be maintained in a clean and sanitary condition at all times.

(B) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex permitted therein.

(C) Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule.

(D) Separate dressing room or locker room facilities shall be provided for the employees and patrons of different sex. The dressing room or locker room facilities shall be designated as to the sex permitted. If male and female patrons are to be served simultaneously at the massage establishment, separate massage rooms shall be provided and shall not be shared by male and female patrons, unless the consent required by § 30-9(H) has been provided.

(E) All massage services enumerated in this chapter may be carried on in one cubicle, room, booth, or area within the massage establishment, but no massage services shall be performed in any room or area which is fitted with a door capable of being locked or barred.

(F) Advertising that there is a nurse in attendance is prohibited unless there is a registered graduate nurse constantly in attendance during the business hours of the massage establishment.

(G) Advertising that there is a doctor in attendance is prohibited unless there is a registered physician constantly in attendance during the business hours of the massage establishment.

(H) No massage establishment granted a license under the provisions of this chapter shall place, publish, or distribute or cause to be placed, published, or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services permitted by this chapter, or that employees or massage therapists are dressed in any manner other than described in division (J), nor shall any massage establishment indicate in the text of such advertising that any service is available other than the services permitted by this chapter.

(I) Licensees shall exercise every precaution for the safety of patrons. They shall watch for early signs of fatigue or weakness and immediately discontinue whatever form of service is being given upon the appearance of such signs.

(J) All employees and massage therapists must be clean and modestly attired. Diaphanous, flimsy, transparent clothing is prohibited. Clothing must cover the employee's or massage therapist's torso, pubic area, perineum, and buttocks at all times, shall not expose the natal cleft or navel, and shall cover the entire chest to four inches below the collarbone. A blouse or shirt, along with slacks, must be worn at all times, and skirts and dresses are not permitted. A one-piece pants suit or coverall is also permissible. The uniform shall include a photographic identification card which shall be worn whenever the employee or massage therapist is working.

(K) The skin and the hands of those attending patrons shall be clean and in healthy condition, and the nails shall be kept short. The hands shall be washed thoroughly with hot running water, using a proper soap or disinfectant, before giving a patron any service or treatment.

(L) All towels, tissues, sheets, or other coverings shall be used singularly for each patron and discarded for laundering or disposal immediately after use.

(M) Nondisposable tools of the trade shall be disinfected immediately after use upon one patron.

(N) The private parts of patrons must be covered when in the presence of any massage therapist or employees. Any contact with the patron's genital area is prohibited.

(O) No licensee shall knowingly allow any patron to be served when such patron is infected with any fungus or other skin infection, nor shall service be performed on any patron exhibiting skin inflammation or eruptions, unless a licensed physician has certified that such patron may be safely served under specific prescribed conditions.

(Ord. No. 468, § 1, 2-4-20)

ARTICLE III. MASSAGE THERAPISTS

30-10. LICENSE REQUIRED.

No person shall practice massage as a massage therapist, employee, instructor, or otherwise unless he or she has a valid and subsisting license issued to him or her by the State of Michigan pursuant to Part 179A of the Public Health Code or is otherwise exempt from such licensing under state law.

(Ord. No. 468, § 1, 2-4-20)

30-11. USE OF MASSAGE THERAPIST LICENSE.

(A) Each massage therapist license shall be conspicuously displayed upon a wall of the establishment in which the massage therapist practices in an area open to the public.

(B) It shall be unlawful for any person to fraudulently make use of, to his or her own or another's benefit, a massage therapist license.

(C) It shall be unlawful for any person to counterfeit or forge or to deface or to otherwise alter a massage therapist license.

(D) No person licensed as a massage therapist shall massage or treat any person under the age of 18 years, except upon a written note completed by a licensed medical doctor or other medical professional or if the person under the age of 18 years is accompanied by his or her parent or legal guardian during the massage or treatment. No person shall permit any person under the age of 18 years to come or remain in any room or area where massage services are being performed and can be observed. Any incidental presence by a person under the age of 18 years in such room or area shall only be related to lawful business which requires the person's presence for a very limited duration. Notwithstanding the immediately preceding restrictions, a person under the age of 18 years may be on the premises for the purpose of receiving massage services if the person has in his or her possession a signed parental or guardian consent form which consents to the massage services and which contains parental or guardian contact information, and if the massage therapist first contacts the parent or guardian and confirms that the consent form is valid and confirms the nature and extent of the approved massage services.

(E) It shall be unlawful for any person to massage any other person for illegal purposes, or, for monetary gain or profit, have any contact with a person's breast, genital area, or buttocks in a manner which knowingly and intentionally arouses, appeals, or seeks to gratify the person's sexual desires.

(F) No massage therapist shall engage in advertising which does any of the following:

(1) Contains a misrepresentation of fact(s);

(2) Is misleading or deceiving in its content or context;

(3) Creates false or unjustified expectations of beneficial treatment or successful cures;

(4) Omits a material fact that misleads or deceives the public.

(G) It shall be unlawful for any person to administer massage on an outcall basis unless the person is licensed as a massage therapist. Any outcall massage performed under this section shall be documented by keeping a record of the date and hour of each treatment, and the name and address of the patron, and the name of the massage therapist administering such treatment and the type of treatment administered. Such records shall be open to inspection by city officials and officials charged with the enforcement of public health laws to the extent permitted by law. The information shall otherwise be kept confidential by the licensee, and any unauthorized disclosure or use of such information by the licensee or a licensed establishment, or by someone engaged or employed by a licensed establishment, shall be unlawful.

(H) The following conduct is prohibited:

(1) Practicing outside of the boundaries of professional competence, based on education, training, and experience. This includes, but is not limited to, providing massage therapy services without ensuring the safety, comfort, and privacy of the client.

(2) Engaging in harassment or unfair discrimination based on age, gender, gender identity, race, ethnicity, national origin, religion, sexual orientation, disability, or any basis proscribed by law.

(3) Refusing to provide professional service based on age, gender identity, race, ethnicity, national origin, religion, sexual orientation, disability, or any basis proscribed by law. This requirement does not prevent a licensee from terminating a massage therapy session with someone or refusing to treat any person who suggests or requests that the licensee engage in conduct that is inappropriate, unsafe, or unethical.

(4) Involvement in a conflict of interest that interferes with the exercise of professional discretion or makes the client's interests secondary.

(5) Taking advantage of or exploiting a supervisee or student to further the licensee's personal, religious, political, business, or financial interests.

(6) Taking on a professional role when a personal, scientific, legal, financial, or other relationship impairs the exercise of professional discretion or make the interests of a client or student secondary to those of the licensee.

(7) Being involved in a dual or multiple relationship with a current or former client, when there is a risk of harm to, or exploitation of, the client. As used here, "dual or multiple relationship" means a relationship in which a licensee is in a professional role with a client and one or more of the following occurs at the same time:

(a) The licensee takes advantage of any current or former professional relationship or exploits the client to further the licensee's personal, religious, political,

business or financial interests, including inducing the client to solicit business on behalf of the licensee.

(b) The licensee solicits or engages in a sexual relationship with a current client.

(c) The licensee engages in a sexual relationship with a former client when there is a risk of harm or exploitation to the former client.

(d) The licensee promises to enter into another relationship in the future with the client.

(l) *Client records.*

(1) A licensee shall maintain a legible client record for each client, which accurately reflects the licensee's assessment and treatment of the client. Entries in the client record shall be made in a timely fashion.

(2) The client record shall contain all of the following information:

(a) The name of the massage therapist providing treatment.

(b) The client's full name, address, date of birth, gender, and other information sufficient to identify the client.

(c) If the client is less than 18 years of age, written permission of either a parent or guardian for the minor client's receipt of massage therapy.

(d) Information identifying any pre-existing conditions the client may have or verification that the client has no pre-existing conditions.

(e) Dates of service and date of entry in the client record.

(f) A client record entry for an initial client visit that includes all of the following:

(i) History, including description of presenting condition.

(ii) Therapeutic assessment, if applicable.

(iii) Treatment or care provided, if applicable. Outcome, if available.

(g) A client record entry for subsequent assessments, treatments, or care provided that includes all of the following:

(i) Change in condition.

(ii) Therapeutic assessment, if applicable.

(iii) Treatment or care provided, if applicable. Outcome, if available.

(h) If applicable, a referral to another health care provider.

(3) For massage therapy treatment provided at a special event, a licensee shall maintain a client record that meets the requirements of divisions (1) and (2) of this section or an abbreviated client record, as specified in division (4) of this section. For purposes of this division, ***SPECIAL EVENT*** means any of the following:

(a) A charitable, community, or sporting event.

(b) One-time events.

(c) Massages performed at any location that are 20 minutes or less in duration.

(4) An abbreviated client record allowed under division (3) of this section shall consist of, at a minimum, a completed intake form that contains all of the following information:

(a) The client's full name, date of birth, and an address or telephone number where the client can be contacted.

(b) The information listed in divisions (2)(a), (c), (d) ,and (e) of this section.

(5) A licensee shall retain a client record for at least seven years from the date of the last massage therapy treatment for which a client record entry is required. A licensee shall retain the client record for a minor client until one year after the minor client reaches 18 years of age, even if this results in the record being retained for more than seven years.

(Ord. No. 468, § 1, 2-4-20) Penalty, see §1-9

Statutory reference:

Advertising regulations, see Administrative Rules, R 338.725

Client records, see Administrative Rules, R 338.727

Prohibited conduct, see Administrative Rules, R 338.723

ARTICLE IV. RENEWAL, SUSPENSION, AND REVOCATION OF LICENSES

30-12. RENEWAL OF LICENSES; CRITERIA FOR NON-RENEWAL, SUSPENSION, OR REVOCATION.

(A) Anytime after December 1 but prior to December 15 of the year in which the massage establishment license expires, the licensee may file with the City Clerk a written application to renew the license on a form to be furnished by the City Clerk. The application shall contain the information required herein for an original license to the extent that such information would not be duplicative, and the application shall be accompanied by the correct fees. The applicant shall present, under oath, a written statement that the matters contained in the original application have not changed or, if they have changed, specifically stating the changes that have occurred. A current medical certificate shall also be required. The applicant shall also present proof of completion of at least six hours of continuing education during the immediately preceding license period, consisting of courses primarily focused on subjects directly related to the practice of massage therapy. The City Clerk shall renew the license unless the Chief of Police, and where applicable, the Building Official finds that the requirements of this chapter for the issuance of a license are not met. All investigations shall be completed within 21 days, and if the licensee's renewal application was timely filed the licensee may continue to operate as though properly licensed until such time as the City Clerk renews or declines to renew the license.

(B) The City Clerk may decide not to renew a license, to suspend a license, or to revoke a license based upon a determination by the Chief of Police, Fire Chief, or Building Official that any of the following exists:

(1) Failure to comply with all standards, plans, or agreements entered into in consideration for the issuance, transfer, or continuance of the license, or failure to comply with all agreements or consent judgments entered into subsequent to the issuance of the license.

(2) Violations of state laws or local ordinances, including applicable codes and regulations, concerning health, safety, moral conduct, or public welfare, by any licensee or employee of a licensee.

(3) Maintenance of a nuisance upon or in connection with the licensed premises, including, but not limited to, any of the following:

(a) Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire, or other applicable regulatory codes;

(b) A pattern of patron conduct in the neighborhood of the licensed premises which is in violation of the law and or disturbs the peace, order, and tranquility of the neighborhood;

(c) Failure to maintain the grounds and exterior of the licensed premises, including litter, debris, or refuse blowing or being deposited upon adjoining properties;

(d) Activity on the licensed premises without a required permit and/or activity which disturbs the peace, order, and tranquility in the neighborhood of the licensed

premises;

(e) Any advertising, promotion, or activity in connection with the licensed premises which by its nature causes, creates, or contributes to disorder, disobedience to rules, ordinances, or laws, or contributes to the disruption of normal activity of those in the neighborhood of the licensed premises.

(4) Failure by the licensee to permit the inspection of the licensed premises by the city's agents or employees in connection with the enforcement of this chapter.

(C) In addition to the foregoing provisions, the City Clerk may decide to suspend, revoke, or not renew a license based upon the following considerations:

(1) Compliance with all applicable provisions of existing policy for new license applicants.

(2) Compliance with all standards and plans established and approved at the time of issuance.

(3) Tax considerations:

(a) All licensees shall be held responsible for paying all real property taxes, personal property taxes, and other bills due the City arising from their use and occupancy by their due dates each year.

(b) All licensees renting or leasing the property in which their business is located shall be responsible for paying all personal property taxes and other bills due to the City arising from their use of that property by their due dates each year.

(4) Lapse of, or failure to provide updated proof of, required professional liability insurance coverage, whether such coverage is provided through a professional association or procured by an independent policy of insurance.

(Ord. No. 468, § 1, 2-4-20)

30-13. SUSPENSION OF LICENSE.

(A) When any of the provisions of this chapter are violated by the licensee, or an employee, manager, massage therapist, or independent contractor of the massage establishment; and/or when any licensee, employee, manager, massage therapist, or independent contractor of the licensee is engaged in any conduct that violates any state law or City ordinance; or upon notification from the Macomb County Health Department that the massage establishment is being managed, conducted, or maintained without regard for proper sanitation and hygiene; or for any other good cause relating to the health, safety, and welfare of the public, the community, and/or the personnel of the massage establishment; the City Clerk may immediately suspend the massage establishment license for a period not to exceed 90 days. The City Clerk may also summarily suspend any license issued under this chapter for failure to provide the application information required by this chapter, or any other application-related offense or omission, until such time as the offense or omission is remedied by the licensee.

(B) Notice of suspension may be given by delivering the same to the licensee, by delivering the same to the establishment, or by depositing the same in the United States mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the licensee at the address stated on the license application, and the notice shall be deemed given upon deposit of the notice in the United States mail.

(C) Suspension of a license shall be given effect ten days after written notice thereof is given to the licensee. However, a suspension may be immediate for conditions or actions that constitute criminal acts or pose an immediate threat to the public health, safety, and welfare of the community, patrons, employees, or others. Written notice shall be provided to the licensee, or an owner or manager, within 72 hours of the suspension order. Posting of the notice on the public entrance of the massage establishment shall suffice to honor the 72 hour written notice requirement, along with delivery of the notice by first class mail to the licensee's address. The notice shall include the same information required elsewhere in this chapter for informing an applicant that a license application has been denied.

(E) A request for a hearing for any suspension hereunder shall automatically stay any suspension pending the outcome of the hearing, unless the basis for the suspension involves a criminal act or the Chief of Police, Fire Chief, or Building Official determines that continued operation under the license would pose an unreasonable risk to the safety, health, or welfare of a patron, an employee, or the general public, and the City Manager approves an immediate suspension based upon such determination. Such immediate suspensions shall only be effective until the hearing is concluded or a revocation is imposed.

(F) After the determination of the hearing or if no hearing is requested, the Chief of Police shall have the authority to take possession of the license wherever it may be found and hold the same until the suspension period has passed, and to post one or more conspicuous notices on the premises that the massage establishment license has been suspended.

(Ord. No. 468, § 1, 2-4-20)

30-14. REVOCATION OF LICENSES.

(A) Any license issued according to this chapter may be revoked by the City Clerk for the following reasons:

(1) Upon the investigation, recommendation, and approval of the Chief of Police, or his or her representative, for any violation of this chapter by the licensee;

(2) The licensee is no longer able to satisfy the requirements to obtain a license, or the term of a license suspension has ended without correction of the underlying violation for which the suspension was imposed;

(3) The license has been suspended three times; or

(4) Due to misrepresentation or withholding of information during the original license application process or the renewal process.

(B) Notice of revocation may be given by delivery to the licensee, by delivery to the establishment, or by depositing the same in the United States mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the licensee at the address stated on the license application. If the notice is mailed, it shall be deemed delivered upon deposit of the notice in the United States mail.

(C) The revocation shall be effective ten days after written notice delivered to the licensee. The notice of revocation shall include the same information required elsewhere in this chapter for informing an applicant that a license application has been denied.

(D) An appeal of any revocation shall automatically stay the revocation pending the outcome of the appeal. However, the license may remain suspended during that time, in accordance with the preceding section.

(E) Following the determination of an appeal or if an appeal is not taken, the licensee shall return all copies of the license to the City Clerk, and the Chief of Police may take possession of the license wherever it may be found.

(Ord. No. 468, § 1, 2-4-20)

ARTICLE V. HEARING ON SUSPENSION, REVOCATION, OR DENIAL OF LICENSES; EXEMPTIONS

30-15. FILING OF REQUEST FOR HEARING.

(A) Within ten days of mailing by the City Clerk to an applicant or licensee of a notification of suspension, revocation, or denial of a license governed by this chapter, an applicant or licensee may request, in the form of a written application to the City Manager, a hearing before the Ordinance Board of Appeals. Such application may request reconsideration of the suspension, revocation, or denial, or it may request a variance of any of the provisions or requirements of any law, ordinance, code, or regulation the violations of which constituted grounds for the suspension, revocation, or denial, or both.

(B) The request for hearing must state specifically the reasons supporting the conclusion that the actions of the applicable city official were erroneous, and/or the applicant's reasons for requesting a variance to the requirements of this chapter, and/or the applicant's reasons for terminating or modifying a suspension or reversing a revocation, and a copy of the decision or notice complained of should be attached to the request for hearing.

(C) The City shall send notice of the meeting to all addresses within 1,500 feet of the massage establishment, measured from property line to property line.

(D) The appeal hearing shall be conducted in accordance with the provisions in Chapter 2 of the Code of Ordinances. The City shall demonstrate by competent, material, and substantial evidence the underlying violation or reason(s) supporting the decision for which the hearing has been requested. At the hearing, the applicant

or licensee and its attorney may present a statement and evidence showing:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the proposed massage establishment referred to in the hearing application submitted to the City Manager, which circumstances or conditions do not apply generally to any proposed massage establishment;

(2) That the granting or continuation of such massage establishment license will not, under the circumstances of the particular case, have a material adverse effect upon the health, safety, or welfare of the persons residing or working in the neighborhood or attending any massage establishment, nor to its employees, agents, or personnel, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to the immediate neighborhood or the city at large; and/or

(3) That the City's determination was erroneous.

(E) In all cases where the Ordinance Board of Appeals grants a variance of any provision or requirements of this chapter, or otherwise relaxes or overturns an administrative decision to suspend, revoke, or deny, the Ordinance Board of Appeals shall condition its order in any manner it deems necessary or desirable and which will be in harmony with the general purpose and intent of this chapter, and which will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(F) In no event shall the Ordinance Board of Appeals grant a variance to the maximum number of licenses that may be granted pursuant to this chapter, nor grant a variance or relax or overturn an administrative decision where the suspension, revocation, or denial is based upon the occurrence of criminal acts, fraud, dishonesty, or other acts of moral turpitude, if established at the hearing by a simple preponderance of the evidence.

(G) The decision of the Ordinance Board of Appeals is final.

(Ord. No. 468, § 1, 2-4-20)

30-16. EXEMPTIONS; ADDITIONAL LICENSING REQUIREMENTS.

The licensing provisions of this chapter shall not apply to hospitals, nursing homes, medical clinics, or sanitariums that offer massage treatment for medical purposes to persons admitted for medical reasons, nor shall they apply to persons holding a valid, unrevoked certificate to practice medicine under the laws of the state, or to persons holding a valid, unrevoked license or certificate of registration issued by the state, such as members of the following professions: physical therapist, occupational therapist, cosmetologist, barber, licensed medical doctor or other medical, osteopathic, or chiropractic professional, or any individual working under the direct supervision of such a person when performing the duties of such professionals, or an athletic trainer administering a massage in the normal course of training duties. Nevertheless, if such persons administer massage services at a massage establishment, such establishment must still be licensed as required by this chapter. In addition to meeting the licensing requirements in this chapter, a massage therapist must also provide proof of professional liability insurance as required by this chapter.

(Ord. No. 468, § 1, 2-4-20)

CHAPTER 31: NOISE

31-1. SHORT TITLE; INTENT AND PURPOSE..

This chapter may be referred to as the “City of Sterling Heights Noise Ordinance.” This chapter was created, and has been amended from time to time, to preserve the peace and tranquility of neighborhoods, public places, and streets within the community. The Michigan Supreme Court has long-recognized the right of all persons to the tranquility enjoyed by citizens of a community where good order reigns among its members, and the legitimate interest of municipalities in the preservation of peace and order. For these reasons, the City Council deems it necessary and appropriate to regulate and restrict unnecessary and unreasonable noise within the city.

(1978 Code, § 22-1; Ord. No. 229-A, § 5, 8-6-91; Ord. No. 380, § 1, 10-4-05)

31-2. DEFINITIONS.

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

LOUD NOISE. Any sound which, due to its volume, duration or character, annoys, disturbs, injures or endangers the comfort, health, peace and safety of reasonable persons of ordinary sensibilities. The term shall be limited to noise heard on the public streets, parking lot open to the public or other public place, any church or hospital or in any occupied building which is not the source of the noise, including the grounds surrounding the building. Unless otherwise provided in this chapter or the zoning ordinance, noise shall be determined at a distance of at least 50 feet measured in a straight line from the source of the noise.

(1978 Code, § 22-2; Ord. No. 229-A, § 6, 8-6-91; Ord. No. 380, § 1, 10-4-05)

31-3. GENERAL PROHIBITION.

Unless otherwise permitted by this chapter or the zoning ordinance, no person shall cause, create or continue any loud noise within the city limits.

(1978 Code, § 22-3; Ord. No. 229-A, § 1, 8-6-91; Ord. No. 380, § 1, 10-4-05) Penalty, see §1-9

31-4. SPECIFIC PROHIBITIONS.

The following are determined to be violations of this chapter. This list is not exhaustive, but merely demonstrative, and it shall not preclude enforcement of Section 31-3 or Chapter 33 under additional or variant circumstances.

(1) *Horns and signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other motor vehicle for any purpose other than to avoid an accident or collision or other reason allowed by law.

(2) *Electronic devices and musical instruments.* The playing of amplified music or sound as to annoy, disturb or unreasonably interfere with the quiet, comfort or repose of other persons.

(3) *Shouting, singing and the like.* Yelling, shouting, singing or the making of any other loud noise on the public streets or right-of-way, or in or within 30 feet of a residence or residential zoning district, as to annoy or disturb the quiet, comfort or repose of other persons. The creation of any such loud noise between the hours of 11:00 p.m. and 7:00 a.m. which is plainly audible from any public place within the city is prohibited without limitation.

(4) *Vehicle noises generally.* The operation of any truck, automobile, motorcycle or other vehicle as to cause loud noise.

(5) *Steam whistles or sirens.* The operation of any steam whistle or siren, except for the purpose of giving notice of the time to begin or stop work or as a warning of fire or other danger or for other purposes upon special permit from the City Council.

(6) *Engine exhausts.* The discharge outside of any enclosed building of the exhaust of any steam engine, internal combustion motor engine, vehicle or motorboat engine, except through a muffler or other similar device which effectively prevents the discharge of loud noises.

(7) *Construction noises.* The erection (including excavation), demolition, alteration or repair of any building or premises, or the excavation of streets and highways, in or within 30 feet of any residence or residential zoning district other than between the hours of 7:00 a.m. and 9:00 p.m.

(8) *Devices to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any person, event, performance, show, sale or display of merchandise.

(9) *Mobile sound amplification.* The broadcasting of electronically reproduced sound from motor vehicles or other portable means, when audible to or perceived by others in the community who are not responsible for such broadcast, has the deleterious effect upon the community of increasing noise pollution, disturbing the peace and quiet of residential neighborhoods and others near the sound in question, and impeding the ability of the listener and others from hearing or noticing the

approach of emergency vehicles using sirens and other alerts. It is the intent of this chapter to strike an appropriate balance between the right of individuals to obtain information and derive pleasure by listening to radios and other devices, and the right of the public to a peaceful and healthful environment. Therefore, the following restrictions shall govern the broadcasting of such sound within the city:

(a) The playing, transmitting, amplifying, or other broadcasting of personal or commercial music or sound, by electronic or other technological means installed in a motor vehicle or otherwise portable, in such a manner that it is plainly audible at a distance of 30 feet in any direction from the operator or source between the hours of 7:00 a.m. and 11:00 p.m., is prohibited.

(b) The playing, transmitting, amplifying, or other broadcasting of personal or commercial music or sound, by electronic or other technological means installed in a motor vehicle or otherwise portable, in such a manner that it is plainly audible in a public place or residential neighborhood by any person other than the operator between the hours of 11:00 p.m. and 7:00 a.m., is prohibited.

(c) For purposes of this section, the phrase ***PLAINLY AUDIBLE*** means any sound that can be detected by a person using his or her unaided hearing faculties. The enforcing officer need not determine the title of a specific sound, specific words, or the performing artist, and the detection of the rhythmic bass component of music is sufficient to constitute a plainly audible sound.

(d) For violations of this subsection involving broadcasts from a motor vehicle, the operator of the motor vehicle shall be presumed to have dominion and control over the source of the broadcast, and shall therefore be presumed to be responsible for the violation. Passengers, or others lacking an ownership interest, may be found guilty of violating this subsection if such persons had constructive dominion and control over the source of the broadcast, or otherwise aided and abetted the operator.

(e) This subsection shall not be applicable to mobile sound amplification for which a valid city permit has been issued, or for which such sound amplification is incidental to and appropriate for the use of a valid city permit, such as for parades, ice cream trucks, and similar activities, so long as such activities comply with the terms of any such city permit.

(f) A violation of this subsection shall be punishable by a fine of not less than $100. A second violation shall be punishable by a fine of not less than $200. A third or subsequent violation shall be punishable by a fine of not less than $300 and, in the discretion of the court, up to 90 days in jail and/or forfeiture of the offending equipment and/or community service, and/or other remedial measures deemed appropriate by the court.

The above enumeration of activities shall not be construed to be an exhaustive list of all prohibited activities.

(1978 Code, § 22-4; Ord. No. 229-A, § 2, 8-6-91; Ord. No. 380, § 1, 10-4-05)

Cross reference:

Limitation of traffic ordinance on use of vehicle horns, see §49-69;

Provisions of traffic ordinance relative to unnecessary or unusual noise from operation of vehicles, see §49-150;

Vehicle mufflers generally, see § 49-70

31-5. EXCEPTIONS.

None of the prohibitions shall apply to any of the following:

(1) Any police vehicle, ambulance, fire engine or emergency vehicle which is engaged in necessary emergency activities;

(2) Excavation or repair of bridges, streets, highways, sewer or water construction by or on behalf of the City of Sterling Heights, State of Michigan or the County of Macomb between the hours of 9:00 p.m. and 7:00 a.m. when the public welfare, safety and convenience render it necessary to perform work during those hours.

(1978 Code, § 22-5; Ord. No. 229-A, § 3, 8-6-91; Ord. No. 380, § 1, 10-4-05)

31-6. RESERVED.

CHAPTER 32: RESERVED

CHAPTER 33: NUISANCES

ARTICLE I. IN GENERAL

33-1. SCOPE OF CHAPTER.

(A) Various nuisances are defined and prohibited in this and other chapters of this Code and in other city ordinances. It is the intent of the city in enacting this chapter to provide the general means to abate nuisances which are defined and authorized to be abated in the City Codes and other city ordinances unless there is a more specific procedure set forth in the chapter defining the conduct or condition that constitutes a nuisance.

(B) Nothing in this chapter is intended to supersede the regulation of:

(1) New building construction in Chapter 11;

(2) Fire prevention and safety in Chapter 20; and

(3) Property maintenance of existing structures, exterior property, and premises in Chapter 11.

This includes enforcement as well as appeal procedures as set forth in Chapters 11 and 20.

(Ord. No. 64-B, § 2, 6-2-92; Ord. No. 367, § 11, 12-17-02; Ord. No. 396 § 11, 5-6-08; Ord. No. 424, § 2, 2-5-13)

33-2. DEFINITIONS.

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

ABANDONED VEHICLE. A vehicle which has remained on public or private property for a period of 48 hours after a police agency or other authorized governmental agency has affixed a written notice to the vehicle.

BOARD. The Board of Ordinance Appeals as created in Chapter 2 of this Code.

CHAPTER. A chapter of the Code of Ordinances of the City of Sterling Heights.

CITYCODE. The Code of Ordinances of the City of Sterling Heights.

CODE ENFORCEMENT OFFICIAL. Any person or persons designated by the City Manager to be responsible for enforcement of this chapter or any provisions contained herein.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property as determined by the assessment records or in the official records of the state, county or municipality or otherwise having control of the property, including the guardian of any such person and the personal representative of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PROPERTY. A lot, plot or parcel of land.

PUBLIC NUISANCE. Any act, omission or condition which injuriously affects the health, safety or morals of the public or causes some substantial annoyance, inconvenience or injury to the public, including but not limited to the following:

(A) *Abandoned vehicles.* The keeping of an abandoned vehicle upon public or private property in violation of Chapter 49, Article X.

(B) *Animals and fowl.* Any violation of Chapter 8 constituting a public nuisance as defined by Chapter 8 or this chapter.

(C) *Burial of dead animals.* The burial of dead animals contrary to M.C.L.A. § 750.57 or other applicable state laws.

(D) *Common law nuisance.* The physical condition or use of any property that is regarded as a public nuisance at common law.

(E) *Composting.* Any violation of Chapter 45 constituting a public nuisance as defined by Chapter 45 or this chapter.

(F) *Dumping.* Any depositing, dumping or discarding of trash, debris, rubbish or garbage upon public or private property, except in accordance with the regulations of Chapter 23.

(G) *Dust, smoke or odors.* The creation or allowance of conditions which generate dust, dense smoke, noxious fumes, gas, soot, cinders or flyash in quantities which interfere unreasonably with the use of nearby property or the enjoyment of life and property.

(H) *Excavations, erosion and sedimentation.* Any violation of Chapter 17 constituting a public nuisance as defined by Chapter 17 or this chapter.

(I) *Fences.* Any violation of Chapter 19 constituting a public nuisance as defined by Chapter 19 or this chapter or a violation of any zoning ordinance provision applicable to fences.

(J) *Fire code violations.* Any violation of Chapter 20 constituting a public nuisance as defined by Chapter 20 or this chapter.

(K) *Garbage, refuse and litter.* Any violation of Chapter 23 constituting a public nuisance as defined by Chapter 23 or this chapter.

(L) *Handbills.* Any violation of Chapter 3 constituting a public nuisance as defined by Chapter 3 or this chapter.

(M) *Illicit discharge.* Any unauthorized spilling, dumping or disposal of non-storm water into the storm sewer system, except as permitted in accordance with Chapter 53.

(N) *Incinerators, commercial.* Any violation of Chapter 4 constituting a public nuisance as defined by Chapter 4 or this chapter.

(O) *Junk automobile parts.* The keeping of salvaged automobile parts for a period exceeding ten days (other than in an enclosed garage) or in an approved junkyard without incorporation of such parts into an operable vehicle.

(P) *Junk automobiles.* The keeping of any vehicle in a residentially zoned area (other than in an enclosed garage) which is not in operable condition for a period exceeding ten days.

(Q) *Malfunctioning private sewage disposal system.* Any malfunctioning private sewage disposal system which allows polluted, raw or partially treated waste water or effluent to be deposited or to remain upon any property.

(R) *Noise.* Any prolonged violation, whether intermittent or continuous, of the provisions in Chapter 31. Irrespective of whether it originates or occurs in or upon a public place under Chapter 31, any recurring, intermittent, or ongoing noise that disturbs the reasonable peace and tranquility of another is also a public nuisance and shall also be subject to the prosecutorial and abatement options set forth in this chapter.

(S) *Offensive odor.* Any scent, smell, stench, or odor that is generated or caused by activity, behavior, or conditions on the property that constitute a violation of any law, code, regulation, or ordinance, including but not limited to the zoning ordinance, or which is of such intensity, character, and duration or recurring nature as to unreasonably interfere with the comfort, repose, health, or peace of the public or a neighboring property, and which is detected, observed, or measured by an employee or agent of the city at or beyond the property line of the site where the odor is originating. Exceptions:

(1) Open burning, recreational fires, and portable outdoor fireplaces shall be governed by the International Fire Code, as adopted in Chapter 20 of the code of ordinances.

(2) Odors created during the construction of the principal use on a lot or property, or by incidental traffic, parking, loading, or maintenance operations.

(3) Odors created by public services.

(4) Odors ordinarily associated with agricultural uses in areas zoned for agricultural uses.

(T) *Refuse*. Any violation of Chapter 23 constituting a public nuisance as defined by Chapter 23 or under this chapter.

(U) *Stagnant water.* Any accumulation of water that may cause mosquitos or other insects or breeding or proliferation, including any violation of Chapter 17 that constitutes a nuisance as defined by Chapter 17 or this chapter.

(V) *Trees/vegetation.* Any violation of Chapter 51 constituting a public nuisance as defined by Chapter 51 or this chapter.

(W) *Vehicles (commercial, recreational and vehicles for sale).* Any violation of Chapter 37 constituting a public nuisance as defined by Chapter 37 or this chapter.

(X) *Waste water.* All foul, dirty or polluted water or liquids deposited or allowed to remain upon any property.

(Y) *Weeds, noxious.* Growth of noxious weeds as defined in the Local Amendments to the International Property Maintenance Code adopted by the City Council as set forth in § 11-87 of the City Code.

(Z) *Zoning ordinance violations.* Any violation of Zoning Ordinance 278 as amended.

(Ord. No. 64-B, § 2, 6-2-92; Ord. No. 64-C & 286-B, § 1, 6-1-93; Ord. No. 367, § 11, 12-17-02; Ord. No. 396, § 11, 5-6-08; Ord. No. 424, § 3, 2-5-13)

33-3. NUISANCE PROHIBITED.

No person or entity shall cause, permit, maintain, create or otherwise perpetuate a nuisance within the city. Any person or entity who creates or perpetuates any nuisance within the city, as defined by this or another chapter of this Code, shall be subject to the municipal civil infraction or misdemeanor penalties set forth in Chapter 1 of this Code, as well as the abatement procedure and penalties set forth in this chapter unless other abatement procedures or penalties are set forth in a particular chapter or section of the city codes and ordinances.

(Ord. No. 367, § 11, 12-17-02; Ord. No. 396 § 11, 5-6-08)

33-4. PROCEDURE FOR ABATEMENT OF NUISANCES.

Whenever the Code Official determines that there has been a violation of this chapter or has reasonable grounds to believe that a violation has occurred and is continuing, the Code Official shall follow the enforcement provisions prescribed in Division 4 of Article VI of Chapter 11 of this Code.

(Ord. No. 64-B, § 2, 6-2-92; Ord. No. 367, § 11, 12-17-02; Ord. No. 396 § 11, 5-6-08)

33-5. BLIGHT.

It is 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. No person shall maintain or permit to be maintained any of the following causes of blight or blighting factors upon any property in the city owned, leased, rented or occupied by such person, and failure to prevent or eliminate the existence of such blight is hereby deemed a nuisance. Whenever the Code Official determines that any of the following causes of blight or blighting factors exist upon any property in the city, the Code Official shall follow the enforcement

provisions prescribed in Division 4 of Article VI of Chapter 11 of this Code.

(1) *Storage of junk automobiles in residential areas.* In any area zoned for residential purposes, the storage upon any property of junk automobiles, except in a completely enclosed garage. For the purpose of this section, the term ***JUNK AUTOMOBILES*** shall include any motor vehicle which is not lawfully registered for use upon the highways of the State of Michigan for a period in excess of ten days and shall also include, whether so registered or not, any motor vehicle which is not in operable condition for a period in excess of ten days.

(2) *Storage of building materials in residential areas.* In any area zoned 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 the property and the materials are intended for use in connection with such construction. Building materials shall include but shall not be limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws or any other materials used in constructing any structure.

(3) *Storage of junk, refuse and the like in residential areas.* In any area zoned for residential purposes, the storage or accumulation of junk, trash, rubbish or refuse of any kind, except domestic refuse stored in such a manner as not to create a nuisance for a period not to exceed 30 days. The term ***JUNK*** shall include parts of machinery or motor vehicles, unused stoves or other appliances stored in the open, remnants of wood, metal or any other material or other cast-off material of any kind, whether or not the same could be put to any reasonable use.

(4) *Uninhabitable or useless structures.* In any area, 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) *Dwellings out of repair.* In any area, a dwelling or the parts thereof that are not kept in good repair, including plumbing, heating, ventilating and electrical wiring. The roof shall be so maintained as not to leak and the rainwater shall be drained and conveyed therefrom through proper conduits into the sewerage system in accordance with plumbing regulations so as to avoid dampness in the walls and ceilings and unsanitary conditions.

(6) *Partially completed structures.* In any area, the existence of any partially completed structure, unless the 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.

(7) *Unprotected vacant buildings in residential areas.* In any area zoned for residential purposes, the existence of any vacant dwelling, garage or other outbuilding, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.

(1978 Code, § 23-21; Ord. No. 356, § 1, 9-18-01; Ord. No. 396 § 11, 5-6-08)

CHAPTER 34: OBSCENITY

34-1. EXEMPTIONS FROM CHAPTER.

This chapter shall not apply nor be used to prosecute an individual who is disseminating material that may be classified as obscene under this chapter, if such individual is acting in the capacity as:

(1) A licensed medical practitioner or psychologist in the treatment of a patient or patients;

(2) A teacher of an accredited course of study in a state or federal approved educational institution;

(3) A participant in the criminal justice system, such as judge, prosecutor, attorney, law enforcement officials, legislators or other related officials;

(4) A supplier to any individual described in (1) through (3).

(1978 Code, § 24-1)

34-2. SPECIFIED SEXUAL ACTIVITIES DEFINED.

For the purposes of this chapter, the term ***SPECIFIED SEXUAL ACTIVITIES*** shall mean:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of masturbation, sexual intercourse or sodomy, whether engaged in alone, between members of the same or opposite sex or between humans and animals or humans and inanimate objects;

(3) Erotic touching of human genitals, pubic region, buttock or female breast;

(4) Sexually explicit or erotic nudity.

(1978 Code, § 24-2)

34-3. PUBLICATION, SALE AND THE LIKE OF OBSCENE MATERIAL GENERALLY.

(A) Any person who knowingly or willfully publishes, gives away, distributes, shows or offers either to sell, lend, give away, distribute, show or has in his or her possession with intent to either sell, lend, give away, distribute, show or advertise in any manner or who otherwise knowingly offers for either loan, gift, sale or distribution any obscene book, magazine, pamphlet, newspaper, phonograph record, picture, photograph, motion picture film, figure, image, wire or tape recording or any written, printed or recorded matter of a character which is distinguished or characterized by its substantial emphasis on matter depicting, describing or relating to specified sexual activities, as defined in § 34-2 and which meets the test for obscenity, as defined in §34-4, shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in § 1-9 of this Code.

(B) For the purpose of this section, possession of three or more identical copies of any obscene newspaper, story paper, writing paper, phonograph record, magazine, pamphlet, book, picture, drawing, photograph, slide, motion picture film, figure, image, wire or tape recording or any written, printed or recorded matter of a character which is distinguished or characterized by its substantial emphasis on matter depicting, describing or relating to specified sexual activities, as defined in § 34-2, shall be prima facie evidence of possession with intent to sell, lend, give away, distribute or show the object.

(1978 Code, § 24-3)

Statutory reference:

Similar provisions, see M.S.A. § 28.575(1); M.C.L. § 750.343a

34-4. TEST TO BE APPLIED TO DETERMINE OBSCENITY.

The test to be applied to determine obscenity, for the purpose of §34-3, shall not be whether erotic sexual desires or sexually erotic thoughts would be aroused in those comprising a particular segment of the community, the young, the immature or the highly prudish or would leave another segment, the scientific or highly educated or sophisticated, indifferent and unmoved, but such test shall be whether, in the judgment of the average person living in the city, applying contemporary standards from that community, the material, taken as a whole, appeals to prurient interest, depicts or describes, in a patently offensive way, sexual conduct, including that conduct listed in § 34-2 and, taken as a whole, lacks serious literary, artistic, political or scientific value.

(1978 Code, § 24-4)

Statutory reference:

Similar provisions, see M.S.A. § 28.575(2); M.C.L. § 750.343b

34-5. REQUIRING ACCEPTANCE OF OBSCENE LITERATURE AS CONDITIONS TO DELIVERY FOR RESALE OF OTHER PUBLICATIONS.

Any person who shall, as a condition to a sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication, require that the purchaser or consignee receive for resale any other article, book or other publication which is contrary to § 34-3 or shall deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure of any person to accept such articles, books or publications or by reason of the return thereof, shall be guilty of a violation of § 34-3 and punished as therein provided.

(1978 Code, § 24-5)

34-6. SALE OR DISTRIBUTION OF OBSCENE MATERIAL TO MINORS.

Whoever knowingly either sells, distributes or imports for the purpose of selling or distributing to a person under the age of 18 years any obscene book, magazine, pamphlet, newspaper, story paper, writing paper, phonograph record, picture, drawing, photograph, motion picture film, figure, image, wire or tape recording of any written, printed or recorded matter of a character which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities, as defined in § 34-2, introduces into a family, school or place of education or buys, procures, receives or has in his or her possession any obscene book, magazine, pamphlet, newspaper, story paper, writing paper, phonograph record, picture, drawing, photograph, motion picture film, figure, image, wire or tape recording or any written, printed or recorded matter of character which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities, as defined in § 34-2, either for the purpose of sale, exhibition, loan or circulation to a person under the age of 18 years or with intent to introduce the same into a family, school or place of education shall be punished as provided in § 1-9 of this Code.

(1978 Code, § 24-6)

CHAPTER 35: OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. IN GENERAL

35-1. UNAUTHORIZED CONNECTIONS TO TELEPHONE NUMBERS ASSIGNED TO CITY.

(A) It is the purpose of this section to prevent the disruption and interference with the telephone communications system of the Police Department and Fire Department of the city by allowing alarm systems which, when activated, connect with the communication facility of the Police Department and Fire Department of the city by means of the Department's telephone system.

(B) No person engaged in the business of providing communication services and facilities or any other person should use or operate, attempt to use or operate or cause to be used or operated or arrange, adjust, program or otherwise provide or install any device or combination of devices that will, upon activation, either mechanically, electronically or by other automatic means, initiate the intrastate calling, dialing or connection to any telephone number assigned to the city or any of the departments of the city; provided, however, this section shall not apply to any public law-enforcement agency.

(C) The term "telephone number" includes any additional numbers assigned by a public utility company engaged in the business of providing communications services and facilities to be used by means of a rotary or other system to connect with the city or any of its departments to such primary number, when the primary telephone number is in use.

(1978 Code, § 25-1)

35-2. TRESPASS AND RELATED OFFENSES GENERALLY.

(A) It shall be unlawful for a person to enter the lands or premises of another without lawful authority after having been forbidden so to do by the owner or occupant, or the agent of the owner or occupant. This subsection includes, without limitation, any person who returns to any place of business after having been forbidden or banned from returning, whether due to disorderly behavior, intoxication, theft, or otherwise.

(B) It shall be unlawful for a person to remain without lawful authority on the land or premises of another after being notified to depart by the owner or occupant, or the agent of either.

(C) All delivery personnel shall use sidewalks and accepted and approved walkways and shall refrain from traversing lawns or other private property not normally used as a walkway by the general public in order to effect delivery.

(D) It shall be unlawful for a person to knowingly enter in or remain upon any lands of another, without the consent of the owner or lessee of the lands, under any of the following conditions:

(1) The lands are fenced or enclosed in a manner to exclude intruders;

(2) Notice to stay off or leave has been personally communicated to him or her by the owner or lessee of the lands or some other authorized person;

(3) Notice against trespass is given by posting in a conspicuous manner.

(E) Any person who breaks and enters or enters without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, or any cottage, clubhouse, boat house, hunting or fishing lodge, garage or the out-buildings belonging thereto, any ice shanty with a value of $100 or more, or any other structure, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, agent, or person having immediate control thereof, is guilty of a misdemeanor.

(F) Subsection (E) does not apply to entering without breaking, any place which at the time of the entry was open to the public, unless the entry was expressly denied. Subsection (E) does not apply if the breaking and entering or entering without breaking was committed by a peace officer or an individual under the peace officer's direction in the lawful performance of his or her duties as a peace officer.

(G) A person who violates subsection (A) or (B) is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or by a fine of not more than $250, or both, in the discretion of the Court.

(1978 Code, § 25-2; Ord. No. 217, § 1, 5-6-80; Ord. No. 350, § 8, 10-17-00; Ord. No. 407, § 6, 7-21-09) Penalty, see § 1-9

Cross reference:

Entering closed areas of parks, see § 38-4;

Unauthorized persons in school buildings or on school land, see § 44-7

Statutory reference:

Trespass, see M.S.A. §§ 28.814 et seq.; M.C.L. §§ 750.546 et seq.

35-3. TRESPASS WITH CERTAIN VEHICLES.

(A) It shall be unlawful for any person to enter in or remain upon premises while operating any snowmobile, off-road vehicle, all-terrain vehicle, motorcycle or motor-driven cycle under any of the following conditions:

(1) The premises are enclosed in a manner so designed to exclude intruders;

(2) The premises are fenced;

(3) The premises are posted in a conspicuous manner against entry;

(4) Notice against trespass is personally communicated to him or her by the owner or lessee of the land or other authorized person.

(B) As used in this section, ***OFF-ROAD VEHICLE*** or ***ALL-TERRAIN VEHICLE*** means a motor-driven vehicle capable of cross country travel, without benefit of a road or trail, on or immediately over land, water, snow, ice, marsh, swampland or other natural terrain. It includes but is not limited to a multi-wheel drive or low pressure tire vehicle, motorcycle and related two-wheel vehicle, amphibious machine, ground-effect air cushion vehicle or other means of transportation deriving motive power from a source other than muscle or wind. It does not include a vehicle registered under Public Act 300 of 1949, as amended, being M.C.L.A. §§ 257.1 through 257.923, a registered motorboat or snowmobile, a farm vehicle being used for farming, a vehicle used for military or law enforcement purposes, a construction vehicle used in performance of its common function or a registered aircraft.

(C) As used in this section, ***MOTORCYCLE*** means every motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor.

(D) As used in this section, ***MOTOR-DRIVEN CYCLE*** means every motorcycle with a motor that produces less than five gross brake horsepower, every motor scooter and every bicycle with motor attached, except a motorized wheelchair or other similar vehicle not exceeding 1,000 pounds gross weight operated by a physically afflicted or disabled person and except pedal bicycles with helper motors rated less than one brake horsepower transmitted by friction and not by gear or chain, which produce only ordinary pedaling speeds up to a maximum of 20 miles per hour.

(1978 Code, § 25-3)

35-4. DOMESTIC VIOLENCE.

(A) A police officer who has reasonable cause to believe that an assault or an assault and battery has taken place or is taking place and that the person who committed or is committing the assault or assault and battery, is a spouse, a former spouse or a person residing or having resided in the same household as the victim, or a person who has or has had a dating relationship with the victim, may arrest the violator without a warrant for that violation, irrespective of whether the assault or assault and battery was committed in the presence of the police officer. The term ***DATING RELATIONSHIP*** means frequent, intimate associations primarily characterized by the expectation of affectional involvement. The term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

(B) When a person, who has not been convicted previously of assault or assault and battery, being a violation of Section 81 or 81a of the Michigan Penal Code, Public Act 328 of 1931, as amended, being M.C.L. §§ 750.81 and 750.81a or a violation of § 35-16(i), pleads guilty to or is found guilty of a violation of §35-16(i), and the victim of the assault or assault and battery is the offender's spouse, former spouse, an individual who has had a child in common with the offender, an individual who has had a dating relationship with the offender, or a person residing or having resided in the same household as the offender, the court, without entering a judgment of guilt and with the consent of the accused and of the City Attorney in consultation with the victim, may defer further proceedings and place the accused on probation as provided in this section. However, before deferring proceedings under this subsection, the Court shall contact the Department of State Police and determine whether, according to the records of the Department of State Police, the accused has previously been convicted under Section 81 or 81a of Public Act 328 of 1931, or under a local ordinance substantially corresponding to Section 81 of Public Act 328 of 1931, or has previously availed himself or herself of this section. If the search of the records reveals an arrest for a violation of Section 81 or 81a of Public Act 328 of 1931 or a local ordinance substantially corresponding to Section 81 of Public Act 328 of 1931 but no disposition, the Court shall contact the arresting agency and the Court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this section. Upon a violation of a term or condition of probation, the Court may enter an adjudication of guilt and proceed as otherwise provided by law. As used in this subsection, ***DATING RELATIONSHIP*** means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

(C) An order of probation entered under subsection (B) of this section may require the accused to participate in a mandatory counseling program. The Court may order the accused to pay the reasonable costs of the program.

(D) Upon fulfillment of the terms and conditions, the Court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(E) There may be only one discharge and dismissal under this section with respect to any individual. The nonpublic record of an arrest and discharge retained by the Department of State Police shall be furnished to the Court or Police Department upon request pursuant to subsection (B) of this section for the purpose of showing that a defendant in a criminal action for assault or assault and battery has already availed himself or herself on this section or the corresponding state law.

(F) The Court shall enter an adjudication of guilt and proceed as otherwise provided by this section or by state law if any of the following circumstances exist:

(1) The accused commits an assaultive crime during the period of probation. As used in this subdivision, ***ASSAULTIVE CRIME*** means one or more of the following:

(i) That term as defined in Section 9a of Chapter X of the State Code of Criminal Procedure;

(ii) A violation of Chapter IX of the Michigan Penal Code, Public Act 328 of 1931, being M.C.L. §§ 750.81 through 750.90;

(2) The accused violates an order of the court that he or she receive counseling regarding his or her violent behavior;

(3) The accused violates an order of the court that he or she have no contact with a named individual.

(1978 Code, § 25-4; Ord. No. 300, § 1, 7-2-91; Ord. No. 350, § 9, 10-17-00; Ord. No. 364, § 1, 2, 8-20-02)

Statutory reference:

Similar provision, see M.C.L. § 764.15a; M.C.L. § 769.4a

35-5. HARASSMENT; MALICIOUS ANNOYANCE.

(A) No person shall use any service provided by a telecommunications service provider to terrorize, frighten, intimidate, threaten, harass, molest, or annoy another person.

(B) An offense is committed under this section if the communication either originates or terminates in this city.

(C) As used in this section, “telecommunications service” shall have the same meaning as provided in state law.

(Ord. No. 407, § 7, 7-21-09)

Statutory reference:

Similar provision, see M.C.L. § 750.540e

35-6. CIVIL RESPONSIBILITY.

(A) A person who engages in conduct for which a police response was solicited by another or initiated by a police officer, and for which the police and city attorney determined probable cause existed to believe that a crime was committed, is responsible for a municipal civil infraction, punishable as provided in Chapter 1 of the City Code. If the city incurred actual expenses for obtaining evidence or records relating to the original charge, the court shall order full reimbursement of such expenses to the city upon acceptance of a responsible plea.

(B) A violation of subsection (A) is a secondary offense. A person may only plead responsible to a violation of subsection (A) upon the concurrence or recommendation of the City Attorney.

(Ord. No. 407, § 8, 7-21-09)

35-7. INTERFERENCE WITH CRIME REPORTS.

No person shall prevent or attempt to prevent another person from reporting a violation of law or ordinance, or the attempted commission of a violation of law or ordinance. This section includes, but is not limited to, actions by a person to disable a telephone or other communications device in order to prevent use of the device to contact emergency or law enforcement officials.

(Ord. No. 407, § 9, 7-21-09)

Statutory reference:

Similar provision, see M.C.L. § 750.483a(1)(b)

35-8-35-13. RESERVED.

ARTICLE II. PUBLIC OFFENSES

35-14. TITLE.

This article shall be known and may be cited as the "City of Sterling Heights Public Offenses Ordinance."

(1978 Code, § 25-14; Ord. No. 179-G, § 1, 2-17-86)

35-15. DEFINITIONS.

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

CRUISE. To drive a motor vehicle on, around or off the premises of a business establishment without parking such vehicle and seeking service, unless there is no unoccupied parking space available.

PICKET or ***PICKETING***. Includes standing, sitting or lying or repeatedly walking, running or otherwise moving on a public right-of-way to convey a message. These terms also include posting a person or persons at a particular place to apprise the public vocally or by standing or marching with signs, banners or other means of conveying an opinion or a message.

PUBLIC PLACE. Any place to which the general public has access to for business, entertainment or other lawful purpose but does not necessarily mean a place devoted solely to the use of the public. It includes any shopping mall, shopping center, store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

RESIDENCE. A one family, two family, mobile home or mufti family dwelling, as defined in Sterling Heights Zoning Ordinance 278.

TARGETED RESIDENCE. A residence which an act of picketing is directed toward or focused upon, a residence which is a subject of an act of picketing, the residence of an individual whom an act of picketing is directed toward or focused upon, the residence of an individual who is a subject of an act of picketing or a residence wherein a subject of an act of picketing is located.

(1978 Code, § 25-15; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-L, § 2, 10-1-96)

35-16. DISTURBING PUBLIC PEACE; ASSAULT AND BATTERY.

(A) No person shall act in a violent, boisterous, turbulent, quarrelsome, indecent, or disorderly manner, or use abusive, profane, obscene, lewd, vulgar, or libelous speech or language, or make an obscene gesture, or commit any other act that disturbs the good order, peace, and dignity of the city, its inhabitants, or other persons.

(B) No person shall act in an obscene, disorderly or riotous manner in a public place. A person is a disorderly person if the person is any of the following:

(1) A person of sufficient ability who refuses or neglects to support his or her family;

(2) A common prostitute;

(3) A window peeper;

(4) A person who engages in an illegal occupation or business;

(5) A person who is intoxicated in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance;

(6) A person who is engaged in indecent or obscene conduct in a public place;

(7) A vagrant;

(8) A person found begging in a public place;

(9) A person found loitering in a house of ill fame or prostitution or place where prostitution or lewdness is practiced, encouraged or allowed;

(10) A person who knowingly loiters in or about a place where an illegal occupation or business is being conducted;

(11) A person who loiters in or about a police station, police headquarters building, county jail, hospital, court building or other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizances;

(12) A person who is found jostling or roughly crowding people unnecessarily in a public place.

(13) A person convicted of subsections (3), (6), or (9) shall provide samples of the person's blood, saliva, or tissue for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and shall provide samples for chemical testing for a determination of the person's status as required by state law.

(C) No person shall disturb any lawful public assembly.

(D) No person shall use force, coercion, intimidation or acts of physical violence to disrupt, interfere with or obstruct any lawful public assembly.

(E) No person shall obstruct, whether in person or by the use of a vehicle or object, the flow of vehicular or pedestrian traffic on public streets, sidewalks, driveways or parking areas open to the general public within the city.

(F) No person shall refuse to leave a public place when ordered to do so by lawful authority.

(G) Any person in a public place and under the influence of an intoxicating liquor or drug shall exercise care for his or her own safety to not endanger the safety of persons or property or to create a disturbance.

(H) No person shall cause, provoke or engage in any fight, brawl or riotous conduct endangering the life, person, health or property of another.

(I) No person shall commit an assault, a battery, or an assault and battery upon the person of another. Violation of this subsection is punishable by imprisonment for not more than 93 days or a fine or not more than $500, or both.

(1) Except for individuals with prior convictions, an individual who assaults, batters or assaults and batters his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500, or both.

(2) A person who intentionally commits a violation of this subsection against a pregnant individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500, or both, if the conduct results in physical injury to the embryo or fetus.

(3) A person who commits a grossly negligent act against a pregnant individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100, or both, if the act results in physical injury to the embryo or fetus.

(4) This subsection does not apply to an individual using necessary reasonable physical force in compliance with section 1312 of the revised school code, M.C.L. § 380.1312.

(5) As used in this subsection, ***DATING RELATIONSHIP*** means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

(J) No person shall incite or attempt to incite a riot.

(K) No person shall fail to obey a lawful order to disperse made by a properly-identified police officer, where one or more persons are committing criminal or disorderly acts in the immediate vicinity.

(L) No person shall do any of the following within 500 feet of the property line of a building or other location where a funeral, memorial service, burial, or viewing of a deceased person is being conducted or within 500 feet of a funeral procession in the hour immediately before, or during, or in the two hours immediately following:

(1) Make loud noise or engage in disorderly behavior and continue to do so after being asked to stop.

(2) Make any statement or gesture that would make a reasonable person under the circumstances feel intimidated, threatened, or harassed.

(3) Engage in any other conduct that the person knows or should reasonably know will disturb, disrupt, or adversely affect the funeral, memorial service, viewing of the deceased person, funeral procession, or burial.

(M) No person shall cause any public disturbance. For purposes of this subsection, the term “public disturbance” means any act or series of actions causing an interruption of the public peace and quiet; the interference with a person who is in the pursuit of a lawful right or occupation; the irritation or incitement of an assembly, in whole or part; the direct endangerment of the safety of persons or property; or the interference with law enforcement or other city officials during the performance of their duties while in a public place or which attracts the attention of, or disturbs, any member of the public.

(N) No person shall host, maintain, cause, or facilitate a public nuisance. For purposes of this subsection, the term “public nuisance” means a gathering of persons on public or private premises which, by the action or conduct of those persons in attendance, results in any one or more of the following conditions or events occurring on neighboring public or private property: public drinking or drunkenness; public urination or defecation; the unlawful sale, furnishing, or consumption of intoxicating beverages or controlled substances; the unlawful deposit of trash or litter; the unlawful storage, possession, use, or display of fireworks; the destruction of property; the generation of pedestrian traffic or unlawful vehicular traffic standing or parking which obstructs the free flow of traffic or interferes with the ability to render emergency services; loud noise which disturbs the comfort, quiet, or repose of the neighborhood, including public disturbances, brawls, fights, or quarrels; conduct or conditions which injure or endanger the safety, health, or welfare of the neighborhood; indecent or obscene conduct; and any immoral exhibition or indecent exposure by persons attending the gathering.

This section shall not be construed to suppress the right to lawful assembly, picketing, (not subject to the regulations of §35-16A), public speaking or other lawful means of expressing public opinion.

(1978 Code, § 25-16; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-I, 117-H and 218-A, § 1, 11-3-93; Ord No. 179-L, § 3, 10-1-96; Ord. No. 350, § 10, 10-17-00; Ord. No. 364, § 3, 8-20-02; Ord. No. 407, §§ 10, 11, 7-21-09)

Statutory reference:

Assault and battery penalty provisions, see M.C.L. §§ 750.81, 750.90b and 750.90c

Similar provisions, see M.C.L. § 750.167

DNA samples, see M.C.L. § 750.520m

Demonstrations at funeral services, see M.C.L. §§ 123.1111 et seq.

35-16A. PICKETING OF RESIDENCES PROHIBITED.

(A) The City Council declares that the protection and preservation of the home is the keystone of democratic government; that the unique nature of the home is that it is the last citadel of the tired, the weary and the sick, and it is the one retreat to which men and women can escape from the tribulations of their daily pursuits; that the public health, safety and welfare and good order of the community require that residents of the city be able to enjoy a feeling of well-being, peacefulness, tranquility, safety, and privacy in their homes, and when absent from their homes carry with them the sense of security inherent to the assurance that they may return to the enjoyment of their homes; that protecting the safety of the occupants of each home and their guests as they walk to, approach and enter the home, is of paramount importance; that the practice of picketing before or about residences causes emotional disturbance and distress to the occupants and guests, as well as to the occupants of adjacent residences, and obstructs and interferes with the free use of public sidewalks and public ways of travel; that such practice destroys the well-being, peacefulness, tranquility, safety and privacy associated with the home and neighborhood; that such practice has as its object the harassing of such occupants, and without resort to such practice full opportunity exists, and under the terms and provisions of this article, will continue to exist, for the exercise of freedom of speech and other constitutional rights; and that the practice of picketing directed or focused at a particular residence, which has by its nature as its true objective the harassing of the occupants, is not consistent with a citizen’s right to privacy or the government’s interest in ensuring peaceful and safe residential neighborhoods. Therefore, this article, being necessary for the public health, safety and welfare, shall be in full force and effect immediately upon publication.

(B) It is unlawful for any person to engage in picketing before, about or immediately adjacent to a targeted residence. For the purpose of this section, ***BEFORE, ABOUT OR IMMEDIATELY ADJACENT TO*** means in front of or within one residence on either side of a targeted residence and on the same side of the street as the targeted residence.

(C) Nothing in this section shall be deemed to prohibit picketing to the extent that such activity is protected under the constitutional provisions. Nothing in this section shall be deemed to prohibit a person or group of persons from proceeding in a residential area along a defined route without stopping at any particular private residence or residences. For purpose of this section, a ***DEFINED ROUTE*** means a path with fixed starting and ending points, traversed once, rather than a repetitive loop around or beside a particular area.

(D) In addition to the penalties provided in §1-9 of the Sterling Heights Code of Ordinances, any court of general equity jurisdiction may enjoin conduct or threatened conduct proscribed by this section and may in any such proceeding award damages against the persons who have violated the provisions of this section.

(Ord. No. 179-L, § 1, 10-1-96) Penalty, see §1-9

35-17. LOITERING GENERALLY.

(A) No person shall loiter in a place, at a time or in a manner not usual for law-abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether the alarm or immediate concern is warranted is the fact that the person takes flight upon the appearance of a police officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object.

(B) Unless flight by the person or other circumstances makes it impracticable, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting him or her to identify himself or herself and explain his or her presence and conduct.

(C) No person shall be convicted of an offense under this section if the police officer did not comply with the procedure outlined in subsection (B) or if it appears at trial that the explanation given by the person is true and, if believed by the police officer at the time, would have dispelled the alarm or immediate concern.

(1978 Code, § 25-17; Ord. No. 179-G, § 1, 2-17-86)

35-17A. LOITERING; SOLICITATION.

(A) No person shall remain or wander about in a public place and repeatedly beckon to, or repeatedly stop, or repeatedly attempt to stop, or repreatedly attempt to engage passers-by in conversation, or repeatedly stop or attempt to stop motor vehicles, or repeatedly interfere with the free passage of other persons, for the purpose of prostitution, or of patronizing a prostitute.

(B) No person shall engage, or offer to engage, the services of another person for any act of prostitution.

(C) No person shall aid, assist, or abet another to commit any act prohibited by this section including, but not limited to, aiding, assisting, or abetting by receiving or

admitting or offering to receive or admit any person into any public place, or any other place, for any purpose prohibited by this section, or to knowingly permit any person to remain in any such place for any such purpose.

(Ord. No. 407, § 12, 7-21-09)

35-18. CRUISING AND LOITERING.

No person shall cruise or loiter upon any driveway, sidewalk or premises of any retail business establishment. For purposes of this section, ***LOITERING*** shall mean remaining on the premises for more than five minutes without making or participating in any retail transaction.

(1978 Code, § 25-18; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-1, 117-H and 218A, § 2, 11-3-93)

35-19. RESISTING AN OFFICER.

(A) No person may willfully resist, interfere with, hinder, obstruct or impede or attempt to resist, interfere with, hinder, obstruct or impede any police officer in the performance of his or her duty by physical, verbal or passive action or inaction or by the utterance of abusive, indecent, profane or vulgar language that by its very utterance inflicts injury or tends to incite an immediate breach of the peace.

(B) No person may, by physical, verbal or passive action or inaction:

(1) Willfully resist or attempt to resist an arrest which he or she knows is being made by a police officer;

(2) Assist any person in custody of a police officer to escape or attempt to escape from custody by physical action;

(3) Willfully misrepresent, falsify or otherwise disguise himself or herself or the fact of his or her identity to a police officer who is investigating possible unlawful conduct;

(4) Willfully fail or refuse to provide identification to an officer who is investigating possible unlawful conduct;

(5) Willfully fail or refuse to obey lawful commands of a police officer during an arrest, search, traffic stop or other lawful execution of the police officer's duties;

(6) Willfully exit and flee from a vehicle stopped by a police officer for a traffic violation or criminal offense, whether the person is the driver or a passenger; or

(7) Enter an area or remain in an area where access has been restricted or closed by a law enforcement officer or other public official, or whenever a person has been informed by an officer or other public official that the area is closed or restricted, or when an area has been cordoned off with ropes, tape, barriers or any other line or boundary designed to restrict access to the area.

(8) For purposes of this section, the phrase ***POSSIBLE UNLAWFUL CONDUCT*** means a potential violation of any provision of the city code, where the police officer has reason to believe a misdemeanor or civil infraction violation has occurred.

(C) A person shall not refuse to allow or resist the taking of his or her fingerprints if fingerprinting is authorized or required by law.

(1978 Code, § 25-19; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-H, § 1, 3-15-88; Ord. No. 350, § 11, 10-17-00; Ord. No. 364, § 4, 8-20-02)

Statutory reference:

Refusing fingerprinting, see M.C.L. § 28.243a

35-20. IMPERSONATING A POLICE OFFICER; WEARING MASKS IN ASSEMBLIES, MARCHES OR PARADES.

(A) No person shall falsely assume or pretend to be a police officer or member of any Police Department or of any law enforcement agency without being a member of the department or the agency.

(B) No person shall assemble, march or parade on any street, highway or other place open to the public in this city while wearing a mask or covering which conceals, in whole or in part, the face of the wearer. This section shall not apply to the pranks of children on Halloween, to those going to and from masquerade parties, to those participating in any public parade of an educational, religious or historical character and to those participating in the parades of minstrel troupes, circuses or other amusement or dramatic shows.

(1978 Code, § 25-20; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 350, § 12, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 750.215 and M.C.L. § 750.396

35-21. DUPLICATING A POLICE OFFICER'S UNIFORM.

No person shall counterfeit or imitate, or cause to be counterfeited or imitated, or wear or provide another with any badge, sign, signal or device or any part of the uniform adopted by any Police Department or any law enforcement agency without authority to do so.

(1978 Code, § 25-21; Ord. No. 179-G, § 1, 2-17-86)

35-22. GIVING FALSE INFORMATION TO A POLICE OFFICER.

(A) No person shall falsely identify himself or herself in response to any lawful inquiry by a police officer acting in connection with the performance of his or her official duties.

(B) No person shall provide false information or make a false report to a police officer or 9-1-1 operator.

(1978 Code, § 25-22; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-I, 117-H and 218-A, § 3, 11-3-93; Ord. No. 407, § 13, 7-21-09)

35-23. FALSE CRIMES, REPORTS TO POLICE OFFICERS; PENALTIES.

(A) A person who intentionally makes a false report of the commission of a misdemeanor crime, or intentionally causes a false report of the commission of a misdemeanor crime to be made, to a police officer of the city, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive reports of a crime, knowing the report is false, is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days or a fine of not more than $500, or both.

(B) As part of the sentence for a conviction under this section, in addition to any other penalty authorized by law, the court may order the person convicted to reimburse the city for expenses incurred in relation to the incident, including but not limited to expenses for an emergency response and expenses for prosecuting the person. The expenses for which reimbursement may be ordered under this section include all of the following:

(1) The salaries or wages, including overtime pay, of law enforcement personnel for time spent responding to the incident from which the conviction arose, arresting the person convicted, processing the person after the arrest, preparing reports on the incident, investigating the incident, and collecting and analyzing evidence, including, but not limited to, determining bodily alcohol content and determining the presence of and identifying controlled substances in the blood, breath, or urine.

(2) The salaries, wages, or other compensation, including overtime pay, of fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, for time spent in responding to and providing fire fighting, rescue, and emergency medical services in relation to the incident from which the conviction arose.

(3) The cost of medical supplies lost or expended by fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, in providing services in relation to the incident from which the conviction arose.

(4) The salaries, wages, or other compensation, including, but not limited to, overtime pay of prosecution personnel for time spent investigating and prosecuting

the crime or crimes resulting in conviction.

(C) The amount ordered to be paid under this section shall be paid to the clerk of the court, who shall transmit the appropriate amount to the city. If not otherwise ordered by the court, the reimbursement ordered under this section shall be made immediately. However, the court may require that the person make the reimbursement ordered under this section within a specified period or in specified installments.

(D) If the person convicted is placed on probation, any reimbursement ordered under this section shall be a condition of that probation.

(E) An order for reimbursement under this section may be enforced by the city in the same manner as a judgment in a civil action.

(Ord. No. 350, § 13, 10-17-00; Ord. No. 364, § 5, 8-20-02; Ord. No. 407, § 14, 7-21-09)

Statutory reference:

Similar provision, see M.C.L. § 750.411a

Cost recovery, see M.C.L. § 769.1f

35-23A. PROHIBITED USE OF EMERGENCY 9-1-1 SERVICE.

(A) A person shall not use an emergency 9-1-1 service for any reason other than to call for an emergency response service from a primary public safety answering point.

(B) This section does not apply to a person who calls a public safety answering point to report a crime or seek assistance that is not an emergency unless the call is repeated after the person is told to call a different number.

(Ord. No. 407, § 15, 7-21-09)

Statutory reference:

Similar provision, see M.C.L. § 484.1605

35-24. DANGEROUS WEAPONS; BURGLARY TOOLS: POSSESSION PROHIBITED.

(A) Except as otherwise permitted by law, no person shall possess or conceal on or about his or her person, in a vehicle or conveyance, or in any location outside of his or her residence, any dangerous or deadly weapon, including but not limited to any irritating spray device, handgun, pistol, revolver, machine gun, sawed-off shotgun, lead pipe, club, metal knuckles, martial arts weapon, blackjack, switchblade knife, long knife or other dangerous knife, or other object specifically designed or customarily carried or possessed for use as a weapon, except hunting knives adapted and carried as such, or any instrument attached to or designed to be attached to any firearm for the purpose of silencing, lessening or muffling the noise of the firing of any firearm, except as permitted by law. Every person convicted of such violation of this section shall forfeit to the city such weapon.

(B) No person shall possess or control on or about his or her person or in a vehicle or other conveyance any tool or instrument used or adapted for the commission of burglary, larceny, or for picking locks or pockets, or any articles used for obtaining money or property under false pretenses, or for starting the engine of a motor vehicle or driving away a motor vehicle without its key.

(1978 Code, § 25-24; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-1, 117-H and 218-A, § 5, 11-3-93; Ord. No. 407, § 16, 7-21-09)

Cross reference:

Concealed weapons in school buildings, see § 44-11

Statutory reference:

Similar provision for possession of burglary tools, see M.C.L. § 750.116

35-25. DAMAGING, DEFACING AND THE LIKE PUBLIC PROPERTY.

No person shall willfully or maliciously destroy, damage, deface, tamper with or make unauthorized use of any public buildings, grounds, vehicles, signs, sidewalks, electric lights, electric light poles, bridges, tables, railings, equipment or any other public property.

(1978 Code, § 25-25; Ord. No. 179-G, § 1, 2-17-86)

Cross reference:

Damaging Fire Department emergency vehicles, see § 20-33;

Damaging fire hydrants or Fire Department connections, see § 20-34;

Damaging school buildings or fixtures, see §§ 44-1, 44-2;

Damaging sewage works property, see § 53-55

35-26. DAMAGING, DEFACING AND THE LIKE PRIVATE PROPERTY OF ANOTHER.

(A) No person shall willfully or maliciously destroy, damage, deface, tamper with or make unauthorized use of the property of others, where the amount of the destruction or injury is less than $200.

(B) A person who violates subsection (A) of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or three times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine.

(1978 Code, § 25-26; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-N & 222-0, § 2, 4-6-99; Ord. No. 350, § 14, 10-17-00)

Cross reference:

Damaging bicycle serial number or license tag, see § 9-4

Statutory reference:

Malicious and willful mischief and destruction, see M.S.A. §§ 28.609 et seq.; M.C.L. §§ 750.377 et seq.; M.C.L. § 750.377a

35-26A. BURNING OF PROPERTY.

(A) No person shall willfully or maliciously burn any personal property owned by himself or herself, or others, where the value of the personal property burned or intended to be burned is less than $200.

(B) No person shall use, arrange, place, devise or distribute an inflammable, combustible or explosive material, liquid or substance or any device in or near a building or property with the intent to willfully and maliciously set fire to or burn the building or property, nor shall any person aid, counsel, induce, persuade or procure another to do so, where the value of the property is less than $200.

(C) Violations of subsection (A) and subsection (B) shall be punishable by imprisonment for not more than 93 days or a fine of not more than $500 or three times the value of the personal property burned or intended to be burned, whichever is greater, or both imprisonment and a fine.

(Ord. No. 179-N & 222-0, § 3, 4-6-99; Ord. No. 350, § 15, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 740.54; M.C.L. § 740.77

35-27. DAMAGING, DESTROYING, ETC., TREES, GRASS AND THE LIKE.

(A) No person shall damage, cut, carve, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds of any tree or plant located on city property; nor shall any person attach any rope, wire or other contrivance to any such tree or plant. A person shall not dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any area in a city park or of any other city property.

(B) No person shall willfully and maliciously, or wantonly and without cause cut down, destroy, carve, transplant, mar or injure any tree, shrub, grass, turf, plants, crops or soil of another that is standing, growing or located on the land of another, where the value of the trees, shrubs, grass, turf, plants, crops or soil cut down, destroyed, carved, transplanted, marred or injured is less than $200.

(C) A person convicted under this section shall be required to make restitution for any damage done.

(D) A person convicted under subsection (A) or (B) of this section who committed the offense with a vehicle, as defined in Public Act 300 of 1949, § 79, being M.C.L.A. § 257.79, may have his or her license to operate a vehicle in this state suspended for up to one year in addition to any other penalty.

(E) A person who violates subsection (B) of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or three times the value of the trees, shrubs, grass, turf, plants, crops or soil, whichever is greater, or both imprisonment and a fine.

(1978 Code, § 25-27; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-N & 222-0, § 4, 4-6-99; Ord. No. 350, § 16, 10-17-00)

Cross reference:

Vegetation, see Ch. 51

Statutory reference:

Similar provision, see M.C.L. § 750.382

35-28. LARCENY; FROM A VEHICLE .

(A) No person shall commit or attempt to commit the offense of larceny by stealing the property of another person of the value of less than $200.

(B) No person shall enter or break into a motor vehicle, house trailer, trailer, or semitrailer to steal or unlawfully remove property of value less than $200. If the value of the targeted property exceeds $200, or if the person successfully completes the larceny of a wheel, tire, air bag, catalytic converter, radio, stereo, clock, telephone, computer, or other electronic device in or on any motor vehicle, house trailer, trailer, or semitrailer, then this subsection does not apply and the offense shall be prosecuted pursuant to state law.

(C) A person who violates subsections (A) or (B) of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or three times the value of the property stolen, whichever is greater, or both imprisonment and a fine.

(1978 Code, § 25-28; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-N & 222-0, § 5, 4-6-99; Ord. No. 350, § 17, 10-17-00; Ord. No. 407 § 18, 7-21-09)

Statutory reference:

Larceny, see M.S.A. §§ 25.588 et seq.; M.C.L. §§ 750.356 et seq.

Larceny from vehicle, see M.C.L. § 750.356a

35-28A. AUTOMOBILES.

(A) No person shall break and enter, or enter without breaking, any motor vehicle, house trailer, trailer, or semi-trailer.

(B) No person shall pull or inspect the doors, door handles, or any other mechanism for opening an automobile in any public or private parking area for the purpose of, or which has the effect of, determining whether the automobile is unlocked or otherwise accessible.

(Ord. No. 407, § 17, 7-21-09)

35-29. RETAIL FRAUD THIRD DEGREE.

(A) No person shall commit any of the following acts in a store or in its immediate vicinity:

(1) While a store is open to the public, alter, transfer, remove and replace, conceal or otherwise misrepresent the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale, if the resulting difference in price is less than $200;

(2) While a store is open to the public, steal property of the store that is offered for sale at a price of less than $200;

(3) With intent to defraud, obtain or attempt to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store, if the amount of money, or the value of the property, obtained or attempted to be obtained is less than $200.

(B) A person who violates subsection (A) of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or three times the value of the property stolen, whichever is greater, or both imprisonment and a fine.

(1978 Code, § 25-29; Ord. No. 179-G, § 1, 2-16-86; Ord. No. 179-N & 222-0, § 6, 4-6-99; Ord. No. 350, § 18, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 750.356d

35-30. LARCENY BY CONVERSION, EMBEZZLEMENT.

(A) No person who has temporary custody and possession of property of another of a value of less than $200 shall, without consent, fraudulently dispose of or convert the same to his or her own use or take or hide the property with the intent to convert the same to his or her own use.

(B) No person who is the agent, servant or employee of another person, governmental entity within this state or other legal entity or who is the trustee, bailee or custodian of the property of another person, governmental entity within this state or other legal entity shall fraudulently dispose of or convert to his or her own use or take or conceal with the intent to convert to his or her own use without the consent of his or her principal, any money or other personal property of his or her principal that has come to that person's possession or that is under his or her charge or control by virtue of his or her being an agent, servant, employee, trustee, bailee or custodian, where the money or personal property embezzled has a value of less than $200. In a prosecution under this subsection, the failure, neglect or refusal of the agent, servant, employee, trustee, bailee or custodian to pay, deliver or refund to his or her principal the money or property entrusted to his or her care upon demand is prima facie proof of intent to embezzle.

(C) In a prosecution under this section, the failure, neglect or refusal of the person to pay, deliver or refund to the property's true owner the money or property entrusted to his or her care upon demand is prima facie proof of intent.

(D) A person who violates subsection (B) of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or three times the value of the money or property embezzled, whichever is greater, or both imprisonment and a fine.

(1978 Code, § 25-30; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-N & 222-0, § 7, 4-6-99; Ord. No. 350, § 19, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 750.174

35-31. FRAUD; FALSE PRETENSES.

(A) No person shall, with intent to defraud or cheat, obtain or acquire or attempt to obtain or acquire property of a value of less than $200 from another by false pretenses or by other fraudulent means.

(B) Any person who, with intent to defraud or cheat, and by color of any false token or writing or by any false or bogus check or other written, printed or engraved instrument, by counterfeit coin or metal that is intended to simulate a coin or by any other false pretense, does one or more of the following shall be guilty of a misdemeanor where the land, interest in land, money, personal property, use of the instrument, facility, article or valuable thing, service, larger amount obtained or smaller amount sold or disposed of has a value of less than $200:

(1) Causes any person to grant, convey, assign, demise, lease or mortgage any land or interest in land;

(2) Obtains a person's signature on a written instrument, the making of which would be punishable as forgery;

(3) Obtains from any person any money or personal property or the use of any instrument, facility or article or other valuable thing or service;

(4) By means of any false weights or measures obtains a larger amount or quantity of property than was bargained for; or

(5) By means of any false weights or measures sells or disposes of a lesser amount or quantity of property than was bargained for.

(C) A person who violates subsection (B) of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or three times the value, whichever is greater, or both imprisonment and a fine.

(1978 Code, § 25-31; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-N & 222-0, § 8, 4-6-99; Ord. No. 350, § 20, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 750.218

35-31A. UTTERING AND PUBLISHING.

(A) No person shall make, draw, utter or deliver any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository with intent to defraud and knowing at the time of the making, drawing, uttering or delivering that the maker or drawer does not have sufficient funds in or credit with the bank or other depository to pay the check, draft or order in full upon its presentation, where the amount payable in the check, draft or order is less than $100.

(B) No person shall make, draw, utter or deliver any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository with intent to defraud if the person does not have sufficient funds for the payment of the check, draft or order when presentation for payment is made to the drawee, where the amount payable in the check, draft or order is less than $100. This subsection does not apply if the lack of funds is due to garnishment, attachment, levy or other lawful cause and that fact was not known to the person when the person made, drew, uttered or delivered the check, draft or order.

(C) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500, or both.

(Ord. No. 179-N & 222-0, § 9, 4-6-99; Ord. No. 350, § 21, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 750.131

35-32. POSSESSION OF STOLEN PROPERTY.

(A) No person shall buy, receive, possess, conceal or aid in the concealment of stolen, embezzled or converted money, goods or property, including motor vehicle license plates, knowing the money, goods or property is stolen, embezzled or converted, where the money, goods or property has a value of less than $200.

(B) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or three times the value of the property purchased, received, possessed or concealed, whichever is greater, or both imprisonment and a fine.

(1978 Code, § 25-32; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-N & 222-0, § 10, 4-6-99; Ord. No. 350, § 22, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 750.535

35-32A. FINANCIAL TRANSACTION DEVICES.

(A) No person shall, for the purpose of obtaining goods, property, services or anything of value, knowingly and with intent to defraud use one or more financial transaction devices that have been revoked or canceled by the issuer of the device or devices, as distinguished from expired, where the person has received notice of the revocation or cancellation and where the value of the goods, property, services or anything of value is less than $100.

(B) No person shall knowingly and with intent to defraud use a financial transaction device to withdraw or transfer funds from a deposit account in violation of the contractual limitations imposed on the amount or frequency of withdrawals or transfers or in an amount exceeding the funds then on deposit in the account, where the amount of the funds withdrawn or transferred is less than $200.

(C) A person who violates subsection (A) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500, or both.

(D) A person who violates subsection (B) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or three times the amount of funds withdrawn or transferred, whichever is greater, or both imprisonment and a fine.

(Ord. No. 179-N & 222-0, § 11, 4-6-99; Ord. No. 350, § 23, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 750.157s; M.C.L. § 750.157w

35-33. INDECENT EXPOSURE.

No person shall willfully expose his or her genital area or bare buttocks in a public place. An individual convicted of a violation of this section shall provide samples of his or her blood, saliva, or tissue for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and shall provide samples for chemical testing for a determination of his or her secretor status as required by state law.

(B) No person shall urinate or defecate in a public place except with regards to a public restroom in toilets designated for such purposes.

(C) A person shall not for payment or promise of payment knowingly or intentionally display in a public place either of the following:

(1) Any individual's genitals or anus with less than a fully opaque covering; or

(2) A female individual's breast with less than a fully opaque covering of the nipple and the areola.

(D) Exceptions. The preceding subsection (C) of this section shall not prohibit:

(1) A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding;

(2) Material, as such term is defined in Public Act 343 of 1984, § 2, as amended, being M.C.L. § 752.362;

(3) Sexually explicit visual material, as defined in Public Act 33 of 1978, § 3, as amended, being M.C.L. § 722.673.

(1978 Code, § 25-33; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 179-J, 11-15-94; Ord. No. 350, § 24, 10-17-00; Ord. No. 364, § 6, 8-20-02)

Cross reference:

Obscenity generally, see Ch. 34

Statutory reference:

Indecent exposure, see M.S.A. § 28.567(1); M.C.L. § 750.335a

DNA sample, see M.C.L. § 750.520m

35-34. ILLEGAL OCCUPATION OR BUSINESS; PROSTITUTION.

(A) No person shall knowingly engage in any illegal occupation or knowingly frequent, patronize, or do business in any place where any illegal occupation or business is being conducted.

(B) No person 17 years of age or older shall accost, solicit, or invite another person in a public place, in or from a building or vehicle, or electronically, by word, gesture, or any other means, to commit prostitution or to do any other lewd or immoral act.

(C) No person 17 years of age or older shall receive or admit, or offer to receive or admit, any person into a place, structure, house, building, or vehicle for the purpose of prostitution, lewdness, or assignation, or knowingly permit a person to remain in a place, structure, house, building, or vehicle for the purpose of prostitution, lewdness, or assignation, or knowingly permit a person to remain in a place, structure, house, building, or vehicle for such purposes.

(D) No person shall engage or offer to engage the services of another person for the purpose of prostitution, lewdness, or assignation, by the payment in money or other forms of consideration.

(E) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500, or both, except that persons with prior convictions shall be punishable as provided by state law.

(1978 Code, § 25-34; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 407, § 19, 7-21-09)

Statutory reference:

Similar provisions, see M.C.L. §§ 750.448 et seq.

35-35. CONSUMPTION, POSSESSION OF ALCOHOLIC LIQUOR PROHIBITED IN CERTAIN PLACES.

(A) No person shall consume any alcoholic liquor on a highway, street, alley, sidewalk, parking area or on the premises of a business establishment not so licensed or parking lot. The term ***PARKING AREA*** shall include any area wherein motor vehicles are parked by the public in conjunction with any private business, enterprise, commercial establishment, office building or apartment building.

(B) No person shall without a permit possess any alcoholic beverage in a park, regardless of whether or not such beverages are intended for consumption within the park.

(1978 Code, § 25-35; Ord. No. 179-G, § 1, 2-17-86; Ord. No. 350, § 25, 10-17-00)

Cross reference:

Alcoholic beverages generally, see Ch. 5;

Alcoholic beverages in school buildings or school land, see §44-10;

Parks, see Ch. 38

35-36. RESERVED.

35-37. RESERVED.

35-38. RESERVED.

35-39. OPERATION OF SKATEBOARDS, ROLLER SKATES, ROLLER BLADES, SCOOTERS OR SIMILAR NON-MOTORIZED WHEELED DEVICES.

(A) A person shall not ride or in any manner use a skateboard, roller skate, roller blade, scooter or similar non-motorized wheeled device on city owned property commonly known as the Civic Center Complex, including but not limited to any sidewalk, ramp, staircase, bike path or roadway thereof.

(B) The city shall post warning signs no less than 12 inches by 12 inches, nor greater than 12 inches by 18 inches size upon the Civic Center Complex property prohibiting the use of skateboards, roller skates, roller blades, scooters or similar non-motorized wheeled devices.

(C) A violation of this section constitutes a municipal civil infraction and any sanctions for such violation shall be made in accordance with §1-9 of this Code.

(Ord. No. 339 & 328-B, § 1, 1-19-99)

35-40. CONTRIBUTING TO NEGLECT OR DELINQUENCY OF CHILDREN.

Any person who shall by any act, or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the probate court, as defined in Public Act 288 of 1939, Ch. 12a, § 2, as added by Public Act 54 of 1944 (Extra Session), and any amendments thereto, whether or not such child shall in fact be adjudicated a ward of the probate court, shall be guilty of a misdemeanor.

(Ord. No. 350, § 27, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 750.145

35-41. JUVENILES TAKEN INTO CUSTODY.

(A) Any policy officer may immediately take into custody any child who is found violating any law or ordinance or whose surroundings are such as to endanger his or her health, morals or welfare or who is violating or has violated a personal protection order. If such an officer takes a child into custody, he or she shall immediately attempt to notify the child's parent. While awaiting the arrival of the parent, a child under the age of 17 years taken into custody under the provisions of this section shall not be held in any detention facility unless the child is completely isolated so as to prevent any verbal, visual or physical contact with any adult prisoner. Unless the child requires immediate detention as provided for in the Probate Code of 1939, the officer shall accept the written promise of the parent to bring the child to the court at the designated time. The child shall then be released to the custody of the parent.

(B) When an officer apprehends a juvenile for an offense without court order and does not warn and release the juvenile, does not refer the juvenile to a diversion program or does not have authorization from the City Attorney or County Prosecutor to file a complaint and warrant charging the juvenile with an offense as though an adult pursuant to state law, the officer may:

(1) Issue a citation or ticket to appear at a date and time to be set by the court and release the juvenile;

(2) Accept a written promise of the parent to bring the juvenile to court, if requested, at a date and time to be set by the court and release the juvenile to the parent; or

(3) Take the juvenile into custody and submit a petition, if:

(i) The officer has reason to believe that due to the nature of the offense, the interest of the juvenile or the interest of the public would not be protected by release of the juvenile; or

(ii) A parent cannot be located or the parent refuses to take custody of the juvenile.

(C) The officer who apprehends a juvenile must immediately contact the court when:

(1) The officer detains the juvenile;

(2) The officer is unable to reach a parent who will appear promptly to accept custody of the juvenile; or

(3) The parent will not agree to bring the juvenile to court.

(D) For purposes of this section, the term ***PARENT*** means a parent, guardian or custodian as set forth in the Probate Code of 1939.

(Ord. No. 350, § 28, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 712A.14; M.C.R. § 5.933

35-42. LEAVING CHILD UNATTENDED IN VEHICLE.

(A) A person who is responsible for the care or welfare of a child shall not leave that child unattended in a vehicle for a period of time that poses an unreasonable risk of harm or injury to the child or under circumstances that pose an unreasonable risk of harm or injury to the child.

(B) A violation of this section is a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500, or both, except that a violation of this section that results in physical harm to the child, a violation shall be punishable as provided by state law.

(Ord. No. 407, § 20, 7-21-09)

Statutory reference:

Similar provision, see M.C.L. § 750.135a

35-43-35-49. RESERVED.

ARTICLE III. DRUG PARAPHERNALIA

35-50. PURPOSE.

To promote the public health, safety, and general welfare of the City of Sterling Heights by regulating the possession and sale of certain paraphernalia designed to facilitate the unlawful use or administration of controlled substances.

(1978 Code, § 25-50; Ord. No. 218, § 1, 5-6-80; Ord. No. 436, § 1, 8-19-14)

35-51. DEFINITION OF DRUG PARAPHERNALIA.

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

(A) ***DRUG PARAPHERNALIA*** means all equipment, products, and materials of any kind which are or have been used, intended for use, or designed for use, in planting; propagating; cultivating; growing; harvesting; manufacturing; compounding; converting; producing; processing; preparing; testing; analyzing; packaging; repackaging; storing; containing; concealing; injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance; including, but not limited to, all of the following:

(1) An isomerization device specifically designed for use in increasing the potency of any species of plant which plant is a controlled substance.

(2) Testing equipment specifically designed for use in identifying or in analyzing the strength, effectiveness, or purity of a controlled substance.

(3) A weight scale or balance specifically designed for use in weighing or measuring a controlled substance.

(4) A diluent or adulterant, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose, and lactose, specifically designed for use with a controlled substance.

(5) A separation gin or sifter specifically designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana.

(6) An object specifically designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body.

(7) A kit specifically designed for use in planting, propagating, cultivating, growing, or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.

(8) A kit specifically designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(9) A device, commonly known as a cocaine kit, that is specifically designed for use in ingesting, inhaling, or otherwise introducing controlled substances into the human body, and which consists of at least a razor blade and a mirror.

(10) A device, commonly known as a bullet, that is specifically designed to deliver a measured amount of controlled substances to the user.

(11) A device, commonly known as a snorter, that is specifically designed to carry a small amount of controlled substances to the user's nose.

(12) A device, commonly known as an automotive safe, that is specifically designed to carry and conceal a controlled substance in an automobile, including, but not limited to, a can used for brake fluid, oil, or carburetor cleaner which contains a compartment for carrying and concealing controlled substances.

(13) A spoon, with or without a chain attached, that has a small diameter bowl and that is specifically designed for use in ingesting, inhaling, or otherwise introducing controlled substances into the human body.

(B) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) The proximity of the object, in time and space, to a direct violation of laws and ordinances relating to controlled substances;

(3) The proximity of the object to controlled substances;

(4) The existence of any residue of controlled substances on the object;

(5) 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 facilitate a violation of this section; the innocence of an owner or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(6) Instructions, oral or written provided with the object concerning its use;

(7) Descriptive materials accompanying the object which explain or depict its use;

(8) National and local advertising concerning its use;

(9) The manner in which the object is displayed for sale;

(10) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(11) The existence and scope of legitimate uses for the object in the community;

(12) Expert testimony concerning its use;

(13) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(14) Prior violations by an owner, or by anyone in control of the object, of any law or ordinance relating to controlled substances; and

(15) Positive tests revealing the current or former presence of controlled substances in the body of the owner or person with possession or control of the object.

(1978 Code, § 25-51; Ord. No. 218, § 1, 5-6-80; Ord. No. 436, § 1, 8-19-14)

Statutory reference:

Similar definition of drug paraphernalia, see M.C.L. § 333.7451

35-52. UNLAWFUL POSSESSION AND SALE OF PARAPHERNALIA; EXCEPTIONS.

(A) It is unlawful for any person to possess drug paraphernalia, unless otherwise permitted by law, and no person shall possess marihuana accessories on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility.

(B) A person shall not sell or offer for sale drug paraphernalia, knowing that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. This subsection does not apply to any of the following:

(1) An object sold or offered for sale to a person licensed under Article 15 of the Public Health Code or under the Occupational Code, 1980 PA 299, M.C.L. §§ 339.101 to 339.2721, or any intern, trainee, apprentice, or assistant in a profession licensed under Article 15 of the Public Health Code or under the Occupational Code, 1980 PA 299, M.C.L. §§ 339.101 to 339.2721, for use in that profession.

(2) An object sold or offered for sale to any hospital, sanitarium, clinical laboratory, or other health care institution including a penal, correctional, or juvenile detention facility for use in that institution.

(3) An object sold or offered for sale to a dealer in medical, dental, surgical, or pharmaceutical supplies.

(4) A blender, bowl, container, spoon, or mixing device not specifically designed for a use described in subsection (c).

(5) A hypodermic syringe or needle sold or offered for sale for the purpose of injecting or otherwise treating livestock or other animals.

(6) An object sold, offered for sale, or given away by a state or local governmental agency or by a person specifically authorized by a state or local governmental agency to prevent the transmission of infectious agents.

(7) To the extent of the permitted conduct only, this section does not apply to any person or entity who is licensed or otherwise permitted by law to manufacture, use, possess, prescribe, dispense, distribute, conduct research with respect to, or administer a controlled substance in the normal course of their respective businesses or professions, if such actions are taken in the normal course; nor to common carriers or warehousers or their employees engaged in the lawful transportation of the paraphernalia, nor to public officers or employees while engaged in the performance of their official duties, nor to persons suffering from asthma, diabetes, or other medical conditions requiring introduction of a controlled substance into the human body by self-injection.

(C) Except as provided in subsection (D), a person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500, or both. Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this section shall be seized and forfeited.

(D) The use, manufacture, possession, and purchase of marihuana accessories by a person 21 years of age or older and the distribution or sale of marihuana accessories to a person 21 years of age or older is authorized, is not unlawful, is not an offense, is not grounds for seizing or forfeiting property, is not grounds for arrest, prosecution, or penalty in any manner, and is not grounds to deny any other right or privilege.

(1978 Code, § 25-52; Ord. No. 218, § 1, 5-6-80; Ord. No. 179-I, 117-H and 218-A, § 6, 11-3-93; Ord. No. 436, § 1, 8-19-14; Ord. No. 461, § 1, 12-18-18) Penalty, see § 1-9

Statutory reference:

Paraphernalia sales, see M.C.L. § 333.7453

Possession/use on school property, see M.C.L. §§ 333.27951 et seq.

Exceptions, see M.C.L. § 333.7457 and M.C.L. §§ 333.27951 et seq.

35-53-35-63. RESERVED.

ARTICLE IV. MARIHUANA

35-64. DEFINITIONS.

As used in this article:

ACT means the Michigan Regulation and Taxation of Marihuana Act, M.C.L. §§ 333.27951 et seq., as it may be amended from time to time.

CONSUME or ***CONSUMING*** means to smoke, ingest, eat, drink, or otherwise imbibe.

CULTIVATE means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

MARIHUANA means all parts of the plant genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination; industrial hemp; or any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

MARIHUANA CONCENTRATE means the resin extracted from any part of the plant of the genus cannabis.

PROCESS or ***PROCESSING*** means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

PUBLIC PLACE means a place or location that is open to or may be used by the members of the community, or where the general public has a right or invitation to resort, or where the public may come and go, including without limitation any public street, sidewalk, or park; any area open to the general public in a publicly owned or operated building; real property or an appurtenance to the real property that is publicly owned; areas within a place of business that is open to the public at any time; any space, room, or building wherein, by general invitation, members of the public attend for reasons of business, communal activities, entertainment, instruction, lodging, or similar activities, and are welcome as long as they conform to what is customarily done there; any public conveyance; any place of employment while

employees are working and guests or patrons are present or generally invited; any place of public assembly; the common areas of any commercial place of communal living, such as a home for the aged; any place or location to which the public is generally invited or permitted to visit; within a privately owned vehicle located in a public place, such as a parking lot that is open for use by the general public; or otherwise any place determined by the courts of the State of Michigan to be a public place when analyzed in the context to which the term is applied.

SMOKING or ***SMOKE*** means the burning of marihuana or any substance or matter that contains marihuana within a cigar, cigarette, pipe, or any other item or device.

(1978 Code, § 25-64; Ord. No. 122-A, § 1, 11-1-83; Ord. No. 436, § 2, 8-19-14; Ord. No. 461, § 3, 12-18-18)

Statutory reference:

Definition, see M.C.L. § 333.27951

35-65. POSSESSION AND USE OF MARIHUANA; PROHIBITIONS; PENALTIES.

(A) A person shall not:

(1) Possess, use, or deliver any controlled substance or a controlled substance analogue listed in Section 7212(d)(1) of the Public Health Code, or a prescription form, except as otherwise permitted by law or this section;

(2) Transfer marihuana or marihuana accessories to a person under the age of 21;

(3) If under the age of 21, possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana;

(4) Separate plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure;

(5) Consume marihuana in a public place;

(6) Smoke marihuana where prohibited by the person who owns, occupies, or manages the property;

(7) Cultivate marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area;

(8) Consume marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat;

(9) Smoke marihuana within the passenger area of a vehicle upon a public way;

(10) Possess or consume marihuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility; or

(11) Possess more than 2.5 ounces of marihuana within a person's place of residence unless the excess marihuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the contents of the container or area.

For a violation of subsection (10) by a person under the age of 17, the person shall be responsible for a municipal civil infraction punishable by a fine of $500, except that the fine will be $100 if the person completes a drug awareness program approved by the police department, either within 30 days of receiving the citation or prior to entering a plea of responsibility at the district court.

(B) The following acts by a person 21 years of age or older are not unlawful, are not an offense, are not grounds for seizing or forfeiting property, are not grounds for arrest, prosecution, or penalty in any manner, are not grounds for search or inspection, and are not grounds to deny any other right or privilege:

(1) Except as permitted by subsection (2), possessing, using or consuming, internally possessing, purchasing, transporting, or processing 2.5 ounces or less of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate;

(2) Within the person's residence, possessing, storing, and processing not more than 10 ounces of marihuana and any marihuana produced by marihuana plants cultivated on the premises and cultivating not more than 12 marihuana plants for personal use, provided that if more than 12 marihuana plants are possessed, cultivated, or processed on the premises at once, the person shall be guilty of a misdemeanor punishable as provided in Chapter 1 of the City Code and by forfeiture of the plants;

(3) Assisting another person who is 21 years of age or older in any of the acts described in this subsection; and

(4) Giving away or otherwise transferring without remuneration up to 2.5 ounces of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public, provided that a transfer for remuneration of any kind, overt or inferred, and a transfer that exceeds the limits set forth here or which is advertised or promoted to the public shall constitute a misdemeanor punishable as provided in Chapter 1 of the City Code and by forfeiture of the marihuana.

(C) Except for a person who engaged in conduct described in subsections (A)(2), (3), (4), (8), (9), (10), or as otherwise provided in the Act, a person who possesses, cultivates, delivers without receiving any remuneration to a person who is at least 21 years of age, or possesses with intent to deliver not more than the amount of marihuana allowed by subsection (B) is responsible for a municipal civil infraction and may be punished by a fine of not more than $100 and forfeiture of the marihuana.

(D) Except for a person who engaged in conduct described in subsection (A), or as otherwise provided in the Act, a person who possesses, cultivates, delivers without receiving any remuneration to a person who is at least 21 years of age, or possesses with intent to deliver not more than twice the amount of marihuana allowed by subsection (B):

(1) For a first violation, is responsible for a municipal civil infraction punishable by a fine of $500 and forfeiture of the marihuana.

(2) For a second violation, is responsible for a municipal civil infraction punishable by a fine of $1,000 and forfeiture of the marihuana.

(3) For a third or subsequent violation, is guilty of a misdemeanor punishable by a fine of up to $500 and forfeiture of the marihuana.

(E) Except for a person who engaged in conduct described by subsections (A)(3), (7), (8), or as otherwise provided in the Act, a person under 21 years of age who possesses not more than 2.5 ounces of marihuana or who cultivates not more than 12 marihuana plants:

(1) For a first violation, is responsible for a municipal civil infraction punishable as follows:

(a) If the person is less than 18 years of age, by a fine of $100 or community service, forfeiture of the marihuana, and completion of 4 hours of drug education or counseling.

(b) If the person is at least 18 years of age, by a fine of $100 and forfeiture of the marihuana.

(2) For a second violation, is responsible for a municipal civil infraction punishable as follows:

(a) If the person is less than 18 years of age, by a fine of $500 or community service, forfeiture of the marihuana, and completion of 8 hours of drug education or counseling.

(b) If the person is at least 18 years of age, by a fine of $500 and forfeiture of the marihuana.

(3) For a third or subsequent violation committed by a person less than 18 years of age, is responsible for a municipal civil infraction punishable by a fine of $1,000 and community service, forfeiture of the marihuana, and completion of 16 hours of drug education or counseling. For a third or subsequent violation committed by a person at least 18 years of age, is guilty of a misdemeanor punishable as set forth in § 1-10 of the City Code, community service, forfeiture of the marihuana, and completion of drug education or counseling ordered by the court.

(F) Except for a person who engaged in conduct described by subsection (A), or as otherwise provided in the Act, a person who possesses, cultivates, or delivers without receiving any remuneration to a person who is at least 21 years of age more than twice the amount of marihuana allowed by subsection (B) shall be guilty of a misdemeanor punishable as follows:

(1) A fine up to $500 if the violation was not habitual, willful, and for a commercial purpose, and the violation did not involve violence.

(2) A fine up to $500 and up to 90 days in jail if the violation was habitual, willful, and for a commercial purpose, or if the violation involved violence.

(1978 Code, § 25-65; Ord. No. 122-A, § 1, 11-1-83; Ord. No. 436, § 2, 8-19-14; Ord. No. 461, § 4, 12-18-18) Penalty, see § 1-9

35-66. PROBATION WITHOUT JUDGMENT OF GUILT; DISCHARGE AND DISMISSAL; INSTRUCTION OR PROGRAM ON DRUG MISUSE.

(A) When an individual who has not previously been convicted of an offense under Article III or this article, or under any statute of the United States or of any state relating to narcotic drugs, coca leaves, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession or use of a controlled substance under this article, the court, without entering a judgment of guilt with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that shall include, but are not limited to, payment of a probation supervision fee as prescribed in Section 3c of Chapter XI of the state Code of Criminal Procedure, 1927 PA 175, M.C.L. § 771.3c. The terms and conditions of probation may include participation in a drug treatment court under Chapter 10A of the Revised Judicature Act of 1961, 1961 PA 236, M.C.L. §§ 600.1060 to 600.1084. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and, except as otherwise provided by law, is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There may be only one discharge and dismissal under this section as to an individual.

(B) All court proceedings under this section shall be open to the public. Except as provided in subsection (e), if the record of proceedings as to the defendant is deferred under this section, the record of proceedings during the period of deferral shall be closed to public inspection.

(C) Unless the court enters a judgment of guilt under this section, the Department of State Police shall retain a nonpublic record of the arrest, court proceedings, and disposition of the criminal charge under this section. However, the nonpublic record shall be open to the following individuals and entities for the purposes noted:

(1) The courts of this state, law enforcement personnel, the Department of Corrections, and prosecuting attorneys for use only in the performance of their duties or to determine whether an employee of the court, law enforcement agency, Department of Corrections, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, law enforcement agency, Department of Corrections, or prosecutor's office.

(2) The courts of this state, law enforcement personnel, and prosecuting attorneys for the purpose of showing either of the following:

(a) That a defendant has already once availed himself or herself of this section or the corresponding state law.

(b) Determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under Section 1076(5) of the Revised Judicature Act of 1961, 1961 PA 236, M.C.L. § 600.1076.

(3) The Department of Human Services for enforcing child protection laws and vulnerable adult protection laws or ascertaining the preemployment criminal history of any individual who will be engaged in the enforcement of child protection laws or vulnerable adult protection laws.

(D) If an individual is convicted of a violation of Article III or this article, the court as part of the sentence, during the period of confinement or the period of probation, or both, may require the individual to attend a course of instruction or rehabilitation program approved by the state on the medical, psychological, and social effects of the misuse of drugs. The court may order the individual to pay a fee for the instruction or program. Failure to complete the instruction or program shall be considered a violation of the terms of probation.

(1978 Code, § 25-66; Ord. No. 122-A, § 1, 11-1-83; Ord. No. 436, § 2, 8-19-14)

Statutory reference:

Deferral of proceedings, see M.C.L. § 333.7411

35-67. MEDICAL MARIJUANA.

(A) Individuals who are "qualifying patients" or "primary caregivers" as those terms are used in the Michigan Medical Marihuana Act shall comply with the requirements set forth in the Act and the requirements set forth herein.

(B) The term "enclosed, locked facility" means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a registered primary caregiver or registered qualifying patient. Marijuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either the registered qualifying patient or a person designated through the state registration process as the primary caregiver for the registered qualifying patient or patients for whom the marijuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:

(1) The vehicle is being used temporarily to transport living marijuana plants from one location to another with the intent to permanently retain those plants at the second location.

(2) An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marijuana plants belong or the individual designated through the departmental registration process as the primary caregiver for the registered qualifying patient.

(C) A person who has been issued and possesses a lawful registry identification card as a qualifying patient as set forth in the Act shall comply with the following requirements:

(1) A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty for the medical use of marijuana in accordance with state law, provided that the qualifying patient possesses an amount of marijuana that does not exceed 2.5 ounces of usable marijuana, and, if the qualifying patient has not specified that a primary caregiver will be allowed under state law to cultivate marijuana for the qualifying patient, 12 marijuana plants kept in an enclosed, locked facility. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed and shall not be included in this amount. The privilege from arrest under this subsection applies only if the qualifying patient presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the qualifying patient.

(2) A qualifying patient may grow and process medical marijuana in compliance with the Act in one enclosed, locked facility within or upon an owner-occupied, detached single-family residential dwelling/premises where the qualifying patient lives and which is the qualifying patient's residence pursuant to Michigan law, or in another location specifically permitted by law or ordinance, so that growing and processing does not occur in multiple locations.

(3) Storage of medical marijuana by a qualifying patient shall only occur within one enclosed, locked facility at the primary residence of the qualifying patient or in another location specifically permitted by law or ordinance so that storage does not occur in multiple locations.

(4) No person other than the qualifying patient shall be engaged or involved in the growing, processing, or handling of medical marijuana, except as permitted by law or ordinance for primary caregivers.

(5) Use of the qualifying patient's residential dwelling for medical marijuana related purposes shall be clearly incidental and subordinate to its use for single-family residential purposes. Not more than 25% of the gross finished floor area of the dwelling or 200 square feet of floor area of the dwelling, whichever is less, shall be used for the growing, processing, and handling of medical marijuana. Any modifications to the dwelling made for the purpose of cultivating medical marijuana shall comply with all applicable building, electrical, mechanical, and fire safety code requirements, including all requisite permit applications and related inspections. No part of an accessory building, detached garage, pole barn, or similar building or structure shall be used for the growing, processing, or distribution of medical marijuana unless such building or structure has been inspected and approved for the building, electrical, mechanical, and fire safety requirements of such use and fits the

definition of an enclosed, locked facility.

(6) A qualifying patient may possess on his or her person and under the qualifying patient's exclusive control an amount of medical marijuana deemed medically necessary to alleviate the condition that gave rise to the qualifying patient's registration with the state.

(7) Should a qualifying patient wish to dispose of any usable marijuana as defined in the Act, the usable marijuana shall be removed by a commercial drug disposal carrier registered with the United States Drug Enforcement Administration and/or the state for proper disposal in a manner prescribed by law and regulation. Under no circumstance shall a qualifying patient dispose of any usable marijuana through a regular garbage receptacle, public waste retrieval service, public sewer system, or by burning. Unusable material and paraphernalia relating to medical marijuana may be discarded with other household waste for pickup by the public waste retrieval service, but shall be securely within a proper garbage bag or other receptacle and shall not be visible or exposed at any time prior to retrieval by the service.

(8) There shall be no visible change to the outside appearance of the qualifying patient's residential property or other visible evidence of the conduct of the medical marijuana operation occurring on the property.

(9) No marijuana, marijuana plants, marijuana paraphernalia, or plant growing apparatus shall be visible from the exterior of the dwelling.

(10) No sign in the form of a device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying a particular dwelling or property as being associated with the use or cultivation of medical marijuana or marijuana in general shall be visible from any location outside of the residential dwelling.

(11) No equipment or process shall be used in growing, processing, or handling medical marijuana which creates noise, vibration, glare, light, fumes, odors, or electrical interference detectable to the normal senses at or beyond the property line of the qualifying patient's residential property. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television, or similar receiver off the premises or causes fluctuation of line voltage off the premises.

(12) The growing, processing, distribution, sale, and handling of medical marijuana shall comply at all times with the Act and any applicable regulations or requirements by the Michigan Department of Community Health or any other Michigan agency.

(D) A person who has been issued and possesses a lawful registry identification card as a primary caregiver as set forth in the Act shall comply with the following requirements:

(1) A primary caregiver who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty for assisting a qualifying patient to whom he or she is connected through the state's registration process with the medical use of marijuana in accordance with state law. The privilege from arrest under this subsection applies only if the primary caregiver presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the primary caregiver. This subsection applies only if the primary caregiver possesses an amount of marijuana that does not exceed:

(a) 2.5 ounces of usable marijuana for each qualifying patient to whom he or she is connected through the state's registration process; and

(b) For each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marijuana for the qualifying patient, 12 marijuana plants kept in an enclosed, locked facility; and

(c) Any incidental amount of seeds, stalks, and unusable roots.

(2) A primary caregiver may grow and process medical marijuana in compliance with the Act in one enclosed, locked facility within or upon an owner-occupied, detached single-family residential dwelling/premises where the primary caregiver lives and which is the primary caregiver's residence pursuant to Michigan law, or in another location specifically permitted by law or ordinance, so that growing and processing does not occur in multiple locations.

(3) No person other than the primary caregiver shall be engaged or involved in the growing, processing, dispensing, delivery, or handling of marijuana, except to the extent that the primary caregiver lawfully transfers medical marijuana to a qualifying patient to whom the primary caregiver is linked through the state registration system.

(4) Use of the primary caregiver's residential dwelling for medical marijuana related purposes shall be clearly incidental and subordinate to its use for single-family residential purposes. Not more than 25% of the gross finished floor area of the dwelling or 200 square feet of floor area of the dwelling, whichever is less, shall be used for the growing, processing, and handling of medical marijuana. Any modifications to the dwelling made for the purpose of cultivating medical marijuana shall comply with all applicable building, electrical, mechanical, and fire safety code requirements, including all requisite permit applications and related inspections. No part of an accessory building, detached garage, pole barn, or similar building or structure shall be used for the growing, processing, or distribution of medical marijuana unless such building or structure has been inspected and approved for the building, electrical, mechanical, and fire safety requirements of such use and fits the definition of an enclosed, locked facility.

(5) No qualifying patient shall visit, come to, or be present at the primary caregiver's residence to purchase, smoke, consume, obtain, or receive possession of any marijuana. Rather, the primary caregiver must personally deliver the marijuana to his/her qualifying patient. No person may deliver medical marijuana to a qualifying patient other than the primary caregiver linked through the state registry system to that qualifying patient.

(6) There shall be no visible change to the outside appearance of the primary caregiver's residential property or other visible evidence of the conduct of the medical marijuana operation occurring on the property.

(7) No marijuana, marijuana plants, marijuana paraphernalia, or plant growing apparatus shall be visible from the exterior of the dwelling.

(8) No equipment or process shall be used in growing, processing, or handling medical marijuana which creates noise, vibration, glare, light, fumes, odors, or electrical interference detectable to the normal senses at or beyond the property line of the primary caregiver's residential property. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television, or similar receiver off the premises or causes fluctuation of line voltage off the premises.

(9) The growing, processing, distribution, sale, and handling of medical marijuana shall comply at all times with the Act and any applicable regulations or requirements by the Michigan Department of Community Health or any other Michigan agency.

(10) All medical marijuana shall be contained within the primary caregiver's enclosed, locked facility, except when being lawfully delivered by the primary caregiver to a qualifying patient off site or being used by the primary caregiver as a qualifying patient. Manufacturing and storage of medical marijuana shall only be allowed inside one enclosed, locked facility at any given time so that manufacturing and storage does not occur in multiple locations.

(11) No on-site consumption or smoking of marijuana is allowed on a primary caregiver's residential property except for any medical marijuana consumption in compliance with the Act by qualifying patients who reside at that location.

(12) No sign in the form of a device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying a particular dwelling or property as being associated with the use or cultivation of medical marijuana or marijuana in general shall be visible from any location outside of the residential dwelling.

(13) Under no circumstances shall any third parties have access to the enclosed, locked facility where medical marijuana is being manufactured and/or stored.

(14) The residential premises upon which a primary caregiver cultivates medical marijuana shall not be a location at which any other commodity, product, or service is also sold, distributed, or otherwise available. It shall be a violation of this section for any person to participate as a primary caregiver in a jointly operated facility where primary caregivers jointly share building space which is used in common to dispense medical marijuana to qualifying patients or assist qualifying patients with the medical use of marijuana. Use "in common," as that phrase is used in this subdivision, shall include a shared or common reception area or shared or common customer service area.

(15) Medical marijuana dispensaries and cooperatives are prohibited.

(16) Should a primary caregiver wish to dispose of any usable marijuana as defined in the Act, the usable marijuana shall be removed by a commercial drug disposal carrier registered with the United States Drug Enforcement Administration and/or the state for proper disposal in a manner prescribed by law and regulation.

Under no circumstance shall a primary caregiver dispose of any usable marijuana through a regular garbage receptacle, public waste retrieval service, public sewer system, or by burning. Unusable material and paraphernalia relating to medical marijuana may be discarded with other household waste for pickup by the public waste retrieval service, but shall be securely within a proper garbage bag or other receptacle and shall not be visible or exposed at any time prior to retrieval by the service.

(E) This section shall not permit any person to do any of the following:

(1) Undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice.

(2) Possess marijuana, or otherwise engage in the medical use of marijuana:

(a) In a school bus;

(b) On the grounds of any preschool or primary or secondary school; or

(c) In any correctional facility.

(3) Smoke marijuana:

(a) On any form of public transportation; or

(b) In any public place.

(4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana.

(5) Use marijuana if that person does not have a serious or debilitating medical condition.

(F) There shall be a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marijuana in accordance with the Act and this section if the qualifying patient or primary caregiver:

(1) Is in possession of a registry identification card; and

(2) Is in possession of an amount of marijuana that does not exceed the amount allowed under the Act or this section. The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this section.

(G) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be a misdemeanor punishable by a fine of $500, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this section or state law.

(H) No person shall transport or possess usable marijuana as defined in the Act in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless the useable marijuana is either:

(1) Enclosed in a case that is carried in the trunk of the vehicle; or

(2) Enclosed in a case that is not readily accessible from the interior of the vehicle in vehicles which do not have a trunk.

(I) A person who violates division (H) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500, or both.

(Ord. No. 436, § 2, 8-19-14)

Statutory reference:

Medical Marihuana Act, see M.C.L. §§ 333.26421 et seq.

Transportation of medical marijuana, see M.C.L § 750.474.

35-68. LOCATION REGISTRATION.

(A) Findings.

(1) Under the Act, law enforcement officers and city officials are prevented from securing the information necessary to determine whether the cultivation, distribution, and use of marijuana are being conducted lawfully and whether all codes and regulations associated with such activities are being followed. Accordingly, the registration of a particular location as the site of cultivation, which need not undermine the privacy and confidentiality of the patient-caregiver relationship, could be critical to law enforcement and city officials in order to identify and distinguish sites of lawful activity from sites of unlawful and potentially hazardous activity.

(2) The experience in the State of California, a state that approved the medical use of marijuana in 1996, is that concentrations of marijuana distribution activity lead to serious secondary effects, including: resales of medical marijuana, sharing of "just-purchased" marijuana, street dealers lurking in neighborhoods to offer a lower price for marijuana to arriving patients, marijuana smoking in public and in front of children in the vicinity of medical marijuana locations, acquiring marihuana and/or money by means of robbery of patients going to or leaving a caregiver's location, and loitering and an increase in burglaries at or near such locations.

(3) Unauthorized installations of plumbing and electrical equipment relating to the cultivation of marijuana plants may create mold conditions and/or a fire risk, or may interfere with neighboring properties and create nuisance conditions in a residential neighborhood.

(B) For these reasons, no growing, cultivation, or harvesting of medical marijuana shall be lawful at a location within the city until the location has been registered under this chapter.

(1) Exception: Registration is not required for the principal residence or homestead of a qualifying patient where marijuana is cultivated for such patient's personal use.

(C) A registration form shall be submitted to the City Clerk for any location where medical marijuana will be grown, cultivated, harvested, and stored. The registration form shall be in a form approved by the City Clerk and shall require the emergency and non-emergency contact information for the owner of the property and a proxy in the event of the owner's lack of availability during an emergency. The completed registration form must be accompanied by the following:

(1) A photocopy of the current and valid caregiver registry card issued by the state to the person who is permitted to grow, cultivate, harvest, and store medical marijuana and who will be doing so at the registered location. Upon expiration of the card, the registration form shall be updated and a new copy of the renewed card shall be provided to the City Clerk.

(2) A floor plan, with dimensions, illustrating the enclosed and locked location in the building where marijuana will be grown, cultivated, harvested, and stored, and detailing the security measures related to that location and the building.

(3) Specification of the number of qualifying patients for whom marijuana will or may be grown, cultivated, harvested, and stored.

(4) Details regarding electrical, mechanical, plumbing, and any other code-related improvements and installations or facilities that will be used for growing, cultivating, harvesting, and storing the marijuana.

(5) Any additional information that the Police Chief, Fire Chief, Building Official, or their designees deems necessary for evaluating code compliance and public safety associated with the proposed growing, cultivating, harvesting, and storing of marijuana at the registered location in the manner proposed in the registration materials.

(6) Payment of the registration fee established by the city's annual appropriations ordinance.

(D) All information provided to the city pursuant to this section shall be deemed confidential due to the confidentiality requirements of the Act and shall not be subject to public disclosure unless required by law or court order.

(E) Upon submission of all required documents, information, and payment, the individual submitting the form shall be provided with a copy of the requirements of this section relating to medical marijuana.

(F) Upon receipt of all required documents, information, and payment, the City Clerk shall circulate the documents and information to the Police Chief, Fire Chief, and Building Official, or their designees, for review. If, after review, the Police Chief, Fire Chief, and/or Building Official or their designees require any additional information relating to security measures, fire safety, code compliance, or compliance with this chapter, the property owner shall be advised in writing of the additional information required and the owner shall provide such information before any growing, cultivation, harvesting, or storage of marijuana may occur at the proposed location.

(G) When the Police Chief, Fire Chief, and Building Official or their designees have sufficient information about the marijuana operations proposed for the registered property, the police department, fire department, and building department shall each schedule an inspection of the proposed operations unless they advise the City Clerk in writing that no inspection is required. Upon successful completion of all inspections and the issuance of all required permits, the City Clerk shall issue a registration certificate for the property, which shall be prominently and conspicuously displayed on or within the enclosed, locked facility approved during the review process and where medical marijuana will be grown, cultivated, harvested, and/or stored.

(H) All marijuana-related uses of the registered property subsequent to issuance of the registration certificate shall be in accordance with the information upon which the reviews and inspections were based, and any material changes to the operations, facilities, or information shall first be reviewed and, if necessary, inspected by the appropriate city official within 14 days of advising the City Clerk of the proposed change. Annual inspections may be scheduled by the city to ensure ongoing code and ordinance compliance.

(I) Properties within the city that are being utilized for growing, cultivating, harvesting, and/or storing of medical marijuana on the effective date of this section must file the completed registration form, required information, and payment with the City Clerk within 30 days.

(J) Appeals of any code-related compliance deemed necessary by any city official as part of the registration process shall be made to the Board of Code Appeals. However, appeals of any law enforcement security requirements imposed as part of the registration process shall be to a court of competent jurisdiction.

(K) A property owner shall not be deemed to have any vested rights or nonconforming use rights that would serve as a basis for failing to comply with the requirements of this chapter.

(L) The owner of the property, as identified by the city's property tax rolls, shall be presumed to be the party responsible for compliance with the registration and regulatory requirements of this chapter.

(Ord. No. 436, § 2, 8-19-14)

35-69. NO IMMUNITY.

(A) The Act authorizes a narrow exception to the prosecution under state laws that otherwise criminalize the cultivation, distribution, possession and use of marijuana. Outside the purview of the Act, the possession and use of marijuana in the State of Michigan remains a misdemeanor offense, and possession with intent to deliver, and delivery and manufacture of marijuana, remain felonies. Marijuana is also classified federally as a Schedule I Drug under the Controlled Substances Act and is illegal to possess, manufacture, distribute, or dispense under federal law.

(B) Nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for the cultivation, sale, consumption, use, distribution, or possession of marijuana not in strict compliance with the Act. Also, because federal law is not affected by that Act, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. The Act does not protect users, caregivers, or the owners of properties on which the medical use of marijuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

(C) Nothing in this chapter shall be construed as authorizing persons to engage in conduct that endangers others or causes a public nuisance, or to allow any cultivation, distribution, or use of marijuana contrary to the express authorizations of the Act and this chapter.

(Ord. No. 436, § 2, 8-19-14)

35-70. PROHIBITION OF MARIHUANA ESTABLISHMENTS.

The Michigan Regulation and Taxation of Marihuana Act was initiated by the voters of the State of Michigan pursuant to Proposal 1, the Marijuana Legalization Initiative, on November 6, 2018. The Act authorizes cities, villages, and townships to completely prohibit marihuana establishments within their boundaries. Pursuant to that authority, marihuana establishments as defined in the Act are hereby prohibited within the City.

(Ord. No. 460, § 1, 12-4-18)

35-71-35-80. RESERVED.

ARTICLE V. YOUTH CURFEWS

35-81. CURFEW.

(A) No child under 12 years of age may be in any public place between the hours of 9:00 p.m. and 6:00 a.m., unless accompanied by his or her parent or guardian or by some other adult delegated by the parent or guardian to accompany such child.

(B) No child under 17 years of age may be in any public place between the hours of 11:00 p.m. and 6:00 a.m. unless such minor is:

(1) Accompanied by a parent or guardian or some other adult delegated by the parent or guardian to accompany such minor;

(2) In any such public place in connection with some legitimate work, trade, profession or occupation in which such minor is engaged;

(3) On an errand directed by his or her parent or guardian; or

(4) Returning home from a social, athletic or other event held under the auspices of a public or private school, recreation department or other organization approved by the Police Department.

(1978 Code, § 25-81; Ord. No. 280, § 1, 12-6-89)

35-82. AIDING OR ABETTING VIOLATIONS.

(A) No person shall assist, aid or abet any child under 17 years of age in violating this article.

(B) The parent or guardian having the care and custody of a child under 17 years of age is rebuttably presumed to have assisted, aided or abetted the child's violation of this article.

(1978 Code, § 25-82; Ord. No. 280, § 1, 12-6-89)

35-83-35-90. RESERVED.

ARTICLE VI. TOBACCO AND VAPOR PRODUCTS

35-91. TITLE.

This article shall be known and cited as the "Sterling Heights Tobacco Products and Vapor Products Ordinance."

(Ord. No. 439, § 4, 2-17-15)

35-92. PURPOSE AND FINDINGS.

(A) The purpose of this article is to protect the public health, safety, and welfare of the property and persons in the city by prohibiting persons under 18 years of age from possessing tobacco products and vapor products, and prohibiting the sale of tobacco products and vapor products to persons under 18 years of age.

(B) Persons under age 18 are prohibited by law from purchasing or possessing cigarettes and other tobacco products, and retailers are prohibited from selling them to minors. However, tobacco-less products - commonly referred to as "electronic cigarettes," "e-cigarettes," "e-cigars," "e-cigarillos," "e-pipes," "e-hookahs," or "electronic nicotine delivery systems" - allow the user to simulate cigarette smoking and ingest nicotine. These products may be purchased by minors and are being marketed without age restrictions or health warnings and come in different flavors that appeal to young people.

(C) Studies by the FDA have determined that e-cigarettes can increase nicotine addiction among young people and contain chemical ingredients known to be harmful, which may expose users and the public to potential health risks. The use of e-cigarettes and similar devices has increased significantly in recent years, as evidenced by the fact that:

(1) Between 2011 and 2012 the percentage of all youth in grades 6 to 12 who had tried electronic smoking devices doubled;

(2) 6.8% of all youth between 6th and 12th grade report trying electronic smoking devices;

(3) 10% of high school students have tried electronic smoking devices;

(4) 9.3% of youth who have used electronic smoking devices have never smoked conventional cigarettes; and

(5) Between 2010 and 2011, rates of both awareness and use of unregulated electronic smoking devices by adults also increased significantly.

(6) The 2014 survey conducted by Monitoring the Future, released on December 16, 2014 by the National Institute on Drug Abuse, revealed recent use by 8.7% of eighth graders, 16.2% of tenth graders, and 17.1% of twelfth graders.

(D) Existing studies on electronic smoking devices' vapor emissions and cartridge contents have found a number of dangerous substances including:

(1) Chemicals known to cause cancer such as formaldehyde, acetaldehyde, lead, nickel, and chromium;

(2) PM2.5, acrolein, tin, toluene, and aluminum, which are associated with a range of negative health effects such as skin, eye, and respiratory irritation, neurological effects, damage to reproductive systems, and even premature death from heart attacks and stroke;

(3) Inconsistent labeling of nicotine levels in electronic smoking device products; and

(4) In one instance, diethylene glycol, an ingredient used in antifreeze and toxic to humans.

(E) Some cartridges used by electronic smoking devices can be re-filled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine, and as a result:

(1) In one instance, diethylene glycol, an ingredient used in antifreeze and toxic to humans.

(2) Poisonings from electronic smoking devices have increased dramatically in the last three and half years from "one [a month] in September 2010 to 215 a month in February 2014."

(3) Analysis of reports of poisonings from electronic smoking devices finds that calls reporting exposure to electronic smoking devices are much more likely to involve adverse health effects when compared to calls reporting exposure to conventional cigarettes.

(F) Clinical studies about the safety and efficacy of these products have not been submitted to the FDA for the over 400 brands of electronic smoking devices that are on the market and for this reason, consumers currently have no way of knowing:

(1) Whether electronic smoking devices are safe;

(2) What types or concentrations of potentially harmful chemicals the products contain; and

(3) What dose of nicotine the products deliver.

(G) The World Health Organization has strongly advised consumers against the use of electronic smoking devices until they are "deemed safe and effective and of acceptable quality by a competent national regulatory body."

(H) The World Medical Association has determined that electronic smoking devices "are not comparable to scientifically-proven methods of smoking cessation" and that "neither their value as therapeutic aids for smoking cessation nor their safety as cigarette replacements is established."

(I) In September of 2013, 40 state attorneys general (including Michigan's) signed a letter to the Commissioner of the United States Food and Drug Administration, outlining their concerns with e-cigarettes and requesting the implementation of regulations that would address the advertising, ingredients, and sale to minors of e-cigarettes at the federal level.

(J) It is the intent of the City Council, in enacting this article, to provide for the public health, safety, and welfare by facilitating uniform and consistent enforcement of smoke-free air laws; by reducing the potential for re-normalizing smoking in public places and places of employment; by reducing the potential for children to associate the use of electronic smoking devices with a normative or healthy lifestyle; and by prohibiting the sale or distribution of electronic smoking devices to minors.

(K) Therefore, the City Council determines that prohibiting the sale, giving, or furnishing of e-cigarettes to minors and prohibiting the purchase, possession, or use of e-cigarettes by minors is in the City's best interests and will promote the public health, safety, and welfare. For purposes of this article, the City is adopting the term "vapor product" to address e-cigarettes and all similar devices, because this term has been defined by the Michigan House and Senate in Senate Bills 667 and 668, enrolled in June of 2014, as part of proposed amendments to the Youth Tobacco Act, being Public Act 31 of 1915.

(Ord. No. 439, § 4, 2-17-15)

35-93. DEFINITIONS.

For the purpose of construction and application of this article, the following definitions shall apply:

MINOR. An individual who is less than 18 years of age.

PERSON WHO SELLS VAPOR PRODUCTS AT RETAIL. A person whose ordinary course of business consists, in whole or in part, of the retail sale of vapor products.

PERSON WHO SELLS TOBACCO PRODUCTS AT RETAIL. A person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.

POSSESS A TOBACCO PRODUCT OR VAPOR PRODUCT. Shall mean either actual physical control of the tobacco product or vapor product without necessarily owning that product, or the right to control the product even though it is in a different room or place than where the person is physically located.

PUBLIC PLACE. A public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or premises, or in a public place of business.

TOBACCO PRODUCT. A product that contains tobacco and is intended for human consumption, including but not limited to cigarettes, non-cigarette smoking tobacco, or smokeless tobacco, as those terms are defined in Section 2 of the Tobacco Products Tax Act, cigars, chewing tobacco, and flavored tobacco (shisha). Tobacco product does not include a vapor product or a product regulated as a drug or device by the United States Food and Drug Administration.

USE A TOBACCO PRODUCT OR VAPOR PRODUCT. To smoke, chew, suck, inhale, or otherwise consume a tobacco product or vapor product.

VAPOR PRODUCT. A noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include a product regulated as a drug or device by the United States Food and Drug Administration.

(Ord. No. 439, § 4, 2-17-15)

35-94. PROHIBITED CONDUCT.

(A) Subject to division (C), a minor shall not do any of the following:

(1) Purchase or attempt to purchase a tobacco product or vapor product.

(2) Possess or attempt to possess a tobacco product or vapor product.

(3) Use a tobacco product or vapor product in a public place.

(4) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product or vapor product.

(B) An individual who violates division (A) is subject to the following:

(1) The first violation is a municipal civil infraction, punishable by a fine of $500 for each violation, except that the fine will be $50 for each violation cited on a single municipal civil infraction citation if the individual completes a health promotion and risk reduction program approved by the police department, either within 30 days of receiving the citation or prior to entering a plea of responsibility at the district court.

(2) A second violation or subsequent violation shall be a misdemeanor, punishable by a fine up to $500. The court may order the individual to complete a health promotion and risk reduction program and perform not more than 40 hours of community service in a hospice, nursing home, or long-term care facility.

(C) Division (A) does not apply to a minor participating in any of the following:

(1) An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(2) An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product or vapor product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.

(3) Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted under the direction of a substance abuse coordinating agency as defined in the Public Health Code, 1978 PA 368, MCL 333.6103, and with the prior approval of the state police or a local police agency.

(D) Division (A) does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of that minor's employment.

(E) This section does not prohibit an individual from being charged with, convicted of, or sentenced for any other violation of law that arises out of the violation of division (A).

(Ord. No. 439, § 4, 2-17-15)

Statutory reference:

Tobacco, see MCL 722.641 et seq.

35-95. PARENTAL RESPONSIBILITY.

A primary caretaker having custody or control of a minor who violates § 35-94 shall be responsible for a municipal civil infraction and a fine of $500 for knowingly allowing or, through lack of supervision, allowing the minor to violate § 35-94. The fine will be $50 if the primary caretaker completes a health promotion and risk reduction program approved by the police department, either within 30 days of receiving the citation or prior to entering a plea of responsibility at the district court.

(Ord. No. 439, § 4, 2-17-15)

35-96. SALES OF INDIVIDUAL CIGARETTES.

(A) Except as otherwise provided in division (B), a person who sells tobacco products at retail shall not sell a cigarette separately from its package.

(B) Division (A) does not apply to a person who sells tobacco products at retail in a tobacco specialty retail store or other retail store that deals exclusively in the sale of tobacco products and smoking paraphernalia.

(C) A person who violates division (A) is guilty of a misdemeanor, punishable by a fine of not more than $500 for each offense.

(Ord. No. 439, § 4, 2-17-15)

Statutory reference:

MCL 722.642a

35-97. FURNISHING TO MINORS.

(A) A person shall not sell, give, or furnish a tobacco product or vapor product to a minor, including, but not limited to, through a vending machine. A person who violates this subsection or division (H) is guilty of a misdemeanor punishable by a fine of not more than $50 for each violation.

(B) A person who sells tobacco products or vapor products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign that includes the following statement:

"The purchase of a tobacco product or vapor product by a minor under 18 years of age and the provision of a tobacco product or vapor product to a minor are prohibited by law. A minor who unlawfully purchases or uses a tobacco product or vapor product is subject to criminal penalties."

(C) If the sign required under division (B) is more than six feet from the point of sale, it shall be 5-1/2 inches by 8-1/2 inches and the statement required under division (B) shall be printed in 36-point boldfaced type. If the sign required under division (B) is six feet or less from the point of sale, it shall be two inches by four inches and the statement required under division (B) shall be printed in 20-point boldfaced type.

(D) The signs required by division (C) may be procured from the Department of Community Health pursuant to state law. The seller may add the "vapor product" language to the sign if the Department of Community Health does not or will not include it.

(E) It is an affirmative defense to a charge under division (A) that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of tobacco products and vapor products to persons under 18 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, with the court and serve a copy of the notice on the city attorney. The defendant shall serve the notice not less than 14 days before the date set for trial.

(F) If the City Attorney proposes to offer testimony to rebut the affirmative defense described in division (E), the City Attorney shall file a notice of rebuttal, in writing, with the court and serve a copy of the notice on the defendant. The City Attorney shall serve the notice not less than seven days before the date set for trial and shall include in the notice the name and address of each rebuttal witness.

(G) Division (A) does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of the minor's employment.

(H) Before selling, offering for sale, giving, or furnishing a vapor product to an individual, a person shall verify that the individual is at least 18 years of age by doing one of the following:

(1) If the individual appears to be under 27 years of age, examining a government-issued photographic identification that establishes that the individual is at least 18 years of age.

(2) For sales made by the internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is 18 years of age or older.

(Ord. No. 439, § 4, 2-17-15)

Statutory reference:

Tobacco, see MCL 722.641

35-98-35-100. RESERVED.

ARTICLE VII. ATTEMPTS; AIDING AND ABETTING; CONSPIRACY

35-101. ATTEMPTS; ACCESSORY; CONSPIRACY; AIDING AND ABETTING.

(A) Any person who shall attempt to commit, act as an accessory to the commission of, or conspire to commit a misdemeanor offense prohibited by this Code shall be subject to the penalties set forth in § 1-9 of the Code.

(B) Every person concerned in the commission of an offense, whether he or she directly commits the act constituting the offense or procures, counsels, aids, or abets in its commission, shall be punished as if he or she had directly committed such offense.

(Ord. No. 328, § 7, 11-5-97; Ord. No. 439, § 5, 2-17-15)

Statutory reference:

Conspiracy, see MCL 750.157a

Aiding and abetting, see MCL 767.39.

CHAPTER 36: FALSE ALARMS

36-1. PURPOSE AND INTENT.

(A) When a fire detection system, burglar alarm, or other alarm device is activated, the city's Fire Department and/or Police Department respond to protect the lives and property of the citizens and businesses of the city. This rapid response requires the Fire Department and/or Police Department to place numerous emergency vehicles on the streets, which inherently increases the dangers to members of the Fire and/or Police Departments, and to the citizens of the city. Although the city supports and encourages the use of alarm systems to discover fires and detect intruders, malfunctions of such systems result in increased dangers and unnecessary expense.

(B) Therefore, the purpose of this chapter is to encourage alarm users throughout the city to maintain operational reliability and properly use alarm systems in a manner which will reduce false alarm responses by the Police Department and Fire Department, thereby reducing and preventing the misuse of police and fire resources at taxpayer expense. Communities throughout the nation have found that the use of a regulatory ordinance designed to first encourage remedial measures, with progressively increased penalties imposed for failure to implement such measures, reduces the overall number of false alarms by significant percentages. Therefore, in order to further public safety and welfare, and to reduce the undue burden incurred by taxpayers for false alarm responses, the City Council hereby enacts this Chapter 36, which shall be known as "The City of Sterling Heights False Alarm Ordinance."

(Ord. No. 376, § 1, 3-15-05)

36-2. DEFINITIONS.

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

ALARM SYSTEM. A detection device or an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention or to which police and/or firefighters are expected or requested to respond. The term includes any system that can electronically cause an expected response by a law enforcement agency or fire/emergency services agency to a premises by means of the activation of an audible signal, visible signal, electronic notification, or video signal, or any combination of these signals. ***ALARM SYSTEM*** shall include, but shall not be limited to, the following types of devices: automatic holdup alarm, burglar alarm, local alarm, intrusion alarm, holdup alarm, panic alarm, personal emergency response alarm, temperature fire alarm, manual fire alarm, fire alarm, automatic sprinkler, and/or water flow alarm. Alarm systems designed solely to alert or signal persons within the premises in which the alarm system is located shall not be regulated by this chapter, unless such alarm systems employ an audible signal emitting sounds, or flashing lights or beacons, or silent signals to emergency officials or monitoring agencies, designed to signal persons outside the premises.

ALARM USER. The person, partnership, corporation, company, or other entity who requested the installation of the alarm system, or who has either an ownership interest in the premises, a leasehold interest, or who occupies the premises, or who has some dominion and control over the premises, where the alarm system is installed and operating. In the event the premises are owned or occupied by a partnership, corporation, or other entity, each owner, officer, partner, or operator shall be deemed to be an ***ALARM USER***. For purposes of prosecuting violations of the penal provisions of this chapter, and for purposes of collecting fees incurred for false alarms, the person or entity whose name appears as being associated with the property protected by the alarm system on the most recent assessment roll approved by the board of review, as updated, and/or whose name appears in the city's business registration records, shall be presumed to be the ***ALARM USER***.

COST OF FIRE RESPONSE. The fee established by the annual appropriations ordinance adopted by the City Council which is reasonably calculated by the Fire Department and the Finance Department to recover all or a portion of the actual cost to the city for fire response to false alarms and related investigation. The ***COST OF FIRE RESPONSE*** may include costs for the use of Fire Department equipment, the expenditure of Fire Department resources, the cost of contracted assistance or services, and the wages and benefits for each Fire Department employee who responds or assists with the response to the false alarm in accordance with lawful and established fire safety protocol. The fee may be incrementally increased by the City Council, not to exceed the city's actual cost, for repeat or subsequent violations within a 12-month period of time. The incremental fee for repeat or subsequent violations may be calculated to include the ***COST OF FIRE RESPONSE*** to the first false alarm for which no fee was imposed.

COST OF POLICE RESPONSE. The fee established by the annual appropriations ordinance adopted by the City Council which is reasonably calculated by the Police Department and the Finance Department to recover all or a portion of the actual cost to the City for police response to false alarms and related investigation. The ***COST OF POLICE RESPONSE*** may include costs for the use of Police Department equipment, the expenditure of Police Department resources, the cost of contracted assistance or services, and the wages and benefits for each Police Department employee who responds or assists with the response to the false alarm in accordance with lawful and established 9-1-1 or related police response protocol. The fee may be incrementally increased by the City Council for repeat or subsequent violations within a 12-month period of time. The incremental fee for repeat or subsequent violations may be calculated to include the ***COST OF POLICE RESPONSE*** to the first two false alarms for which no fee was imposed.

FALSE ALARM. The activation of an alarm system causing a sound or visual signal through mechanical failure, faulty equipment, malfunction, improper installations, and/or lack of prudent maintenance, or the negligence of the alarm user or of his, her, or its employees, agents, guests, residents, or invitees. False

alarms that are intentionally activated shall not constitute a ***FALSE ALARM*** for purposes of this chapter, but may be prosecuted as criminal offenses. An alarm triggered by an animal shall constitute a ***FALSE ALARM***. A false alarm shall be presumed when an alarm is tested without prior written notice to the city, and when a Police Department investigation reveals no evidence of criminal activity, or illegal entry or an attempt thereof, or in the case of a false fire alarm, when a Fire Department investigation reveals no fire or potential fire, or need for medical attention, upon the activation of the alarm system, with the following exceptions:

(1) Activation by tornadoes, storms, or other violent condition beyond the control of the alarm user;

(2) False alarms activated by disruption or disturbance of telephone or public utility company facilities;

(3) Utility pole accidents;

(4) Testing of the alarm system after prior notification has been received by the Police Department and/or Fire Department; or

(5) Intentional and non-malicious activation of an alarm or emergency response system due to a real or perceived need for fire, police, or medical assistance, regardless of whether fire, police, or medical assistance was actually necessary.

(6) This chapter and the definition of ***FALSE ALARM*** are intended to facilitate the more efficient use of police and fire resources for true emergencies and for people who genuinely believe they need police or fire assistance. The focus of this chapter is on mechanical failure, faulty equipment, improper installations, and the negligence of alarm users. The chapter is not intended to discourage or otherwise inhibit the use of alarms or 9-1-1 systems to seek emergency assistance. Therefore, this chapter shall always be construed in a manner that serves to prompt residents and businesses to correct mechanical and operational alarm system deficiencies, but which does not discourage residents and businesses from seeking emergency help.

(Ord. No. 376, § 1, 3-15-05)

36-3. LIABILITY.

Alarm users shall be jointly and severally responsible for violations of this chapter. The payment of false alarm response costs, fines, or fees shall not be construed to conflict, contravene, enlarge, or reduce any civil or criminal liability of the person or entity billed for the response costs, except to the extent that such responsibility arises out of this chapter.

(Ord. No. 376, § 1, 3-15-05)

36-4. VIOLATIONS; PENALTIES.

(A) The occurrence of a false alarm shall constitute a violation of this chapter. To ensure that all alarm systems are properly maintained in good operating order and to minimize the cost to the city for false alarms, alarm users shall be held responsible as provided in this section. Notwithstanding any penalties provided for convictions for violation of this chapter, and notwithstanding the fact that a prosecution for violation of this chapter has or has not been commenced, alarm users shall pay to the city a fee or fine as provided in this section, for each false alarm, and shall also be held responsible as follows:

(1) First false alarm requiring a police and/or fire response within a 12-month period of time: Warning notice pursuant to division (F); no fine or fees.

(2) Second false alarm requiring a police response only (i.e., burglar alarms) within a 12-month period of time: Progressive warning notice pursuant to division (G); no fine or fees.

(3) Second, third, and fourth false alarm requiring a fire response (i.e., fire alarms) within a 12-month period of time: Assessment of a portion or all of the cost of fire response, as established by the annual appropriations ordinance.

(4) Third, fourth, and fifth false alarm requiring a police response only (i.e., burglar alarms) within a 12-month period of time: Assessment of a portion or all of the cost of police response, as established by the annual appropriations ordinance.

(5) Fifth or subsequent false alarm requiring a fire response, or sixth or subsequent false alarm requiring a police response, within a 12-month period of time: Misdemeanor punishable by a fine of up to $500, up to 90 days in jail, or both, and mandatory restitution to the city for the cost of police response and/or the cost of fire response.

(B) The City Treasurer shall administer the invoicing for assessment of the false alarm fees established by this chapter. The City Treasurer shall promptly prepare and deliver to the alarm user who is deemed liable pursuant to § 36-3 for the payment of the cost of the police and/or fire response, a detailed invoice by first class mail or personal service. The amount of the invoice shall constitute a debt in favor of the city and the obligation of the alarm user. The invoice shall also include the following provision: "A person aggrieved by this false alarm determination may submit a letter of appeal to the City Manager for review of the determination or penalty being appealed, as provided in Section 36-5 of the City Code of Ordinances."

(C) An alarm user who is liable for the payment of the cost of police response and/or the cost of fire response shall make payment in full to the City Treasurer within 30 days of the invoice date.

(D) A person or entity liable for the payment of the cost of police response and/or the cost of fire response who fails to make payment in full to the City Treasurer within 30 days of the invoice date shall be responsible for a municipal civil infraction, and shall be responsible for fines as set forth in Chapter 1 of the City Code, and for full payment of the cost of police response and/or the cost of fire response, and for a late payment penalty established by the annual appropriations ordinance, to reimburse the city for a portion of its administrative costs incurred for pursuing and processing the overdue invoice. This provision shall be tolled in the event that the alarm user appeals pursuant to the appeal provisions of this chapter, but such payment shall be due to the City Treasurer within 10 days of the date of the appeal decision.

(E) When payment of the City Treasurer's invoice is not timely made, the city shall have the following recourse:

(1) The city may commence a civil action against a person who is liable for the payment of the cost of police response and/or the cost of fire response and who fails to make payment in full to the City Treasurer as required by this chapter. The city shall be entitled to recover the expenses, statutory interest, court costs, and reasonable attorney fees incurred for pursuing the civil action.

(2) (a) Any invoice, including the late payment penalty, which remains unpaid for 90 days from the invoice date, and which is not being reviewed pursuant to the appeal provisions of this chapter, shall constitute a lien against the premises to which the Police Department and/or Fire Department responded. The City Manager may certify the delinquency to the City Assessor and in such case the fee shall be entered upon the next tax roll as a lien against the premises which shall be collected in the same manner with the same interest and penalties as special assessments against such premises, including the tax roll penalty set forth in the annual appropriations ordinance.

(b) Exception: When the premises to which the Police Department and/or Fire Department responded are not owned by the alarm user responsible for the alarm system which generated a false alarm (i.e., leaseholders), the invoice shall not constitute a lien against the premises, nor shall it be entered upon the tax roll as set forth in division (F). Instead, the individual or entity shall be cited for a municipal civil infraction as set forth in division (D). The individual(s), or the owner(s) and operator(s) of entities, who fails to respond to a municipal civil infraction citation shall be ordered to show cause why he, she, or they should not be held in contempt of court for failure to respond or otherwise appear for court. Such show cause proceedings shall be conducted in accordance with the applicable rules of court promulgated by the Michigan Supreme Court.

(3) The City Treasurer may cite the alarm user for a municipal civil infraction pursuant to division (D) of this section.

(F) For a first false alarm requiring a police and/or fire response within a 12-month period of time, the City Treasurer shall mail a false alarm warning notice to the alarm user at his, her, or its last known address by first class mail following the false alarm occurrence. The notice shall indicate the occurrence of the false alarm and the potential penalties, as set forth in this chapter, for future false alarm occurrences. The letter shall also include the following provision: "A person aggrieved by this false alarm determination may submit a letter of appeal to the City Manager, within 20 days, for review of the determination or penalty being appealed, as provided in § 36-5 of the City Code of Ordinances."

(G) For a second false alarm requiring a police response only (i.e., burglar alarms) within a 12-month period of time, the City Treasurer shall mail a second false alarm warning notice to the alarm user at his, her, or its last known address by first class mail following the false alarm occurrence. The letter shall indicate the occurrence of a second false alarm within a 12-month period of time and shall emphasize the potential penalties, as set forth in this chapter, for failure to correct the problem which has resulted in two false alarm occurrences. The letter shall also include the following provision: "A person aggrieved by this false alarm determination

may submit a letter of appeal to the City Manager, within 20 days, for review of the determination or penalty being appealed, as provided in § 36-5 of the City Code of Ordinances."

(H) The occurrence of six or more false alarms requiring a police response only (i.e., burglar alarms) within a 12-month period is deemed to be a public nuisance. After the occurrence of a sixth such false alarm within a 12-month period, the City Attorney is authorized to seek abatement of the nuisance in conjunction with a misdemeanor prosecution in the district court for a violation of division (A)(5). In the event that the district court action does not result in an order requiring abatement of the nuisance, the City Council may authorize the City Attorney to initiate civil proceedings in the Macomb County Circuit Court for court-ordered abatement of the nuisance.

(I) The occurrence of six or more false alarms requiring a fire response (i.e., fire alarms) within a 12-month period is deemed to be a public nuisance. After the occurrence of a sixth such false alarm within a 12-month period, the City Attorney is authorized to seek abatement of the nuisance in conjunction with a misdemeanor prosecution in the district court for a violation of division (A)(5). In the event that the district court action does not result in an order requiring abatement of the nuisance, the City Council may authorize the City Attorney to initiate civil proceedings in the Macomb County Circuit Court for court-ordered abatement of the nuisance and recovery of the expenses, statutory interest, court costs, and reasonable attorney fees incurred for pursuing the civil action.

(Ord. No. 376, § 1, 3-15-05) Penalty, see §1-9

36-5. APPEAL.

(A) Alarm users or persons otherwise aggrieved by receipt of a warning letter for the occurrence of a false alarm, or by a false alarm determination that results in the imposition of a fee for the cost of police response and/or the cost of fire response, may submit a letter of appeal to the City Manager for review of the determination of a false alarm occurrence. Such appeal letters must be submitted within 20 days of the date of the warning letter or fee invoice. Persons or entities who are cited for a municipal civil infraction or charged with a misdemeanor may not avail themselves of this appeal provision, but may instead defend against the charge in the district court if desired. The fees prescribed by the City Council may not be appealed or modified by appeal; only the actual determination of a false alarm occurrence may be appealed pursuant to this section.

(B) The following appeal process shall be afforded upon receipt of an appeal letter:

(1) Upon receipt of an appeal letter, the City Manager shall forward a copy of the letter (and supporting documentation provided with the letter, if any) to the Police Chief and the Fire Chief for review.

(2) The Police Chief and Fire Chief shall independently review the letter and, within 30 days, advise the City Manager in writing whether, after reasonable investigation, the appeal should be granted. In order to recommend that an appeal be granted, the independent review must result in the conclusion that the original false alarm determination was clearly erroneous. To reach such a conclusion, irrefutable evidence must support the finding that the occurrence did not fit the definition of ***FALSE ALARM*** set forth in this chapter.

(3) In the event that the Police Chief and the Fire Chief both agree that the appeal has no merit, or that the appeal should be granted, such unanimous decision shall be final. In the event that the Police Chief and Fire Chief disagree about the merit of the appeal, and thereby render opposing recommendations, the City Manager shall decide the matter based upon his or her review of the conclusions of the Police Chief and Fire Chief, subject to the standards set forth in division (B)(2). The City Manager's decision shall be rendered in writing no later than 60 days from the date the appeal was received by the city, unless the City Manager issues a written notice that the review is subject to extraordinary circumstances that require up to an additional 30 days in order to complete the review. The City Manager's decision shall be final, and if fees must be paid by the alarm user pursuant to § 36-4, such fees shall be paid within 10 days of the date the City Manager forwards the final decision to the appellant via first class mail or personal service.

(4) If an appeal is granted, the result shall be that the determination of a false alarm shall be overturned, and the alarm occurrence shall not be counted with future false alarm occurrences for purposes of the progressive penalties in § 36-4(A). If the appeal is denied, the result shall be that the determination of a false alarm shall stand, and the false alarm occurrence may be counted with future false alarm occurrences for purposes of the progressive penalties in § 36-4(A).

(5) False alarm determinations may not be appealed after a subsequent false alarm occurrence is determined by the Police Department and/or the Fire Department to have occurred, nor may they be appealed upon the passage of 12 months from the date of the occurrence.

(Ord. No. 376, § 1, 3-15-05)

36-6. DEFECTIVE ALARMS; INSPECTION.

(A) An alarm system signaling more than five false alarms within a 12-month period of time shall be inspected and modified to be more false alarm resistant. Upon written notice, the owner or alarm user of the building or residence shall have the alarm system inspected and modified, at the owner or user's expense, by a licensed alarm system contractor within 14 days of the date of the notice, and shall forward to the Police Department and/or Fire Department the contractor's report of the probable cause of the false alarms and the measures instituted to eliminate same.

(B) Failure to have an alarm system inspected after the written notice is issued pursuant to division (A) shall constitute a misdemeanor, punishable as provided in Chapter 1.

(Ord. No. 376, § 1, 3-15-05) Penalty, see §1-9

CHAPTER 37: PARKING AND STORAGE OF VEHICLES

ARTICLE I. IN GENERAL

37-1-37-10. RESERVED.

ARTICLE II. COMMERCIAL VEHICLE AND EQUIPMENT STORAGE AND PARKING

37-11. SHORT TITLE.

This article shall be known as the "City of Sterling Heights Commercial Vehicle and Equipment Storage and Parking Ordinance" and may be cited as such.

(1978 Code, § 25.5-11; Ord. No. 225, § 1, 3-31-81)

37-12. PURPOSE.

The purpose of this article is to preserve the health, safety and general welfare of the citizens of the city, motorists and pedestrians by the regulation of traffic, parking and storage of commercial vehicles and equipment therein and to preserve the health, safety and general welfare of persons and property in residential areas designed and utilized for residential use by regulating the parking of certain large motor vehicles and commercial equipment which impede crime prevention in residential areas, which detract from the appearance and residential character of the neighborhoods of the city and which frequently are impediments to the ingress and egress of emergency and fire protection vehicles and equipment.

(1978 Code, § 25.5-12; Ord. No. 225, § 1, 3-31-81)

37-13. DEFINITIONS.

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

BUS. A motor vehicle with mode of power, except a trailer, designed to carry more than 12 persons.

COMMERCIAL EQUIPMENT. Any construction equipment or large equipment used primarily in the course of conducting a trade or business.

COMMERCIAL VEHICLE. Includes buses, mobile structure trailers, pickup trucks in excess of three-quarter-ton capacity used for commercial purposes, pole trailers, semitrailers, stepvans, trailers, trucks and truck tractors as defined herein.

CONSTRUCTION EQUIPMENT. Bulldozers, front-end loaders, power shovels and other heavy construction equipment or trailers designed for the transportation of such equipment.

MOBILE STRUCTURE TRAILER. A trailer that has a roof and walls and is at least ten feet wide and which may be used off-road for commercial purposes.

OWNER. Any person in whose name the legal title of a motor vehicle or article of equipment is registered, or in the event such vehicle is the subject of a lease or conditional sales agreement, the lessee or person with the right of purchase upon performance of the conditions stated in the agreement and with the immediate right of possession.

POLE TRAILER. A vehicle without mode of power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle for transporting long or irregularly shaped loads such as poles, pipes or structural members capable generally of staying themselves as beams between the supporting connections.

RESIDENTIAL DISTRICT. Any one family residential, two family residential, multiple family residential or residential mobile home park district as defined and delineated in the zoning ordinance and maps of the city.

SEMITRAILER. A trailer other than a pole trailer so constructed that a substantial part of its weight rests upon or is carried by another motor vehicle.

SINGLE FAMILY RESIDENTIAL AREA. Any one family residential district as defined and delineated in the zoning ordinance and zoning maps of the city.

TRAILER. A vehicle other than a utility trailer with or without mode of power designed for carrying persons or property and for being drawn by another motor vehicle.

UTILITY TRAILER. A vehicle designed to be towed by a motor vehicle in order to carry property, including but not limited to snowmobiles, boats, motorcycles and other recreational equipment used periodically for travel, recreational or vacation purposes.

TRUCK. A motor vehicle in excess of one-ton capacity with mode of power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

TRUCK-TRACTOR. A truck designed primarily for drawing another motor vehicle and not so constructed as to carry a load other than a part of the weight of vehicle and of the load so drawn.

(1978 Code, § 25.5-13; Ord. No. 225, § 1, 3-31-81)

37-14. REGULATION OF PARKING AND STORAGE.

(A) Except as provided in subsection (D) of this section, no person shall park or store any commercial vehicle or commercial equipment upon any public property located in any district, including but not limited to public streets, stub streets, rights-of-way, sidewalks and planting areas between sidewalks and curbs.

(B) Except as provided in subsection (D), no person shall park or store any commercial vehicle or equipment on private property in a residential district other than in an enclosed building.

(C) Except as provided in subsection (D), no person shall park or store any commercial vehicle or commercial equipment on private property in any nonresidential district unless such vehicle or equipment is used in conjunction with the principal use or an accessory use of the property. In such event, the parking or storage must comply with all other codes and ordinances of the city.

(D) The parking of commercial vehicles and/or commercial equipment in any district shall be limited to use of such vehicles or equipment in the performance of a service to the adjacent property for the period of time necessary to complete such service.

(1978 Code, § 25.5-14; Ord. No. 225, § 1, 3-31-81)

37-15. RESPONSIBILITY.

The owner of the commercial vehicle or commercial equipment sought to be stored or parked in a single family residential district and the owner of the single family residential property upon which the equipment is being kept shall each be responsible for compliance with the terms of this article. In any proceeding for violation of any parking or storage provision of this article, the person to whom a commercial vehicle or article of commercial equipment is registered, as determined from the registration plate displayed on the vehicle or equipment, shall be presumed in evidence to be the owner of such commercial equipment. For purposes of determining the ownership of property, it shall be presumed that the person whose name appears on the most recent tax assessment roll of the city is the owner of the property.

(1978 Code, § 25.5-15; Ord. No. 225, § 1, 3-31-81)

37-16. VARIANCE.

The requirements of this article may be modified or varied by the City Council of Sterling Heights, provided evidence is presented establishing that because of topography or other physical conditions of the property not caused by the applicant, enforcement of the provisions hereunder would create unusual or undue hardship.

(1978 Code, § 25.5-16; Ord. No. 225, § 1, 3-31-81)

37-17-37-20. RESERVED.

ARTICLE III. RECREATIONAL VEHICLE PARKING AND STORAGE

37-21. SHORT TITLE.

This article shall be known as the "City of Sterling Heights Recreational Vehicle Parking and Storage Ordinance" and may be cited as such.

(1978 Code, § 25.5-21; Ord. No. 240, § 1, 1-4-83)

37-22. DECLARATION OF PURPOSE.

The purpose of this recreational vehicle parking and storage ordinance is to provide for the regulation of the parking and storing of recreational vehicles, camper enclosures, boats, utility trailers and snowmobiles in single family residential zoned areas. The regulation of storing and parking of recreational vehicles as prescribed in this article will promote the public safety, health and welfare by reducing traffic hazards; by maintaining healthful standards of sanitation; by maintaining unobstructed access to public sidewalks, thoroughfares and rights-of-way; and by preserving the residential character of the neighborhoods of the community.

(1978 Code, § 25.5-22; Ord. No. 240, § 1, 1-4-83)

37-23. TERMS AND DEFINITIONS.

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

BOAT. Any vessel for traveling in or on water, including an unpowered unit, a unit powered by oars, paddles, sail or motor and a raft, whether rigid or inflatable.

CAMPER ENCLOSURE. Any structure or enclosure designed for mounting on a pickup truck or truck chassis in such a manner as will provide temporary sleeping or living quarters for recreational, camping or travel use, including but not limited to a slide-in camper or a camper cap.

ESTABLISHED DRIVEWAY. A private access intended to serve as ingress and egress for vehicular traffic between a public right-of-way and other areas of a site.

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 front setback line.

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 rear setback line.

REASONABLE ACCESS. The physical ability to park or store a unit in either the rear yard, the side yard or in the case of a corner lot, the front yard which is not parallel to the residential address of the property without having to disrupt the topography, landscaping, structure(s) or fencing.

RECREATIONAL VEHICLE. A vehicular unit originally designed, permanently altered or in process of alteration in such a manner as will provide temporary living quarters for recreational, camping or travel use. A ***RECREATIONAL VEHICLE*** may have its own motive power or may be designed to be drawn by a motor vehicle. The term ***RECREATIONAL VEHICLE*** shall include but is not limited to a motor home, a truck camper, a travel trailer, a folding camper trailer, a converted van or a converted bus.

SIDE YARD. An open space 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 side setback line.

SINGLE FAMILY RESIDENTIAL AREA. Any one family residential district as defined in the zoning ordinance and on zoning maps of the city and any property used for single family residential purposes.

SNOWMOBILE. A motor-driven vehicle designed for travel primarily on snow or ice of a type which utilizes sled-type runners or skis, an endless belt tread or any combination of these or other similar means of contact with the surface on which it is operated.

UNIT. Any recreational vehicle, camper enclosure, boat, utility trailer or snowmobile as described in these terms and definitions.

UTILITY TRAILER. A vehicle without motive power designed to be drawn by a motor vehicle, to be used for carrying property, including but not limited to a boat, motor cycle, snowmobile or other equipment for recreational, camping or travel use.

UTILITY TRAILER, ENCLOSED. Any utility trailer with an interior that is fully or partially enclosed.

(1978 Code, § 25.5-23; Ord. No. 240, § 1, 1-4-83; Ord. No. 448, § 1, 8-3-16)

37-24. REGULATION OF PARKING AND STORAGE.

No person shall park or store any unit upon public or private property in any single family residential area, except in strict conformance with the conditions set forth hereunder:

(A) Any unit shall be parked or stored, unless otherwise permitted hereafter:

(1) In an enclosed building, such as a garage; or

(2) In the rear yard, the side yard or in the case of a corner lot, the front yard, which is not parallel to the residential address of the property, subject to the following limitations:

a. The unit shall be parked or stored no closer than three feet from any window or door of any residential building, and

b. The unit shall be parked or stored no closer than eight feet from any public sidewalk or no closer than seven feet from the front lot line where no public sidewalk exists.

(i) Exception: Effective January 1, 2017, an enclosed utility trailer shall not be parked or stored any closer than 15 feet from any public sidewalk and no closer than 14 feet from the front lot line where no public sidewalk exists.

(B) Any unit may be parked or stored upon an established driveway in the front yard, provided parking or storage in an enclosed building is not possible and there is no parking or storage space available in the rear yard or side yard or there is no reasonable access to either the rear yard or side yard, subject to the following limitations:

(1) The unit shall be parked or stored no closer than eight feet from any public sidewalk or no closer than seven feet from the front lot line, where no public sidewalk exists;

(a) Exception: Effective January 1, 2017, an enclosed utility trailer shall not be parked or stored any closer than 15 feet from any public sidewalk and no closer than 14 feet from the front lot line where no public sidewalk exists.

(2) No more than one unit shall be permitted to be parked or stored upon any established driveway at one time. For purposes of this limitation, units used in conjunction with one another, such as a boat mounted on a boat trailer, shall be considered as one unit.

(3) At no time shall any unmounted camper enclosure or any boat not mounted on a boat trailer be permitted to be parked or stored in the front yard or upon any established driveway.

(C) Parking or storage of units shall be limited to a lot or a parcel upon which a single family residence is located. Parking or storage shall be limited to units owned by any of the occupants of such residence.

(D) All units parked or stored outside of a building shall be kept in a state of proper repair and shall be secured to prevent unauthorized entry. In addition, no unit shall be allowed to become unsightly or unkempt.

(E) No unit parked or stored in a single family residential area shall be connected to electricity, gas, water or sanitary sewer facilities, except that a temporary electrical connection may be made for the purposes of recharging batteries.

(F) No unit shall at any time be used for living or housekeeping purposes. Use for overnight sleeping only is permitted.

(G) Other than in an enclosed building, no person shall park or store more than two units upon any single family residential lot or parcel in a single-family residential area. For purposes of this limitation, units used in conjunction with one another such as a boat mounted upon a boat trailer shall be considered as one unit.

(H) Notwithstanding any provision to the contrary contained herein, a unit may be parked or stored on a public street or on an established driveway for a period not to exceed 48 hours for purposes of loading, unloading, trip preparation and routine maintenance and repair.

(I) Except as provided in subparagraph (H) of this section, no person shall park or store any unit upon any public property located in a single family residential area, including public streets, stop streets, rights-of-way, sidewalks and planting areas between sidewalks and curb lines.

(J) Effective January 1, 2017, units shall at all times be parked or stored on a surface consisting of asphalt, concrete, pavers, or an alternative material approved by the Building Official as suitable for ensuring proper maintenance of the area where the specific unit is being parked or stored. The surface must be maintained in accordance with all applicable provisions of the City Code, including any applicable provisions of the International Property Maintenance Code, as may be adopted and locally amended from time to time.

(K) For purposes of this section, distance limitations shall be measured from any part of the unit closest from a direct line to the location from which it must be set back, including the body of the unit, the tongue of the unit, and any other protrusion of or from the unit, and length limitations shall include the body of the unit, the tongue of the unit, fender, wheel, and any other protrusion of or from the unit.

(1978 Code, § 25.5-24; Ord. No. 240, § 1, 1-4-83; Ord. No. 448, §§ 2, 3, 4, 5, 8-3-16)

37-25. RESPONSIBILITY FOR COMPLIANCE.

The owners of a unit parked or stored in a single family residential area and the owners of such property upon which the unit is parked or stored shall be responsible for compliance with the terms of this article. In any proceeding for violation of any provision of this article based upon unit ownership, the person or persons to whom the unit is registered, as determined from the registration plate displayed on such unit, shall be presumed in evidence to be the owner of the unit. In any proceeding for violation of any provision of this article based upon property ownership, the person to whom the property is assessed as determined from the most recent tax assessment roll of the city shall be presumed in evidence to be the owner of the property.

(1978 Code, § 25.5-25; Ord. No. 240, § 1, 1-4-83)

37-26. NOTICE OF VIOLATION.

A notice of violation shall be served upon the person or persons in violation of the provisions of this article directing the discontinuance of the illegal action or condition and abatement of the violation within 24 hours. For purposes of this notification upon a unit owner, it shall be sufficient to affix in a conspicuous place the notice of violation to the unit parked or stored in violation of the provisions of this article.

(1978 Code, § 25.5-26; Ord. No. 240, § 1, 1-4-83)

37-27. PROSECUTION OF VIOLATION.

If the notice of violation is not complied with within 24 hours, a citation shall be issued to the person or persons violating the provisions of this article.

(1978 Code, § 25.5-27; Ord. No. 240, § 1, 1-4-83)

37-28. ENFORCEMENT.

It shall be the duty of the Police Department of the city along with any other official designated by the City Manager to enforce the provisions of this article and to issue notices and citations for violations of the provisions contained herein.

(1978 Code, § 25.5-28; Ord. No. 240, § 1, 1-4-83)

37-29-37-30. RESERVED.

ARTICLE IV. PARKING OF VEHICLES FOR SALE

37-31. RESTRICTION ON PARKING OF VEHICLES FOR SALE.

No person shall park a vehicle on private property for the purpose of advertising it "For Sale" or "For Trade."

(A) In any proceeding for a violation of this section, proof that a sign was in or on the parked vehicle, which drew attention to said motor vehicle and was clearly visible by any person operating a motor vehicle on or along a major thoroughfare with a right-of-way width of 86 feet or greater, as established by the Master Thoroughfare Plan, adopted in accordance with Public Act 285 of 1931, being M.C.L.A. §§ 125.31 through 125.45, as amended, and which sign contained language, such as "For Sale," "For Trade" or information pertaining to the vehicle, along with a telephone number, shall constitute in evidence a presumption that the vehicle was parked for the purposes of advertising the vehicle "For Sale" or "For Trade."

(B) This section shall not apply if the written consent of the property owner is placed in the vehicle in such a manner as to be clearly visible without having to enter or inspect the interior of the vehicle.

(C) This section shall not apply to properly licensed automobile dealerships and used car lots.

(1978 Code, § 25.5-31; Ord. No. 247, § 1, 6-4-85)

37-32. PRESUMPTION AS TO RESPONSIBILITY FOR PARKING VIOLATIONS; PROBABLE CAUSE FOR ISSUANCE OF WARRANT.

(A) In any proceeding for a violation of this article relating to the parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of this article, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

(B) Except as provided in subsection (C) of this section involving leased vehicles in any proceeding relating to violation of this article, proof that the particular vehicle described in the complaint was parked in violation of this article, together with proof, by verifying ownership of the vehicle with the Secretary of State, that the defendant named in the complaint was, at the time of the parking, the registered owner of the vehicle, creates in evidence a presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

(C) In a proceeding for a violation of this article relating to the parking of a vehicle involving a leased motor vehicle, proof that the particular vehicle described in the citation was used in the violation, together with proof that the defendant named in the citation was the lessee of the vehicle at the time of the violation, constitutes in evidence a presumption that the lessee of the vehicle, not the registered owner, was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

(1978 Code, § 25.5-32; Ord. No. 247, § 1, 6-4-85)

37-33-37-50. RESERVED.

ARTICLE V. SNOW EMERGENCIES.

37-51. PURPOSE AND INTENT.

(A) Inclement winter weather impedes the movement of vehicular and pedestrian traffic and creates public safety concerns. To address these concerns, the city engages in various efforts to reduce or eliminate the accumulation of snow and ice upon public roadways. The primary method by which the city engages in such efforts is through the use of roadway snow plowing equipment.

(B) In order for the city's snow plowing efforts to be effective, the public roadways must be clear of parked vehicles, which constitute an obstruction of the city's efforts and contribute to the public safety concerns caused by inclement winter weather when such vehicles cause portions of the public roadways to remain unplowed. Although the city has utilized a traffic control order since 1978 to require the removal of parked vehicles from public roadways during snow emergencies, this article is designed to ensure increased public awareness of the problem and to require motor vehicle owners and operators to remove their vehicles from public roadways when a snow emergency occurs.

(C) Therefore, in order to further public safety and welfare, and to reduce the undue roadway safety risks caused by the accumulation of snow and ice around parked vehicles, the City Council hereby enacts this Article V of Chapter 37, which shall be known as "The City of Sterling Heights Snow Emergency Article."

(Ord. No. 378, § 1, 5-3-05)

37-52. PROHIBITED PARKING.

No person shall park or allow to remain parked any vehicle on any portion of any street or highway within the city during a snow emergency, or park or allow to remain parked any vehicle in violation of any parking restriction instituted as part of a declared snow emergency as provided in this article. The registered owner of any such vehicle shall be responsible for the cost of removal.

(Ord. No. 378, § 1, 5-3-05)

37-53. DEFINITIONS.

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

DIRECTOR. The Director of Public Services, or in his or her absence, his or her duly authorized representative.

DITCH SLOPE. The portion of the highway adjacent to the shoulder if one exists or adjacent to the roadway on roads without shoulders, extending to the bottom of

the roadside ditch and is not constructed or maintained for the use of any vehicles except those engaged in construction or maintenance.

ROADWAY. The portion of a street or highway improved, designed, or ordinarily used for vehicular travel.

SHOULDER. The portion of the highway contiguous to the roadway generally extending the contour of the roadway, not designed for vehicular travel but maintained for the temporary accommodation of disabled or stopped vehicles otherwise permitted on the roadway.

SNOW EMERGENCY. A parking prohibition declared by the Director due to inclement weather and pursuant to the provisions of this article.

STREET or ***HIGHWAY.*** The entire width between the boundary lines of every way that is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Shoulders and ditch slopes are included within the meaning of ***STREET*** or ***HIGHWAY*** for purposes of this article. ***STREETS*** or ***HIGHWAYS*** that are not owned, maintained, or snowplowed by the city or other governmental entity shall be excluded from this definition.

(Ord. No. 378, § 1, 5-3-05)

37-54. SNOW EMERGENCY IMPLEMENTATION; AUTOMATIC EFFECT.

Whenever the Director finds, on the basis of falling snow, sleet, or freezing rain, or on the basis of a forecast by the United States Weather Bureau or other weather service, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited or restricted for snow plowing and other purposes, the Director shall put into effect a parking prohibition on some or all city streets, or parts thereof, by declaring it in a manner prescribed in this article.

(Ord. No. 378, § 1, 5-3-05)

37-55. NOTICE.

(A) The Director, upon declaring a snow emergency, shall cause public announcement of such parking prohibitions and/or restrictions and the affected areas by means of broadcasts and/or telecasts from various commercial television and radio stations serving the city, and on the city's cable television channel and website, and through the use of the emergency alert notice system of any cable television franchisee servicing the city. The parking prohibitions triggered by the declaration of a snow emergency shall become effective two hours after the declaration has been announced in accordance with this section.

(B) The Director shall also be authorized to publish in a newspaper of general circulation in the city, and by posting in conspicuous places upon city properties, notice that parking shall be prohibited on streets and highways when a snow emergency is declared. Any such notices will serve as sufficient notice for purposes of subsection (A) in the event of sudden or unexpected snowfalls and accumulations, and may be published or posted prior to or during any winter season. However, any notice under this subsection shall contain the date of its issuance, shall make reference to this article or any other applicable ordinance, and shall only be effective for a period of one year from the date of the posting or publication.

(Ord. No. 378, § 1, 5-3-05)

37-56. ENFORCEMENT.

(A) Members of the Police Department are hereby authorized to remove or cause the removal and/or impounding of any vehicle that is found parked on any street in the city during a snow emergency. Such vehicle may be removed and conveyed by or under the direction of a member of the Police Department by means of towing to a vehicle impound lot. The Police Chief is authorized to engage the services of the city's primary vehicle towing company to remove vehicles under the direction of a member of the Police Department where the same are found in violation of this article or other traffic ordinances and regulations of the city, except that if such company is not available or unable to tow the vehicle(s), the Police Chief may utilize any other licensed and reputable towing company to assist with clearing the streets to ensure snow plow accessibility.

(B) Whenever this article is alleged to have been violated, and regardless of whether the offending vehicle is impounded, police officers and code enforcement officials shall have the authority to issue and serve a municipal civil infraction citation upon the registered owner of a vehicle found parked in violation of this article. Such citation shall be in the form prescribed by state law, and may be either mailed to the registered owner via first class mail, or conspicuously affixed to the offending vehicle. A municipal civil infraction citation may be issued for each 24-hour period during which a vehicle is parked in violation of this article.

(C) The registered owner or lessee of a vehicle is presumed, for purposes of this article, to be responsible for the operation and parking of that vehicle. In any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provision of this article, proof that the particular vehicle described in the complaint was parked or left in violation of a provision of this article, together with proof that the defendant named in the complaint was at the time the registered owner or lessee of such vehicle, shall constitute prima facie evidence that the defendant is responsible for violating this article.

(D) This article shall be supplemental to any other provisions of law granting members of the Police Department the authority to impound vehicles. The rules and regulations governing abandoned automobiles and the impoundment of vehicles, adopted by reference in Chapter 49 from the Michigan Vehicle Code, shall be followed when impounding a vehicle under this article, except that no advance notice prior to impoundment shall be required other than the public notice specifically required by this article.

(Ord. No. 378, § 1, 5-3-05)

37-57. STALLED VEHICLES.

Whenever a vehicle becomes stalled for any reason, whether or not in violation of this article, on any roadway within the city, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway. No person shall abandon or leave a vehicle on a street or highway, regardless of whether the person indicates that the vehicle is stalled by raising the hood or otherwise, except for the purpose of securing assistance during the actual time necessary to go to a nearby telephone or to a nearby garage, gasoline station, or other place of assistance and return without delay.

(Ord. No. 378, § 1, 5-3-05)

37-58. TERMINATION.

Once in effect, a prohibition under this article shall remain in effect until terminated by announcement of the Director in accordance with this article, except that if significant snowing, sleeting, or freezing rain has ceased and a street area has become substantially clear of snow and ice from curb to curb for the length of the entire block, such street area shall be automatically excluded from the snow emergency parking prohibitions of this article.

(Ord. No. 378, § 1, 5-3-05)

37-59. EXEMPTIONS.

In all areas of the city, an owner of a motor vehicle who resides at premises which do not have a driveway shall be exempted from the requirement to move the motor vehicle in the event of a snow emergency; however, residents in the area are required to park their vehicles as close to the curb as possible to make room for snow plows and other emergency vehicles. Owners of exempt vehicles will be issued identifying stickers or placards, upon request, which shall be displayed in the rear side window on the driver's side of the vehicle. Motor vehicles with properly displayed disabled parking placards or license plates shall also be exempt from the provisions of this article. In addition, vehicles parked on streets or portions of streets specifically excepted from the Director's declaration of emergency, if any, shall be exempt from the provisions of this article.

(Ord. No. 378, § 1, 5-3-05)

37-60. RELATIONSHIP TO OTHER LAWS.

Any provision of this article which becomes effective by declaration of the Director or upon the occurrence of certain weather conditions shall, while temporarily in effect, take precedence over other conflicting provisions of law normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles, or emergency traffic directions by a police officer. However, nothing in this article shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.

(Ord. No. 378, § 1, 5-3-05)

37-61. PENALTY.

A person who violates this article is responsible for a municipal civil infraction and shall pay a civil fine as prescribed byChapter 1. It shall not be a defense that a person was not personally or otherwise advised in advance of the issuance of the violation that his or her vehicle could not be parked upon the roadway, so long as the public notice procedures of this article were followed by the city.

(Ord. No. 378, § 1, 5-3-05)

37-62. TRAFFIC CONTROL ORDERS.

This article shall repeal and nullify any traffic control orders that were previously enacted and in effect pursuant to the authority granted in the Uniform Traffic Code, including but not limited to Traffic Control Order No. 6-10, enacted November 20, 1978. However, nothing in this article shall eliminate or otherwise limit the authority of the Police Chief to issue future traffic control orders as permitted by the Uniform Traffic Code, so long as such orders are approved by the City Manager as necessary to supplement the provisions of this article during inclement weather events.

(Ord. No. 378, § 1, 5-3-05)

CHAPTER 38: PARKS

ARTICLE I. IN GENERAL

38-1. DEFINITIONS.

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

BICYCLE. A device propelled by human power upon which a person may ride, having either two or three wheels in a tandem or tricycle arrangement.

CONVEYANCE. Any wheeled form of conveyance, whether motor-powered, animal-drawn, or self-propelled. The term shall include, but not be limited to, skateboards, roller skates, roller blades, roller shoes, mopeds, and trailers of any size, kind, or description. Conveyances in the service of the city parks or the police department shall be exempt from the regulations of this chapter.

DIRECTOR. The Director of Parks and Recreation of the city or his or her designate.

OPERATE or ***OPERATING.*** The physical control, or attempted control, of a bicycle, conveyance, or vehicle.

PARK. A park, reservation, playground, beach, recreation center or any other area in the city owned or used by the city and devoted to active or passive recreation.

VEHICLE. Any wheeled and motor-powered conveyance. Vehicles in the service of the city parks or the police department shall be exempt from the vehicle regulations of this chapter.

(1978 Code, § 26-1) (Ord. No. 391 § 1, 4-17-07)

38-2. ENFORCEMENT OF CHAPTER.

The Director, park attendants and the Police Department shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(1978 Code, § 26-2)

38-3. GENERAL OPERATING POLICIES.

(A) *Hours*. Except for unusual and unforeseen emergencies, parks shall be open to the public between 7:00 a.m. to 10:00 p.m. during the months of April through September and between the hours of 7:00 a.m. and 8:00 p.m. during the months of October through March. No person shall loiter or remain in any park during the hours when the park is closed. The above restrictions shall not apply to employees of the city engaged in their occupation or to the conduct of any activity under the direction or supervision of the Director.

(B) *Closed areas.* Any park or any part or section of any park may be declared closed to the public by the City Manager at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise), and either entirely or merely to certain uses, as the City Manager shall find reasonably necessary.

(C) *Lost and found articles.* The finding of lost articles by park attendants shall be reported to the Director who shall make every reasonable effort to locate the owners. The Director shall make every reasonable effort to find articles reported as lost. All articles having an apparent value of $25 or more, which are found by any city employee shall be turned over to the Police Department within 24 hours after the article is found.

(1978 Code, § 26-3; Ord. No. 159-B, § 2, 5-18-82; Ord. No. 159-D, § 1, 12-17-96)

Statutory reference:

Authority of city to operate system of public recreation and playgrounds, see M.S.A. § 5.2421; M.C.L. § 123.51

38-4. ENTERING CLOSED AREAS; VIOLATION OF NOTICES OR ORDERS.

No person in a park shall enter an area posted as "Closed to the Public," nor shall any person use or abet the use of any area in violation of a posted notice or fail to follow any lawful order or request of the Director or Chief of Police.

(1978 Code, § 26-4)

38-5. ERECTION OF BUILDINGS OR INSTALLATION OF UTILITIES.

No person shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such park lands, except on special written permit issued under this chapter.

(1978 Code, § 26-5)

38-6-38-7. RESERVED.

38-8. CLIMBING TREES; WALKING, STANDING OR SITTING ON PROPERTY NOT DESIGNATED FOR SUCH PURPOSES.

No person in a park shall climb any tree or walk, stand or sit upon monuments, vases, fountains, railing, fences, gun carriages or any other property not designated or customarily used for such purposes.

(1978 Code, § 26-8)

38-9. REMOVAL OF SAND, SOIL AND THE LIKE; EXCAVATIONS.

No person in a park shall dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, down-timber or other wood or materials or make any excavation by tool, equipment, blasting or other means or agency.

(1978 Code, § 26-9)

Cross reference:

Excavations generally, see §§ 17-15 et seq.

38-10. POLLUTION OF WATERS; CONTROL OF WASTE MATERIALS.

(A) No person shall throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters any substance matter or thing, liquid or solid, which will or may result in the pollution of said waters.

(B) No person shall bring into a park or dump, deposit or leave in a park, any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park or left anywhere on the grounds thereof but shall be placed in the proper receptacle, where those are provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(1978 Code, § 26-10)

Cross reference:

Anti-litter ordinance, see §§ 23-31 et seq.;

Further provisions prohibiting littering in parks, see § 23-38

38-11. USE OF FACILITIES DESIGNATED FOR OPPOSITE SEX GENERALLY.

No person in a park shall occupy any seat or bench or enter into or loiter or remain in any pavilion or other park structure or section thereof which may be reserved and designated by the Director for the use of the opposite sex. Exception is made for children under five years of age.

(1978 Code, § 26-11)

38-12. MAINTENANCE OF RESTROOMS AND WASHROOMS; USE OF SUCH ROOMS DESIGNATED FOR OPPOSITE SEX.

No person shall fail to cooperate in maintaining restrooms and washrooms in a park in a neat and sanitary condition. No person over the age of five years shall use park restrooms and washrooms designated for the opposite sex.

(1978 Code, § 26-12)

38-13. TRAFFIC REGULATIONS GENERALLY.

No person in a park shall:

(1) Fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to equipment and operation of vehicles, together with such regulations as are contained in this chapter and other ordinances;

(2) Fail to obey all police officers and park employees, such persons being authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the Director;

(3) Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking and all others posted for proper control and to safeguard life and property;

(4) Ride or drive a vehicle at a rate of speed exceeding 15 miles an hour, except upon such roads as the Director may designate, by posted signs, for speedier travel;

(5) Drive any vehicle on any area except the paved park roads or parking areas or such other areas as may on occasion be specifically designated as temporary parking areas by the Director;

(6) Park a vehicle in other than an established or designated parking area.

(1978 Code, § 26-13)

Cross reference:

Traffic, see Ch. 49

38-14. BICYCLE REGULATIONS.

The following activities are prohibited in a park:

(1) Riding a bicycle on other than a paved vehicular road or a path designated for the purpose of operating bicycles in the park. A bicyclist shall, however, be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use;

(2) Riding a bicycle or operating a conveyance other than on the right side of the road or path pavement as close as conditions permit. Bicyclists and other persons operating conveyances shall, at all times, operate their bicycles and conveyances with reasonable regard for the safety of others;

(3) Leaving a bicycle or conveyance unattended in a place other than a bicycle rack, when a bicycle rack is provided at the park;

(4) Leaving a bicycle or conveyance laying on the ground or pavement or set against a tree or at any place or position where other persons may trip over or be injured by such bicycle or conveyance.

(5) Failing to yield the right-of-way to any pedestrian, bicyclist, or similarly situated person while operating a bicycle, or any other conveyance, on a paved road or path. Bicyclists and operators of other conveyances shall give an audible signal before overtaking and passing any such pedestrian, bicyclist, or similarly situated person. By way of example, but without limitation, a "similarly situated person" for purposes of this subsection includes a child on a tricycle, a person on an electric personal assistive mobility device, a person on a skateboard, a person on roller skates or roller blades, a person in a wheelchair, and/or a person on or utilizing any other form of conveyance or wheeled device;

(6) Ride or operate a bicycle or conveyance at a rate of speed exceeding ten miles an hour, except upon such roads as the Director may designate, by posted signs, for speedier travel;

(7) Operate any bicycle or conveyance on any area where the operation of bicycles or conveyances has been specifically prohibited by the Director.

(8) A person who violates this section is responsible for a municipal civil infraction. Only city police officers are authorized to issue a municipal civil infraction to a person who violates this section.

(1978 Code, § 26-14) (Ord. No. 391 § 2, 4-17-07)

Cross reference:

Bicycles, see Ch. 9;

Provisions of traffic ordinance relative to bicycles, see §§ et seq. and §§ 49-255 et seq.

Statutory reference:

Authority of city to regulate bicycles, see M.C.L. § 257.606

Parental responsibility, see M.C.L. § 257.656

Applicability of Michigan Vehicle Code regulations to bicycle paths, see M.C.L. § 257.656

Right-of-way and audible signal requirements, see M.C.L. § 257.660(5)

38-15. CLEANING, SERVICING OR REPAIRING VEHICLES.

No person shall clean, wash, polish or repair, or in any manner service, any motor vehicle or trailer in any park or cause the same to be done. For the purpose of this section, the term ***REPAIR*** shall be deemed to mean the replacement of parts of the vehicle with new or used parts, and the term ***SERVICE*** shall be deemed to mean the draining of oil, sludge, gasoline, water or other engine cooling fluids for the purpose of replacing same with a new supply. This prohibition shall not apply to the changing of deflated tires or the performing of necessary emergency work on a disabled car for the purpose of immediate movement.

(1978 Code, § 26-15)

38-16-38-17. RESERVED.

38-18. PICNIC REGULATIONS.

No person in a park shall:

(1) Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Park visitors shall comply with any directions given to achieve this end;

(2) Violate the regulation that use of the individual fireplaces, together with tables and benches, follows generally the rule of "first come, first served;"

(3) Use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons or use such area and facilities for an unreasonable time, if the facilities are crowded;

(4) Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

(1978 Code, § 26-18)

38-19. GOING ONTO ICE.

No person shall go onto the ice of any of the waters in a park, except in such areas as are designated as skating fields and provided a safety signal is displayed.

(1978 Code, § 26-19)

38-20. CERTAIN GAMES AND RECREATIONAL ACTIVITIES CONFINED TO DESIGNATED AREAS.

No person in a park shall take part in or abet the playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins or model airplanes, except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games, such as football, baseball and quoits, is prohibited, except on the fields, courts or areas provided therefor. Roller skating shall be confined to those areas specifically designated for such pastime.

(1978 Code, § 26-20)

38-21. DOMESTIC ANIMALS CONFINED TO DESIGNATED AREAS; DOGS RUNNING AT LARGE.

No person shall be responsible for or permit the entry of a dog or other domestic animal into a park, other than automobile parking concourses and walks immediately adjacent thereto and in such other areas as may be clearly marked by signs bearing the words "Domestic Animals Permitted in this Area." Nothing herein shall be construed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than six feet in length.

(1978 Code, § 26-21)

Cross reference:

Animals generally, see Ch. 8;

General prohibition against dogs running at large, see §8-4

38-22. SOLICITING ALMS OR CONTRIBUTIONS.

No person shall solicit alms or contributions for any purpose, whether public or private, in a park.

(1978 Code, § 26-22)

38-23. GAMBLING.

No person shall gamble or participate in or abet any game of chance in a park.

(1978 Code, § 26-23)

38-24. BUILDING FIRES OR DROPPING MATCHES, CIGARETTES AND THE LIKE.

No person shall build or attempt to build a fire in any park, except in such areas and under such regulations as may be designated by the Director. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco, paper or other inflammable material within any park area or on any highway, road or street abutting or contiguous thereto.

(1978 Code, § 26-24)

Cross reference:

Fire prevention and protection, see Ch. 20

38-25-38-26. RESERVED.

38-27. MERCHANDISING, ADVERTISING AND SIGNS.

No person in a park shall:

(1) Expose or offer for sale any article or thing, or station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire by and under the authority and regulation of the city;

(2) Announce, advertise or call the public attention in any way to any article or service for sale or hire;

(3) Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever or erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.

(1978 Code, § 26-27)

Cross reference:

Advertising, see Ch. 3

38-28-38-37. RESERVED.

ARTICLE II. PERMIT FOR CERTAIN ACTIVITIES

38-38. WHEN REQUIRED; APPLICATION.

(A) A permit shall be obtained from the city before participating in specialized, organized recreational activities, musical festivals, extension of park hours and any other reason which shall be deemed necessary for a permit in accordance with subsequent rules and regulations.

(B) A person seeking issuance of a permit hereunder shall file an application with the Director. The application shall state:

(1) The name and address of the applicant;

(2) The name and address of the person sponsoring the activity, if any;

(3) The day and hours for which the permit is desired;

(4) The park or portion thereof for which such permit is desired;

(5) An estimate of the anticipated attendance;

(6) Any other information which the Director shall find reasonably necessary for a fair determination as to whether a permit should be issued hereunder.

(1978 Code, § 26-38)

38-39. STANDARDS FOR ISSUANCE.

The Director shall issue a permit hereunder when he or she finds:

(1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;

(2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

(3) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;

(4) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the city;

(5) That the facilities desired have not been reserved for other use at the day and hour required in the application.

(1978 Code, § 26-39)

38-40. APPEAL FROM REFUSAL.

Within three days after receipt of an application for a permit under this article, the Director shall apprise an applicant, in writing, of his or her reasons for refusing a permit and any aggrieved person shall have the right to appeal, in writing, within three days, to have the City Council, which shall consider the application under the standards set forth in § 38-39, sustain or overrule the Director's decision within ten days. The decision of the City Council shall be final.

(1978 Code, § 26-40)

38-41. INTERFERING WITH PERMITTEE.

No person shall disturb or interfere unreasonably with any person or party occupying any area in a park or participating in any activity in a park under the authority of a permit.

(1978 Code, § 26-41)

38-42. PERMITTEE BOUND BY RULES, REGULATIONS AND ORDINANCES.

A permittee shall be bound by all park rules and regulations and all applicable ordinances as fully as though the same were inserted in the permit issued under this article.

(1978 Code, § 26-42)

38-43. PERMITTEE'S LIABILITY FOR NEGLIGENCE.

The person to whom a permit is issued under this article shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person to whom such permit shall have been issued.

(1978 Code, § 26-43)

38-44. EXHIBITION.

No person in a park shall fail to produce and exhibit any permit from the city he or she claims to have, upon request of any authorized person who shall desire to inspect same, for the purpose of enforcing compliance with any ordinance or rule.

(1978 Code, § 26-44)

38-45. REVOCATION.

The director shall have the authority to revoke a permit issued under this article upon a finding or violation of any rule or ordinance or upon good cause shown.

(1978 Code, § 26-45)

CHAPTER 39: PEDDLERS, ITINERANT MERCHANTS AND THE LIKE

39-1. PURPOSE.

To prevent fraud, crime, undue annoyance and harassment and to protect the privacy, safety, health and welfare of the citizens of Sterling Heights, all transient or itinerant merchants, commercial solicitors, peddlers and hawkers shall be licensed by the city and be subject to the regulations set forth herein.

(1978 Code, § 27-1; Ord. No. 262, § 1, 5-3-88)

39-2. DEFINITIONS.

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

ITINERANT MERCHANT. Any person traveling by foot, wagon, motor 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, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to consumers or who takes or attempts to take orders from consumers 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. Any person who solicits orders and, as a separate transaction, makes deliveries to consumers as part of an itinerant merchant scheme or design to evade the provisions of this chapter shall be deemed an ***ITINERANT MERCHANT***. The word ***ITINERANT MERCHANT*** shall not include agents of utility companies or firms franchised by the city nor the operator of a vending unit licensed under Chapter 22, Article III of this Code, nor any person registered underChapter 41 of this Code.

PARENT ORGANIZATION. The person or organization that the itinerant merchant is employed by or represents, the principal manufacturer and distributor of goods and the principal provider of services being sold or for which solicited.

(1978 Code, § 27-2; Ord. No. 262, § 1, 5-3-88)

Statutory reference:

Transient merchants, see M.S.A. §§ 19.691 et seq.; M.C.L. §§ 445.371 et seq.

39-3. LICENSE-REQUIRED.

No person shall engage in the business of an itinerant merchant without first obtaining an annual license therefor from the City Clerk, expiring on December 31 of each year.

(1978 Code, § 27-3; Ord. No. 262, § 1, 5-3-88)

39-4. SAME-APPLICATION; CONTENTS.

Before the issuance of a license, an itinerant merchant shall apply for a license upon forms prescribed and furnished by the City Clerk. The application shall include the following information:

(1) *Personal information.* The name of the individual or individuals who will sell or solicit within the city, including resident address, telephone number, driver's license number, date of birth and a physical description, including height, weight, color of hair and eyes.

(2) *Parent organization.* The complete name, address and telephone number of the parent organization and where and when the parent organization was established or incorporated and the form of its organization.

(3) *Method of solicitation.* An outline of the method and methods to be used in conducting the sales or solicitations (for example, door-to-door, street corners, sidewalks and the like).

(4) *Details of sales.* The dates and times when and location where sales or solicitations will be made, giving the proposed dates for the beginning and ending of such sales or solicitations and the hours of the days thereof.

(5) *Types of goods.* The types of goods or services to be sold or for which solicitations will be made.

(6) *Previous restraint.* Whether the parent organization or the itinerant merchant has ever been enjoined from soliciting.

(7) *Convictions.* Whether the itinerant merchant or an officer or director of the parent organization has been convicted of a felony or any misdemeanor involving moral turpitude and, if so, a brief description of the case.

(8) *Photograph*. A photograph of each individual or individuals who will sell or solicit 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.

(1978 Code, § 27-4; Ord. No. 262, § 1, 5-3-88)

39-5. SAME-STANDARDS; CONTENTS AND THE LIKE.

(1) *Issuance*. The City Clerk shall issue a license whenever the Clerk shall find the following facts to exist:

(a) The applicant has not been convicted of a felony or a misdemeanor involving moral turpitude;

(b) There has been compliance with the provisions of this chapter, including payment of the applicable fee;

(c) There have been no violations of this chapter in the past by the applicant, which would form a basis of a reasonable belief of further violations of this chapter.

(2) *Appeal on denial.* Whenever the City Clerk shall deny issuance of a license the applicant may appeal in writing to the City Council, which shall make the final determination. The City Council shall base its determination on the criteria set forth in subsection (1).

(3) *License*. Licenses issued under this chapter shall bear the name and address of the parent organization, if any, and the name, address and photograph of the itinerant merchant, the date issued, the time periods during which the license holder may solicit, and a statement that the license does not constitute an endorsement by the city of the purpose or products involved or of the persons or of the parent organization conducting the solicitation. All licenses shall be signed by the City Clerk.

(4) *License fee.* The fee for a license shall be as specified by the annual appropriations ordinance. No fee for a 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 City Clerk who shall have the authority to make an adjustment of the fee so that it shall not be discriminatory unreasonable or unfair as to such commerce. The application may be made before, at or within 90 days after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony show the method of business and gross volume or estimated gross volume of business and such other information as the Clerk may deem necessary in order to determine the extent, if any, of such undue burden on such commerce.

(5) *Carrying license.* While carrying on solicitations, an itinerant merchant shall display the license issued under this chapter so that it shall be visible to any person dealing with the itinerant merchant.

(6) *Nontransferable*. Any license issued under this chapter shall be nontransferable.

(7) *Misrepresentation of endorsement by city.* No person shall represent that the granting of a license under this chapter is an endorsement by the city and any such representation is declared to be a misrepresentation of fact, a violation of this chapter and subject to revocation of the license.

(8) *Revocation*. If any license holder or any agent or representative of the license holder is misrepresenting or making untrue statements with regard to the solicitation, has made untrue statements in the application or in any other way the solicitation is being conducted in a manner inimical to the protection of the public health, safety or welfare of the citizens of the city, in violation of any of the provisions of this chapter or of any statute of the state or any other ordinance of the city or is representing in any way that any license granted hereunder is endorsement of such solicitation, then the City Clerk shall suspend the license or revoke same and shall cause notice thereof to be mailed to the licensee, who shall have a right to appeal within 30 days and a hearing by the City Council within 30 days thereafter.

(1978 Code, § 27-5; Ord. No. 262, § 1, 5-3-88; Ord. No. 388, § 20, 1-3-07)

39-6. REGULATIONS.

(1) *New information.* While a license is in effect, an itinerant merchant shall, within seven calendar days, report to the City Clerk in writing any material change in any information previously provided on the application form.

(2) *No endorsement by city.* A license under this chapter shall not be used or represented in any manner as an endorsement by the city or by any department, officer or employee thereof.

(3) *No obstructions.* An itinerant merchant shall not block, obstruct, impede or otherwise interfere with the normal flow of vehicular or pedestrian traffic upon a public

highway, street, alley or sidewalk or within public buildings and other public areas within the City of Sterling Heights by means of a barricade, object or device or with his or her person.

(4) *No interference.* An itinerant merchant shall not, without permission, accost, interfere with or touch any member of the public in any manner.

(5) *Noise*. An itinerant merchant shall not unreasonably disturb the peace and quiet of the city and to this end itinerant merchants shall not shout or cry out their solicitation or blow any horn, ring any bell or use any other similar device to attract the attention of the public.

(6) *Misrepresentation.* No fraudulent or misleading representations to any person shall be made in connection with any sale or solicitation, including but not limited to any misleading representation concerning the true product or service involved, the name of the itinerant merchant, the trade name and the nature of the parent organization.

(7) *No solicitation.* No door-to-door sales or solicitations nor sales or solicitations on private property shall be permitted at any time where a "No Solicitors," "No Trespassing" or similar notice is posted, except by invitees.

(8) *Asked to leave.* No itinerant merchant shall remain on private property after having been directed to quit the premises by any person lawfully in possession of the premises.

(9) *Application information.* It shall be a violation of this chapter or any person knowingly to file or cause to be filed an application for a license containing one or more false statements.

(10) *Fixed stands prohibited.* No license holder shall stop or remain in any one place upon any street, alley or public place in violation of any other ordinance of the city, including zoning, parking, stopping and standing traffic regulations or any longer than necessary to make a sale to a customer wishing to buy. Any itinerant merchant using a vehicle, when stopped, shall place his or her vehicle parallel to and within 12 inches of the curb and shall depart from such place as soon as he or she has completed sales with customers actually present.

(11) *Prohibited areas.* No itinerant merchant shall engage in peddling on any street, alley or public place after having been requested to desist by any Sterling Heights police officer because of congested or dangerous traffic conditions. No itinerant merchant shall engage in business in a commercially zoned district outside of any building.

(12) *Curb service prohibited.* No person shall operate or maintain any stand, vehicle, store or place of business on or near to any highway in such a manner that the customers or traders with such person occupy or congregate within the limits of any street, lane, highway or public place within the city. No person shall be permitted to use the streets, alleys, lanes or public places of the city for the service of customers or for the transaction of business or to use any stands, stores or other places of business in any manner that shall require the customer, when transacting the business, to stand within the limits of the streets, highways, alleys or public places of the city.

(1978 Code, § 27-6; Ord. No. 262, § 1, 5-3-88)

39-7. EXEMPT PERSONS.

The following shall be exempt from the licensing requirements of this chapter but shall be subject to the other provisions hereof:

(1) Any itinerant merchant otherwise licensed under this Code;

(2) Newspaper delivery service;

(3) Any person exempt under law from local regulation.

(1978 Code, § 27-7; Ord. No. 262, § 1, 5-3-88)

CHAPTER 40: POLITICAL AND CHARITABLE CONTRIBUTIONS

40-1. PURPOSE.

The purpose of this chapter is to prevent fraud, crime, undue annoyance and harassment and to protect the privacy, safety, health and welfare of the citizens of Sterling Heights and all persons and organizations soliciting for charitable, religious and political purposes shall register with the city and all such persons and organizations shall be subject to the regulations set forth herein.

(1978 Code, § 27A-1; Ord. No. 262-A, § 1, 5-3-88)

40-2. DEFINITIONS.

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

CHARITABLE, RELIGIOUS OR POLITICAL ORGANIZATION. A not-for-profit organization of persons which solicits or obtains contributions from the public for charitable, religious or political purposes.

PERSON. Any individual, firm, co-partnership, corporation, company, association or joint stock association, church, religious sect, religious denomination, society, organization or league, political party or organization and includes any trustee, receiver, assignee, agent or other similar representative thereof.

SOLICIT, SOLICITATION and ***SOLICITING***. The request of money, credit, property, financial assistance or other thing of value by personal interview or otherwise on the plea or representation other than by telephone or mail that such money, credit, property, financial assistance or other thing of value, or any part thereof, will be used for charitable, religious or political purpose. The words shall also mean and include the sale or offer to sell any article, tag, ticket, emblem, publication, advertisement, subscription or other thing, whether of value or not, on the pleas or representation that such money, credit, property, financial assistance or other thing of value, or any part thereof, whether received by the solicitor or purchased by the buyer, will be used for a charitable, religious or political purpose.

SOLICITOR. A person or organization that solicits.

(1978 Code, § 27A-2; Ord. No. 262-A, § 1, 5-3-88)

40-3. REGISTRATION.

Prior to solicitation in the city, a charitable, religious or political organization or person who solicits or intends to solicit or receives or intends to receive contributions from persons in the city shall register and obtain a certificate of registration expiring on December 31 of each year. Registration by an organization or person under this chapter shall be with the City Clerk on forms to be furnished by the Clerk. The registration shall contain the following information, or in lieu thereof, a statement of the reason why such information cannot be furnished:

(1) *Personal information.* Name, address, telephone number and headquarters of the person registering;

(2) *Organization*. If the registrant is not an individual, the names and addresses of the registrant and the principal officers and solicitors;

(3) *Purpose*. The purpose for which such solicitation is to be made and the use or disposition to be made of any receipts therefrom;

(4) *Person in charge.* The names and addresses of the person or persons who will be in direct charge of conducting the solicitations;

(5) *Methods to be used.* An outline of the method or methods to be used in conducting the solicitations;

(6) *Time for solicitation.* The time period during which such solicitation shall be made, giving the proposed dates for the beginning and ending of such solicitations and the hours of the days thereof;

(7) *Nature of organization.* Where and when the organization was established, the form of its organization and its tax exempt status under the Internal Revenue Code, if any.

(1978 Code, § 27A-3; Ord. No. 262-A, § 1, 5-3-88)

40-4. CERTIFICATE.

(1) *Issuance*. The City Clerk shall issue an appropriate number of certificates of registration upon the filing of the registration form as set forth therein. No fee shall be charged in connection with the registration or the certificates of registration.

(2) *Contents*. The certificates of registration issued under this chapter shall bear the name and address of the person by whom the solicitation is made, the date issued, the dates within which the registrant will be soliciting and a statement that the certificate does not constitute an endorsement by the city of the purpose of the solicitation or of the persons or group conducting the solicitation.

(3) *Nontransferable*. Any certificate of registration issued under this chapter shall be nontransferable; provided, however, each solicitor and representative of any organization which has registered shall carry a facsimile copy of such registration while engaged in solicitation.

(4) *Misrepresentation of endorsement by city.* No person shall represent that the granting of a certificate of registration under this chapter is an endorsement by the city of the particular organization involved, and any such representation is declared to be a misrepresentation of fact and subject to the provisions for revocation of the license.

(5) *Revocation*. If any registration holder or any agent of the registration holder is misrepresenting or making untrue statements with regard to the solicitation or has made untrue statements in the application or in any other way the solicitation is being conducted in a manner inimical to the protection of the public health, safety or welfare of the citizens of the city or in violation of any of the provisions of this chapter or of any statute of the state or any other ordinance of the city or is representing in any way that any license granted hereunder is endorsement of such solicitation, then the City Clerk shall suspend the license or revoke same and shall cause notice thereof to be mailed to the licensee, who shall have a right to appeal within 30 days and a hearing by the City Council within 30 days thereafter.

(1978 Code, § 27A-4; Ord. No. 262-A, § 1, 5-3-88)

40-5. REGULATIONS.

(1) *Change in information.* While a certificate of registration is in effect, a soliciting person or organization shall within three calendar days report to the City Clerk in writing any material change in any information previously provided on the registration form.

(2) *False information.* No person shall knowingly file or cause to be filed a registration form containing one or more false statements.

(3) *Residency or certificate.* A solicitor shall carry on his or her person at all times while soliciting the certificate of registration and shall show same whenever requested to do so by a person solicited or by a city representative.

(4) *No obstruction.* A solicitor shall not block, obstruct, impede or otherwise interfere with the normal flow of vehicular or pedestrian traffic upon a public highway, street, alley or sidewalk or within public buildings and other public areas within the city by means of a barricade, object or device or with his or her person.

(5) *No interference.* A solicitor shall not, without permission, accost, interfere with or touch any member of the public in any manner.

(6) *Noise*. A solicitor shall not unreasonably disturb the peace and quiet of the city and to this end solicitors shall not shout or cry out their solicitation or use any device or means of amplification to draw attention to the solicitation.

(7) *No misrepresentation.* A solicitor shall not make any fraudulent or misleading representations to any person in connection with any solicitation, including but not limited to any misleading representation concerning the true name and nature of the soliciting organization, the purpose for which the soliciting organization was organized and the purposes for which contributions solicited will be used.

(8) *No solicitors.* No door-to-door solicitations or solicitations on private property shall be permitted at any time where a "No Solicitors," "No Trespassing" or similar notice is posted, except by invitees. A member of an organization is presumed to be an invitee of other members of that organization.

(9) *Requested to leave.* No solicitor shall remain on private property after having been directed to quit the premises by any person lawfully in possession or control of the premises.

(10) *Request to cease.* If any person being solicited indicates in any manner a desire that the solicitation cease, the solicitor shall immediately and peacefully cease the solicitation.

(1978 Code, § 27A-5; Ord. No. 262-A, § 1, 5-3-88)

40-6. EXEMPTIONS.

The following are exempt from §§40-3 and 40-4 of this chapter:

(1) *From members.* The solicitation for charitable, religious and political purposes by any organization from its members;

(2) *On premises.* The solicitation of funds for charitable, religious and political purposes by a person or organization when such solicitation occurs on premises owned or in lawful possession of the person or organization soliciting funds or with the permission of the person or organization who owns or is in lawful possession of the premises;

(3) *Announcements*. The issuance of any announcement or advertisement that such solicitation as described in subsections (1) and (2) above will occur or which announces or advertises an event at which unannounced solicitation as described in subsections (1) and (2) above occurs;

(4) *Telephone, mail or mass media.* Telephone, mail or mass media solicitations;

(5) *Solicitations.* Solicitations conducted under a license or registration under state or federal law;

(6) *Organization*. Any organization or person exempt under law from local regulation.

(1978 Code, § 27A-6; Ord. No. 262-A, § 1, 5-3-88)

CHAPTER 41: PENSIONS AND RETIREMENT

ARTICLE I: DEFINED CONTRIBUTION PENSION PLAN

41-1. ESTABLISHMENT OF DEFINED CONTRIBUTION PENSION PLAN.

There is created and established the City of Sterling Heights Employee's Defined Contribution Pension Plan for all individuals employed by the city who are members of or eligible to become members of the General Employee's Retirement System or the Police and Fire Retirement System.

(Ord. No. 322, § 1, 4-15-97 ; Ord. No. 379, § 1, 8-2-05)

41-2. ADOPTION OF DEFINED CONTRIBUTION PENSION PLAN.

The provisions of the Defined Contribution Pension Plan shall be adopted from time to time by the City Council by resolution or as part of a collective bargaining agreement between the city and the recognized bargaining units of the employees of the city.

(Ord. No. 322, § 1, 4-15-97; Ord. No. 379, § 1, 8-2-05))

Charter reference:

Retirement system, see Ch. 19

41-3. FUNDING OF DEFINED CONTRIBUTION PLAN.

Upon a member of the General Employee's Retirement System or the Police and Fire Retirement System becoming a member of the Defined Contribution Pension Plan, and within 60 days from the final day of the period granted to the individual eligible employee to elect to participate in the Defined Contribution Plan, the value of his or her vested retirement benefits, as actuarially determined, shall be transferred from the appropriate plan to the Defined Contribution Pension Plan for the benefit of the employee.

(Ord. No. 322, § 1, 4-15-97; Ord. No. 379, § 1, 8-2-05)

41-4-41-15. RESERVED.

ARTICLE II: EMPLOYEES DEFINED BENEFIT RETIREMENT SYSTEM

41-16. CITATION OF ARTICLE.

This article may be cited as the "Sterling Heights Retirement System Ordinance."

(1978 Code, § 28-16)

41-17. ESTABLISHED; EFFECTIVE DATE; GOVERNING LAW.

(A) There is created and established the City of Sterling Heights Employees Retirement System.

(B) The effective date of the Retirement System is July 1, 1969. Any amendments to this article will apply to individuals employed by the city on and after the effective date of the amendment. The retirement rights of an individual whose city employment terminated before the effective date of any amendment will be governed by the provisions of the retirement system in effect on the date the individual terminated employment.

(C) Governing law.

(1) The Plan and Trust shall be construed pursuant to the laws of the State of Michigan. The Board shall administer this pension trust consistent with the trust provisions, Article 9, Section 24 of the State of Michigan Constitution and other applicable law. The Board shall have the fiduciary obligations, limitations, and authority as provided by the Public Employee Retirement System Investment Act, being Public Act 314 of 1965 (MCL § 38.1132 et seq.), as amended. The Board shall administer this pension trust in accordance with applicable collective bargaining agreements.

(2) Notwithstanding any other provision of this Plan, any matter relating to the Plan applicable to current employees represented by a collective bargaining agent is a mandatory subject of bargaining under the Public Employment Relations Act (Public Act 336 of 1947), being §§ 423.201 through 423.216 of the Michigan Compiled Laws, as amended. The provisions contained in the collective bargaining agreements shall supersede any conflicting provisions contained in this chapter.

(1978 Code, § 28-17) (Ord. No. 379, § 1, 8-2-05)

Statutory reference:

Public Employee Retirement System Investment Act, see MCL § 38.1132 et seq.

Public Employment Relations Act (PERA), see MCL § 423.201 et seq.

Charter reference:

Duty of Council with respect to Employees Retirement System, see §§19.05, 19.06

Cross reference:

Administrative service, see §§ 2-16 et seq.

41-18. DEFINITIONS.

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

ACCUMULATED CONTRIBUTIONS. The sum of all amounts deducted from the compensations of a member, as provided in this article, the administrative ordinance, or the applicable labor agreement, credited to his or her individual account in the Employee Reserve Fund account, together with regular interest on that account.

ACTUARIAL EQUIVALENT. The equivalence in the present value of various forms of payment, as determined by the retirement system's actuary based on the mortality table(s) and interest rate(s) established by the Board from time to time.

BENEFICIARY. Any person, except a retirant, who is in receipt of or who is designated to receive a pension or other benefit payable by the Retirement System.

BOARD OF TRUSTEES or ***BOARD***. The Board of Trustees provided for in this article.

COMPENSATION. All taxable income, subject to applicable labor agreement restrictions, earned by an employee for personal services rendered by him or her to the city. The term ***COMPENSATION*** shall not include any allowances for clothing, equipment, travel expense or other similar items.

CREDITED SERVICE. The service credited a member to the extent provided in this article.

EMPLOYEE. Any person in the employ of the city except any person who holds an elective position in the government of the city.

FINAL AVERAGE COMPENSATION. All compensation shall be used in computing Final Average Compensation in compliance with the applicable union contract or the administrative ordinance provisions of Chapter 2 of the City Code. If there are no applicable provisions then the highest consecutive 36 months out of the last ten years on a retirement date basis shall be used to compute Final Average Compensation.

MEMBER. Any employee who is included in the membership of theDefined Benefit Retirement System.

PENSION. A monthly amount payable by the Retirement System throughout the future life of a person, or for a temporary period, as provided in this article.

PENSION RESERVE. The present value of all future payments to be made by the Retirement System on account of any pension. Such pension reserve shall be computed upon the basis of such mortality and other tables of experience and regular interest as the Board shall from time to time adopt.

REGULAR INTEREST. The rate or rates of interest per annum, compounded annually, as the Board shall from time to time adopt.

RETIREE. Any member who retires with a pension payable by the Retirement System.

RETIREMENT. A member's withdrawal from the employ of the city with a pension payable by the Retirement System.

RETIREMENT SYSTEM or ***SYSTEM*** or ***DEFINED BENEFIT RETIREMENT SYSTEM*** or ***PLAN*** or ***PLAN AND TRUST***. The City of Sterling Heights General Employees Retirement System created and established by this article.

SERVICE. Personal service rendered to the city by an employee of the city.

(1978 Code, § 28-18; Ord. No. 132-D, § 1, 1-3-84; Ord. No. 132-H, § 1, 11-29-88; Ord. No. 379, § 1, 8-2-05)

41-19. BOARD OF TRUSTEES GENERALLY.

(A) There is created a Board of Trustees in which is vested the power and authority to administer, manage and operate the Retirement System and to construe and make effective the provisions of this article. The Board is a quasi-judicial body and shall consist of five trustees, as follows:

(1) The Treasurer of the city, to serve by virtue of the position;

(2) The Finance and Budget Director of the city, to serve by virtue of the position;

(3) A citizen, who is an elector of the city, to be appointed by the Council for a term of three years. If a vacancy occurs in the office of the citizen trustee, the Council shall fill the vacancy for the unexpired portion of the term;

(4) Two members of the system, who are electors of the city to be elected by the other members of the system under such rules and regulations as the Board of Trustees shall adopt to govern the election. Each such member shall serve for a term of three years, except that in the first instance, the candidate receiving the highest number of votes shall serve for two years and the candidate receiving the second highest number of votes shall serve for one year. If a vacancy occurs in either of these trustee offices, the members of the system shall elect a qualified person to fill the vacancy for the unexpired portion of the term. In addition to any other grounds for vacancy, a vacancy shall be deemed to occur in either of these trustee offices if the trustee ceases to be an elector of the city or to be a member of the Retirement System.

(B) Three trustees shall constitute a quorum at any meeting of the Board. Each trustee attending a meeting of the Board shall be entitled to one vote on each question before the Board. At least three concurring votes shall be necessary for a decision by the Board.

(C) The Board shall hold regular meetings monthly and shall designate the time and place thereof. All meetings shall comply with the Open Meetings Act, being MCL § 15.261 et seq.

(D) The Board shall adopt its own rules or procedures unless superseded by city ordinance and shall keep a record of its proceedings.

(E) The Treasurer and the Finance and Budget Director, with the approval of the City Manager, may designate a subordinate employee to serve in their place during absence and/or disability on the Board of Trustees.

(F) The Board shall exercise its fiduciary responsibilities for the exclusive benefit of the retirement system's participants and their beneficiaries and shall exercise the care, skill, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and similar objectives.

(G) The Board shall be held harmless by the city, to the extent authorized or permitted by law, against any and all liabilities, including legal fees and expenses, arising out of any act or omission made in good faith pursuant to the provisions of the Plan, other than a willful failure to a discharge fiduciary obligation of which a Board member is aware. There shall be no indemnification where a Board member is judicially determined to have incurred liability due to fraud, gross negligence, or malfeasance in the exercise and performance of the Board member's duties.

(1978 Code, § 28-19; Ord. No. 132-E, § 1, 3-18-86; Ord. No. 132-F, § 1, 10-7-86; Ord. No. 132-I, § 2, 3-7-89; Ord. No. 132, §§ 1, 2, 2-6-93; Ord. No. 132-J, §§ 1, 2, 2-16-93; Ord. No. 132-L, 3-2-99; Ord. No. 358, § 1, 12-18-01; Ord. No. 379, § 1, 8-2-05)

Charter reference:

Retirement system, see Chapter 19 of the City Charter

Cross reference:

Boards and commissions generally, see §§ 2-95 et seq.

41-20. BOARD CHAIRPERSON; SYSTEM OFFICERS AND SERVICES.

(A) The Board shall designate from its own number a Chairperson and Vice-Chairperson.

(B) The officers of the Retirement System shall be:

(1) The Finance and Budget Director shall be Secretary to the Board and he or she shall be the administrative officer of the system;

(2) The City Treasurer shall be Treasurer of the Retirement System and he or she shall be the custodian of its assets, except that the Board may select a custodial bank or trust company to provide custodial service to the system;

(3) The Board may appoint an attorney to serve as legal advisor to the Board, who shall be licensed to practice law in the State of Michigan;

(4) The Board shall appoint an actuary who is a member of the American Academy of Actuaries. He or she shall be the technical advisor to the Board on matters regarding the operation of the Retirement System, and he or she shall perform such other duties as are required of him or her in this article.

(5) The Board shall appoint a physician or medical firm licensed to practice medicine in the State of Michigan as medical director. The medical director shall arrange for, investigate, and pass upon all medical examinations, essential statements and certificates of a medical nature required under this article and shall report any conclusions in writing to the Board.

(C) The attorney, actuary, medical director, and other persons whose services are necessary for the proper operation of the Board shall be engaged and compensated in the usual manner applicable to the hiring of such individuals pursuant to Board policy and procedure, subject to the budgetary appropriations by the City Council.

(1978 Code, § 28-20; Ord. No. 132, § 3, 2-6-93; Ord. No. 132-J, § 3, 2-16-93; Ord. No. 379, § 1, 8-2-05)

41-21. RECORDS AND REPORTS.

(A) The Secretary shall keep, or cause to be kept, such data as shall be necessary for an actuarial valuation of the assets and liabilities of the Retirement System.

(B) The Board shall annually render a report to the Council showing the fiscal transactions of the Retirement System for the preceding fiscal year and shall furnish such additional information regarding the operation of the system as the Council shall from time to time adopt.

(1978 Code, § 28-21) (Ord. No. 379, § 1, 8-2-05)

41-22. ADOPTION OF EXPERIENCE TABLES AND RATE OF REGULAR INTEREST; OBTAINING PERIODIC ACTUARIAL COMPUTATIONS.

The Board shall, from time to time, adopt such mortality and other tables of experience and a rate or rates of regular interest as are required for the operation of the Retirement System on an actuarial basis. In addition, the Board annually, or more frequently, shall obtain actuarial computations from an enrolled actuary as to the contributions necessary to fund the benefits provided by the plan on a reasonable basis in accordance with any applicable regulations, and such actuary shall certify such amounts to the employer. Contributions accumulated under the Plan, along with the earnings thereon, will be distributed in accordance with the terms of the Plan.

(1978 Code, § 28-22; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 363, § 1, 7-16-02; Ord. No. 379, § 1, 8-2-05)

41-23. COMPOSITION OF MEMBERSHIP.

(A) The membership of the Retirement System shall include all employees of the city, and all persons who become employees of the city, except as provided in subsection (B) of this section.

(B) The membership of the Retirement System shall not include:

(1) The City Manager;

(2) Any person who is employed by the city in a position normally requiring less than 1,000 hours of work per annum;

(3) Any person whose services rendered to the city are compensated on a contractual or fee basis;

(4) Any police officer or firefighter in the employ of the city who is a member of the City of Sterling Heights Police Officer and Firefighter Retirement System;

(5) Any employee who is a member of the Defined Contribution Plan; nor

(6) Any retiree rehired by the city per the provisions of §41-30.

(C) In any case of doubt as to the Retirement System membership status of any person, the Board shall decide the question.

(1978 Code, § 28-23; Ord. No. 132-L, § 2, 3-2-99; Ord. No. 379, § 1, 8-2-05)

41-24. TERMINATION OF MEMBERSHIP.

Upon election to join and transfer of the value of a member's vested retirement benefits to the City of Sterling Heights Employees Defined Contribution Pension Plan as provided in Article I of this chapter, the employee as well as any beneficiaries shall cease to be a member of the Retirement System and shall relinquish all rights to any benefits from the Retirement System and to any claim to accumulated contributions.

Except as otherwise provided in this article, should any member cease to be employed in a position covered by the Retirement System for any reason, he or she shall thereupon cease to be a member and his or her nonvested credited service in force at that time shall be forfeited by him or her. In the event he or she is reemployed by the city in a position covered by the system, he or she shall again become a member. If he or she is so reemployed, his or her credited service last forfeited by him or her shall be restored to his or her credit; provided, that:

(a) He or she returns to the Employee Reserve Fund account the amount, if any, he or she withdrew therefrom, together with regular interest from the date of withdrawal to the date of repayment; and

(b) He or she acquires at least two years of credited service for service rendered by him or her from and after the date he or she is last reemployed by the city.

Upon a member's retirement or death, he or she shall thereupon cease to be a member.

(1978 Code, § 28-24; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 132-L, § 3, 3-2-99; Ord. No. 379, § 1, 8-2-05)

41-25. SERVICE CREDIT.

The Board shall determine, by appropriate rules and regulations, the amount of service to be credited any member. In no case shall less than ten calendar days of service rendered by him or her be credited as a month of service, nor shall more than one year of service be credited any member for all service rendered by him or her in any calendar year. Based upon such rules and regulations adopted by the Board and the provisions of this article, the Board shall credit each member with the number of years and months of service to which he or she is entitled.

(1978 Code, § 28-25; Ord. No. 132, § 4, 2-6-93; Ord. No. 132-J, § 4, 2-16-93; Ord. No. 379, § 1, 8-2-05)

41-26. MILITARY SERVICE.

Any person who, while employed by the city in a position covered by the Retirement System, entered or enters any armed service of the United States Government shall not have such armed service credited him as city service. During the period of such armed service and until his or her return to the employ of the city, his or her contributions to the system shall be suspended and his or her balance, if any, in the Employee Reserve Fund account shall be accumulated at regular interest. Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with IRC § 414(u) and regulations thereunder.

(1978 Code, § 28-26; Ord. No. 363, § 2, 7-16-02; Ord. No. 379, § 1, 8-2-05)

41-27. VOLUNTARY RETIREMENT.

Subject to the provisions of the applicable labor agreement, any member who has attained age 60 years and has ten or more years of credited service may retire upon his or her written application filed with the Board setting forth at what date, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he or she desires to be retired. The Board, with the approval of the City Manager, may waive such 30 to 90 day requirement for the filing of the pension application. Upon his or her retirement, he or she shall receive a pension as provided in § 41-31.

(1978 Code, § 28-27; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 379, § 1, 8-2-05)

Charter reference:

Age and years requirement, see § 19.06(B)

41-28. VESTING.

In accordance with IRC § 411(e), applicable to plans meeting the vesting requirements in effect on September 1, 1974, a member shall be 100% vested in his/her accrued benefit when he/she attains normal retirement age.

(Ord. No. 363, § 3, 7-16-02; Ord. No. 379, § 1, 8-2-05)

41-29. DEFERRED RETIREMENT.

If a member with ten or more years of credited service leaves the employ of the city for any reason except his or her retirement or death, he or she shall be entitled to a pension to be calculated in accordance with the terms and conditions of this article in effect at the time of his or her separation from employment. His or her pension shall begin the first day of the calendar month which is at least 30 days following the date his or her written application for same is filed with the Board on or after his or her attainment of age 60 years. If he or she withdraws his or her accumulated contributions from the Employee Reserve Fund account, he or she shall thereupon forfeit his or her right to a deferred pension as provided in this section. He or she shall not be given service credit for the period of his or her absence from city employment, unless otherwise provided in this article. Until his or her pension begins, his or her balance in the Employee Reserve Fund account shall be accumulated at regular interest.

(1978 Code, § 28-29; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 379, § 1, 8-2-05)

41-30. REEMPLOYMENT AFTER RETIREMENT.

(A) Upon approval of the City Council, retirees may be reemployed by the city in a temporary, part-time position for no more than 1,000 hours per annum and during such reemployment pension payment shall not be suspended. During the period of his or her temporary reemployment:

(1) He or she shall not be a member of the Retirement System;

(2) He or she shall not make contributions to the system; and

(3) He or she shall not be given credit for service rendered by him or her while he or she is so employed.

(B) Except for temporary part-time employment, if a retirees is reemployed by the city, payment of his or her pension shall be suspended during the period of his or her reemployment. Upon termination of his or her reemployment, payment of his or her pension shall be resumed without change. During the period of his or her reemployment:

(1) He or she shall not be a member of the Retirement System;

(2) He or she shall not make contributions to the system; and

(3) He or she shall not be given credit for service rendered by him or her while he or she is so reemployed.

(C) The application of this section may be superseded or suspended by the terms and conditions of a collective bargaining agreement negotiated between the city and bargaining units representing its employees or as expressly specified otherwise in the city code.

(1978 Code, § 28-30; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 379, § 1, 8-2-05; Ord. No. 428, § 3, 6-18-13)

41-31. STRAIGHT LIFE PENSION.

Upon a member's retirement, as provided in the applicable labor agreement or this article, he or she shall receive a straight life pension equal to the number of years, and fraction of a year, of his or her credited service multiplied by 2% of his or her final average compensation, unless otherwise provided in a collective bargaining agreement covering such member. His or her straight life pension shall be subject to § 41-38. Prior to the date of his or her retirement, he or she may elect to receive his or her pension under an option provided in § 41-33 in lieu of a straight life pension.

(1978 Code, § 28-31) (Ord. No. 379, § 1, 8-2-05)

41-32. RESERVED.

41-33. PENSION OPTIONS.

(A) Before the date of his or her retirement, but not thereafter, a member may elect to receive his or her pension as a straight life pension payable throughout his or her life or he or she may elect to receive the actuarial equivalent, computed as of the date of his or her retirement of his or her straight life pension in a reduced pension payable throughout his or her life and nominate a beneficiary in accordance with the provisions of Option A, B or C set forth below.

(1) *Option A-100% survivor pension.* Under Option A, upon the death of aretiree, his or her reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his or her life, as he or she shall have nominated by written designation duly executed and filed with the Board prior to the date of his or her retirement.

(2) *Option B-50% survivor pension.* Under Option B, upon the death of aretiree, one-half of his or her reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his or her life, as he or she shall have nominated by written designation duly executed and filed with the Board prior to the date of his or her retirement.

(3) *Option C-10 years certain and life thereafter.* Under Option C, a retiree shall receive a reduced pension payable throughout his or her life with the provision that if he or she dies before he or she has been paid 120 monthly pension payments, the payments shall be continued for the remainder of the period of 120 months to such person or persons, in equal shares, as the retiree shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person surviving the retiree, the remaining monthly payments shall be continued and paid to the estate of the survivor of theetiree and his or her last surviving beneficiary.

(B) In the event a retiree, who elected Option A or B provided in subsection (A) of this section, and his or her beneficiary both die before they have received in pension payments a total amount equal to the accumulated contributions standing to the retiree's credit in the Employee Reserve Fund account at the time of his or her retirement, the difference between his or her accumulated contributions and the total amount of pension payments received by them shall be paid to the estate of the survivor of the retiree and his or her beneficiary.

(C) Withdrawal option. Before the effective date of the member's retirement, a member may irrevocably elect to withdraw the accumulated contributions in the Employee Reserve Fund account upon retirement with interest, forfeiting any further claim under § 41-33(B) or § 41-41(C) and forfeiting that portion of the monthly pension and survivor's benefits payable from the member's accumulated contributions as determined on an actuarial basis. Payment shall be made to the member within the 120 days after the effective date of retirement.

(1978 Code, § 28-33) (Ord. No. 379, § 1, 8-2-05)

41-34. DEATH IN SERVICE PENSIONS.

(A) Any member who continues in the employ of the city after the date he or she either acquires 20 years of credited service or attains age 60 years and acquires ten or more years of credited service may, prior to the date of his or her retirement, elect Option A provided in § 41-33(A)(1) and nominate his or her spouse as a beneficiary or nominate a beneficiary whom the Board finds to be dependent upon the member for at least 50% of his or her support due to lack of financial means. Prior to the date of his or her retirement, a member may revoke his or her election of Option A and nomination of beneficiary and he or she may again, prior to the date of his or her retirement, elect Option A and nominate a beneficiary as provided in this subsection. Upon the death of a member, who has an Option A election in force, his or her beneficiary, if living, shall immediately receive a pension under Option A which is the actuarial equivalent of a pension computed according to § 41-33. The pension shall be computed in the same manner as if the member had retired the day preceding the date of his or her death, notwithstanding that he or she might not have attained age 60 years and shall be subject to § 41-38.

(B) If a member, who either has 20 or more years of credited service or has attained age 60 years and has ten or more years of credited service, and in either case does not have an Option A election in force as provided in subsection (A) of this section, dies while in the employ of the city, the following applicable pensions shall be paid:

(1) If the deceased member leaves a spouse, the spouse shall receive a pension equal to 75% of the pension, computed according to §1-31, earned by the member to the date of his or her death. The percent shall be reduced by one for each full year in excess of five years the spouse is younger than the member. The percent so reduced shall not be less than 50%. The pension shall terminate upon the spouse's remarriage or death and shall be subject to subsection (C) of this section and to § 41-38;

(2) If the deceased member does not leave a spouse, or if the spouse dies or remarries subsequent to the member's death, and the member leaves his or her unmarried child or children under age 21 years, each such child shall receive a pension of an equal share of 50% of the pension, computed according to § 41-31, earned by the member to the date of his or her death. A child's pension shall terminate upon his or her adoption, marriage, attainment of age 21 years or death, whichever occurs first. Upon termination of a child's pension, it shall be divided into equal shares and added to the pensions being paid the deceased member's surviving eligible children, if any. Any pension payable under this paragraph shall be subject to subsection (C) of this section and to § 41-38.

(C) If, upon termination of all pension payments payable under this section on account of the death of a member, the total amount of the pension payments made is less than the member's accumulated contributions standing to his or her credit in the Employee Reserve Fund account at the time of his or her death, the difference between his or her accumulated contributions and the total amount of pension payments made shall be paid to the estate of the member's last surviving beneficiary. No pension shall be paid under this section if any benefit is payable or will become payable under any other provision of this article on account of the member's death.

(1978 Code, § 28-34; Ord. No. 132-I, § 4, 3-7-89; Ord. No. 379, § 1, 8-2-05)

41-35. DEATH IN LINE OF DUTY PENSIONS.

If a member dies as the result of illness contracted or injuries received arising out of and in the course of his or her city employment, and his or her death or illness or injuries resulting in death be found by the Board to have been the natural and proximate result of his or her actual performance of duty in the employ of the city, the following applicable pensions shall be paid, provided worker's compensation is granted on account of the member's death:

(1) If the deceased member leaves a spouse, the spouse shall receive a pension equal to 75% of the member's pension computed according to §1-31 or, if the decreased member has elected Option A under § 41-33, then the spouse shall be paid a pension calculated according to that election, whichever is higher. The 75% shall be reduced by 1% for each full year in excess of five years the spouse is younger than the member. If the member's death occurs prior to his or her attainment of age 60 years, the service credit used in computing his or her pension shall be the sum of his or her credited service in force at the time of his or her death, plus the number of years, and fraction of a year, in the period from the date of his or her death to the date he or she would attain age 60 years. A spouse's pension shall not be less than 15% of the member's final average compensation, shall terminate upon the spouse's remarriage or death and shall be subject to § 41-38.

(2) If the deceased member does not leave a spouse, or if the spouse dies or remarries subsequent to the member's death, and the member leaves his or her unmarried child or children under age 21 years, each such child shall receive a pension of an equal share of 50% of the member's pension, computed according to § 41-31. If the member's death occurs prior to his or her attainment of age 60 years, the service credit used in computing his or her pension shall be the sum of his or

her credited service in force at the time of his or her death, plus the number of years, and fraction of a year, in the period from the date of his or her death to the date he or she would attain age 60 years. A child's pension shall terminate upon his or her adoption, marriage, attainment of age 21 years or death, whichever occurs first. Upon termination of a child's pension, it shall be divided into equal shares and added to the pensions being paid the deceased member's surviving eligible children if any. A child's pension shall not be less than 10% of the member's final average compensation and shall be subject to § 41-38.

(1978 Code, § 28-35)

41-36. DISABILITY RETIREMENT.

(A) Upon the application of a member or his or her department head, a member who is in the employ of the city, has ten or more years of credited service and becomes totally and permanently disabled for duty in the employ of the city may be retired by the Board; provided that, after medical examinations of the member made by or under the direction of a medical committee, consisting of the Board's Medical Director or its designee, a physician named by the member and a third physician designated by the first two physicians named, the medical committee, by a majority opinion, certifies to the Board, in writing, (1) that the member is mentally or physically totally disabled for duty in the employ of the

city and (2) that such disability will probably be permanent and (3) that the member should be retired. Upon his or her retirement, he or she shall receive the applicable pension provided in § 41-37.

(B) If a member has less than ten years of credited service, the service requirement contained in subsection (A) of this section shall be waived if the Board finds that his or her total and permanent disability is the natural and proximate result of a personal injury or disease arising solely and exclusively out of and in the course of his or her actual performance of duty in the employ of the city and that he or she is granted worker's compensation on account of his or her disability incurred as a result of his or her city employment.

(1978 Code, § 28-36; Ord. No. 132-G, § 1, 12-21-87; Ord. No. 379, § 1, 8-2-05)

41-37. DISABILITY PENSIONS.

(A) Non-duty disability. Upon a member's retirement on account of disability, as provided in §41-36, he or she shall receive a pension computed according to §41-31. Prior to the date of his or her retirement, he or she may elect to receive his or her pension under an option provided in § 41-33 in lieu of a straight life pension. His or her disability pension shall be subject to § 41-38.

(B) Duty disability. If the member's retirement on account of disability, as provided in §41-36, occurs prior to his or her attainment of age 60 years, and the Board finds that his or her disability is the natural and proximate result of a personal injury or disease arising out of and in the course of his or her city employment and that he or she is in receipt of worker's compensation benefits on account of his or her disability, the service credit used in computing his or her pension provided in subsection (A) of this section shall be the sum of his or her credited service in force at the time of his or her retirement, plus the number of years, and fraction of a year, in the period from the date of his or her retirement to the date he or she would attain age 60 years. His or her disability pension shall be subject to § 41-38. For purposes hereof, a member who receives or who is in receipt of a lump sum settlement or redemption of a worker's compensation claim shall not be deemed in receipt of worker's compensation benefits for purposes of eligibility for a duty disability pension, unless both the city and the member as part of the settlement or redemption agreement acknowledge in writing that the disability is the natural and proximate result of a personal injury or disease arising out of and in the course of city employment. Any member who redeems his or her worker's compensation benefits or obtains a lump sum payment subsequent to the award of worker's compensation benefits shall not be subject to the foregoing limitation.

(1978 Code, § 28-37; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 379, § 1, 8-2-05)

41-38. PENSION MAXIMUM LIMIT.

The total of the pensions payable under any provision of this article on account of a member's retirement or death shall not exceed 70% of the member's final average compensation, nor shall it exceed the difference between 70% of final average compensation and the sum of the monthly equivalent of any worker's compensation payable on account of the member's city employment and any other benefit program, except social security, financed in whole or in part by the city. If computation of a member's pension under § 41-31 would result in a pension in excess of 70% of the member's final average compensation, then and in that event only, beginning the July 1 after the expiration of 12 months following the beginning date of the pension and annually thereafter, the member's final average salary used to determine the maximum pension limit shall be increased by 2% of the member's initial final average compensation until the member's pension equates to that which he or she would have received using the compensation in § 41-31 without a limitation of 70% of the member's initial final average compensation.

(1978 Code, § 28-38; Ord. No. 379, § 1, 8-2-05)

41-39. CONDITIONS FOR DISABILITY RETIREE.

(A) At least once each year during the first five years following a member's retirement on account of disability, and at least once in every three year period thereafter, the Board may require a disability retiree, who has not attained age 60 years, to undergo a medical examination to be made by or under the direction of the Medical Director designated by the Board. If a disability retiree refuses to submit to such medical examination in any such period, his or her pension may be suspended by the Board until his or her withdrawal of such refusal. Should such refusal continue for one year, his or her pension may be revoked by the Board. If upon such medical examination of a disability retiree the Medical Director reports to the Board that the retiree is physically able and capable of resuming employment in a position commensurate with his or her type of work at the time of his or her retirement, his or her pension shall terminate, provided the report of the Medical Director is concurred in by the Board.

(B) A disability retiree who returns to city employment, as provided in subsection (A) of this section, shall again become a member of the Retirement System. His or her credited service in force at the time of his or her retirement shall be restored to full force and effect. He or she shall be given service credit for the period he or she was in receipt of a disability pension provided for in § 41-37(B). He or she shall not be given service credit for the period he or she was in receipt of a pension provided for in § 41-37(A).

(C) In the event a disability retiree, who has not attained age 60 years, becomes engaged in a gainful occupation, business or employment, paying him or her more than the difference between his or her annual rate of compensation at the time of his or her retirement and his or her disability pension converted to an annual amount, plus his or her worker's compensation benefits, his or her pension shall be reduced to an amount which together with the amount so earned by him or her, plus his or her worker's compensation benefits, shall equal but not exceed such annual rate of compensation. Beginning the July 1 after the expiration of 12 months following the beginning date of his or her pension and annually thereafter, his or her annual rate of compensation used to determine his or her pension reduction shall be increased by 2% of his or her annual rate of compensation at the time of his or her retirement.

(1978 Code, § 28-39; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 379, § 1, 8-2-05)

41-40. EMPLOYEE RESERVE FUND ACCOUNT; MEMBERS' CONTRIBUTIONS GENERALLY.

(A) Effective July 1, 1970, the Employee Reserve Fund account is created. It shall be the financial statement account in which shall be accumulated, at regular interest, the contributions deducted from the compensation of members and from which shall be made refunds and transfers of accumulated contributions as provided in this article.

(B) Unless otherwise provided in the applicable labor contract, ~~a~~A member's contributions to the Retirement System shall be 5% of his or her annual compensation. The officer or officers responsible for preparing the payroll shall cause the contribution to be deducted from the compensation of each member on each and every payroll, for each and every payroll period, so long as he or she remains a member. Each of such amounts, when deducted, shall be paid to the system and shall be credited to the Employee Reserve Fund account of the member from whose compensation such deduction was made. The member's contributions provided herein shall be made notwithstanding that the minimum compensation provided by law for any member shall be thereby changed. Every member shall be deemed to consent and agree to the deductions made and provided for herein. Payment of his or her compensation, less such deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered by him or her during the period covered by such payment, except as to benefits provided by the system.

(C) In addition to the contributions deducted from the compensation of a member, as hereinbefore provided, he or she shall return to the Employee Reserve Fund account, by a single payment or by an increased rate of contribution as approved by the Board, the amount, if any, he or she withdrew therefrom, together with regular interest from the date of withdrawal to the date of repayment. In no case shall any member be given credit for service rendered prior to the date he or she withdrew his

or her accumulated contributions, until he or she returns to the Employee Reserve Fund account all amounts due the fund by him or her.

(D) Upon the retirement of a member, or if a pension becomes payable by the Retirement System on account of his or her death, his or her accumulated contributions standing to his or her credit in the Employee Reserve Fund account shall be transferred to the Retirement Reserve Fund account. At the expiration of a period of four years from and after the date an employee ceases to be a member, without entitlement to a deferred pension provided for in § 41-29, any balance of accumulated contributions standing to his or her credit in the Employee Reserve Fund account, unclaimed by the member or his or her legal representative, shall be transferred to the Income Reserve Fund account.

(1978 Code, § 28-40) (Ord. No. 379, § 1, 8-2-05)

41-41. REFUND OF MEMBER'S CONTRIBUTIONS.

(A) Should any member leave the employ of the city for any reason, except his or her retirement or death, before he or she has satisfied the age and service requirements for retirement provided in § 41-27or the applicable labor agreement, he or she shall be paid his or her accumulated contributions standing to his or her credit in the Employee Reserve Fund account upon his or her written request to the Board.

(B) Upon the death of a member, if no pension is payable or will become payable by the Retirement System on account of his or her death, his or her accumulated contributions standing to his or her credit in the Employee Reserve Fund account at the time of his or her death shall be paid to such person or persons as he or she shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person surviving the member, or if he or she did not designate a beneficiary, his or her accumulated contribution shall be paid to his or her estate.

(C) Upon the death of a retiree before he or she has received in pension benefit payments an aggregate amount equal to his or her accumulated contributions standing to their credit in the Employee Reserve Fund account at the time of their retirement, the difference between the accumulated contributions and the aggregate amount of pension benefit payments received by the retiree shall be paid to such person or persons as they shall have nominated by written designation duly executed and filed with the Board. If no designated person survives the retiree, such difference, if any, shall be paid to the retiree's estate. In no case shall any benefits be paid under this section due to the death of a retiree, if they were receiving their pension benefits under an option provided in § 41-33.

(D) Payment of accumulated contributions, as provided in this section, may be made in installments, according to such rules and regulations as the Board shall from time to time adopt.

(1978 Code, § 28-41; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 379, § 1, 8-2-05)

41-42. EMPLOYER RESERVE ACCOUNT.

(A) The Employer Reserve account is created. It shall be the account in which shall be accumulated the contributions made by the city to the Retirement System and from which shall be made transfers as provided in this section.

(B) Upon the basis of such mortality and other tables of experience and regular interest, as the Board shall from time to time adopt, the actuary shall annually compute the pension reserves for service rendered and to be rendered by members and the pension reserves for pensions being paid retirees and beneficiaries. The pension reserve liabilities so determined shall be financed by annual city contributions appropriated by the Council and the contributions to be determined as provided below.

(1) The annual appropriation for members' current service shall be a percent of their annual compensation which will produce an amount which, if paid annually by the city for the periods of their future service, will be sufficient to provide, at the time of their retirement, the city financed portions of the pension reserves for the pensions to be paid them based upon their future service.

(2) The annual appropriations for members' accrued service shall be a percent of their annual compensation which will provide an amount which, if paid annually by the city over a period of years, to be determined by the Board, will amortize at regular interest the unfunded pension reserves for the accrued service portions of the pensions to be paid them.

(3) The annual appropriation for pensions being paid retirees and beneficiaries shall be a percent of the annual compensation of members which will produce an amount which, if paid annually by the city over a period of years, to be determined by the Board, will amortize at regular interest the unfunded pension reserves, if any, for pensions being paid retirees and beneficiaries.

(C) The difference between the pension reserve for a pension payable by the Retirement System and a member's accumulated contributions standing to his or her credit in the Employee Reserve Fund account shall be transferred from the Employer Reserve account to the Retirement Reserve account upon the retirement or death of a member.

(1978 Code, § 28-42; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 379, § 1, 8-2-05)

41-43. RETIREMENT RESERVE ACCOUNT.

The Retirement Reserve Account is created. It shall be the fund from which shall be paid all pensions as provided in this article. If a disability retiree returns to the employ of the city, his or her pension reserve, as of the date of his or her return, shall be transferred from the Retirement Reserve Fund to the Employee Reserve Fund account and Employer Reserve account in the same proportion as the pension reserve was originally transferred to the Employee Reserve Fund account and Employer Reserve account. The portion of his or her pension reserve transferred to the Employee Reserve Fund account shall be credited to his or her individual account therein.

(1978 Code, § 28-43; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 379, § 1, 8-2-05)

41-44. RESERVE ACCOUNT

The Income Reserve account is created. It shall be the account to which shall be credited all interest, dividends and other income from investments of the Retirement System; all transfers from the Employee Reserve Fund account by reason of lack of claimant; and all other monies received by the system, the disposition of which is not specifically provided for in this article. The Board may accept gifts and bequests and the same shall be credited to the Income Reserve account. There shall be transferred from the Income Reserve account to the Employee Reserve Fund account, Employer Reserve account and Retirement Reserve account, the amounts required to credit regular interest of the respective funds. Whenever the Board determines that the balance of the Income Reserve account is more than sufficient to cover the current charges to the account, such excess may be used to provide contingency reserves or may be used to cover special needs of the other accounts of the system, as the Board shall determine. If the balance in the Income Reserve account is insufficient to meet the charges to the account, the amount of such insufficiency shall be transferred to the income account from the Employer Reserve account. A member's accumulated contributions which were transferred to the Income Reserve account may be returned upon a valid claim approved by the Board.

(1978 Code, § 28-44; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 379, § 1, 8-2-05)

41-45. OTHER FUNDS.

The Board may from time to time create such other accounts, in addition to the Employee Reserve Fund account, Employer Reserve account, Income Reserve account and Retirement Reserve account as it deems necessary for the proper operation of the Retirement System.

(1978 Code, § 28-45) (Ord. No. 379, § 1, 8-2-05)

41-46. ALLOWANCE OF REGULAR INTEREST ON FUNDS.

At the end of each fiscal year, the Board shall allow and credit regular interest to each member's individual account in the Employee Reserve Fund account. The interest shall be computed upon the mean balances in the accounts during the year. The interest so allowed and credited shall be transferred from the Income Reserve accounts.

(1978 Code, § 28-46; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 379, § 1, 8-2-05)

41-47. INVESTMENT OF ASSETS.

The Board shall be the trustee of the assets of the Retirement System and shall have full power to invest and reinvest such assets in accordance with the provisions of Public Act 314 of 1965 MCL §§ 38.1132 et seq.), as amended, and as it might from time to time be amended or superseded. The Board shall have full power to hold, purchase, sell, assign, transfer and dispose of any securities and investments of the system, as well as the proceeds of such investments and any monies belonging to the system.

(1978 Code, § 28-47) (Ord. No. 379, § 1, 8-2-05)

41-48. ASSETS NOT SEGREGATED.

The Employee Reserve Fund account, Employer Reserve account, Retirement Reserve account and any other accounts created by the Board shall be interpreted to refer to the accounting records of the Retirement System and not to the actual segregation of the assets of the system in the said accounts.

(1978 Code, § 28-48) (Ord. No. 379, § 1, 8-2-05)

41-49. PROHIBITION AGAINST REVERSION; LIMITATION ON NON-INTEREST BEWARING FORM.

(A) The Retirement System and trust have been created for the exclusive benefit of the members and beneficiaries as set forth herein. The funds thereof have been established for the benefit of the members and for the operation of the Retirement System. No part of the principal and income of any of the funds of the System and trust shall revert to or be returned to the city prior to the satisfaction of all liabilities hereunder to all members, beneficiaries and anyone claiming by or through them.

(B) Available cash in a non-interest bearing form shall not exceed 5% of the total assets of the System.

(1978 Code, § 28-49; Ord. No. 363, § 4, 7-16-02; Ord. No. 379, § 1, 8-2-05)

41-50. METHOD OF MAKING PAYMENTS.

All payments from monies of the Retirement System shall be made only upon written authority of two persons designated by the Board. A duly attested copy of a resolution designating such persons shall be filed with the custodial bank/paying agent used by the Board. No such written authority to make payments from monies of the system shall be executed unless such payment or payments shall have been previously authorized by a specific or continuing motion or resolution adopted by the Board.

(1978 Code, § 28-50) (Ord. No. 379, § 1, 8-2-05)

41-51. CITY'S RIGHT OF SUBROGATION AGAINST THIRD PARTIES.

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

(1978 Code, § 28-51) (Ord. No. 379, § 1, 8-2-05)

41-52. CONFLICTS OF INTEREST.

Except as otherwise provided in this article, no trustee and no employee of the city shall have any interest, direct or indirect, in the gains or profits arising from any investments made by the Board. No person, directly or indirectly, for himself, herself or as an agent or partner of others, shall borrow any monies of the Retirement System nor shall he or she in any manner use the same, except to make payments authorized by the Board. No person shall become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the system. Nothing contained in this section shall be construed to impair the rights of any member, retiree or beneficiary of the system to benefits provided by the system.

(1978 Code, § 28-52) (Ord. No. 379, § 1, 8-2-05)

41-53. RIGHTS AND FUNDS NOT SUBJECT TO LEGAL PROCESS OR ASSIGNMENT; CITY'S RIGHT OF SETOFF; DEDUCTION OF INSURANCE PREMIUMS FROM PENSION.

(A) The right of a person to a pension, to the return of accumulated contributions, any pension option, and any other right accrued or accruing to any member, retiree or beneficiary, under the provisions of this article, and all monies belonging to the Retirement System, shall not be subject to execution, garnishment, attachment, the operation or bankruptcy or insolvency law or any other process of law whatsoever and shall be unassignable, except as specifically provided in this article and in accordance with Public Act 100 of 2002, as amended, being MCL § 38.1681 et seq. and Public Act 350 of 1994, as amended being MCL § 38.2701 et seq.. The city shall have the right of setoff for any claim arising from embezzlement by or fraud of a member, retiree or beneficiary.

(B) The right of a member or retiree to a retirement allowance, deferred retirement allowance, accumulated contributions or other benefit under this article shall be subject to award by a court pursuant to MCL § 552.18, and to any other order of a court pertaining to child support.

(C) If an award or order described in subsection (B) of this section requires the Retirement System to withhold payment of a retirement allowance, deferred retirement allowance, accumulated contributions or other benefit from the person to whom it is due or requires the Retirement System to make payment or requires the person to request that the Retirement System make payment of a retirement allowance, deferred retirement allowance, accumulated contributions or other benefit for the purpose of meeting the person's obligation to a spouse, former spouse or child, as provided in subsection (B) of this section, the withholding or payment provisions of the award or order shall be effective only against such amounts as they become payable to the person receiving a retirement allowance.

(D) If a member is covered by a group insurance or prepayment plan participated in by the city, and should he or she be permitted to and elect to continue such coverage as a retiree, he or she may authorize the Board to have deducted from his or her pension the payments required of him or her to continue coverage under such group insurance or prepayment plan.

(1978 Code, § 28-53) (Ord. No. 379, § 1, 8-2-05)

41-54. CORRECTION OF ERRORS.

(A) Should any change or error in the records of the city or the Retirement System result in any person receiving from the system more or less than he or she would have been entitled to receive had the records been correct, the Board shall correct such error and, as far as is practicable, shall adjust the payment of the benefit in such manner that the actuarial equivalent of the benefit to which such person was correctly entitled shall be paid. In the event that a person receives funds to which he or she was no longer entitled due to a change of status (such as remarriage) or other error, such person shall be liable to and shall repay the Retirement System for the full amount of the overpayment.

(B) Fraud penalty. Whoever with the intent to deceive shall make any statement or report under this Plan which is untrue, or shall falsify or permit to be falsified any record or records of the Plan, or who shall otherwise violate the provisions of this Plan as it may from time to time be amended, with intent to deceive, shall be guilty of a misdemeanor punishable as prescribed in Chapter 1 of the Code of Ordinances, and shall be responsible reimbursement of any amounts overpaid by the System, and for the costs of investigation and prosecution, such costs to be repaid to the city and the Retirement System in such proportions as reflect the proportionate costs to the city and the System to investigate and prosecute such fraud.

(1978 Code, § 28-54) (Ord. No. 379, § 1, 8-2-05)

41-55. NONUNION EMPLOYEE RETIREMENT BENEFITS.

For purposes of determining member contributions and retirement benefits only of members not subject to a collective bargaining agreement:

(1) ***COMPENSATION*** means the taxable income paid to the member for personal services rendered by the member to the city***COMPENSATION*** shall not include any allowance for clothing, equipment, travel expense or other similar items.

(2) ***FINAL AVERAGE COMPENSATION*** means the monthly average of the compensation paid to the member during the three one-year periods which produce the

highest average contained within the member's last ten years of credited service. If the member has less than three one-year periods of credited service, then the member's ***FINAL AVERAGE COMPENSATION*** shall be the monthly average of the member's compensation for the member's total period of service.

(3) *Withdrawal option.* Before the effective date of the member's retirement, a member may irrevocably elect to withdraw the accumulated contributions in the Employee Reserve Fund account upon retirement with interest of 2% per year, forfeiting any further claim under § 41-32 or § 41-33(B) and forfeiting that portion of the monthly pension and survivor's benefits payable from the member's accumulated contributions as determined on an actuarial basis. Payment shall be made to the member within the 120 days after the effective date of retirement.

(1978 Code, § 28-55; Ord. No. 132-H, § 3, 11-29-88; Ord. No. 132-K, § 1, 7-15-97; Ord. No. 379, § 1, 8-2-05)

41-56. INTERNAL REVENUE CODE QUALIFICATIONS.

The Retirement System is intended and has been. administered to be a qualified pension plan under § 401 of the Internal Revenue Code, as amended ("IRC" or "Code"), or successor provisions of law, including the Tax Reform Act of 1986 (TRA'86); the Technical and Miscellaneous Revenue Act of 1988 (TAMRA); the Unemployment Compensation Amendments of 1992 (UCA); the Consolidated Omnibus Budget Reconciliation Act of 1993 (COBRA); the Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA); the Uruguay Round Agreements Act of 1994 (GATT); the Small Business Job Protection Act of 1996 (SBJPA '96); the Taxpayer Relief Act of 1997 (TRA '97); the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA '98); the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), and other applicable laws, regulations and administrative authority. The Retirement System is a governmental plan under IRC § 414(d) and is administered for the exclusive benefit of the Plan's members and their beneficiaries. The Retirement System trust is an exempt organization under IRC § 501. The Board of Trustees may adopt such additional provisions to the Retirement System as are necessary to fulfill this intent.

(Ord. No. 363, § 5, 7-16-02; Ord. No. 379, § 1, 8-2-05)

41-57. LIMITATIONS ON BENEFITS AND CONTRIBUTIONS.

The amount of annual benefits and contributions credited a member in any given year shall be subject to the following limitations:

(A) *Defined Benefit Plans.*

(1) The maximum permissible annual pension benefit with respect to any member shall be in accordance with IRC § 415(b) which provides that such annual pension benefit shall not exceed $90,000, as adjusted for inflation (the "Dollar Limit").

(2) Special Dollar Limitations. If the benefit is payable prior to age 62, the Dollar Limit shall be reduced to the actuarial equivalent of a benefit commencing at age 62. If the benefit is not payable until after age 65, the Dollar Limit shall be increased to the actuarial equivalent of a benefit commencing at age 65.

(3) In the case of a member who has less than ten years of participation in the Plan, the Dollar Limitation shall be reduced 1/10 for each year of participation in accordance with IRC § 415(b)(5).

(B) *Defined Contribution Plans.*

(1) For limitation years beginning after December 31, 1986, ***ANNUAL ADDITION*** means, for purposes of this section, the sum, credited to a member's account for any limitation year, of:

(a) Employer contributions;

(b) Member contributions; and

(c) Forfeitures.

(2) Annual additions that may be contributed or allocated to a member's account for a limitation year will not exceed the lesser of:

(a) 100% percent of member's compensation, within the meaning of IRC § 415(c)(3), or

(b) $40,000, as adjusted for increases in the cost of living pursuant to IRC § 415(d).

(3) Valuation of Investments. Investments of the Plan shall be valued as of the last day of each Plan year in accordance with the methods consistently followed and uniformly applied to determine fair market value and in accordance with the requirements of Revenue Ruling 80-155. Contributions to the Plan, along with earnings thereon, shall be distributed in accordance with the terms of the Plan.

(C) *Excess Benefit Payment.* The Retirement System shall not pay any benefit that would exceed the benefit limitations for governmental plans as set forth in IRC § 415 and regulations, as amended.

(D) *Compensation.* As defined by IRC § 415(c)(3)(D) and Treas. Reg. § 1.415-2(d)(2)(i), com-pensation means amounts actually paid to the member during the Limitation Year, including: wages, salary, professional fees, percentage of profits, commissions, tips and bonuses paid or made available to the member during the Limitation Year for personal services actually rendered in the course of employment, any elective deferral, and any amount which is contributed or deferred by the employer at the election of the member and which is not includible in the gross income of the member by reason of IRC §§ 125, 132(f), or 457.

(Ord. No. 363, § 5, 7-16-02; Ord. No. 379, § 1, 8-2-05)

41-58 DISTRIBUTIONS.

(A) Distributions from the Plan shall comply with the requirements of IRC § 401(a)(9) and the regulations thereunder. A member's interest in the trust must begin to be distributed by the later of (i) April 1 of the calendar year following the calendar year that the member attains the age of 70½, or (ii) April 1 of the calendar year the member retires. With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of IRC § 401(a)(9) in accordance with the regulations under IRC § 401(a)(9), notwithstanding any provision in the Plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under § IRC 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

(1) Effective date. Unless an earlier effective date is specified in the Plan, the provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.

(2) Precedence. The requirements of this section will take precedence over any inconsistent provisions of the Plan.

(3) Requirements of Treasury regulations incorporated. All distributions required under this section shall be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Internal Revenue Code.

(4) TEFRA section 242(b)(2) elections. Notwithstanding the other provisions of this section, other than section (A)(4), distributions may be made under a designation made on or before January 1, 1984 in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to section 242(b)(2) of TEFRA.

(B) Time and manner of distribution.

(1) Required beginning date. The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date.

(2) Death of member before distributions begin. If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) If the member's surviving spouse is the member's sole designated beneficiary, then, except as provided in the Plan, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age 70½, if later.

(b) If the member's surviving spouse is not the member's sole designated beneficiary, then, except as provided in the Plan, distributions to the designated

beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.

(c) If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(d) If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, subsection (b) will apply as if the surviving spouse were the member.

(3) For purposes of divsion (B)(2) and division (D), distributions are considered to begin on the member's required beginning date (or, if division (B)(2)(d) applies, the date distributions are required to begin to the surviving spouse under division (B)(2)(a)). If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under division (B)(2)(a)), the date distributions are considered to begin is the date distributions actually commence.

(4) Form of distribution. Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with divisions (C) and (D) of this section. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the IRC and the Treasury regulations. Any part of the member's interest which is in the form of an individual account described in section 414(k) of the IRC will be distributed in a manner satisfying the requirements of section 401(a)(9) of the IRC and the Treasury regulations that apply to individual accounts.

(C) Determination of amount to be distributed each year.

(1) General annuity requirements. If the member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(a) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(b) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in division (D);

(c) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted

(2) Amount required to be distributed by required beginning date. The amount that must be distributed on or before the member's required beginning date or, if the member dies before distributions begin, the date distributions are required to begin under division (B)(2)(a) or (b) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(3) Additional accruals after first distribution calendar year. Any additional benefits accruing to the member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(D) Requirements for minimum distributions where member dies before date distributions begin.

(1) Member survived by designated beneficiary. Except as provided in this article, if the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest will be distributed, beginning no later than the time described in divisions (B)(2)(a) or (b), over the life of the designated beneficiary or over a period certain not exceeding:

(a) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or

(b) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) No designated beneficiary. If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(3) Death of surviving spouse before distributions to surviving spouse begin. If the member dies before the date distribution of his or her interest begins, and the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section will apply as if the surviving spouse were the member, except that the time by which distributions must begin will be determined without regard to division (B)(2)(a).

(E) Definitions.

(1) Designated beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the code and section 1.401(a)(9)–1, Q&A-4, of the Treasury regulations.

(2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year, which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to division (B)(2).

(3) Life expectancy. Life expectancy as computed by use of the single life table in section 1.401(a)(9)–9 of the Treasury regulations.

(4) Required beginning date. The date specified in subsection (A).

(Ord. No. 363, § 5, 7-16-02; Ord. No. 379, § 1, 8-2-05)

Administrative regulations reference:

Certain distribution rules, see 26 CFR 1.401(a)(9) and related regulations

41-59. ELIGIBLE ROLLOVER DISTRIBUTIONS.

This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this section, a member may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member as a direct rollover. The following definitions shall apply with regard to this section.

(A) *Eligible Rollover Distribution.* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more, and any distribution to the extent such distribution is required under IRC § 401(a)(9). For purposes of the direct rollover provision, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in IRC § 408(a) or (b), or to a qualified plan described in IRC §§ 401 (a) or 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(B) *Eligible Retirement Plan.* An eligible retirement plan is an individual retirement account described in IRC § 408(a), an individual retirement annuity described in IRC § 408(b), an annuity plan described in IRC § 403(a), an annuity contract described in IRC § 403(b), an eligible plan under IRC § 457 which is maintained by a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan or a qualified trust described in IRC § 401(a), that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a domestic relations order.

(C) *Distributee.* A distributee includes a member or former member. In addition, the employee's or former member's surviving spouse is a distributee with regard to

the interest of the surviving spouse.

(D) *Direct rollover.* A direct rollover is a payment bythe Retirement System to the eligible retirement plan specified by the distributee.

(Ord. No. 363, § 5, 7-16-02; Ord. No. 379, § 1, 8-2-05)

41-60. MAXIMUM ANNUAL EARNINGS.

For Plan years beginning on or after January 1, 1989 and before July 1, 1996, the annual compensation of each member taken into account for determining all benefits provided under the Plan for any determination period shall not include any amounts in excess of the annual compensation limit (originally $200,000) provided for in IRC § 401(a)(17) prior to the Consolidated Omnibus Budget Reconciliation Act of 1993 ("COBRA '93") and adjusted for inflation in the manner provided by IRC § 401(a)(17). For Plan Years beginning on or after July 1, 1996, the annual compensation of each member taken into account shall not exceed the annual compensation limit provided for in IRC § 401(a)(17), as amended by the Consolidated Omnibus Budget Reconciliation Act of 1993 ("COBRA '93") ($200,000 in 2002). This limit may be adjusted as required by federal law for qualified government plans and shall be further adjusted for inflation in the manner provided by IRC § 401(a)(17). Annual compensation means compensation during the Plan Year or such other consecutive 12 month period over which compensation is otherwise determined under the Plan. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

(Ord. No. 363, § 5, 7-16-02; Ord. No. 379, § 1, 8-2-05)

41-61. ACTUARIAL ASSUMPTIONS.

Actuarial equivalence will be determined on the basis of the interest rate and mortality tables adopted by the Board. Actuarial assumptions that will be used to determine the amount or level of any optional benefit forms will be the actuarial equivalent of the Normal Retirement Benefit. Optional benefits provided under the Plan shall be actuarial adjusted in relation to the straight life annuity. For purposes of determining the IRC § 415 limitations, the interest rate assumption will not be less than the greater of 5% or the rate specified in the Plan for determining actuarial equivalence for the particular form of retirement benefit. The actuarial early retirement reduction and reduction of the Dollar Limit if the member has less than ten years of participation under IRC § 415 do not apply to income received as a pension or annuity as a result of a member's personal injury, sickness or death and shall be administered in accordance with IRC § 415(b)(2), as amended.

(Ord. No. 363, § 5, 7-16-02; Ord. No. 379, § 1, 8-2-05)

41-62. RECIPROCAL RETIREMENT ACT.

(A) Pursuant to action by the City Council on November 4, 1969, the city adopts and elects to come under the provisions of sections 1 through 5 of the Reciprocal Retirement Act, being Public Act 88 of 1961, as amended, MCL 38.1101 through 38.1105, and the city is thereby a reciprocal unit under the Act.

(B) Pursuant to action by the City Council on December 7, 1999, the city adopts certain provisions of section 6 of the Reciprocal Retirement Act, being Public Act 88 of 1961, as amended, MCL 38.1106, as follows:

(1) Transfers of service credit and assets from the Retirement System to a succeeding reciprocal unit in accordance with section 6 of the Reciprocal Retirement Act shall be allowed subject to the succeeding reciprocal unit's pre-approval and acceptance of the service credit and the amount of financial consideration to be transferred.

(2) The financial consideration being transferred shall be based upon the actuarial present value of the retirement benefits payable by the Retirement System and shall be calculated by the Retirement System's actuary in accordance with the Reciprocal Retirement Act.

(3) This approval of section 6 of the Reciprocal Retirement Act is specifically limited to transfers from the Retirement System to a succeeding reciprocal unit and does not authorize the Retirement System to accept transfers from other retirement systems.

(Ord. No. 379, § 1, 8-2-05)

Statutory reference:

Reciprocal Retirement Act, MCL § 38.1101 et seq.

41-63. APPEAL PROCESS.

A benefit claimant shall be notified in writing within thirty (30) days of the Board's denial of a claim for benefits. The notification shall contain the basis for the denial. The benefit claimant may appeal the denial and request a hearing before the Board. The appeal request shall be in writing and filed with the retirement system within sixty (60) days of the date of the notification of denial. The request for appeal shall contain a statement of the claimant's reasons for believing the denial to be improper. The Board shall schedule a hearing of the appeal within sixty (60) days of receipt of the request to appeal.

(Ord. No. 379, § 1, 8-2-05)

41-64. RESERVED.

ARTICLE III. PENSION SYSTEM FOR POLICE OFFICERS AND FIREFIGHTERS

41-65. ADOPTED.

The city, in accordance with §9.02 of the Charter, adopts Public Act 345 of 1937, as amended, being a retirement and pension system for employees of the Police and Fire Departments.

(1978 Code, § 28-65; Ord. No. 379, § 1, 8-2-05)

Statutory reference:

The 1937 Act referred to above is codified in M.S.A. §§ 5.3375(1) through 5.3375(12); M.C.L. §§ 38.551 through 38.562

41-66. EFFECTIVE DATE.

The effective date of the pension system for the employees of the Police and Fire Departments shall be July 1, 1969.

(1978 Code, § 28-66; Ord. No. 379, § 1, 8-2-05)

41-67. RECIPROCAL RETIREMENT ACT.

Pursuant to action of the City Council on November 4, 1969, the city adopts the provisions of Public Act 88 of 1961, as amended, and thereby becomes a reciprocal unit under the Reciprocal Retirement Act.

(1978 Code, § 28-67; Ord. No. 379, § 1, 8-2-05)

Statutory reference:

The 1961 Act referred to above is codified in M.S.A. §§ 4.1601 through 4.1605; M.C.L. §§ 38.1101 through 38.1105

CHAPTER 42: RESERVED

CHAPTER 43: RECREATIONAL WATERS

43-1. TITLE.

This chapter shall be known and cited as the "Recreational Waters Ordinance."

(1978 Code, § 28.5-1; Ord. No. 260, 7-7-87)

43-2. DEFINITIONS.

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

BOAT. Any device of conveyance on the water, whether propelled by motor, wind or human power. The term includes but is not limited to any rowboat, canoe, raft, sailboat or other watercraft.

CITY. The City of Sterling Heights, Macomb County, Michigan.

CITY MANAGER. City Manager of the City of Sterling Heights, Macomb County, Michigan.

PERMIT. The written permission that must be obtained from the City Manager or his or her designated agent to carry out a given activity.

PERSON. Any individual, firm, partnership, association, corporation, company or organization of any kind.

RECREATIONAL WATERS. Any waters, waterway, lake, river, tributary, canal, drain, lagoon, retention basin or connecting waters within the boundaries of the city, whether man-made or natural.

(1978 Code, § 28.5-2; Ord. No. 260, 7-7-87)

43-3. SWIMMING.

No person shall:

(1) Swim, bath or wade in any recreational waters, except in accordance with the terms of this chapter and any regulations that the City Manager may promulgate;

(2) Frequent any recreational waters except during those hours that the City Manager has established for such activities;

(3) Change into bathing clothes from street clothes or from bathing clothes into street clothes, except in a bathhouse or other structure designated for such use;

(4) Fail to wear bathing clothes that cover the genitals and buttocks and, in the case of females, that also cover the areolae and nipples.

(1978 Code, § 28.5-3; Ord. No. 260, 7-7-87)

43-4. BOATING.

(A) With the exception of the Clinton River, no person shall bring into or operate any boat upon any recreational waters, except in accordance with the terms of this chapter and any regulations that the City Manager may promulgate.

(B) Boats shall be operated in a manner that does not endanger the occupants of the boat, the occupants of other watercraft or person in the water or on shore.

(1) *License compliance.* No person shall operate a boat upon any recreational waters, unless properly licensed as required by applicable state and federal laws and regulations. Further, no person shall operate a boat which does not meet all applicable equipment requirements of the United States Coast Guard.

(2) *Reckless operation.* No person shall operate a boat in a reckless manner so as to endanger, or be likely to endanger, the life or property of any person having due regard for the presence of other boats, persons or other objects.

(3) *Motors prohibited.* No person shall operate on any recreational waters any boat propelled by any motor or engine.

(C) No person shall bring into or operate any radio-controlled scale model boat upon any recreational waters except in accordance with the terms of this chapter and any regulations that the City Manager may promulgate.

(1978 Code, § 28.5-4; Ord. No. 260, 7-7-87)

43-5. FISHING.

(A) With the exception of the Clinton River, no person shall engage in sport fishing by any means in recreational waters, except in waters designated by the City Manager for sport fishing and under such regulations as may be promulgated by the City Manager.

(B) No person shall engage in fishing for profit in any recreational waters.

(C) No person shall engage in ice fishing in any recreational waters, except in waters designated by the City Manager for ice fishing and under such regulations as may be promulgated by the City Manager.

(1978 Code, § 28.5-5; Ord. No. 260, 7-7-87)

43-6. WINTER ACTIVITIES.

(A) No person shall operate a snowmobile, off-road vehicle (ORV), motorcycle or motor vehicle upon any recreational waters.

(B) No person shall engage in sledding on or immediately adjacent to any recreational waters, except in those areas specifically designated by the City Manager.

(1978 Code, § 28.5-6; Ord. No. 260, 7-7-87; Ord. No. 260-A, § 1, 5-2-89)

43-7. DUMPING AND LITTERING.

(A) No person shall willfully throw, discharge or otherwise place or cause to be placed in any recreational waters any substance, matter or thing, liquid or solid, which will or may result in the obstruction of the flow or the pollution of said recreational waters or waterways.

(B) No person shall throw or deposit litter, as defined in §23-32 of the city's code of ordinances, in any park or publicly owned land abutting any recreational waters within the city, except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park, publicly owned land, any recreational waters, any street, any sidewalk or other public place.

(C) No person shall throw or deposit litter, as defined in §23-32 of the city's code of ordinances, on any occupied or vacant private property which abuts any recreational waters within the city, whether owned by such person or not, except that the owner or person in control of the private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any recreational waters, any street, sidewalk or other public place or upon any private property.

(1978 Code, § 28.5-7; Ord. No. 260, 7-7-87)

43-8. DOCKS, RAFTS AND THE LIKE.

No person shall construct, maintain or cause to be placed any dock, pier or raft upon any recreational waters without first securing the approval of the City of Sterling Heights Building Department in accordance with the regulations promulgated by the City Manager.

(1978 Code, § 28.5-8; Ord. No. 260, 7-7-87)

43-9. DIVERSION OF WATER.

(A) No person shall cause the level of any recreational waters to be lowered, except that adjacent property owners may utilize recreational waters in such a manner as to maintain the growth of their lawns, gardens, and shrubbery and for fire protection purposes. However, no person shall utilize any recreational waters in any manner which violates the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended, M.C.L. §§ 324.101 et seq.

(B) No person shall utilize any water obtained from recreational waters for commercial activities.

(C) No person shall knowingly buy or sell any water obtained from recreational waters.

(D) No person shall dredge or remove, or permit the dredging or removal, of material or minerals from a recreational waterway, except that governmental agencies may dredge or remove material from a recreational waterway for maintenance, improvements, or other public purposes.

(1978 Code, § 28.5-9; Ord. No. 260, 7-7-87; Ord. No. 407, § 21, 7-21-09)

43-10. RULES AND REGULATIONS.

All rules and regulations promulgated by the City Manager in accordance with this chapter shall be filed immediately upon adoption or amendment with the City Clerk's office and shall be available for public inspection in accordance with Public Act 442 of 1976, being M.C.L. §§ 15.231 et seq, as amended. The City Manager shall permit the activities regulated by this chapter when he or she finds:

(1) That the proposed activity or use of the recreational waters will not unreasonably interfere with or detract from the general public enjoyment of the recreational waters;

(2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

(3) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;

(4) That the proposed activity will not entail unusual, extraordinary or burdensome expense to the city.

(1978 Code, § 28.5-10; Ord. No. 260, 7-7-87)

CHAPTER 44: SCHOOLS

44-1. DEFACING OR DAMAGING SCHOOL BUILDINGS.

No person shall mark with any substance or in any other manner deface or do damage to any building owned, occupied or otherwise used as a school within the city.

(1978 Code, § 29-1)

Cross reference:

General prohibition against damaging public property, see § 35-25

Statutory reference:

Malicious and willful mischief and destruction, see M.S.A. §§ 26.609 et seq.; M.C.L. §§ 750.377 et seq.

44-2. DEFACING OR DAMAGING FIXTURES ON SCHOOL LANDS.

No person shall mark with any substance or in any other manner deface or do damage to any fence, tree, lawn or other fixture situated on lands owned, occupied or otherwise used by a school within the city.

(1978 Code, § 29-2)

Cross reference:

General prohibition against damaging public property, see § 35-25

44-3. DISTURBING SCHOOL SESSIONS.

No person, while on public or private grounds adjacent to any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of such school session or class thereof.

(1978 Code, § 29-3)

44-4. DISTURBING SCHOOL GATHERINGS OR FUNCTIONS.

No person, while on public or private lands adjacent to any building or lands owned, occupied or otherwise used by a school within the city, in or on which any gathering or function is in progress, whether in the daytime or nighttime, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of such gathering or function.

(1978 Code, § 29-4)

44-5. PROFANE, INDECENT OR IMMORAL LANGUAGE-IN SCHOOL BUILDINGS.

No person, while in any building owned, occupied or otherwise used by a school within the city, shall utter any profane, indecent or immoral language towards any person or while within the hearing of any other person.

(1978 Code, § 29-5)

Cross reference:

General prohibition against obscene and lewd language, see § 35-16(B)

Statutory reference:

Cursing and swearing, see M.S.A. § 28.298; M.C.L. § 750.103;

Indecent language in presence of women or children, see M.S.A. § 28.569; M.C.L. § 750.337

44-6. SAME-ON SCHOOL LANDS.

No person, while on any lands owned, occupied or otherwise used by a school within the city, shall utter any profane, indecent or immoral language towards any person or while within the hearing of any other person.

(1978 Code, § 29-6)

44-7. UNAUTHORIZED PERSONS-SCHOOL BUILDINGS OR LAND.

(A) *Generally.* No person, except school employees, students enrolled therein, parents or guardians of students enrolled therein, or neighborhood children and their families, shall enter or remain in any school building or on any lands owned, occupied, or used by any school for any purpose other than a recreational use

permitted by the school, unless that person is attending an event which has been approved by the school principal to which the person is invited, or is performing services during the normal course of business at the request of the school principal, or has written permission of the school principal.

(B) *Congregating.* No person shall loiter, congregate, or otherwise enter upon school buildings or school lands for any purpose other than a recreational use permitted by the school at times when school is not in session or when such presence is not under the supervision or permission of authorized school officials or pursuant to participation, directly or indirectly, in a school event or activity. A violation of this subsection is a municipal civil infraction, punishable as provided in Chapter 1 of the City Code.

(C) *Definition of student.* The term ***STUDENT***, as used in this section, is defined as any person enrolled in the school at which he or she is then present, or if present at another school, has written permission from the principal of the school where the student is enrolled and the principal of the school where the student is then present. The term ***STUDENT*** does not include suspended or expelled persons during such suspension or expulsion or persons enrolled for classes or programs during other hours than those during which the person enters or remains in any school or on land owned, occupied or used by any school.

(1978 Code, § 29-7; Ord. No. 135-A, § 1, 4-21-87; Ord. No. 407 § 22, 7-21-09)

Cross reference:

Trespass and related offenses, see § 35-2

44-8. FIGHTING.

(A) Any person who engages, participates, or is otherwise involved in fighting on school property shall be responsible for a municipal civil infraction, punishable as provided in Chapter 1 of the City Code, in addition to any applicable criminal penalties for offenses committed during or related to such fighting.

(B) Fighting is defined as a hostile encounter involving personal violence or tumultuous behavior between two or more persons, but fighting does not include defensive acts that are limited to protecting oneself or others.

(C) For purposes of this section, the phrase “on school property” is not limited to a physical presence on real property owned by a school, and includes without limitation a person’s presence at school-sponsored events, on a bus or other school-provided transportation, or any location during transit to and from school.

(Ord. No. 407, § 23, 7-21-09)

44-8A. HAZING PROHIBITED.

(A) Except as provided in division (D), a person who attends, is employed by, or is a volunteer of an educational institution shall not engage in or participate in the hazing of an individual.

(B) If a violation of division (A) results in physical injury, the person is guilty of a misdemeanor punishable for not more than 93 days or a fine of not more than $500, or both. If a violation of subsection (A) results in more serious injuries, the person is guilty of a felony punishable as provided by state law.

(C) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

(D) This section does not apply to an individual who is the subject of the hazing, regardless of whether the individual voluntarily allowed himself or herself to be hazed.

(E) This section does not apply to an activity that is normal and customary in an athletic, physical education, military training, or similar program sanctioned by the educational institution.

(F) It is not a defense to a prosecution for a crime under this section that the individual against whom the hazing was directed consented to or acquiesced in the hazing.

(G) As used in this section:

(1) “Educational institution” means a public or private school that is a middle school, junior high school, high school, vocational school, college, or university.

(2) “Hazing” means an intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against an individual and that the person knew or should have known endangers the physical health or safety of the individual, and that is done for the purpose of pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization or upon admission to an educational institution. Subject to subsection (E), hazing includes any of the following that is done for such a purpose:

(a) Physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.

(b) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual.

(c) Activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual.

(d) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(3) “Organization” means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, athletic team, or similar group whose members are primarily students at an educational institution.

(4) “Pledge” means an individual who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in any organization.

(5) “Pledging” means any action or activity related to becoming a member of an organization.

(Ord. No. 407, § 24, 7-21-09)

Statutory reference:

Hazing, also known as Garret’s Law, see M.C.L. § 750.411t

44-9. BORROWING FROM STUDENTS.

It shall be unlawful for any person to borrow or attempt to borrow any money or thing of value from any student in any public, private or parochial school on any public, private or parochial school property in the city or during any time when any such student is going to or returning from any regularly scheduled session of any such school without first obtaining the written approval of the principal of such school or other person designated by the principal to issue such written approval.

(1978 Code, § 29-9) Penalty, see § 1-9

44-10. ALCOHOLIC BEVERAGES.

No person shall consume or be in possession of alcoholic liquor, any spirits, wine, beer, ale or other beverage containing more than 1/2% of alcohol by volume which is fit for beverage purposes while in any school building or on lands owned, occupied or used by any school.

(1978 Code, § 29-10; Ord. No. 135-A, § 3, 4-21-87)

Cross reference:

Alcoholic beverages, see Ch. 5;

Consumption of alcoholic liquor prohibited in certain places and the like, see §35-35

44-11. WEAPONS.

No person while in any school building or on land owned and occupied or used by any school shall use, possess, carry or conceal firearms of any description or any air rifles, spring guns, slings, knives, martial arts weapons or any other form of weapon potentially dangerous to human safety. This section does not apply to police officers acting in their normal course of duty.

(1978 Code, § 29-11; Ord. No. 135-A, § 3, 4-21-87)

Cross reference:

Carrying concealed weapons prohibited, see § 35-24

44-12. DRUG PARAPHERNALIA.

No persons, while in any school building, shall use, possess, carry or conceal any drug paraphernalia as defined in §35-51 of this Code.

(1978 Code, § 29-12; Ord. No. 135-A, § 3, 4-21-87)

Cross reference:

Drug paraphernalia, see §§ 35-50 et seq.

44-13. USE OF TOBACCO PRODUCTS ON SCHOOL PROPERTY-PROHIBITION.

(A) *Generally*. No person while in any buildings owned, occupied or otherwise used by a school, or while on any lands owned, occupied or otherwise used by a school, shall carry, inhale, chew or place within their mouth any tobacco product.

(B) *Definition of tobacco product.* The term ***TOBACCO PRODUCT***, as used in this section, is defined as a preparation of tobacco to be inhaled, chewed or placed in a person's mouth, including but not limited to cigars, cigarettes, pipes and chewing tobacco.

(C) *Penalty.* A person who violates this section shall be guilty of a misdemeanor punishable by a fine of not more than $50.

(Ord. No. 135-B, § 1, 4-5-94)

44-14. USE OF TOBACCO ON SCHOOL PROPERTY-EXCEPTIONS.

§ 44-13 shall not apply to persons age 18 or older on outdoor areas owned, used or otherwise occupied by a school, including but not limited to an open air stadium, during either of the following time periods:

(A) Saturdays, Sundays and other days on which there are no regularly scheduled school hours;

(B) After 6:00 p.m. on days during which there are regularly scheduled school hours.

(Ord. No. 135-B, § 1, 4-5-94)

CHAPTER 45: SOLID WASTE REDUCTION

45-1. TITLE.

This chapter shall be known and cited as "The Composting Ordinance".

(Ord. No. 302, § 2, 3-18-92)

45-2. DEFINITIONS.

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

COMPOST. An accumulation of lawn debris, yard waste, coffee grounds, tea leaves, raw vegetables or fruit scraps in a form suitable for composting. Horse manure or commercial compost additives may be included in a compost pile.

COMPOSTING. Reduction of organic waste to humus.

COMPOST BAN. A covered receptacle for a compost pile designed and constructed to facilitate composting.

COMPOST PILE. An accumulation of compost.

(Ord. No. 302, § 2, 3-18-92)

45-3. COMPOSTING OF LAWN DEBRIS.

Lawn debris may be stored in a compost pile or compost bin meeting the requirements of §45-4.

(Ord. No. 302, § 2, 3-18-92)

45-4. PERMITTED COMPOSTING.

(A) Compost piles shall be permitted only in accordance with the following:

(1) Compost piles shall be located only in a rear yard a minimum of three feet from any lot line and 15 feet from any residence located on adjacent property as depicted on Diagram A; (See diagram following § 45-4.)

(2) Compost piles and compost bins shall not exceed five feet in height and 125 cubic feet in volume. On lots smaller than 12,500 square feet, the total volume of compost shall not exceed 125 cubic feet;

(3) Compost may contain only lawn debris, yard waste, coffee grounds, tea leaves, raw vegetables or fruit scraps in a form suitable for composting. Horse manure or commercial compost additives may be included as part of a compost pile. Compost shall not contain meat, poultry, fish, dairy products, manure (except horse manure), oils, fats or any of the permitted items in a form unsuitable for composting;

(4) Compost containing any coffee grounds, tea leaves, raw vegetables, fruit scraps or horse manure shall be kept in a compost bin;

(5) Compost piles and compost bins shall be maintained to prevent the attraction and harborage of rodents and pests and to prevent unpleasant odors.

(B) Compost piles and compost bins which do not conform to this section shall constitute a nuisance per se and may be abated by order of a court of competent jurisdiction in addition to any other applicable penalties.

(C) Compost piles and compost bins which constitute a nuisance may be abated in accordance with an applicable nuisance abatement procedure set forth in the City Code.

(Ord. No. 302, § 3, 3-18-92)

CHAPTER 46: RESERVED

CHAPTER 47: SPECIAL ASSESSMENTS

47-1. DEFINITIONS.

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

COST. Includes the cost of surveys, plans, right-of-way, spreading of rolls, notices, advertising, financing and construction, legal and all other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.

IMPROVEMENT. Any public improvement, 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.

(1978 Code, § 30-1)

47-2. GENERAL AUTHORITY OF COUNCIL.

The Council shall have the power to make public improvements within the city and, as to public improvements which are of such a nature as to especially benefit any property or properties within a district, the Council shall have the power to determine, by resolution, that the whole or any part of the expense of any such public improvement shall be defrayed by special assessments in proportion to the benefits derived or to be derived.

(1978 Code, § 30-2)

47-3. AUTHORITY TO MAKE ASSESSMENTS FOR BOULEVARD LIGHTING SYSTEM.

In addition to other improvements which the city may make and finance, in whole or in part, by special assessments, the city may install a boulevard lighting system on any street and finance the same, in whole or in part, by special assessments upon land abutting thereon, provided the property owners of a majority of the frontage on such street or part thereof to be so improved shall petition therefor.

(1978 Code, § 30-3)

47-4. PROPERTY OWNERS' OBJECTION TO IMPROVEMENT.

If, at or prior to final confirmation of any special assessment, more than 50% of the number of owners of privately owned real property to be assessed for any improvement, or in case of paving or similar improvements, more than 50% of the number of owners of frontage to be assessed for any such improvement, shall object in writing to the proposed improvement, the improvement shall not be made by proceedings authorized by this chapter without a five-sevenths vote of the members of the Council. This section shall not apply to sidewalk construction.

(1978 Code, § 30-4)

47-5. REJECTION OF IMPROVEMENT BY COUNCIL.

Even though more than 50% of the number of owners of privately owned real property to be assessed for any improvement, or in case of paving or similar improvements, more than 50% of the number of owners of frontage to be assessed for any such improvement, shall favor, through petition, the proposed improvement, the Council may, by five-sevenths vote of its members, reject the petition for such improvement.

(1978 Code, § 30-5)

47-6. PRELIMINARY PROCEEDINGS GENERALLY.

Before determining to make any improvement any part of the cost of which is to be defrayed by special assessment, the Council shall require the City Engineer to ascertain the assessed valuation of all property affected by the proposed improvement, the number of parcels which show tax delinquencies, the number of parcels owned by public authorities and the number of parcels which are vacant and to prepare or cause to be prepared plans and specifications therefor and an estimate of the cost thereof and to file the same with the City Clerk, together with his or her recommendation as to what proportion of the cost should be paid by special assessment and what part, if any, should be a general obligation of the city, the number of annual installments in which assessments may be paid, not to exceed 30 in number and the lands which should be included in the special assessment district.

(1978 Code, § 30-6)

47-7. PUBLIC HEARING ON PROPOSED IMPROVEMENT.

(A) After the filing referred to in §47-6, a public hearing shall be held before the Council, which hearing shall be held not less than ten days after notice of the time and place thereof has been published in a newspaper with general circulation in the city and published in Macomb County and sent by the Clerk, by certified or registered mail, return receipt requested, to all property owners in the proposed district, as shown by the current assessment roll of the city.

(B) At the time and place specified in such notice for the public hearing, the Council shall meet and hear any person to be affected by the proposed public improvement. The hearing may be adjourned from time to time by the Council.

(C) Cost estimates, as prepared by the City Engineer as provided in §47-6, shall be open to inspection at the public hearing, along with proof of certified or registered mailing as provided in subsection (A) of this section.

(1978 Code, § 30-7)

47-8. COUNCIL DETERMINATION.

(A) After the public hearing, the Council may, by resolution, determine to make the improvement and to defray the whole or any part of the cost of the improvement by special assessment upon the property especially benefitted in proportion to the benefits derived or to be derived. By such resolution, the Council shall approve the plans and specifications for the improvement; determine the estimated cost thereof; determine what proportion of such cost shall be paid by special assessment upon the property especially benefitted and what part, if any, shall be a general obligation of the city; determine the number of installments in which assessments may be paid; determine the rate of interest to be charged on installments, not to exceed 6% per annum; designate the district or land and premises upon which special assessments shall be levied; and direct the Assessor to prepare a special assessment roll in accordance with the Council's determination.

(B) No public improvement to be financed, in whole or in part, by special assessment shall be made before the Council determines, by resolution, to make the improvement and to defray the whole or any part of the cost of the improvement by special assessment.

(1978 Code, § 30-8)

47-9. PREPARATION AND CONTENTS OF ROLL.

The Assessor shall thereupon prepare a special assessment roll, including all lots and parcels of land within the special assessment district designated by the Council and shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied 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.

(1978 Code, § 30-9)

47-10. CERTIFICATION OF ROLL AND PRESENTATION OF SAME TO COUNCIL.

When the Assessor shall have completed such assessment roll, he or she shall attach thereto, or endorse thereon, his or her certificate to the effect that the roll has been made by him or her pursuant to a resolution of the Council (giving date of adoption of same) and that, in making the assessments therein, he or she has, as near as may be, according to his or her best judgment, conformed in all respects to the directions contained in such resolution and to the Charter and the provisions of this chapter. Thereupon he or she shall present the same to the Council.

(1978 Code, § 30-10)

47-11. HEARING ON AND OBJECTIONS TO ROLL; COUNCIL ACTION ON ROLL.

(A) Upon receipt of such special assessment roll, the Council shall order it filed in the office of the Clerk for public examination and shall fix the time and place when it will meet and review such roll, which meeting shall be held not less than ten days after notice thereof has been sent by the Clerk by certified or registered mail, return receipt requested, to all property owners in the proposed district as shown by the current assessment roll of the city. Such notice shall specify the time and place of such meeting. The Council may, in its discretion, publish notice of the meeting not less than ten days prior to date of the meeting.

(B) Any person deeming himself or herself aggrieved by the special assessment roll may file his or her objections thereto, in writing, with the Council prior to the close of the hearing, which written objections shall specify in what respect he or she deems himself or herself aggrieved.

(C) The Council shall meet and review the said special assessment roll at the time and place appointed, or at an adjourned date therefor, and shall consider any written objections thereto. The Council may correct said roll as to any assessment or description of any lot or parcel of land or other errors appearing therein. Any changes made in such roll shall be noted in the Council's minutes. After such hearing and review, the Council may confirm such special assessment roll, with such corrections as it may have made, if any, or may refer it back to the assessor for revision or may annul it and any proceedings in connection therewith. The Council shall endorse the date of confirmation upon each special assessment roll. The roll shall, upon confirmation, be final and conclusive.

(1978 Code, § 30-11)

47-12. ASSESSMENTS AS LIEN; DUE DATE; INSTALLMENT PAYMENT GENERALLY.

(A) All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall, from the date of confirmation of such roll, constitute a lien upon the respective lots or parcels of land assessed and, until paid, shall be a charge against the respective owners of the several lots and parcels of land and a debt to the city from the persons to whom they are assessed. The lien shall be of the same character and effect as the lien created by the Charter for city taxes and shall include accrued interest and penalties. No judgment or decree, nor any act of the Council vacating a special assessment, shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as, by a regular mode of proceeding, might be lawfully assessed thereon.

(B) All special assessments shall become due upon confirmation of the special assessment roll or in annual installments not to exceed 30 in number as the Council may determine at the time of confirmation, and if in annual installments, the Council shall determine the first installment to be due on the following July 1 and subsequent installments on July 1 of succeeding years.

(C) Wherever it becomes necessary throughout this section to add accrued interest to any assessment, the interest shall be computed on the basis of interest being owed for each month or part thereof with no proration if the interest owing is paid during a month.

(1978 Code, § 30-12)

Charter reference:

Authority of Council to provide for installment payment of special assessments, see §12.08

47-13. COLLECTION PROCEDURES.

(A) The assessment roll shall be transmitted to the Treasurer for collection immediately after its confirmation. The Treasurer shall give notice, by one publication in a newspaper, that the special assessment roll (identifying it) has been filed in his or her office and specifying when and where payments may be made thereon. He or she shall mail statements of the several assessments to the respective owners, as indicated by the records of the Assessor, of the several lots and parcels of land assessed, stating the amount of the assessment and the manner in which it may be paid; provided, however, that failure to mail or receive, if mailed, any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.

(B) The Treasurer shall transmit such roll to the Assessor, with all payments upon assessments noted thereon. The Assessor shall then divide any remaining balance of each assessment into such number of equal installments as shall have been fixed by the Council; provided, that if such division operates to make any installment less than $10, then the Assessor shall reduce the number of installments so that each installment shall be above and as near to $10 as possible.

(C) The first installment shall be spread upon the next city tax roll in a column headed "Special Assessments," together with interest upon all unpaid installments from such date as may be determined by the Council to July 1 of the year in which such tax roll is made. Thereafter, one installment shall be spread upon each annual tax roll, together with one year's interest upon all unpaid installments; provided, that when any annual installment shall have been prepaid as hereinafter provided, then there shall be spread upon the tax roll for such year only the interest upon all unpaid installments.

(D) After each installment has been placed on the tax rolls, the same shall be collected by the Treasurer with the same rights and remedies and the same penalties and interest as provided in the chapter for the collection of taxes and shall be due and payable on the first day of July of the fiscal year in which levied. All such assessments which are paid on or before the thirty-first day of July of such year shall be collected by the Treasurer without the addition of any fee or charge for the collection thereof. There shall be added to all assessments on such tax roll which remain unpaid after the said thirty-first day of July a collection fee of 1/2% per month during each and every month or fraction of a month which shall elapse thereafter before the payment of such assessments is made, until the last day of February next following the date that such assessments become due and payable. Upon all city assessments returned to the County Treasurer upon any delinquent tax roll, a charge of 3½% shall be added and the same shall be collected by the County Treasurer in like manner as and together with the taxes, charges and assessments so returned.

(1978 Code, § 30-13)

47-14. ADVANCE PAYMENT OF INSTALLMENTS.

Any person desiring to pay any installment in advance shall first secure the proper statement from the Assessor to permit the Treasurer to compute the amount to be paid. The Treasurer shall report to the Assessor all advance payments on installments so that the Assessor shall have such information before spreading installments on the next city tax roll.

(1978 Code, § 30-14)

47-15. CERTIFICATION WHEN IMPROVEMENT COMPLETED.

Upon completion of the improvement and the payment of the cost thereof, the Engineer shall certify to the Council the total cost of the improvement, together with the amount of the original roll for the improvement.

(1978 Code, § 30-15)

47-16. DEFICIENCY ASSESSMENTS.

Should the assessments in any special assessment roll, including the amount assessed to the city at large, prove insufficient for any reason to pay the cost of the improvement for which they were made, then the Council shall make additional assessments against the city and the several lots and parcels of land, in the same ratio as the original assessments, to supply the deficiency, but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement.

(1978 Code, § 30-16)

47-17. REFUND OF EXCESSIVE ASSESSMENTS.

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the General Fund of the city, if such excess is 5% or less of the assessment, but should the assessment prove larger than necessary by more than 5%, the entire excess shall be refunded on a pro rata basis to the owners of the property assessed. The refund shall be made by credit against future unpaid installments in the inverse order in which they are payable, to the extent such installments then exist, and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or part by such special assessment.

(1978 Code, § 30-17)

47-18. REASSESSMENTS IN EVENT OF INVALIDITY.

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 assessment has been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever the assessment, or any part thereof, levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment and the reassessment shall, to that extent, be deemed satisfied.

(1978 Code, § 30-18)

47-19. RESERVED.

47-20. SAME-COUNCIL DETERMINATION; ASSESSMENT ROLL GENERALLY.

(A) The Council shall, by resolution, after examination of the report of the Director of Public Services, determine what amount or part of each such expense shall be charged and the person, if known, against whom and the premises upon which the same shall be levied as a special assessment. By such resolution, the Council shall determine the number of installments in which the assessment may be paid, determine the rate of interest to be charged on installments, not to exceed 6% per annum, designate the district or land and premises upon which special assessments shall be levied, direct the Assessor to prepare a special assessment roll in accordance with the Council's determination and designate the name by which said assessment roll shall be known and referred to, and as often as the Council shall deem it expedient, require notice of all of the several amounts so reported and determined to be given by the Clerk, either by registered mail sent to the last known address of the owner as shown on the assessment roll of the city, or by publication.

(B) The Assessor shall thereupon prepare a special assessment roll, including all lots and parcels of land within the special assessment district designated by the Council and shall assess to each such lot or parcel of land such sums as may have been directed by the Council.

(C) When the Assessor shall have completed such assessment roll, he or she shall attach thereto and endorse thereon his or her certificate to the effect that the roll has been made by him or her pursuant to a resolution of the Council (giving date of adoption of same) and that, in making the assessments therein, he or she has, as near as may be, according to his or her best judgment, conformed in all respects to the directions contained in such resolution and the Charter and the provisions of this chapter. Thereupon, he or she shall file the special assessment roll with the Clerk who shall forthwith give notice as has been required by the Council.

(1978 Code, § 30-20)

47-21. SAME-NOTICE OF ASSESSMENT AND HEARING THEREON; COUNCIL ACTION ON ROLL.

(A) Upon receipt of a special assessment roll pursuant to §47-20, the Clerk shall give such notice as has been directed by the Council, which notice shall state the basis of the assessment, the amount thereof, describe the property affected thereby and give a reasonable time, which shall not be less than 30 days, in which a hearing may be had thereon or payment made.

(B) In the event payment is not made within the time specified in the resolution and notice, the Council shall meet at the time and place provided and hear any objections to said roll as prepared.

(C) The Council may correct the roll as to any assessment or description of any lot or parcel of land or other errors appearing therein. Any changes made in the roll shall be noted in the Council minutes.

(D) After the hearing the Council shall confirm such special assessment roll with such corrections as may have been made and the Clerk shall endorse the date of confirmation thereon, and upon confirmation such roll shall be final and conclusive.

(1978 Code, § 30-21)

47-22. BAR TO SUITS OR PROCEEDINGS TO CONTEST OR ENJOIN COLLECTION OF ASSESSMENTS.

Except and unless notice is given to the Council in writing of an intention to contest or enjoin the collection of any special assessment for the construction of any pavement, sewer or other public improvement, the construction of any sidewalk or the removal or abatement of any public hazard or nuisance, within 30 days after the date of the meeting of the Council at which it is finally determined to proceed with the making of the improvement in question, which notice shall state the grounds on which the proceedings are to be contested, no suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of such special assessment; and regardless of whether or not any public improvement is completed in any special assessment district, no owner of real property located in such district shall be entitled to commence any suit or action for the purpose of contesting or enjoining the collection of any such special assessment after he or she has received the benefits from the substantial completion of that portion of such public improvement for which he or she is assessed.

(1978 Code, § 30-22)

47-23. RESTRICTIONS ON USE OF FUNDS RAISED BY SPECIAL ASSESSMENT.

Moneys raised by special assessment for any public improvement shall be credited to a special assessment fund and shall be used to pay for the costs of the improvements for which the assessment was levied and of expenses incidental thereto, to repay any principal or interest on money borrowed therefor and to refund excessive assessments as herein provided.

(1978 Code, § 30-23)

47-24. PROCEDURE WHEN PROPERTY OWNER UNABLE TO PAY ASSESSMENT.

Any person who, in the opinion of the Assessor and upon confirmation by the City Council, is, by reason of poverty, unable to contribute toward the cost of the making of a public improvement may execute to the city an instrument prepared by the City Attorney, creating a lien for the benefit of the city on all or any part of the real property owned by him or her and benefitted by any public improvement for the amount of the special assessment levied for such public improvement, plus interest at 6% per annum. The lien shall mature and be effective from and after the execution of such instrument and shall be enforceable by the city only in the event that title to such property is thereafter transferred in any manner whatsoever. The deed shall recite that the lien created may be extinguished by the grantor of the deed by payment of the amount of special assessments covered by such lien at any time and shall be extinguished by any grantee, heir or devisee of the grantor within one year after title becomes vested in such grantee, heir or devisee and that failure to so extinguish the said lien within the said one year period shall operate to vest title to the real property to which such deed pertains in the city in fee absolute. This lien shall also be enforceable in the event that, in the opinion of the Assessor, upon confirmation by the City Council, such condition of poverty ceases to exist.

(1978 Code, § 30-24)

47-25. LIABILITY FOR COSTS OF PUBLIC IMPROVEMENTS; ENFORCEMENT.

The owners of all real property, including such as is exempt from taxation by law, or exempted by the Board of Review, and with or without valuation placed thereon, shall be liable for the cost of public improvements benefitting such property, unless exempted from special assessments by law, the same as other property, as provided herein, and such special assessments shall be levied, collected and returned, and the premises may be sold or forfeited in the same manner as for

nonpayment of city taxes.

(1978 Code, § 30-25)

47-26. COLLECTION OF DELINQUENT ASSESSMENTS BY ACTION IN ASSUMPSIT.

In addition to any other remedies, and without impairing the lien therefor, any delinquent special assessment, together with interest and penalties, may be collected in an action in assumpsit in the name of the city against the person assessed in any court having jurisdiction of the amount. If, in any such action it shall appear that, by reason of any irregularities or informalities, the assessment has not been properly made against the defendant or upon the premises sought to be charged, the court may, nevertheless, on satisfactory proof that expense has been incurred by the city, which is a proper charge against the defendant or the premises in question, render judgment for the amount properly chargeable against such defendant or upon such premises.

(1978 Code, § 30-26)

47-27. ASSESSMENTS BY CONTRACT.

In the event that all persons or property owners to be affected by any proposed improvement agree that such proposed improvement be made and that a special assessment be levied in connection therewith, the city may, in lieu of the foregoing procedure, enter into a written contract with all of the persons or property owners affected thereby, which contract, when properly approved and executed, shall operate as a complete special assessment procedure and the assessment shall be made in accordance with said contract.

(1978 Code, § 30-27)

CHAPTER 48: STREETS AND SIDEWALKS

ARTICLE I. IN GENERAL

48-1. TITLE.

This article shall be known as the "City of Sterling Heights Public Streets and Rights-of-Way Ordinance" and may be cited as such.

(1978 Code, § 31-1; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-C, § 1, 6-4-96)

48-2. DECLARATION OF PURPOSE.

The purpose of this article is to regulate and control the use of public streets, sidewalks, approaches and rights-of-way and to establish standards pertaining to the installation of improvements within public streets and rights-of-way.

(1978 Code, § 31-2; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-C, § 1, 6-4-96)

48-3. DEFINITIONS.

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

ALLEY. A public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

APPROACH. A hard-surfaced area connecting a street with an off-street parking area, truck well, maneuvering lane or driveway as defined herein or defined in the zoning ordinance.

CURB. A part of the street usually of the same elevation as the center of the street which is parallel to the street which separates the portion of the roadway established for vehicular traffic from the adjacent greenbelt area designed to keep vehicular traffic from the greenbelt area.

EASEMENT. A right or privilege over a specific portion of land area granted by the owner to the public, a corporation or some particular person or persons for specific uses and purposes and which is designated a public or private easement depending on the nature of the use.

RIGHT-OF-WAY. The entire area owned or dedicated by the city or other governmental agency or entity for public use as a street, sidewalk, easement, landscape area or other public place.

SIDEWALK. A slab of concrete generally parallel with the street and usually located one foot from the property line in the right-of-way.

STREET. That portion of a public thoroughfare improved, designed or ordinarily used for vehicular traffic, including curbs on paved roads and shoulders on unimproved thoroughfares.

(1978 Code, § 31-3; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-C, § 1, 6-4-96)

48-4. GENERAL PERMIT REQUIREMENTS.

(A) It shall be unlawful to construct or lay any pavement for any public street, sidewalk, alley, approach or to repair the same, to make any excavation within the right-of-way or to construct any improvement within the right-of-way without first having secured a permit from the city.

(B) It shall be unlawful to install or place any vending machine, express mail machine, private mailbox, pick-up box or railing within the right-of-way or to erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes or other obstructions within the right-of-way.

(C) It shall be unlawful to install, construct or place any earthen mound with a grade variance of more than six inches, boulders, shrubs, mailboxes that do not conform with applicable federal standards, landscape forms or sculptures exceeding six inches in height within the right-of-way.

(D) It shall be unlawful to hang or suspend any object, including but not limited to signs (except those established and maintained by the city, county, state or federal governments), festoons, balloons or other inflatables above the public sidewalk or within any right-of-way area unless expressly authorized by this article or another applicable ordinance of the city.

(E) It shall be unlawful to remove or alter any pavement, tree, street identification sign or marker, lawn, fire hydrant or other improvement placed in the right-of-way by the city without first obtaining a permit from the city.

(F) It shall be unlawful to install any utility poles, towers, water mains, monitoring wells, sewers, sidewalks, telecommunications, telegraph, telephone or power lines, pipe lines, wires, cables, conduits or any like structure within a right-of-way or easement without first securing a permit from the city.

(G) It shall be unlawful to establish any roadside stand within the right-of-way, nor shall any person sell anything within such right-of-way.

(H) The placement of gas, electric, telecommunications, cable television and other franchised or licensed facilities shall be as determined and designated by the City Engineer. Utilities constructed of non-metallic material are required to have a traceable metallic wrap or accompanying wire for the purpose of tracing and locating with conventional locating equipment. When placed in the right-of-way, utilities or other franchised facilities constructed of material susceptible to breakage (i.e., fiber optic, wire, plastic line) may be encased in a protective shell, as approved by the City Engineer.

(I) Any owners of telecommunication, telegraph, telephone or power lines, pipe lines, wires, cables, conduit and like structures installed within a right-of-way must be a member of the Miss Dig System and respond to and stake or locate underground utilities within the rules and regulations as prescribed by the Miss Dig System and hold the city harmless for any damage to pipe lines, wires, cables, conduits and like structures which may be damaged as a result of the city repairing/maintaining its utility system located in any right-of-way if due to untimely or incorrect locations being staked or identified.

(1978 Code, § 31-4; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-A, § 1, 10-1-91; Ord. No. 286-C, § 1, 6-4-96) Penalty, see § 48-9

48-5. STREET CUTS AND EXCAVATIONS.

(A) Except as otherwise provided, it shall be unlawful to grade, regrade, reshape, modify or alter the surface grade of any right-of-way without first obtaining a permit pursuant to the provisions of this article.

(B) It shall be unlawful to do any grading or other activity within the right-of-way that creates a nuisance or contributes to the accumulation of standing water which constitutes a health hazard.

(C) It shall be unlawful to make any excavation or opening in or to tunnel under any right-of-way without first obtaining a permit pursuant to the provision of this article. The City Manager may, if the public safety requires, grant immediate permission to a person to make a necessary opening or excavation within the right-of-way, provided that a permit required by this article is obtained on the next following business day.

(D) It shall be unlawful to install, replace or alter an approach, sidewalk, culvert, enclose a ditch or make a sewer or water tap without first securing a permit in accordance with the provisions of this article.

(E) It shall be unlawful to construct, alter or cut any opening in or through any curb in any street or public right-of-way without first obtaining a permit pursuant to the provisions of this article.

(F) All openings, excavations or obstructions in a right-of-way shall be properly barricaded and illuminated with barriers and flashing beacons as required by the Michigan Manual of Traffic-Control Devices to prevent injury or damage to persons or vehicles. Flashing beacons shall be installed at all construction sites to provide adequate notice and warning to both pedestrians and vehicular traffic.

(G) All openings, excavations and tunnels in a right-of-way shall be properly shored and braced in accordance with all standards promulgated by the Occupational Safety and Health Administration (OSHA) and the Michigan Occupational Safety and Health Administration (MOSHA) to insure the safety of all workers and prevent cave-ins and washouts which would likely cause damage to the surface grade of the street or adjoining portions of the right-of-way. If it appears that there is a danger to the public safety, the city has the authority to install any and all barricades, warning signs and other such devices that it may deem necessary and may charge the permit holder for costs incurred in protecting the public.

(H) The City Manager shall have authority to temporarily close any portion of the right-of-way when it is deemed an unsafe condition or it is unsuitable for use. Barriers and signs shall be erected indicating that the portion of the right-of-way is closed to public travel. It shall be unlawful to drive or travel over such portion of the right-of-way closed to public travel, except when such travel is incident to repair, construction or maintenance work performed therein.

(I) It shall be unlawful to interfere with or disturb any barricade, fencing, signs or lights lawfully placed to protect, mark or illuminate any obstruction, excavation, repair site or opening in any portion of the right-of-way.

(1978 Code, § 31-5; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-C, § 1, 6-4-96) Penalty, see § 48-9

48-6. SIDEWALKS.

(A) It shall be unlawful to install, construct, repair or reconstruct any sidewalk within the right-of-way without first having secured the permission of the city and having secured a permit as required under this article or any other applicable ordinance.

(B) All sidewalks shall conform with the applicable provisions ofChapter 11, Article X of the City Code, the zoning ordinance (Appendix A to the City Code), and the subdivision regulations (Appendix B of the City Code).

(C) The City Council may order the construction, reconstruction or repair of sidewalks in any designated area within the city if it is in the interest of the health, safety and welfare of the city or perform or have performed on its behalf the construction, reconstruction or repair.

(D) The City Council shall determine whether the sidewalks to be constructed, reconstructed or repaired shall be paid for by invoice to the abutting property owners or by special assessment to the abutting property owners.

(E) The City Council may, by resolution, require the owners of lots and premises to construct, reconstruct or repair sidewalks adjacent to or abutting upon such lots and premises. When any such resolution is adopted, it shall be the duty of the City Engineer to cause a notice of same to be sent by first class mail to all owners of lots affected as determined from the tax rolls of the city to the owner or owners of the lots and premises in front of or adjacent to which the sidewalk is to be constructed, reconstructed or repaired requiring such owner or owners to construct, reconstruct or repair in accordance with city specifications such sidewalk as is required by such resolution within 30 days of the date of the notice, unless a different time is specified in the resolution of the City Council. A notice shall also state that if any owner shall fail to comply with such order within the specified time, then the city shall construct, reconstruct or repair such sidewalk and charge the expense thereof to the premises and the owner thereof, together with an administrative charge established by the annual appropriations ordinance to cover administrative, bidding, engineering and collection expenses.

(F) The owner of the property abutting the sidewalk to be constructed, reconstructed or repaired shall have 15 days from the date of the notice to appeal the determination that the sidewalk should be constructed, reconstructed or repaired. If the Ordinance Board of Appeals, upon appeal, determines that the construction, reconstruction or repair is unnecessary or not within the interest of public safety of the city, the sidewalk need not be constructed, reconstructed or repaired at that time.

(G) If the owner of any property fails to construct, reconstruct or repair in accordance with the city specifications any particular sidewalk described in the notice and within the time period and in the manner required thereby, the City Engineer is authorized and required, immediately after the expiration of the time period provided for the construction, reconstruction or repair by the owner, to cause such sidewalk to be constructed, reconstructed or repaired with the expense thereof to be charged to such property and the owner thereof, together with the administrative charge hereinbefore provided. The charge shall constitute a lien against the property abutting the sidewalk and shall be collected as a special assessment.

(H) The City Council may provide that the payment for the sidewalks to be constructed, reconstructed or repaired shall be by special assessment. If the City Council decides to pay for such sidewalk by special assessments, the procedures set forth in Chapter 47 of this Code shall be followed.

(I) All sidewalks within the city shall be kept and maintained in good repair by the owner of the property adjacent to and abutting upon the same. Whenever the City Engineer determines that a sidewalk is unsafe, he or she shall cause written notice thereof to be given by first class mail to the owner of abutting property as determined from the tax rolls. If any owner shall neglect to keep and maintain in good repair the sidewalk adjacent and abutting upon his or her property, then the owner shall be liable to the city for any damages recovered against the city sustained by any person by reason of the sidewalk being unsafe and in a state of disrepair.

(1978 Code, § 31-6; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-C, § 1, 6-4-96; Ord. No. 388, § 21, 1-3-07)

48-7. APPLICATION PROCEDURE.

(A) Application for a permit under the terms and conditions of this article and any other applicable provision of the City Code shall be made on forms provided by the city and shall be accompanied by plans and specifications showing the proposed work to be performed within the right-of-way.

(B) Application for a permit shall not be accepted unless it contains all of the required information, is accompanied by required plans which conform to the applicable provisions of the City Code, ordinances and regulations and is accompanied by the payment of the permit fee as established by the annual appropriations ordinance. The proposed plans and specifications shall be reviewed by appropriate city departments depending on the nature of the work to be performed.

(C) Where liability insurance policies are required to be filed in making application for a permit, they shall be for the amounts established by the City Manager or his or her designate. A properly executed certificate of insurance containing evidence that the pertinent policy of insurance or endorsement applies to the provisions under which the permit is issued, and approved as to form by the City Attorney, shall be filed with the City Clerk.

(1978 Code, § 31-7; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-C, § 1, 6-4-96; Ord. No. 388, § 22, 1-3-07)

48-8. BOND AND HOLD HARMLESS REQUIREMENT.

As a condition of obtaining a permit, the applicant shall be required to file with the city a bond in an amount established by the City Engineer which shall be utilized to

pay all valid claims for damages resulting from activity within the right-of-way. Moreover, the applicant shall execute an agreement to defend and indemnify the city and to hold the city harmless in the event a claim arises out of an activity conducted by the applicant within the right-of-way.

(1978 Code, § 31-8; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-C, § 1, 6-4-96)

48-9. INSPECTION OF WORK; SUSPENSION OR REVOCATION OF PERMIT.

All work done pursuant to any permit issued pursuant to this article shall be inspected by the city under the direction of the City Manager to determine that the work conforms with the applicable City Code provisions. The City Manager may suspend or revoke any permit where the workmanship or materials used do not conform to the approved plans and specifications and the applicable provisions of this Code or other applicable ordinances. Violation of the terms and conditions contained in this article or any other applicable ordinance or Code provision may result in the permit being revoked. It shall be unlawful to perform any work authorized by any permit or cause any work to be performed after permit has been suspended or revoked.

(1978 Code, § 31-9; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-C, § 1, 6-4-96) Penalty, see §1-9

48-10. REVIEW PROCEDURE.

(A) If a permit is refused, suspended or revoked, the applicant may, within ten days of the denial, suspension or revocation, appeal that determination to the City Council. The City Council shall, after proper notice to all interested parties, conduct a hearing concerning the refusal, suspension or revocation. After conducting the public hearing, the City Council shall either affirm, modify or reverse the decision of the City Manager. The decision of the City Council shall be final.

(B) All operations for which a permit is granted pursuant to the terms of this article shall be under the direction and supervision of the City Manager. The City Manager or his or her designate shall have the authority to promulgate rules and regulations in order to implement the terms and provisions of this article.

(1978 Code, § 31-10; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-C, § 1, 6-4-96)

48-11. VARIANCES.

The Board of Code Appeals may grant a variance from the provisions of this article upon finding that undue hardship or practical difficulty may result from strict compliance with specific provisions or requirements.

(1978 Code, § 31-11; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-C, § 1, 6-4-96)

48-12. CONFLICT BETWEEN LAWS.

In the event that part of this article shall conflict with any other applicable Code provision or ordinance of the city, the more restrictive Code provision or ordinance shall apply.

(1978 Code, § 31-12; Ord. No. 286, § 1, 8-21-90; Ord. No. 286-C, § 1, 6-4-96)

48-13-48-15. RESERVED.

ARTICLE II. PRIVATE STREETS AND STORM SEWERS

48-16. TITLE.

This article shall be known and cited as the "Private Street Ordinance."

(1978 Code, § 31-16; Ord. No. 301, § 1, 11-6-91)

48-17. DEFINITION OF PRIVATE STREET.

A private street is a privately owned and maintained hard surfaced street located within a cluster housing, residential condominium, site condominium or multiple family development which is accessible to the public, including public and private emergency vehicles. Where a private street is served by a private storm sewer, the term shall include the private storm sewer.

(1978 Code, § 31-17; Ord. No. 301, § 1, 11-6-91)

48-18. AVAILABILITY OF PRIVATE STREETS.

A private street or private storm sewer may be installed in a cluster housing, residential condominium, site condominium or multiple family development if authorized by the city. In no instance shall a private street be permitted if it is a continuation of a public street or is located so that it may later become a continuation of a public street. In no instance shall a private storm sewer be permitted if it is a continuation of a public storm sewer or is so located that it may later become a continuation of a public storm sewer.

(1978 Code, § 31-18; Ord. No. 301, § 1, 11-6-91)

48-19. CONSTRUCTION OF PRIVATE STREET OR PRIVATE STORM SEWER.

A private street or private storm sewer shall be constructed in accordance with the written standards established by the City Manager and filed with the City Clerk’s office which are in effect at the time of construction.

(1978 Code, § 31-19; Ord. No. 301, § 1, 11-6-91)

48-20. PLANS.

A private street or private storm sewer shall be constructed according to plans approved by the City Engineer. The plan may be a part of the site plan but shall include information required by the City Engineer to determine that the private street or storm sewer construction standards and other applicable requirements of the city have been met.

(1978 Code, § 31-20; Ord. No. 301, § 1, 11-6-91)

48-21. REVIEW AND INSPECTION APPROVALS.

Each private street or private storm sewer may be inspected by the city during the course of construction and upon completion to determine that it has been constructed in compliance with the terms of this article and any applicable regulations or standards. No zoning compliance permit for a use or development nor any building permit for any building to be constructed shall be issued unless all private streets and private storm sewers included with the development have been constructed, inspected and approved by the city; provided, however, the city may, in its discretion, allow a building permit to be issued prior to final approval of the private street or private storm sewer if suitable temporary access is provided and a cash deposit or irrevocable bank letter of credit is filed to ensure completion of the improvements in accordance with this article. Review and inspection fees shall be paid prior to construction in accordance with a fee schedule established by the annual appropriations ordinance.

(1978 Code, § 31-21; Ord. No. 301, § 1, 11-6-91; Ord. No. 388, § 23, 1-3-07)

48-22. MAINTENANCE OF PRIVATE STREETS; PROMULGATION OF ENGINEERING STANDARDS.

All private streets and private storm sewers shall be maintained, repaired and replaced in accordance with the applicable city codes, ordinances, regulations and standards of the city and the maintenance agreement between the city and the developer, owner or association.

(1978 Code, § 31-22; Ord. No. 301, § 1, 11-6-91)

48-23. MAINTENANCE AGREEMENTS.

(A) The owner of any development containing a private street which is constructed after the effective date of this article (November 20,1991) shall execute a maintenance agreement in form and substance satisfactory to the city. The agreement shall obligate the owner (or property owners if the development has multiple owners) of the development to maintain, repair and replace any private street or private storm sewer determined by the city to constitute a public hazard or public nuisance to the city or its residents and shall provide a means of paying for the cost of such maintenance, repair or replacement of the private streets and private storm sewers.

(B) The agreement shall further provide that if any units within the development are conveyed to individual owners, an association comprised of all owners of units within the development must be established prior to such conveyance. The maintenance agreement (excluding the approved site plan exhibit) shall be executed by the developer and delivered to the city prior to the city issuing final site plan approval for the development containing private streets. Prior to approval and execution of the agreement by the city, the city shall attach the final approved site plan accurately depicting the location of the private streets or private storm sewers. At the option of the city, approved legal descriptions of the private streets or private storm sewers may be attached in place of the approved site plan. The maintenance agreement requiring the owner or owners to pay the expenses of the required maintenance, repair and replacement shall be recorded against all of the property within the development after site plan approval and prior to the conveyance of any units to individual owners. The maintenance agreement shall be referenced in the master deed for any condominium development.

(C) The agreement shall authorize the installation, repair, maintenance or reconstruction of electrical, telephone, cable or other utility lines within the easement of the private street if a public easement for such purpose has not been granted by the owner. The owner shall be responsible for payment of any administrative and legal fees incurred by the city in connection with preparation or review of such agreement.

(1978 Code, § 31-23; Ord. No. 301, § 1, 11-6-91)

48-24. NAMING AND SIGNAGE OF PRIVATE STREETS.

All private streets shall be named and identified with street signs in accordance with the applicable city codes, ordinances, regulations and standards.

(1978 Code, § 31-24; Ord. No. 301, § 1, 11-6-91)

48-25. VARIANCES.

Where, owing to special conditions, a literal enforcement of the provisions of this article would involve practical difficulties or cause unnecessary hardships, the Board of Ordinance Appeals shall have the power, upon appeal, in specific cases, to modify the provisions of the article with such conditions and safeguards as it may reasonably determine as may be in harmony with the spirit of this article and so that public safety and welfare be secured and substantial justice done. No variance of the provisions of this article shall be granted unless it appears to the Board of Ordinance Appeals by a preponderance of the evidence that all of the following facts and conditions exist:

(1) There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the city;

(2) The granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity of the property;

(3) The granting of the variance will not adversely affect the purposes of objectives of any master plan of the city.

The Board of Ordinance Appeals may impose reasonable conditions upon any approval to insure that the spirit and intent of this article is upheld. If a variance is approved, the property owner shall file a notice of variance with the County Register of Deeds relating to the property.

(1978 Code, § 31-25; Ord. No. 301, § 1, 11-6-91)

48-26-48-31. RESERVED.

ARTICLE III. REMOVAL OF SNOW AND ICE FROM SIDEWALKS

48-32. TITLE.

This article shall be known and may be cited as the "Snow Removal Ordinance."

(1978 Code, § 31-32; Ord. No. 378, § 4, 5-3-05)

48-33. ENFORCEMENT OF ARTICLE.

It shall be the duty of the code enforcement official and the Police Department of the city to enforce the provisions of this article.

(1978 Code, § 31-33; Ord. No. 378, § 4, 5-3-05)

48-34. DEFINITIONS.

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

CODE ENFORCEMENT OFFICIAL . The City Manager's designee responsible for oversight of the enforcement of property maintenance and other codes throughout the city.

SNOW REMOVAL EQUIPMENT . Any motor-driven vehicle with a gross weight of 2,000 pounds or more.

(1978 Code, § 31-34; Ord. No. 378, § 4, 5-3-05)

48-35. DUTY OF PROPERTY OWNERS AND OCCUPANTS.

No person shall permit any snow or ice to remain on the public sidewalks in the front, rear or sides of any house, premises, building, lot or parcel of land owned, occupied or controlled by him or her longer than 24 hours after the same has fallen or formed. Whenever any snow or ice has fallen or formed on any such sidewalk, the person shall, within 24 hours after the same has fallen or formed, remove all snow or ice so far as is practicable and reasonable to allow the pedestrian use of such sidewalk. The City Manager may establish regulations for exempting public sidewalks in the rear of a house, premises, building, lot or parcel of land from the requirements of this section.

(1978 Code, § 31-35; Ord. No. 378, § 4, 5-3-05)

48-36. ABATEMENT OF SNOW OR ICE OBSTRUCTIONS.

(A) When an owner or occupant fails to comply with the requirements of this section, and the public sidewalk(s) in the front, rear, or sides of the owner's or occupant's house, premises, building, lot, or parcel of land remain obstructed with snow and/or ice, a city employee authorized by the code enforcement official or Police Chief may affix a tag upon a conspicuous location on the property. The tag shall advise the owner or occupant of the property that the accumulation of snow and/or ice upon the adjoining sidewalks constitutes a violation of this article, and must be abated within 24 hours. The tag shall also state that if the owner or occupant shall fail to comply with such order within the specified time, then the city shall abate the accumulation of snow and/or ice and assess the expense thereof to the premises and the owner thereof, together with a charge to cover administrative expenses. Upon expiration of the 24-hour period, if the accumulation of snow and/or ice has not been abated, and the code enforcement official or Police Chief determines that the accumulation of snow and/or ice constitutes an obstruction of such sidewalk(s), the code enforcement official may proceed to abate such obstruction.

(B) The code enforcement official shall take all steps necessary to carry out the abatement of an accumulation of snow and/or ice upon a sidewalk, shall keep an accurate record of all expenses in connection therewith, and upon completion of the work to be performed shall submit a report of the work done and all expenses in

connection therewith to the City Treasurer, who shall charge such expenses to the property and the owner thereof. Such expenses shall be paid to the city within 30 days, and shall include, but not be limited to, the actual expenditure of funds to abate the obstruction, the actual cost to the city for the time spent by city employees, officers, or agents to abate, or work toward abatement of, the obstruction (including actual salary, fringe benefits, equipment usage, and other taxpayer-funded expenditures), attorney fees, consulting fees, any court costs incurred for enforcement, and/or similar costs and expenses. The city's administrative expenses may be set by the city's annual appropriations ordinance. The unpaid expenses shall constitute a lien against the property abutting the sidewalk .

(Ord. No. 378, § 4, 5-3-05; Ord. No. 396 § 9, 5-6-08)

Charter reference:

Authority to require abutting property owners to remove snow and ice from sidewalks, see §16.07

48-37. NOTICE OF ASSESSMENT; COUNCIL DETERMINATION.

(A) In the event that payment of the Treasurer's invoice is not paid within 30 days, the code enforcement official shall notify the property owner or occupant that the unpaid expenses shall be submitted to the City Council for assessment against the property as provided in this section. Such notice shall be sent either by registered or certified mail sent to the property owner's or occupant's last known address as shown on the assessment roll of the city, or by publication. Such notice shall state the basis of the assessment and the cost thereof, and shall give a reasonable time, which shall not be less than 30 days, in which payment shall be made. In all cases where payment is not made within the time limit, the same shall be reported by the code enforcement official to the City Manager for submission to the City Council.

(B) The City Council shall determine, by resolution, what amount or part of the assessment shall be charged and the premises upon which the same shall be levied as a special assessment or the person against whom the assessment shall be charged. After such determination, the assessor shall spread such amounts, plus administrative and legal costs, against the person(s) or description(s) of real property chargeable therewith on the next roll for the collection of city taxes.

(Ord. No. 378, § 4, 5-3-05)

48-38. DELINQUENT ASSESSMENTS.

In addition to the remedies provided in this article, delinquent assessments may also be collected by civil action as provided in Chapter 47.

(Ord. No. 378, § 4, 5-3-05)

48-39. ASSESSMENTS BY CONTRACT.

Property owners who are or plan to be absent from the city for an extended period of time during the winter season may utilize the assessment by contract provisions of Chapter 47. So long as the property owner fully complies with the contract, the assessments permitted by this article shall not be added to the tax roll for the owner's property.

(Ord. No. 378, § 4, 5-3-05)

48-40. PENALTY.

The assessments provided for in this section are in addition to, not a replacement of, the general penalties provided for in Chapter 1 of this code.

(Ord. No. 378, § 4, 5-3-05)

48-41. EQUIPMENT REQUIREMENTS.

(A) No person shall operate upon the sidewalks of the city any snow removal equipment, unless the snow removal equipment is equipped with pneumatic tires and a revolving type brush. No person shall operate any snow removal equipment which has an overall width greater than the width of the public sidewalk and such equipment shall not in any case be wider than six feet. No person shall operate a scraper or plow-type snow removal equipment upon the sidewalks of the city.

(B) This section shall be inapplicable to the owner or occupant while removing snow or ice from the public sidewalks contiguous to his or her premises.

(1978 Code, § 31-36)

48-42. COMMERCIAL REMOVER'S PERMIT-REQUIRED.

No person shall, for hire, gain or reward, operate any snow removal equipment, as defined in this article, upon the sidewalks of the city, without first obtaining an annual permit from the office of the City Clerk.

(1978 Code, § 31-37)

Cross reference:

Permits generally, see Ch. 29

48-43. SAME-ISSUANCE; FEE; PERMITTEE'S BOND AND INSURANCE.

(A) The City Clerk is authorized to grant a permit to any person of good moral character to engage in the business of snow removal by the operation of snow removal equipment upon the payment of a permit fee established by the annual appropriations ordinance, together with the execution of a surety bond to the city in the penal sum of $5,000, approved by the City Attorney and conditioned upon the following: that the permittee will reimburse the city for any and all damage done to the sidewalks, trees or any other public property by the permittee and a policy of insurance, approved by the City Attorney, naming the city as an additional insured in the amount of $10,000 property damage, $100,000 for injury to or death of one person and $300,000 for injuries to or death of more than one person arising out of the operation of such snow removal equipment. Said bond and policies shall be filed with the office of the City Clerk.

(B) Any permit issued shall be immediately revocable, without further reason, if the insurance has been revoked or canceled.

(C) No permit shall be issued by the office of the City Clerk until the approved bond and insurance policies have been filed in the office of the City Clerk.

(1978 Code, § 31-38) (Ord. No. 388, § 24, 1-3-07)

48-44. SAME-EXPIRATION; NOT TRANSFERABLE.

All permits granted under the provisions of this article shall expire on June 13 of each year and shall not be transferable.

(1978 Code, § 31-39)

48-45-48-49. RESERVED.

ARTICLE IV. RIGHT-OF-WAY PERMITS AND FRANCHISES

48-50. FRANCHISE REQUIREMENT.

No person, partnership, association or corporation, public or private, operating a public utility may transact local business in the city without first obtaining a franchise from the city. Competitive suppliers of natural gas or electricity with customers in the city shall obtain a franchise from the city. A public utility providing transmission or distribution services to any person, partnership, association or corporation, public or private, offering any public utility, telecommunications, natural gas or electric service to customers in the city shall promptly notify the City Clerk in writing of the name and address of such person, partnership, association or corporation.

(Ord. No. 355, § 1, 6-19-01)

48-51. APPLICATIONS FOR FRANCHISES.

(A) Applications for franchises under this article will be made to the City Clerk on a form prepared by the Clerk. Applications for a franchise require the payment of a non-refundable application fee of $5,000.

(B) Upon receiving a completed application, the Clerk will advise the City Attorney who will negotiate and draft the appropriate franchise.

(Ord. No. 355, § 1, 6-19-01)

48-52. FRANCHISES, GENERALLY.

(A) A franchise will contain such terms and conditions as deemed appropriate by the City Council. The City Council may require payment of a franchise fee. Unless submitted to the voters and approved by a three-fifths majority, franchises are revocable at will by the city. Franchises may be issued for a term not exceeding 30 years.

(B) In the event that a holder of a franchise (or any subsidiary, affiliate or other related company) pays a fee, charge, or other payment of any kind on a periodic basis (i.e., monthly, quarterly, annually) to any municipality in the State of Michigan which is higher or in addition to any fees or charges set forth in a franchise with the city, the holder of a franchise shall notify the city in writing of the details of such other arrangement within 60 days of its effective date. Upon receipt by the city of such notice, a revocable franchise may be revoked upon notice from the city. As a condition for a new franchise, the city may require payment of a similar fee or charge as provided to the third party.

(C) A person, partnership, association or corporation granted a franchise under this article shall obtain all other necessary permits or approvals for construction, maintenance and operation in the city.

(Ord. No. 355, § 1, 6-19-01)

48-53-48-59. RESERVED.

ARTICLE V. CONCRETE WORK

48-60. TITLE.

This article shall be known and may be cited as the "City of Sterling Heights Concrete Ordinance."

(1978 Code, § 8-242; Ord. No. 396 § 8, 5-6-08)

48-61. DEFINITIONS.

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

BASEMENT FLOOR. A slab of concrete poured at the foundation line or below the living quarters of any residential structure.

BRICK PAVERS. Brick materials specifically designed and manufactured for use on driveways, sidewalks and similar areas where there is likely to be heavy pedestrian or vehicular use.

DRIVEWAY. A slab of concrete from the sidewalk or property line to a garage or to the building line setback.

GARAGE FLOOR. A slab of concrete poured inside a garage.

PORCH SLAB. A slab of concrete with or without a roof over front, back or grade door.

PUBLIC SIDEWALK. A slab of concrete parallel with a street and located one foot from the property line in the public right-of-way.

SERVICE WALK. A slab of concrete from a sidewalk or driveway to a front, grade or service door, back or side porch slab.

WOODEN. Wood products that have been pressure treated to a minimum of .40 retention value.

(1978 Code, § 8-243; Ord. No. 177-D, § 1; 5-19-92; Ord. No. 396 § 8, 5-6-08)

48-62. ADMINISTRATIVE MODIFICATION OF AND APPEALS FROM ORDERS, DECISIONS AND THE LIKE MADE UNDER ARTICLE; VARIANCES.

(A) *Administrative modification of sidewalk requirements.* The City Manager, or his or her designate, may administratively modify the requirement that sidewalks be installed in an existing developed one family residential area if all of the following conditions have been met:

(1) An application signed by the property owner specifying the particular requirement that is requested to be modified is filed and accompanied by the appropriate filing fee as established by the City Council in the annual appropriations ordinance;

(2) Documentation is presented establishing that the street abutting the property is not paved in accordance with current city standards;

(3) The property owner shall execute and file with the county register of deeds an agreement and notice of modification indicating that a sidewalk modification has been granted and that the property owner and successors in title and interest in the property shall be responsible for installation of the sidewalk at their own expense or be subject to a special assessment district if the City Council deems the installation of the sidewalk to be necessary upon such street.

(B) *Appeals and variance to requirements of concrete code chapter.*The Board of Ordinance Appeals shall have the authority to hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing or administering the terms of this article or any other ordinance applicable to sidewalks. Where, owing to special conditions, a literal enforcement of the provisions of this chapter would involve practical difficulties or cause unnecessary hardships or would deny the property owner a substantial property right enjoyed by other properties in the same vicinity, the Board of Ordinance Appeals shall have power upon appeal in specific cases to modify the provisions of the article with such conditions and safeguards as it may reasonably determine, as may be in harmony with the spirit of this article and so that public safety and welfare be secured and substantial justice done. No variance of the provisions of this article shall be granted unless it appears to the Board of Ordinance Appeals by a preponderance of the evidence that all of the following facts and conditions exist:

(1) There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the city;

(2) The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the vicinity;

(3) The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity of the property;

(4) The granting of the variance will not adversely affect the purposes or objectives of any master plan of the city.

Notice of the meeting at which the request for variance shall be considered shall be given to all property owners whose property abuts the property for which the variance is sought at least five days prior to the date of the meeting at which the request is to be considered. If the variance is approved, the property owner shall file a notice of variance with the County Register of Deeds relating to the property.

(C) *Appearance fee.* The City Council may set a fee, in the annual appropriations ordinance, for applicants to appear before the Board of Ordinance Appeals requesting an administrative modification or a variance to the requirements of the article.

(D) *Modification of sidewalk requirements.* If the City Council modifies the sidewalk requirements in a platted residential subdivision pursuant to the subdivision regulations, no variance to the requirements of this article shall be required.

(1978 Code, § 8-244; Ord. No. 177-B, § 1, 9-19-78; Ord. No. 177-C, § 1, 8-18-87; Ord. No. 279, § 2, 10-3-89; Ord. No. 388, § 4, 1-3-07; Ord. No. 396 § 8, 5-6-08)

48-63. PERMIT TO INSTALL, CONSTRUCT OR IMPROVE CURBS, APPROACHES, SIDEWALKS OR DRIVEWAYS.

(A) It shall be unlawful for any person to install, construct or improve any curb, approach, public sidewalk or driveway within the city without first having obtained a permit, except contractors working under the terms of a contract with the city.

(B) Application for a permit shall be made on forms provided therefor by the Building Official of the city and shall be accompanied by a plan showing location and specifications for the proposed installation, construction or improvement.

(C) A permit shall be granted by the Building Official only when the application and plans conform to this article and any other ordinance which may affect the application and the minimum standards and specifications which have been or may be established therefor by resolution of the Council.

(D) At the time the permit is granted, the applicant shall pay a fee in an amount established by the annual appropriations ordinance. The permit fee shall be waived for a homeowner requesting a permit to replace a section(s) of damaged or defective public sidewalk abutting his or her property. The homeowner shall be required to obtain all necessary permits and inspections required by ordinance.

(1978 Code, § 8-245; Ord. No. 177-E, § 1, 5-16-95; Ord. No. 388, § 5, 1-3-07; Ord. No. 396 § 8, 5-6-08) Penalty, see § 1-9

Cross reference:

Permits generally, see Ch. 29; Streets and sidewalks, this chapter

48-64. GENERAL REQUIREMENTS.

(A) Any concrete poured in the city shall not be less than a six bag mix, have a moisture content of not more than seven and one-half gallons of water per sack of cement and not more than six parts of aggregate for each one part of cement, by separate, dry volumetric measuring.

(B) No concrete shall be poured in freezing temperatures or when a freezing temperature is predicted without the use of antifreezing chemicals or protection from freezing by other approved methods. No concrete shall be poured upon frozen subgrade.

(C) All concrete poured for approaches, sidewalks, driveways, service walks and slabs at grade doors shall have a broom finish. Broom finish marks shall not be more than one-sixteenth of an inch in depth.

(D) Open rail inspection is required. Final inspection of concrete shall be made at the time of final building and/or site inspection.

(E) In the event of a conflict between a requirement of this article and the requirements set forth in the Michigan Building Code, the latter shall control if the provisions cannot be meaningfully reconciled.

(1978 Code, § 8-246; Ord. No. 177D, § 3, 5-19-92; Ord. No. 396 § 8, 5-6-08)

48-65. CURBS AND APPROACHES.

(A) Any curb that is damaged will be restored to the original condition, underpinning the street no less than eight inches deep and 12 inches under the street. However, where a curb is cut for the purpose of constructing an approach or a driveway, the curb cut shall be left reasonably smooth.

(B) All approaches shall be poured no less than the full width of the driveway and shall flare out 18 inches on each side at the curb or street line and be no less than six inches thick and no less than four inches thick at the sidewalk or lot line and have a nonextruding bituminous expansion at the street or sidewalk.

(C) Concrete driveways and drive approaches may be repaired by the use of asphalt resurfacing, provided the concrete driveway or approach meets the minimum construction standards of subsection (B) of this section.

(1978 Code, § 8-247; Ord. No. 177-D, § 4, 5-19-92; Ord. No. 396 § 8, 5-6-08)

48-66. SIDEWALKS.

(A) Public sidewalks shall be required when building residential structures unless the City Council has modified the requirement for a subdivision pursuant to the subdivision regulations of the city or a variance to the sidewalk requirements for an individual residential lot or unplatted residential parcel has been granted by the Board of Ordinance Appeals pursuant to § 48-62 of this chapter. Public sidewalks shall be provided in connection with the development of commercial and industrial uses when the Planning Department determines that there is a need for pedestrian circulation on or between commercial or industrial sites. In such cases, the locations of sidewalks shall be indicated on and be installed in accordance with the approved site plan.

(B) All public sidewalks shall be constructed of concrete poured from lot line to lot line. However, on a corner lot or parcel, the sidewalk shall be poured from curb or street line to the side and rear lot line, no less than five feet wide and four inches thick, to within 18 inches of the curb, and at this point, the sidewalk shall slope to eight inches thick abutting up to the curb with a three-quarter inch by eight inch by five foot nonextruding bituminous expansion joint. (See following drawing.) Sidewalks shall be reinforced over water and sewer excavations and have a nonextruding bituminous expansion strip, where passing a driveway or an approach or abutting up to an existing sidewalk, at intervals of not less than 50 feet and shall have control joints every five feet.

(1978 Code, § 8-248; Ord. No. 177-D, § 5, 5-19-92; Ord. No. 396 § 8, 5-6-08)

Cross references:

Construction of sidewalks generally, see §§ 48-1 et seq.;

Requirements of subdivision regulations relative to sidewalks, see App. B, § 5.03(A)

48-67. DRIVEWAYS.

(A) Except as otherwise provided in this article, driveways shall be constructed of poured concrete extending to all garages. Where no garage exists, the concrete driveway shall be poured to the front or side building line setback and shall be no less than ten feet wide and no less than four inches thick. It shall be reinforced over all excavated areas and shall have a nonextruding bituminous expansion at the sidewalk and the garage floor. If a concrete driveway is parallel with and abutting a building, an expansion joint shall be required to separate the driveway from the building or foundation. A control joint shall be installed for every ten feet by ten feet square. If a driveway is widened, the approach must also be widened to the same width with 18 inch flares at the street.

(B) Access from a second garage to a public or private street will not be permitted from an unpaved surface but shall be from the paved driveway required for the first garage or from a separate driveway meeting the requirements of subsection (A) of this section.

(C) Where paving is proposed in the side yard to less than 18 inches from the property line, run off shall be contained within the property by reverse pitch of one and one-half inches curb to prevent water, road salts or other substances from entering onto the adjoining property.

(1978 Code, § 8-249; Ord. No. 177-D, § 6, 5-19-92; Ord. No. 177-F, § 1, 1-21-97; Ord. No. 396 § 8, 5-6-08)

48-68. SERVICE WALKS.

Except as otherwise provided in this article, front service walks shall be constructed of poured concrete in accordance with approved plans and the provisions of this article. Front service walks shall be no less than three feet wide and four inches thick and shall be reinforced over all excavated areas.

(1978 Code, § 8-250; Ord. No. 177-D, § 7, 5-19-92; Ord. No. 396 § 8, 5-6-08)

48-69. USE OF BRICK PAVERS.

(A) Brick pavers or decorative stamped concrete may be used in place of concrete driveways, approaches and service walks if installed in accordance with the provisions of this section and the brick or other manufacturer's recommended installation standards.

Prior to the issuance of a permit for the installation of brick pavers or decorative stamped concrete in an approach, the owner(s) of the property shall execute an agreement in a form satisfactory to the city holding the city harmless for any liability to repair or replace the approach with any material other than concrete.

(B) At a minimum, the subbase must total at least eight inches comprised of a base course of not less than four inches of compacted, crushed rock or natural gravel approved for use with adequate drainage and an upper layer of subbase of not less than four inches of materials approved by the Building Department compacted to 95% compaction. The base course shall be inspected and approved prior to installation of the brick pavers.

(1978 Code, § 8-252; Ord. No. 177-D, § 9, 5-19-92; Ord. No. 177-G, § 1; Ord. No. 396 § 8, 5-6-08)

CHAPTER 48A: TELECOMMUNICATIONS

ARTICLE I. GENERAL PROVISIONS

48A-1. LEGISLATIVE INTENT.

(A) The rapid development and convergence of public and private voice, two-way interactive communication and data services on twisted copper pair wire, coaxial cable, fiber optic cable or wireless systems using the public right-of-way carries the promise of economic growth, new investment by the private sector and the ready availability of telecommunication tools for streamlining and improving the delivery of products and services to residents and businesses in the city.

(B) This chapter is intended to implement local, state and federal policies that will accelerate the development of new and advanced communication and information technologies and services to residents and businesses in the city by opening telecommunication markets to competition.

(C) This chapter is also intended to protect the city's infrastructure, ensure open and equal access to telephone and advanced telecommunication and information technologies and support an open and competitive marketplace and level playing field in the use of the right-of-way by companies offering public and private voice, two way interactive communication or data services.

(D) This chapter is intended to minimize the disruption to the right-of-way caused by the installation of overhead and underground lines and facilities and to require those who use them to operate a telecommunication system to cooperate with the city in the construction, maintenance and restoration of the right-of-way.

(E) This chapter is intended to protect the public health, safety and welfare by requiring that new lines, wires and cables be installed in underground conduit wherever practical because there are too many unsightly overhead lines, wires and cables and utility poles. They are proliferating, adversely affecting public safety, detracting from property values and are reaching the maximum safe capacity of poles and underground spaces.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 365, § 1, 10-15-02)

48A-2. PURPOSE.

The purpose of this chapter is to regulate persons providing telecommunication service using the public right-of-way in the city.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 365, § 1, 10-15-02)

48A-3. DEFINITIONS.

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

(A) ***CITY***. The City of Sterling Heights, Michigan.

(B) ***FACILITIES***. Any plant, works, systems, improvements and equipment owned, leased or used by a grantee, including poles, wires, fixtures, underground circuits, conduits and other property used or installed in the public right-of-way which is necessary or convenient for the transmission and distribution of telecommunication service.

(C) ***GRANTEE***. Any holder of a permit.

(D) ***PERMIT***.

(1) The permit which a provider of telecommunication service using the highways, streets, alleys or other public places must obtain from the city under Act No. 48 of the Public Acts of 2002, ("Act 48"); and

(2) The consent which a telegraph, telephone or other public utility company using any right-of-way must obtain from the city under Public Act 368 of 1925, § 13, as amended, ("Act 368") or both.

(E) ***PERSON***. Any individual, firm, partnership, association, corporation, company or organization, including educational institutions defined by Public Act 179 of 1991, § 102(F).

(F) ***PUBLIC RIGHT-OF-WAY*** . The entire area on, below, or above a public roadway, highway, street, alley, easement, or waterway. ***PUBLIC RIGHT-OF-WAY*** does not include a federal, state or private right-of-way.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 365, § 10-15-02)

ARTICLE III. PERMIT

48A-4. CITY APPROVAL REQUIRED.

(A) No person shall install, construct, maintain or operate a telecommunication system using the public right-of-way without a permit, except as otherwise allowed by law.

(B) This chapter applies to any existing cable television system which is used to provide any telecommunication service subject to Act 48.

(C) Nothing in this chapter shall be construed as a waiver of any codes, ordinances or regulations of the city or the city's right to require a grantee or other person utilizing a telecommunication service to secure appropriate construction permits, plan reviews, inspections or authorizations for such uses subject to the limitation on fees imposed by Act 48.

(D) The city may grant one or more permits for a telecommunication system in the city subject to this chapter.

(E) The city specifically reserves the right to grant, at any time, additional permits for telecommunication companies as it deems appropriate. Additional permits shall not be deemed to modify, revoke, terminate or damage any rights previously granted to any other grantee.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 365, § 1, 10-15-02)

48A-5. APPLICATION PROCEDURES.

(A) The application for a new, renewed or amended permit to install, construct or maintain a telecommunications system in the city shall be made in writing in such form as may be prescribed by the Michigan Public Service Commission.

(B) An application for a permit shall be accompanied by an application fee set by the annual appropriations ordinance which may be used to cover expenses, direct or indirect, incurred by the city in the preparation of this chapter, amendments to this chapter, development of requests for proposals, drafting of a permit and any amendments to them and reviewing, investigating and evaluating applications .

(C) Upon the filing of an application for a bilateral permit as promulgated by the Michigan Public Service Commission and payment of the application fee, the Telecommunication Commission shall consider the application, may request information required by the application form as it may reasonably deem necessary to establish the legal, financial, technical and other qualifications of the applicant to provide telecommunication service and make a written recommendation to the

Council to approve or deny the application.

(D) Upon the filing of an application for a unilateral permit as promulgated by the Michigan Public Service Commission and payment of the application fee, the City Manager or his designees shall consider the application, may request additional information required by the application form as they may reasonably deem necessary to establish the legal, financial, technical and others qualifications of the applicant to provide telecommunication service and approve or deny the application.

(E) The 45 day deadline for the city to approve or deny access to a provider of telecommunications services under Act 48 shall be tolled until all information required by the application is submitted. The city shall act reasonably and promptly on all applications filed for a permit involving an easement or public place. The Clerk shall report to the Michigan Public Service Commission the date an application was received and the date the city approved or denied access.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 365, § 1, 10-15-02; Ord. No. 388, § 25, 1-3-07

48A-6. SERVICE AREA.

A permit shall specifically describe the area of the city in which the grantee may install any wires, cables, poles, conduits, fixtures and like structures. The City Manager may consent to the laying and maintaining of additional wires, cables, conduits, fixtures and like structures extending no further than 500 feet from the right-of-way described in the permit.

(Ord. No. 324, § 1, 6-3-97)

48A-7. TERM.

The term of the unilateral permit is three years.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 365, 1, 10-15-02)

48A-8. POLICE POWER AND REGULATORY AUTHORITY RESERVED.

(A) Any right granted to any person under this chapter to use or occupy any right-of-way shall be subordinate to any prior lawful occupancy. Nothing in this chapter shall be construed as limiting in any way the city in the lawful exercise of the police power.

(B) Any right granted to any person under this chapter to use or occupy any right-of-way shall be subordinate to any prior lawful occupancy. Nothing in this chapter shall be construed as limiting in any way the city in the lawful exercise of the police power. The grant of a permit to any person shall confer no right not specifically set forth in this chapter.

(C) A grantee shall have no recourse whatsoever against the city for any loss, cost, expense or damage arising out of the failure of the city to have the authority to grant all or any part of a permit.

(D) The grantee expressly acknowledges by acceptance of a permit:

(1) It did so relying on its own investigation and understanding of the power and authority of the city;

(2) It was not induced to accept the permit by any understanding or promise or other statement, whether verbal or written, by or on behalf of city or by any other third person concerning any term or condition of a permit not expressed in this chapter;

(3) It has carefully read the terms and conditions of the permit and it does accept all of the risks of the meaning of such terms and conditions.

(E) If any state or federal law or regulation shall require a grantee to perform any service, shall allow a grantee to perform any service or shall prohibit a grantee from performing any service in conflict with the terms this chapter, laws or regulation of the city or the permit, then as soon as possible a grantee shall notify the city of the point of conflict believed to exist before acting upon the state or federal law.

(F) If the city determines that a provision of this chapter is affected by action of a court or of the state or federal government, the city may modify any of the provisions to such reasonable extent as may be necessary to carry out the full intent and purpose of this chapter.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 365, 1, 10-15-02)

48A-9. SALE, ASSIGNMENT AND TRANSFER OF OWNERSHIP OR CONTROL OF A PERMIT.

(A) A permit may not be sold, transferred or assigned.

(B) Prior approval of the Council also shall be required where ownership or control of more than 25% of the right of control of a grantee is acquired by a person or group of persons acting in concert, none of whom already owns or controls 25% or more or the right of control, singularly or collectively ("change of control").

(C) The Council shall have 120 days from receipt of the written application to act upon a request for approval. If the Council fails to render a final decision on the request within that time, the request shall be deemed granted unless the grantee and the Council agree to an extension of the time.

(D) During the review period, the city may advise the grantee that a public hearing before the Council is deemed necessary to evaluate any potential adverse effect of the sale, transfer, assignment or change of control. The grantee shall be given 14 day written notice and an opportunity to participate in the hearing.

(E) The decision of the Council shall be in writing and subject to review and appeal as provided by law.

(F) In reviewing a request for a sale, transfer, assignment or change of control, the city may inquire into the technical, legal and financial qualifications of the buyer, transferee or assignee, and the grantee shall assist the city in so inquiring.

(G) No approval by the Council shall be required for a sale, transfer, assignment or change of control to any person or entity controlling, controlled by or under the same common control as the grantee.

(H) Any attempted sale, transfer or assignment of a permit, facilities, control or similar action by the grantee in violation of this section shall be null and void and shall constitute a material default by the grantee.

(Ord. No. 324, § 1, 6-3-97)

48A-10. PERMIT AND OTHER PAYMENTS BY GRANTEE.

(A) For the reason that the right-of-way in the city used in the operation of a telecommunication system are valuable public property, which are acquired and are maintained by the city at great taxpayer expense and that the use of the right-of-way is a valuable privilege without which a person using them would be required to make a substantial capital investment in right-of-way costs and acquisitions, a person shall pay:

(1) $1,000 per mile with a $5,000 minimum for a permit under Public Act 368; or

(2) The statutory annual right-of-way maintenance fee for a permit under Act 48.

(B) Miscellaneous fee considerations.

(1) A grantee shall not permit any other provider of telecommunication service or cable service to attach to the grantee’s poles, wire, cable, conduits or other facilities unless the other provider of telecommunication service has obtained a permit from the city or the provider of cable service has obtained a franchise from the city.

(2) The grantees sharing the same facilities shall each pay a fee.

(3) A grantee originating signals over another telecommunication system for which subscribers are billed is subject to the fees described in this section.

(4) A grantee using the same telecommunication system to provide cable service and any other telecommunication service is subject to all fees set forth by its permit, franchise and this chapter, except it shall receive a credit against fees due under its permit or this chapter for amounts paid under its franchise.

(5) In the event a grantee enters into an agreement with a public entity in Wayne, Oakland or Macomb County, Michigan and agrees to a formula or method for determining minimum fees, which when applied in the other public entity yields a larger amount than if the formula or method set forth in subsection (B) were applied in the other public entity, then the grantee shall pay fees to the city based on the formula or method yielding the larger amount.

(6) Educational institutions, public libraries and nonprofit associations or consortiums whose primary purpose is education, as defined by Public Act 179, § 102(F) will pay to the city a one-time educational telecommunication permit fee of $3,000, plus any administrative costs incurred by the city in processing the permit application not to exceed $2,000 in lieu of the fee required by subsection (A)(1) and (2).

(C) Permit fees under this chapter shall be in addition to any other tax, charge, fee or payment due the city by a grantee.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 324-A, § 1, 11-3-99; Ord. No. 365, § 1, 10-15-02)

48A-11. CONSTRUCTION.

(A) It shall be unlawful for a grantee or any other person to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place for any purpose whatsoever, except emergency repairs, without obtaining approval to do so from the City Engineer. A violation of this subsection shall be cause to terminate the permit may be deemed a material breach of the permit and shall subject the grantee to all penalties and remedies prescribed by the City Code and to all other remedies, legal or equitable, which are available to the city. A grantee shall promptly notify the City Engineer upon making any emergency repairs and seek approval as otherwise specifically provided by this Article and the City Code, accepting all risks involved.

(1) A grantee shall submit to the City Engineer for review and approval a concise description of the facilities proposed to be erected or installed, including engineering drawings, if requested or required, together with a, map indicating the proposed location of such facilities and a general construction schedule.

(2) If a grantee fails to commence, pursue or complete any repair or maintenance work required by law or by the provisions of this chapter to be done in any right-of-way as designated by the City Engineer, the City Engineer may cause the work to be done and the grantee shall pay to the city's expenses within 30 days of the receipt of an itemized statement.

(3) The City Engineer shall give a grantee reasonable notice of improvements where paving, re-grading or resurfacing of a permanent nature is involved. The notice shall describe the nature and character of said improvements, the schedule upon which they shall be made, the extent of the improvements and the work schedule for the project.

(4) The city shall allow the grantee a reasonable time to make such additions, alterations or repairs to its facilities as the grantee deems necessary in advance of the city's commencement of said improvements so as to permit the grantee to maintain continuity of service.

(5) A grantee shall coordinate its construction program and all other work in the right-of-way with the city's construction, rebuilding, resurfacing and repair. A grantee shall conduct all work, except emergency repairs, in conjunction with or immediately prior to any construction, rebuilding, resurfacing or repair planned by city and to prevent a street from being disturbed by the grantee for a period of two years after it has been constructed, rebuilt, resurfaced or repaired.

(6) Any opening or obstruction in, disturbance of or damage to the right-of-way shall be properly guarded by adequate barriers, lights, signals and warnings as to prevent danger to any person or vehicle using such right-of-way and shall be properly and promptly repaired, all in a manner specified and approved by the City Engineer, at the grantee's expense.

(7) Mini-hubs, switches, nodes and other equipment shall be installed in underground enclosures whenever possible. The City Engineer's approval shall be required for any buildings, mini-hubs, switches, nodes and other equipment installed above ground in a right-of-way. The grantees shall cooperate with private property owners in placing and screening structures located above ground.

(8) No poles may be installed by a grantee without approval by the City Engineer.

(9) The City Engineer may require a grantee to make use of existing poles and conduit if fair and reasonable terms of use are available to the grantee.

(10) Nothing in this chapter shall be construed as authorizing the grantee to erect and maintain new poles in areas serviced by existing poles. A grantee shall obtain written approval from the City Engineer before erecting any new poles or installing underground conduits where none exist at the time that the grantee seeks to install its telecommunication system.

(B) The grantee shall maintain all wires, conduits, cables and other real and personal property and facilities in good condition, order and repair.

(C) A grantee shall construct and maintain its telecommunication system in a manner consistent and in compliance with all applicable laws, ordinances, construction standards, governmental requirements and technical standards established by the Federal Communications Commission or state agency.

(D) A grantee shall not endanger or interfere with the safety of persons or property within the city or other areas where the grantee may have equipment located. A grantee shall replace and restore all paving, sidewalk, driveway, landscaping or surface of any property disturbed by construction or maintenance of its telecommunication system in a good and workmanlike manner within 24 hours after any damage is incurred.

(E) All working facilities, conditions and procedures used or occurring during construction and operation of a telecommunication system shall comply with the standards of the Occupational Safety and Health Administration.

(F) Construction and maintenance of a telecommunication system shall be performed in an orderly and workmanlike manner and in close coordination with public and private utilities serving the city following accepted industry construction procedures and practices and working through existing committees and organizations. A grantee shall join the Miss Dig Program.

(G) All cable and wires shall be installed, where possible, parallel with electric and telephone lines, and multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering consideration.

(H) House drops shall be grounded and installed in a neat and workmanlike manner. Buried drops shall be at least three inches deep. Underground installations made in the winter months shall be completely buried by May 31 of each year.

(I) A grantee shall identify its telecommunication system and subscriber drops by color code, stamping, engraving, tags, stickers or other appropriate method selected by the grantee to distinguish among telecommunication systems, utilities and other services.

(J) No erection or installation of any tower, pole, guy, anchor, underground conduit, manhole or fixture for use in a telecommunication system shall be commenced by any person until approval has been received from the City Engineer.

(K) A grantee shall, at its own expense and without reimbursement from the city, upon request, protect, support, temporarily disconnect, relocate or remove from the right-of-way any property within 45 days of such person when required by reason of traffic conditions, public safety, street vacation, freeway or street construction, sidewalks change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, tracks, the construction or change of the transmission or distribution facilities of any telephone or electric public utility or other public improvements.

(L) The grantee shall, at the request of any person holding a permit to move a building, temporarily raise or lower its wires to permit the moving of said building.

(1) Such temporary removal, raising or lowering of wires shall be at the sole cost and expense of the person requesting the same, and the grantee shall have the authority to request payment for the same in advance before complying with such request.

(2) Any person making such a request from the grantee shall give not less than seven business days notice of the contemplated move.

(M) The grantee may trim trees or other vegetation to prevent their branches or leaves from touching or otherwise interfering with its wires, cables or other structures in accordance with Chapter 51 of this Code.

(1) All trimming or pruning shall be at the sole cost of the grantee.

(2) The grantee may contract for said trimming or pruning services with any person approved by the city prior to the rendering of said services. Any person engaged by the grantee to provide tree trimming or pruning services shall be deemed an employee of the grantee when engaged in said activity.

(3) The grantee shall obtain the written permission of the owner of any privately owned tree or other negotiation before it trims or prunes the same, unless

otherwise provided by the permit.

(4) The grantee shall comply with all ordinances and resolutions concerning city property.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 365, 1, 10-15-02)

48A-12. OVERHEAD AND UNDERGROUND INSTALLATION.

All new construction shall be underground unless waived by the Council. When either the telephone or electrical service wires are placed underground in an area, the grantee shall place its telecommunication system underground in the same area. Wire or cable passing under a street or highway shall be installed in conduit.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 365, § 1, 10-15-02)

48A-13. CONSTRUCTION AND PERFORMANCE BONDS.

A grantee may not provide cable service without obtaining a franchise to provide cable service.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 365, § 1, 10-15-02)

48A-14. INDEMNIFICATION.

Subject to Act 48, violation of any of the terms of this chapter shall be a misdemeanor punishable by a fine of up to $500 or 90 days in jail or both. Each day shall constitute a new violation.

(Ord. No. 324, § 1, 6-3-97; Ord. No. 365, § 1, 10-15-02)

CHAPTER 49: TRAFFIC AND VEHICLE CODE

ARTICLE I. MICHIGAN VEHICLE CODE ADOPTED

49-1. CODE ADOPTED.

The Michigan Vehicle Code, Public Act 300 of 1949, being M.C.L.A. §§ 257.1 through 257.923, as amended and as it may be amended from time to time and including all amendments through the effective date of this section, also known as M.C.L. §§ 257.1 through 257.923, and the Uniform Traffic Code, as amended and as it may be amended from time to time, including all amendments through the effective date of this section, promulgated by the Department of State Police pursuant to Public Act 62 of 1956, also known as M.C.L. §§ 257.951 et seq., are adopted and incorporated by reference into the ordinances of the City of Sterling Heights and shall be known as the Traffic and Vehicle Code of the City of Sterling Heights. In case of conflict between the provisions of the codes which cannot be resolved by construing them as complementary or supplementary to each other, then the provision of the Michigan Vehicle Code shall supersede and control.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Authority, see M.C.L. § 117.3(k)

49-2. REFERENCES IN CODE.

References in the Michigan Vehicle Code and Uniform Traffic Code to "local authorities" shall mean the City of Sterling Heights. For purposes of citing to this chapter, the section number of the respective code should be inserted as demonstrated in the following example:

M.C.L. 257.626b	Careless Driving	City of Sterling Heights Cite:	49-1:626b
U.T.C. Sec. 5.98	Impeding Traffic	City of Sterling Heights Cite:	49-1:5.98

(Ord. No. 351, § 1, 10-17-00)

49-3. NOTICE TO BE PUBLISHED.

The City Clerk shall publish this chapter in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code and the Uniform Traffic Code and the fact that a complete copy of each code is available to the public at the office of the Clerk for inspection.

(Ord. No. 351, § 1, 10-17-00)

49-4. PENALTIES.

The penalties provided by the Michigan Vehicle Code and the Uniform Traffic Code are adopted by reference, provided, however, that the city will not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days unless such enforcement is otherwise permitted by law. No term of imprisonment shall exceed 93 days, and no fine shall exceed $500 for a violation of this chapter, unless a higher term of imprisonment or a higher fine is otherwise permitted by law.

(Ord. No. 351, § 1, 10-17-00; Ord. No. 422, § 2, 12-4-12)

49-5. DEFINITIONS.

(A) The definitions of words or phrases in the Michigan Vehicle Code and Uniform Traffic Code shall apply throughout this chapter unless otherwise modified in this section. Conflict between definitions in the respective codes shall be resolved as explained in § 49-1.

(B) For purposes of impounding or removing vehicles pursuant to the Michigan Vehicle Code's provisions for abandoned vehicles, impoundment of vehicles and removal of vehicles from public or private property, ***VEHICLE*** means every vehicle that is self-propelled, including but not limited to industrial equipment, such as a forklift, a front-end loader or other construction equipment, as well as watercraft, snowmobiles, off-road vehicles and trailers, whether or not registration is required under the Michigan Vehicle Code.

(C) ***VEHICLE IDENTIFICATION NUMBER*** means a numeric or alphanumeric symbol assigned or affixed to a vehicle for purposes of registration and/or identification. For vehicles that do not bear vehicle identification numbers, any registration number, identification mark or other information which serves to identify or track a particular vehicle shall suffice when a vehicle identification number is required pursuant to the sections of the Michigan Vehicle Code which address abandoned vehicles, impoundment of vehicles and removal of vehicles from public or private property, when such sections are relied upon by the Police Department for removal or impoundment of vehicles not subject to registration requirements.

(Ord. No. 351, § 1, 10-17-00)

49-6. OPERATING WHILE INTOXICATED - ALCOHOL CONTENT OF .17 OR MORE.

As permitted by and in accordance with the Home Rule City Act, Section 625(1)(c) of the Michigan Vehicle Code, codified as MCL 257.625(1)(c), as amended and as it may be amended from time to time, is adopted by reference. Violation of this section is punishable by 1 or more of the following:

(A) Community service for not more than 360 hours.

(B) Imprisonment for not more than 180 days.

(C) A fine of not less than $200.00 or more than $700.00.

(Ord. No. 422, § 1,12-4-12)

Statutory reference:

Authority, see M.C.L. § 117.3(k)

49-7-49-10. RESERVED.

ARTICLE II. MISCELLANEOUS PROVISIONS

49-11. APPLICATION TO SCHOOL PROPERTY.

All provisions of this Code relative to the operation, parking without fees and the speed of motor vehicles shall include and shall be applicable and enforceable upon the property in the city of any board of education or school district.

(Ord. No. 351, § 1, 10-17-00)

49-12-49-20. RESERVED.

ARTICLE III. SNOWMOBILES

49-21. DEFINITIONS.

The definitions set forth in the Uniform Traffic Code and the Natural Resources and Environmental Protection Act (referred to hereinafter as the "Act"), as amended and as it may be amended from time to time, including all amendments through the effective date of this section, shall apply for purposes of this article. Any conflict between definitions shall be resolved as explained in § 49-1.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 324.82101; U.T.C. §§ 10.1 et seq.

49-22. APPLICABILITY.

The provisions of the Uniform Traffic Code shall only apply to the extent that they do not conflict with this article.

(Ord. No. 351, § 1, 10-17-00)

49-23. CERTIFICATE OF REGISTRATION; REGISTRATION DECAL; NECESSITY; EXCEPTIONS; VIOLATIONS.

(A) Except as otherwise provided, a snowmobile shall not be operated unless the owner first obtains a certificate of registration and a registration decal. The certificate of registration shall be secured at the time of purchase or transfer of ownership. A certificate of registration or a registration decal is not required for a snowmobile operated exclusively on lands owned or under the control of the snowmobile owner or for a snowmobile used entirely in a safety education and training program conducted by a certified snowmobile safety instructor and authorized pursuant to § 82108 of the Act.

(B) A person who is convicted of a violation of this section shall be fined not more than $50.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82103

49-24. SPECIAL EVENTS.

A certificate of registration or a registration decal is not required for a snowmobile that is exclusively operated in a special event of limited duration conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82104

49-25. POSSESSION AND DISPLAY OF CERTIFICATE AND DECAL.

The certificate of registration issued pursuant to § 82105 of the Act shall accompany the vehicle, shall be legible and shall be made available for inspection upon demand by a police officer.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82105

49-26. SAFETY CERTIFICATES.

A person less than 17 years of age who successfully completes the training program set forth in § 82108 of the Act shall carry the safety certificate on his or her person whenever operating a snowmobile in this city. Failure to comply with this section shall result in a fine of not more than $25.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82108

49-27. REGISTRATION NUMBER; DISPLAY; EXPIRATION OF CERTIFICATES OF REGISTRATION.

The owner of a snowmobile having been issued a certificate of registration for the snowmobile shall affix to each side of the forward half of the cowl above the footwell of the snowmobile the registration decal assigned to that snowmobile. The registration decal shall be as prescribed by the Department.

Beginning July 1, 1999, the registration decal shall include the registration expiration date and the registration number and shall contain two letters and four numbers. The numbers shall contrast so as to be distinctly visible and legible. A number other than the number awarded to the snowmobile on the registration certificate or granted reciprocity under this part shall not be attached or otherwise displayed on the snowmobile.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82113

49-28. NOTICE OF DESTRUCTION, ABANDONMENT, SALE OR CHANGE OF ADDRESS; LOST, MUTILATED OR ILLEGIBLE CERTIFICATES.

(A) The owner of a snowmobile shall notify the Department of State within 15 days if the snowmobile is destroyed or abandoned, is sold or an interest in the snowmobile is transferred either wholly or in part to another person or if the owner's address no longer conforms to the address appearing on the certificate of registration.

(B) If a certificate of registration is lost, mutilated or illegible, the owner of the snowmobile shall obtain a duplicate of the certificate of registration.

(Ord. No. 351, § 1,10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82114

49-29. SNOWMOBILE TRAIL PERMIT STICKERS.

(A) In addition to registration of a snowmobile as provided in the Act, except as otherwise provided, a person who desires to operate a snowmobile in this city shall purchase a Michigan snowmobile trail permit sticker.

(B) The trail permit sticker shall be permanently affixed to the forward half of the snowmobile directly above or below the headlight of the snowmobile.

(C) A snowmobile used solely for transportation on the frozen surface of public waters for the purpose of ice fishing is exempt from the requirement of purchasing and displaying a snowmobile trail permit sticker under this section.

(D) A person who fails to secure a permit under this section or who violates subsection (B) of this section is responsible for a civil infraction and may be ordered to pay a civil fine of not more than $50.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82118

49-30. REGULATION OF SNOWMOBILE OPERATIONS.

A person shall not operate a snowmobile upon a public highway, land used as an airport or street or on a public or private parking lot not specifically designated for the use of snowmobiles, except under the following conditions and circumstances.

(A) A snowmobile may be operated on the right-of-way of a public highway, except a limited access highway, if it is operated at the extreme right of the open portion of the right-of-way and with the flow of traffic on the highway. However, a snowmobile may be operated on the right-of-way of a public highway against the flow of traffic if the right-of-way is a snowmobile trail designated by the Department. Snowmobiles operated on the right-of-way of a public highway shall travel single file and shall not be operated abreast, except when overtaking and passing another snowmobile. In the absence of a posted snowmobile speed limit, a snowmobile operated on the right-of-way of a public highway shall be limited to the speed limit posted on the public highway.

(B) A snowmobile may be operated on the roadway or shoulder when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the roadway or shoulder and the driver yields the right-of-way to an approaching vehicle on the highway.

(C) In a court action in this state where competent evidence demonstrates that a vehicle that is permitted to be operated on a highway pursuant to the Michigan Vehicle Code is in a collision with a snowmobile on a roadway, the driver of the snowmobile involved in the collision shall be considered prima facie negligent.

(D) A snowmobile may be operated across a public highway other than a limited access highway, at right angles to the highway, for the purpose of getting from one area to another when the operation can be done in safety and another vehicle is not crossing the highway at the same time in the same general area. An operator shall bring his or her snowmobile to a complete stop before proceeding across the public highway and shall yield the right-of-way to all oncoming traffic.

(E) A duly constituted police officer may authorize use of a snowmobile on a public highway or street within the city when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.

(F) A snowmobile may be operated on a highway or street for a special event of limited duration conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction. The event may be conducted on the frozen surface of public waters only under permit from the Department.

(G) The city may by ordinance designate one or more specific public highways or streets as egress and ingress routes for the use of snowmobiles.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82119

49-31. AGE RESTRICTIONS, OPERATORS, VIOLATIONS.

(A) A parent or legal guardian shall not permit his or her child who is less than 12 years of age to operate a snowmobile without the direct supervision of an adult except on land owned or under the control of the parent or legal guardian.

(B) A person who is at least 12 but less than 17 years of age may operate a snowmobile if one of the following conditions exist:

(1) The person is under the direct supervision of a person who is 21 years of age or older;

(2) The person has in his or her immediate possession a snowmobile safety certificate issued pursuant to a program conducted under § 82107 of the Act;

(3) The person is on land owned or under the control of his or her parent or legal guardian;

(4) The person possesses a snowmobile safety certificate issued to the person under the authority of a law of another state or province of Canada.

(C) A person who is operating a snowmobile pursuant to subsection (B)(2) shall present the snowmobile safety certificate to any police officer upon demand.

(D) Notwithstanding § 49-30, an operator who is less than 12 years of age shall not cross a highway or street. An operator who is at least 12 years of age but less than 17 years of age may cross a highway or street only if he or she has a valid snowmobile safety certificate in his or her immediate possession.

(E) The owner of a snowmobile shall not permit the snowmobile to be operated contrary to this section.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82120

49-32. HUNTING OR PURSUING BIRDS OR ANIMALS, PROHIBITION.

A snowmobile shall not be used to hunt, pursue, worry or kill a wild bird or animal.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82121

49-33. LIGHTS AND BRAKES.

A snowmobile shall not be operated unless it has at least one headlight, one taillight and adequate brakes capable, while the snowmobile travels on packed snow and carries an operator who weighs 175 pounds or more of stopping the snowmobile in not more than 40 feet from an initial steady speed of 20 miles per hour or of locking the snowmobile's traction belt or belts.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82122

49-34. HELMETS.

A person operating or riding on a snowmobile shall wear a crash helmet on his or her head. Crash helmets shall be approved by the United States Department of Transportation. This section does not apply to a person riding on or operating a snowmobile on his or her own private property.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82123

49-35. PROHIBITED SNOWMOBILE OPERATIONS AND ACTIONS.

(A) A person shall not operate a snowmobile under any of the following circumstances:

(1) At a rate of speed greater than is reasonable and proper having due regard for conditions then existing;

(2) In a forest nursery, planting area or public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged or posted or reasonably identifiable as a natural dedicated area that is in Zone 2 or Zone 3 as defined by the Act;

(3) On the frozen surface of public waters within 100 feet of a person, including a skater, not in or upon a snowmobile or within 100 feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the snowmobile or on an area which has been cleared of snow for skating purposes unless the area is necessary for access to the public water;

(4) Without a muffler in good working order and in constant operation from which noise emission at 50 feet at right angles from the vehicle path under full throttle does not exceed 86 DBA, decibels on the "a" scale on a sound meter having characteristics defined by American Standards Association S1, 4-1966 "general purpose sound meter." This subdivision does not apply to a snowmobile that is being used in an organized race on a course which is used solely for racing;

(5) Within 100 feet of dwelling between 12:00 midnight and 6:00 a.m. at a speed greater than the minimum required to maintain forward movement of the snowmobile;

(6) In an area on which public hunting is permitted during the regular November firearm deer season from 7:00 a.m. to 11:00 a.m. and from 2:00 p.m. to 5:00 p.m., except during an emergency, for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle or for the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol and timber harvest operations or on the person's own property or property under the person's control or as an invited guest;

(7) While transporting on the snowmobile a bow, unless unstrung or encased, or a firearm, unless unloaded in both barrel and magazine and securely encased;

(8) On or across a cemetery or burial ground;

(9) Within 100 feet of a slide, ski or skating area, except when traveling on a country road right-of-way pursuant to the Act or a snowmobile trail that is designated and funded by the Department. A snowmobile may enter such an area for the purpose of servicing the area or for medical emergencies;

(10) On a railroad or railroad right-of-way. This prohibition shall not apply to railroad personnel, public utility personnel, law enforcement personnel while in the performance of their duties and persons using a snowmobile trail located on or along a railroad right-of-way or an at-grade snowmobile trail crossing of a railroad right-of-way which has been expressly approved in writing by the owner of the right-of-way and each railroad company using the tracks and which meets the conditions imposed in subsections (2) and (3) of § 82126 of the Act. A snowmobile trail or an at-grade snowmobile trail shall not be constructed on a right-of-way designated by the federal government as a high-speed rail corridor.

(B) A person shall not alter, deface, damage or remove a snowmobile trail sign or control device.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82126

49-36. CARELESS OR NEGLIGENT OPERATION OF SNOWMOBILES.

(A) A person shall not operate a snowmobile upon a highway, public trail, frozen surface of a public lake, stream, river, pond or another public place, including but not limited to an area designated for the parking of snowmobiles or other motor vehicles, in a careless or negligent manner likely to endanger any person or property.

(B) A person who violates subsection (A) of this section is responsible for a civil infraction.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82126a

49-37. OPERATION OF SNOWMOBILES IN WILLFUL OR WANTON DISREGARD FOR SAFETY OF PERSONS OR PROPERTY.

(A) A person shall not operate a snowmobile upon a highway, public trail, frozen surface of a public lake, stream, river, pond or another public place, including but not limited to an area designated for the parking of snowmobiles or other motor vehicles, in willful or wanton disregard for the safety of persons or property.

(B) A person who violates subsection (A) of this section is guilty of a misdemeanor punishable by a fine of not more than $250.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82126b

49-38. OPERATION OF A SNOWMOBILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR CONTROLLED SUBSTANCE.

(A) A person shall not operate a snowmobile in this city if either of the following applies:

(1) The person is under the influence of intoxicating liquor or a controlled substance or both;

(2) The person has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine.

(B) The owner of a snowmobile or a person in charge or in control of a snowmobile shall not authorize or knowingly permit the snowmobile to be driven or operated by a person who is under the influence of intoxicating liquor or a controlled substance, or both, or who has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine.

(C) A person shall not operate a snowmobile when, due to the consumption of an intoxicating liquor or a controlled substance, or both, the person's ability to operate the snowmobile is visibly impaired. If a person is charged with violating subsection (A) of this section, a finding of guilty under this subsection may be rendered.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82127

49-39. CONVICTIONS AND PENALTIES.

(A) This section becomes effective October 1, 2000.

(B) If a person is convicted of violating § 49-38(A), the following apply:

(1) The person is guilty of a misdemeanor and may be punished by one or more of the following:

a. Community service for not more than 45 days;

b. Imprisonment for not more than 93 days;

c. A fine of not less than $100 or more than $500.

(C) A person sentenced to perform service to the community under this section shall not receive compensation and shall reimburse the city for the cost of supervision incurred by the city as a result of the person's activities in that service if ordered by the court.

(D) In addition to the sanctions prescribed under subsection (B) of this section, the court may order the person to pay the costs of the prosecution. The court shall also impose sanctions under § 49-50.

(E) A person who is convicted of violating § 49-38(B) is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days or a fine of not less than $100 or more than $500, or both.

(F) If a person is convicted of violating § 49-38(C), the following apply:

(1) The person is guilty of a misdemeanor punishable by one or more of the following:

a. Community service for not more than 45 days;

b. Imprisonment for not more than 93 days;

c. A fine of not more than $300.

(2) In addition to the sanctions prescribed in subsection (1), the court may order the person to pay the costs of the prosecution. The court shall also impose sanctions under § 49-50.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provision, see M.C.L. § 324.82128; M.C.L. § 324.82129

49-40. ACCIDENTS, NOTIFICATION OF AUTHORITIES.

The operator of a snowmobile involved in an accident resulting in injuries to or the death of any person or property damage in an estimated amount of $100 or more shall immediately by the quickest means of communication notify the Police Department.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82132

49-41. VIOLATIONS OF ARTICLE; MISDEMEANOR.

Except as otherwise provided in this article, a person who violates this article is guilty of a misdemeanor.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82133

49-42. VIOLATIONS; APPEARANCE TICKETS, ISSUANCE; OWNER AS OPERATOR, PRIMA FACIE EVIDENCE.

(A) A police officer may issue appearance tickets for violations of this article pursuant to M.C.L. §§ 764.9a through 764.9e.

(B) In a proceeding for a violation of this article involving prohibited operation or conduct, the registration number displayed on a snowmobile constitutes prima facie evidence that the owner of the snowmobile was the person operating the snowmobile at the time of the offense.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82134

49-43. FAILURE TO STOP SNOWMOBILE UPON SIGNAL BY OFFICER, OFFENSE.

An operator of a snowmobile who is given by hand, voice, emergency light or siren a visual or audible signal by a police officer acting in the lawful performance of his or her duty, directing the operator to bring his or her snowmobile to a stop and who willfully fails to obey the direction by increasing his or her speed or extinguishing his or her lights or who otherwise attempts to flee or elude the officer is guilty of a misdemeanor. The officer giving the signal shall be in uniform. A vehicle or snowmobile which is used by an officer at night for purposes of enforcing this article shall be identified as an official law enforcement vehicle or snowmobile.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82135

49-44. ARREST WITHOUT WARRANT; PRELIMINARY CHEMICAL BREATH ANALYSIS.

(A) A police officer, without a warrant, may arrest a person if the officer has reasonable cause to believe that the person was, at the time of an accident, the

operator of a snowmobile involved in the accident in this city while in violation of § 49-38(A) and (C).

(B) A police officer who has reasonable cause to believe that a person was operating a snowmobile and that, by the consumption of intoxicating liquor, the person may have affected his or her ability to operate a snowmobile may require the person to submit to a preliminary chemical breath analysis. The following apply with respect to a preliminary chemical breath analysis:

(1) A police officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis;

(2) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in §49-51 or in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest;

(3) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of §§49-51 to 49-53 and § 82146 of the Act for the purposes of chemical tests described in those sections;

(4) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a police officer is guilty of a misdemeanor.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82136.

49-45. CHEMICAL TEST AND ANALYSIS OF BLOOD, URINE OR BREATH.

(A) The following apply with respect to a chemical test and analysis of a person's blood, urine or breath other than a preliminary chemical breath analysis:

(1) The amount of alcohol or presence of a controlled substance, or both, in an operator's blood at the time alleged as shown by chemical analysis of the person's blood, urine or breath is admissible into evidence in any civil or criminal proceeding;

(2) A person arrested for a crime described in §49-51(A) shall be advised of all of the following:

a. That if the person takes a chemical test of his or her blood, urine or breath administered at the request of a police officer, the person has the right to demand that someone of the person's own choosing administer one of the chemical tests; that the results of the test are admissible in a judicial proceeding as provided under this part and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that the person is responsible for obtaining a chemical analysis of a test sample obtained pursuant to the person's own request;

b. That if the person refuses the request of a police officer to take a test described in subparagraph a, the test shall not be given without a court order, but the police officer may seek to obtain such a court order;

c. That the person's refusal of the request of a police officer to take a test described in subparagraph a will result in issuance of an order that the person not operate a snowmobile.

(B) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician, qualified to withdraw blood and acting in a medical environment may withdraw blood at the request of a police officer for the purpose of determining the amount of alcohol or presence of a controlled substance, or both, in a person's blood, as provided in this subsection. A qualified person who withdraws or analyzes blood, or assists in the withdrawal or analysis, in accordance with this part is not liable for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures unless the withdrawal or analysis is performed in a negligent manner.

(C) A rule relating to a chemical test for alcohol or a controlled substance promulgated under the Michigan Vehicle Code, Public Act 300 of 1949, being M.C.L. §§ 257.1 through 257.923, applies to a chemical test administered under this article.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82137

49-46. ADMINISTRATION OF CHEMICAL TEST, ANALYSIS OF SAMPLE.

(A) A chemical test described in §49-45 shall be administered at the request of a police officer having reasonable grounds to believe the person has committed a crime described in § 49-51(A). A person who takes a chemical test administered at the request of a police officer, as provided in §49-45, shall be given a reasonable opportunity to have someone of the person's own choosing administer one of the chemical tests described in § 49-45 within a reasonable time after the person's detention, and the results of the test are admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by someone of the person's own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.

(B) If, after an accident, the operator of a snowmobile involved in an accident is transported to a medical facility and a sample of the operator's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance, or both, in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.

(C) If, after an accident, the operator of a snowmobile involved in an accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the Police Department, and the Police Department shall forward the results to the Department of State Police.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82138

49-47. ADMISSIBILITY OF OTHER COMPETENT EVIDENCE; CHEMICAL TESTS; DISCLOSURE OF RESULTS; WRITTEN REQUESTS,TIME LIMITATIONS, FAILURE TO COMPLY WITH REQUEST AS BAR TO ADMISSIBILITY.

(A) The provisions of §§ 49-45 and 49-46 relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or both, or whether the person had a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine.

(B) If a chemical test described in §§49-45 and 49-46 is administered, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least two days before the day of the trial. The results of the test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82139

49-48. CHEMICAL ANALYSIS OF BLOOD, URINE OR BREATH; PRESUMPTIONS.

(A) Except in a prosecution relating solely to a violation of §49-38(A)(2), the amount of alcohol in the driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine or breath gives rise to the following presumptions:

(1) If at the time the defendant had a blood alcohol content of 0.07 grams or less per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine, it shall be presumed that the defendant's ability to operate a snowmobile was not impaired due to the consumption of intoxicating liquor and that the defendant was not under the influence of intoxicating liquor;

(2) If at the time the defendant had a blood alcohol content of more than 0.07 grams but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine, it shall be presumed that the defendant's ability to operate a snowmobile was impaired within the provisions of § 49-38(C) due to the consumption of intoxicating liquor;

(3) If at the time the defendant had a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(B) A person's refusal to submit to a chemical test as provided in §§49-45 and 49-46 is admissible in a criminal prosecution for a crime described in §49-51 only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82140

49-49. PLEAS OF GUILTY OR NOLO CONTENDERE; MAXIMUM IMPRISONMENT OR FINES; SENTENCING; SCREENING AND ASSESSMENT.

(A) This section becomes effective October 1, 2000.

(B) Before accepting a plea of guilty or nolo contendere under §49-38, the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation.

(C) Before imposing sentence, other than court-ordered operating sanctions, for a violation of §49-38(A) or(C), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education or treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete one or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment and rehabilitative services.

(D) Each Municipal Judge and each Clerk of a Court of Record shall keep a full record of every case in which a person is charged with a violation of §49-38(A) or(C). The Municipal Judge or Clerk of the Court of Record shall prepare and immediately forward to the Secretary of State an abstract of the Court of Record for each case charging a violation of § 49-38(A) or(C).

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82141

49-50. ACCEPTANCE OF GUILTY OR NOLO CONTENDERE PLEAS, GUILTY VERDICTS.

(A) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of §49-38(A) or (C), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions established under § 82130 of the Act, except those convictions that, upon motion by the defendant, are determined by the court to be constitutionally invalid and shall impose the following sanctions:

(1) For a conviction under §49-38(A):

a. If the court finds that the person has no prior convictions within seven years for a violation of § 82127(1), (3), (4) or (5) of the Act, former § 15a(1), (3), (4) or (5) of Public Act 74 of 1968, or former § 15a or another snowmobile substance abuse offense or that the person has one prior conviction within seven years for a violation of § 82127(3) of the Act, former § 15a(3) of Public Act 74 of 1968, a local ordinance substantially corresponding to § 82127(3) or a law of another state substantially corresponding to § 82127(3), the court shall order that the person not operate a snowmobile for not less than six months or more than two years and shall require that the person take and successfully complete the snowmobile safety education and training program before operating a snowmobile.

b. If the court finds that the person has one or more prior convictions within seven years for a violation of § 82127(1), (4) or (5) of the Act, former § 15a(1), (4) or (5) of Public Act 74 of 1968 or former § 15a, a local ordinance substantially corresponding to § 82127(1) or § 15a or a law of another state substantially corresponding to § 82127(1), (4) or (5) or former § 15a or that the person has two or more prior convictions within ten years for a violation of § 82127(1), (3), (4) or (5) of the Act, former § 15a(1), (3), (4) or (5) of Public Act 74 of 1968 or former § 15a or another snowmobile substance abuse offense, the court shall order, without an expiration date, that the person not operate a snowmobile.

(2) For a conviction under section 49-38(C):

a. If the court finds that the convicted person has no prior conviction within seven years for a violation of § 82127(1), (3), (4) or (5) of the Act, former § 15a(1), (3), (4) or (5) of Public Act 74 of 1968, former § 15a or another snowmobile substance abuse offense, the court shall order that the person not operate a snowmobile for not less than 90 days or more than one year;

b. If the court finds that the person has one prior conviction within seven years for a violation of § 82127(1), (3), (4) or (5) of the Act, former § 15a(1), (3), (4) or (5) of Public Act 74 of 1968, former § 15a or another snowmobile substance abuse offense, the court shall order that the person not operate a snowmobile for not less than six months or more than two years;

c. If the court finds that the person has two or more prior convictions within ten years for a violation of § 82127(1), (3), (4) or (5) of the Act, former § 15a(1), (3), (4) or (5) of Public Act 74 of 1968, former § 15a or another snowmobile substance abuse offense, the court shall order, without an expiration date, the person not to operate a snowmobile.

(B) As used in this section, ***ANOTHER SNOWMOBILE SUBSTANCE ABUSE OFFENSE*** means a local ordinance substantially corresponding to § 82127(1) or (3) of the Act or a law of another state substantially corresponding to § 82127(1), (3), (4) or (5) of the Act.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82142

49-51. IMPLIED CONSENT; CHEMICAL TESTS OF BLOOD, BREATH, OR URINE; CIRCUMSTANCES GOVERNING AND CERTAIN EXCEPTIONS; ADMINISTRATION OF TEST.

(A) A person who operates a snowmobile is considered to have given consent to chemical tests of his or her blood, breath or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood in all of the following circumstances:

(1) The person is arrested for a violation of §49-38(A) or (C).

(B) A person who is afflicted with hemophilia, diabetes or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

(C) A chemical test described in subsection (A)(1) of this section shall be administered as provided in §§49-45 and 49-46.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82143

49-52. REFUSAL TO SUBMIT TO CHEMICAL TESTING; OBTAINMENT OF COURT O RDER; WRITTEN REPORTS TO SECRETARY OF STATE; REFUSAL OR RESULTS OF OR IN EXCESS OF 0.10%.

(A) If a person refuses the request of a police officer to submit to a chemical test offered pursuant to §§49-45 or 49-46, a test shall not be given without a court order, but the officer may seek to obtain the court order.

(B) If a person refuses a chemical test offered pursuant to §§49-45 or 49-46, or submits to the chemical test and the test reveals a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine, the police officer who requested the person to submit to the test shall immediately forward a written report to the Secretary of State. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in § 49-51(A) and either that the person has refused to submit to the test upon the request of the police officer and has been advised of the consequences of the refusal or that the test revealed a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine. The form of the report shall be prescribed and furnished by the Secretary of State.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82144

49-53. REFUSAL TO SUBMIT TO CHEMICAL TESTING; HEARING; NOTICE; FORM; FAILURE TO REQUEST HEARING; ORDER TO NOT OPERATE SNOWMOBILE; RIGHT TO COUNSEL.

(A) If a person refuses to submit to a chemical test pursuant to §49-52, the police officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in § 82146 of the Act. The form of the notice shall be prescribed and furnished by the Secretary of State.

(B) The notice shall specifically state that failure to request a hearing within 14 days will result in issuance of an order that the person not operate a snowmobile. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel is permitted to represent the person at the hearing.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82145

49-54. SUSPENSION OR REVOCATION OF OPERATOR'S OR CHAUFFEUR'S LICENSE; EFFECT ON OPERATION OF SNOWMOBILES.

(A) This section is effective October 1, 2000.

(B) If the operator’s or chauffeur’s license of a person who is a resident of this state is suspended or revoked by the Secretary of State under the Michigan Vehicle Code, or if the driver license of a person who is a nonresident is suspended or revoked under the law of the state in which he or she resides, that person shall not operate a snowmobile under this article for the same period.

(C) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or both.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82147a

49-55. VIOLATIONS OF ORDERS NOT TO OPERATE SNOWMOBILES.

A person who is ordered not to operate a snowmobile and who has been notified of the order by personal service or first-class mail shall not operate a snowmobile. A person shall not knowingly permit a snowmobile owned by the person to be operated by a person who is subject to such an order. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than $500 or both.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82152

49-56. IMPOUNDMENT OF SNOWMOBILES.

(A) When a person is convicted under § 49-55, the snowmobile, if it is owned by that person, shall be ordered impounded for not less than 30 or more than 120 days from the date of judgment.

(B) An order of impoundment issued pursuant to subsection (A) of this section is valid throughout the state. Any police officer may execute the impoundment order. The order shall include the implied consent of the owner of the snowmobile to the storage for insurance coverage purposes.

(C) The owner of a snowmobile impounded pursuant to this section is liable for expenses incurred in the removal and storage of the snowmobile whether or not the snowmobile is returned to him or her. The snowmobile shall be returned to the owner only if the owner pays the expenses for removal and storage. If redemption is not made or the snowmobile is not returned as provided in this section within 30 days after the time set in the impoundment order for return of the snowmobile, the snowmobile shall be considered abandoned.

(D) Nothing in this section affects the rights of a conditional vendor, chattel mortgagee or lessor of a snowmobile registered in the name of another person as owner who becomes subject to this part.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82153

49-57. NOLO CONTENDERE PLEAS.

A conviction based on a plea of nolo contendere shall be treated in the same manner as a conviction based on a plea of guilty or a finding of guilt for all purposes under this article.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82154

49-58. POLICE OFFICERS; POWER TO STOP SNOWMOBILES.

(A) The operator or person in charge of a snowmobile being used or operated in this state, who is by hand, voice, emergency light or siren or a visual or audible signal directed to bring his or her snowmobile to a stop by any police officer who is in uniform and empowered to enforce this article or rules established under this article shall immediately bring the snowmobile to a stop or maneuver it in a manner that permits the officer to come alongside. A vehicle or snowmobile that is used by an officer at night for purposes of enforcing this part shall be identified as an official law enforcement vehicle or snowmobile. The operator or person in charge of the snowmobile and any other person on board shall give his or her correct name and address, exhibit the certificate of registration awarded for the snowmobile and submit to a reasonable inspection of the snowmobile and to a reasonable inspection and test of the equipment of the snowmobile.

(B) A person who willfully fails to obey the direction by increasing his or her speed or extinguishing his or her lights or who otherwise attempts to flee or elude the officer is guilty of a misdemeanor.

(C) A person who is detained for a violation of this article and who furnishes a peace officer false, forged, fictitious or misleading verbal or written information identifying the person as another person is guilty of a misdemeanor.

(D) A police officer who observes a violation by a person of this part or of a local ordinance or rule established under this part may arrest the person without a warrant.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.82158

49-59-49-65. RESERVED.

ARTICLE IV. OFF-ROAD RECREATIONAL VEHICLES

49-66. DEFINITIONS.

The definitions set forth in the Natural Resources and Environmental Protection Act (referred to hereinafter as the "Act"), as amended and as it may be amended from time to time, including all amendments through the effective date of this section, shall apply for purposes of this article. Any conflict between definitions shall be resolved as explained in § 49-1.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81101

49-67. OPERATION ON PUBLIC HIGHWAYS, STREETS OR RIGHTS-OF-WAY.

(A) A person shall not operate an ORV that is not registered under the state code upon a public highway, street or right-of-way of a public highway or street, unless otherwise provided by local ordinance under § 81131 of the Act or under the following conditions and circumstances:

(1) The operator of a vehicle may cross a public highway, other than a limited access highway, at right angles, for the purpose of getting from one area to another, if the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a public highway and shall yield the right-of-way to oncoming traffic;

(2) A vehicle may be operated on a street or highway for a special event of limited duration and conducted according to a prearranged schedule only under permit from the city. A special event involving ORVs may be conducted on the frozen surface of public waters only under permit from the Department;

(3) A farmer, employee of a farmer or family member of a farmer who is at least 16 years of age may operate an ORV on the extreme right side of a roadway or highway right-of-way when it is not practicable to operate off that roadway or highway right-of-way. Such operation shall be limited to traveling to or from the farmer's residence or work location or field during the course of farming operations. An ORV shall not be operated pursuant to this subdivision during the period of 30 minutes before sunset to 30 minutes after sunrise, when visibility is substantially reduced due to weather conditions or in a manner so as to interfere with traffic. An operator of an ORV under this subdivision shall have attached to the ORV a flag made of reflective material. The flag shall extend not less than eight feet from the surface of the roadway and not less than four feet above the top of the ORV. The flag shall be not less than 12 inches high by 18 inches long and not measure less than 100 square inches.

(B) In a court action in this state where competent evidence demonstrates that a vehicle that is permitted to operate on a highway pursuant to the code is in a collision with an ORV on a roadway, the operator of the ORV involved in the collision shall be considered prima facie negligent.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81122

49-68. OPERATORS OF VEHICLES.

(A) Subject to subsections (B), (C) and (M), a parent or legal guardian of a child less than 16 years of age shall not permit the child to operate an ORV unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to state law or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(B) A parent or legal guardian of a child less than 12 years of age shall not permit the child to operate a four-wheeled ATV unless the child is not less than ten years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(C) A parent or legal guardian of a child less than 16 years of age shall not permit the child to operate a three-wheeled ATV.

(D) Subject to subsections (E), (F) and (M), the owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to state law or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(E) The owner or person in charge of a four-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 12 years of age, unless the child is not less than ten years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(F) The owner or person in charge of a three-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age.

(G) The owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a person who is incompetent to operate the vehicle because of mental or physical disability, unless otherwise provided by city ordinance pursuant to § 81131 of the Act.

(H) Subject to subsections (I), (J) and (M), a child who is less than 16 years of age may operate an ORV if the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this state law or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(I) A child who is less than 12 years of age shall not operate a four-wheeled ATV, unless the child is not less than ten years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(J) A child who is less than 16 years of age shall not operate a three-wheeled ATV.

(K) When operating an ORV under subsection (H), a child shall present the ORV safety certificate to a police officer upon demand.

(L) Notwithstanding any other provision of this section, an operator who is under 12 years of age shall not cross a highway or street. An operator who is not less than 12 years of age but less than 16 years of age may cross a highway or street or operate on the right-of-way or shoulder of designated access routes pursuant to § 81131 of the Act if the operator has a valid ORV safety certificate in his or her immediate possession and meets any other requirements under this section for operation of the vehicle.

(M) The requirement of possession or presentation of an ORV safety certificate under this section shall not take effect until implementation of the program for the vehicle proposed to be operated required by § 81129(8) of the Act.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81129

49-69. OPERATION OF VEHICLES; MANNER, HOURS, EQUIPMENT, AREA.

A person shall not operate an ORV:

(A) At a rate of speed greater than is reasonable and proper or in a careless manner having due regard for conditions then existing;

(B) Unless the person and any passenger in or on the vehicle is wearing on his or her head a crash helmet and protective eyewear approved by the United States Department of Transportation. This subdivision does not apply if the vehicle 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 safety belt;

(C) During the hours of one-half hour after sunset to one-half hour before sunrise without displaying a lighted headlight and lighted taillight;

(D) Unless equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on level ground at a speed of 20 miles per hour; a brake light, brighter than the taillight, visible when the brake is activated to the rear of the vehicle when the vehicle is operated during the hours of one-half hour after sunset and one-half hour before sunrise; and a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.

(E) In a state game area or state park or recreation area, except on roads, trails or areas designated for this purpose; on state owned lands under the control of the Department other than game areas, state parks or recreational areas where the operation would be in violation of rules promulgated by the Department; in a forest nursery or planting area; on public lands posted or reasonably identifiable as an area of forest reproduction and when growing stock may be damaged; in a dedicated natural area of the Department; or in any area in such a manner as to create an erosive condition or to injure, damage or destroy trees or growing crops. However, the Department may permit an owner and guests of the owner to use an ORV within the boundaries of a state forest in order to access the owner's property.

(F) On the frozen surface of public waters within 100 feet of a person not in or upon a vehicle or within 100 feet of a fishing shanty or shelter or an area that is cleared of snow for skating purposes, except at the minimum speed required to maintain controlled forward movement of the vehicle or as may be authorized by permit in special events.

(G) Unless the vehicle is equipped with a spark arrester type United States Forest Service approved muffler, in good working order and in constant operation. Exhaust noise emission shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January 1, 1986, when the vehicle is under full throttle, traveling in second gear and measured 50 feet at right angles from the vehicle path with a sound level meter which meets the requirement of ANSI S1.4 1983, using procedure and ancillary equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after January 1, 1986 or that level comparable to the current sound level as provided for by the United States Environmental Protection Agency when tested according to the provisions of the current SAE J1287, June 86 test procedure for exhaust levels of stationary motorcycles, using sound level meters and ancillary equipment therein described. A vehicle subject to this article, manufactured or assembled after December 31, 1972 and used, sold or offered for sale in this state shall conform to the noise emission levels established by the United States Environmental Protection Agency under the Noise Control Act of 1972, Pub. L. 92-574, 86 Stat. 1234.

(H) Within 100 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle, except on property owned or under the operator's control or on which the operator is an invited guest or on a roadway, forest road or forest trail maintained by or under the jurisdiction of the Department or on an ORV access route as authorized by city ordinance.

(I) In or upon the lands of another without the written consent of the owner, owner's agent or lessee, when required by Part 731 of the Act. The operator of the vehicle is liable for damage to private property, including but not limited to damage to trees, shrubs, growing crops or injury to living creatures or damage caused through vehicle operation in a manner so as to create erosive or other ecological damage to private property. The owner of the private property may recover from the person responsible nominal damages of not less than the amount of damage or injury. Failure to post private property or fence or otherwise enclose in a manner to exclude intruders or of the private property owner or other authorized person to personally communicate against trespass does not imply consent to ORV use.

(J) In an area on which public hunting is permitted during the regular November firearm deer season from 7:00 a.m. to 11:00 a.m. and from 2:00 p.m. to 5:00 p.m., except during an emergency or for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle to remove a deer, elk or bear from public land which has been taken under a valid license; or except for the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol and timber harvest operations; or on property owned or under control of the operator or on which the operator is an invited guest. A hunter removing game pursuant to this subdivision shall be allowed to leave the designated trail or forest road only to retrieve the game and shall not exceed five miles per hour. A vehicle registered under the code is exempt from the subdivision while operating on a public highway or public or private road capable of sustaining automobile traffic. A person holding a valid permit to hunt from a standing vehicle issued pursuant to Part 401 of the Act or a person with disabilities using an ORV to access public lands for purposes of hunting or fishing through use of a designated trail or forest road is exempt from this subdivision.

(K) While transporting on the vehicle a bow unless unstrung or encased, or a firearm unless unloaded and securely encased or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

(L) On or across a cemetery or burial ground or land used as an airport.

(M) Within 100 feet of a slide, ski or skating area, unless the vehicle is being used for the purpose of servicing the area.

(N) On an operating or nonabandoned railroad or railroad right-of-way or public utility right-of-way other than for the purpose of crossing at a clearly established site intended for vehicular traffic, except railroad, public utility or law enforcement personnel while in performance of their duties and except if the right-of-way is designated as established in § 81127 of the Act.

(O) In or upon the waters of any stream, river, bog, wetland, swamp, marsh or quagmire except over a bridge culvert or similar structure.

(P) To hunt, pursue, worry, kill or attempt to hunt, pursue, worry or kill a bird or animal, wild or domesticated.

(Q) In a manner so as to leave behind litter or other debris.

(R) In a manner contrary to operating regulations on public lands.

(S) While transporting or possessing in or on the vehicle alcoholic liquor in a container that is open or uncapped or upon which the seal is broken, except under either of the following circumstances:

(1) The container is in a trunk or compartment separate from the passenger compartment of the vehicle;

(2) If the vehicle does not have a trunk or compartment separate from the passenger compartment, the container is encased or enclosed.

(T) While transporting any passenger in or upon an ORV, unless the manufacturing standards for the vehicle make provisions for transporting passengers.

(U) On adjacent private land, in an area zoned residential, within 300 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle except on a roadway, forest road or forest trail maintained by or under the jurisdiction of the Department or on an ORV access route as authorized by city ordinance.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81133

49-70. OPERATION WHILE UNDER INFLUENCE OF INTOXICATING LIQUOR OR CONTROLLED SUBSTANCE; PENALTIES.

(A) This section becomes effective October 1, 2000.

(B) A person who is under the influence of intoxicating liquor or a controlled substance, as defined by § 7104 of the Public Health Code, Public Act 368 of 1978, being M.C.L. § 333.7104, or a combination of intoxicating liquor and a controlled substance shall not operate an ORV.

(C) A person who has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine shall not operate an ORV.

(D) The owner or person in charge or in control of an ORV shall not authorize or knowingly permit the ORV to be operated by a person who is under the influence of intoxicating liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance.

(E) Except as otherwise provided in this section, a person who is convicted of a violation of subsection (B), (C) or (D) of this section is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days or a fine of not less than $100 or more than $500, or both, together with costs of the prosecution. As part of the sentence for a violation of subsection (B) or (C) of this section, the court shall order the person convicted not to operate an ORV for a period of not less than six months or more than two years.

(F) As part of the sentence for a violation of subsection (B) or (C) of this section, the court may order the person to perform service to the community, as designated by the court, without compensation, for a period not to exceed 12 days. The person shall reimburse the state or appropriate local unit of government for the cost of insurance incurred by the state or local unit of government as a result of the person's activities under this subsection.

(G) Before imposing sentence for a violation of subsection (B) or (C), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete one or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment and rehabilitative services.

(H) Before accepting a plea of guilty under this section, the court shall advise the accused of the statutory consequences possible as the result of a plea of guilty in respect to suspension of the person's right to operate an ORV and the penalty imposed for violation of this section.

(I) Each Municipal Judge and each Clerk of a Court of Record shall keep a full record of every case in which a person is charged with a violation of this section. The Municipal Judge or Clerk of the Court of Record shall prepare and immediately forward to the Secretary of State an abstract of the Court of Record for each case charging a violation of this section.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81134

49-71. OPERATION WHILE VISIBLY IMPAIRED DUE TO INTOXICATING LIQUOR OR CONTROLLED SUBSTANCE; PENALTIES.

(A) This section becomes effective October 1, 2000.

(B) A person shall not operate an ORV if, due to the consumption of intoxicating liquor, a controlled substance, as defined by § 7104 of the Public Health Code, Public Act 368 of 1978, M.C.L. § 333.7104, or a combination of intoxicating liquor and a controlled substance, the person has visibly impaired his or her ability to operate the ORV. If a person is charged with violating § 49-70, a finding of guilt is permissible under this section.

(C) Except as otherwise provided in this section, a person convicted of a violation of this section is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days or a fine of not more than $300, or both, together with costs of the prosecution. As part of the sentence, the court shall order the person convicted not to operate an ORV for a period of not less than 90 days or more than one year.

(D) As part of the sentence for a violation of this section, the court may order the person to perform service to the community, as designated by the court, without compensation, for a period not to exceed 12 days. The person shall reimburse the city for the cost of insurance incurred by the city as a result of the person's activities under this subsection.

(E) Before imposing sentence for a violation of this section, the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete one or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment and rehabilitative services.

(F) Before accepting a plea of guilty under this section, the court shall advise the accused of the statutory consequences possible as a result of a plea of guilty in respect to suspension of the person's right to operate an ORV and the penalty imposed for violation of this section.

(G) Each Municipal Judge and each Clerk of a Court of Record shall keep a full record of every case in which a person is charged with a violation of this section. The Municipal Judge or Clerk of the Court of Record shall prepare and immediately forward to the Secretary of State an abstract of the Court of Record for each case charging a violation of this section.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81135

49-72. CHEMICAL TESTS TO DETERMINE IMPAIRMENT.

(A) In a criminal prosecution for violating §§ 49-70 or 49-71, the amount of alcohol in the operator's blood at the time alleged as shown by chemical analysis of the operator's blood, urine or breath shall be admissible into evidence.

(B) If a chemical test of an operator's blood, urine or breath is given, the results of the test shall be made available to the person charged with an offense enumerated in subsection (A) of this section or the person's attorney upon written request to the prosecution with a copy of the request filed with the court. The prosecution shall furnish the report at least two days before the day of the trial and the results shall be offered as evidence by the prosecution in a criminal proceeding. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.

(C) Except in a prosecution relating solely to a violation of §49-70(B), the amount of alcohol in the operator's blood at the time alleged as shown by chemical analysis of the operator's blood, urine or breath shall give rise to the following presumptions:

(1) If at the time the operator had an alcohol content of 0.07 grams or less per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine, it shall be presumed that the operator was not under the influence of intoxicating liquor;

(2) If at the time the operator had an alcohol content of more than 0.07 grams but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine, it shall be presumed that the operator's ability to operate an ORV was impaired within the provisions of § 49-71 due to the consumption of intoxicating liquor;

(3) If at the time the operator had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine, it shall be presumed that the operator was under the influence of intoxicating liquor.

(D) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the alcoholic content of the blood under this article. Liability for a crime or civil damages predicated on the act of withdrawing blood and related procedures shall not attach to a qualified person who withdraws blood or assists in the withdrawal in accordance with this article unless the withdrawal is performed in a negligent manner.

(E) A person arrested for a crime enumerated in subsection (A) of this section who takes a chemical test administered at the request of a police officer, as provided in this article, shall be given a reasonable opportunity to have a person of his or her own choosing administer one of the chemical tests described in this section within a reasonable time after his or her detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the defendant's innocence or guilt of a crime enumerated in subsection (A) of this section. If the person arrested is administered a chemical test by a person of his or her own choosing, the person arrested shall be responsible for obtaining a chemical analysis of the test sample. The person shall be informed that he or she has the right to demand that a person of his or her choosing administer one of the chemical tests described in this section, that the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant and that the person arrested shall be responsible for obtaining a chemical analysis of the test sample.

(F) A person arrested shall be advised that if the person refuses the request of a police officer to take a test described in this section, a test shall not be given without a court order. The person arrested shall also be advised that the person's refusal of the request of a police officer to take a test described in this section shall result in the suspension of the person's right to operate an ORV.

(G) This section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was impaired by or under the influence of intoxicating liquor or a controlled substance, a combination of intoxicating liquor and a controlled substance or whether the person had a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath or per 67 milliliters of urine.

(H) If a jury instruction regarding a defendant's refusal to submit to a chemical test under this section is requested by the prosecution or the defendant, the jury instruction shall be given as follows:

"Evidence was admitted in this case which, if believed by the jury, could prove that the defendant had exercised his or her right to refuse a chemical test. You are instructed that such a refusal is within the statutory rights of the defendant and is not evidence of the defendant's guilt. You are not to consider such a refusal in determining the guilt or innocence of the defendant."

(I) If after an accident the operator of an ORV involved in the accident is transported to a medical facility and a sample of the operator's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample shall be admissible in a criminal prosecution for a crime described in subsection (A) of this section to show the amount of alcohol or presence of a controlled substance, or both, in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

(J) If after an accident the operator of an ORV involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining blood alcohol content or presence of a controlled substance or both. The medical examiner shall give the results of the chemical analysis to the law enforcement agency investigating the accident and that agency shall forward the results to the Department of State Police.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81136

49-73. IMPLIED CONSENT TO CHEMICAL ANALYSIS OF BLOOD, BREATH OR URINE; EXCEPTIONS.

(A) Except as provided in subsection (B) of this section, a person who operates an ORV is considered to have given consent to chemical tests of his or her blood, breath or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood and may be requested by a police officer to submit to chemical tests of his or her blood, breath or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood if:

(1) The person is arrested for a violation of §49-70(B) or (C) or §49-71.

(B) A person who is afflicted with hemophilia, diabetes or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81137

49-74. RIGHT TO REFUSE CHEMICAL TEST; REPORT.

(A) A person who is requested pursuant to §49-73(A) to take a chemical test shall be advised of the right to refuse to submit to chemical tests; and if the person refuses the request of a police officer to submit to chemical tests, a test shall not be given without a court order.

(B) If a person refuses the request of a police officer under §49-73(A) to submit to a chemical test, a written report shall be forwarded to the Secretary of State by the police officer. The report shall state that the officer had reasonable grounds to believe that the person committed a violation described in § 49-73(A) and that the person refused to submit to a chemical test upon the request of the police officer and was advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the Secretary of State.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81138

49-75. SUSPENSION OF OPERATOR'S OR CHAUFFEUR'S LICENSE; EFFECT ON OPERATION OF ORV.

(A) This section becomes effective October 1, 2000.

(B) If the operator's or chauffeur's license of a person who is a resident of this state is suspended or revoked by the Secretary of State under the Michigan Vehicle Code, or if the driver license of a person who is a nonresident is suspended or revoked under the law of the state in which he or she resides, that person shall not operate an ORV under this part for the same period.

(C) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500, or both.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81140a

49-76. PRELIMINARY CHEMICAL BREATH ANALYSIS.

(A) A police officer who has reasonable cause to believe that a person was operating an ORV and that the person, by the consumption of intoxicating liquor, may have affected his or her ability to operate the ORV may require the person to submit to a preliminary chemical breath analysis.

(B) A police officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(C) The results of a preliminary chemical breath analysis shall be admissible in a criminal prosecution for a crime enumerated in § 49-72(A) or in an administrative hearing held under § 81140 of the Act solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subsection does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(D) A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of §§ 81136, 81137, 81138, 81139 and 81140 of the Act for the purposes of chemical tests described in those sections.

(E) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a police officer is responsible for a civil infraction and may be ordered to pay a civil fine of not more than $100.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81141

49-77. OPERATION AFTER SUSPENSION OF PRIVILEGES; PENALTY.

(A) A person whose right to operate an ORV has been suspended pursuant to the Act and who operates an ORV is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than $500, or both.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81142

49-78. ACCIDENTS INVOLVING VEHICLES.

(A) The operator of a vehicle involved in an accident resulting in injuries to, or the death of, a person or resulting in property damage in an estimated amount of $100 or more shall immediately, by the quickest available means of communication, notify the Police Department. The Police Department shall complete a report of the accident on forms prescribed by the Director of the Department of State Police and forward the report to the Department of State Police and the Department.

(B) A medical facility to which a person injured in an accident involving an ORV is transported shall report the accident to the Department of State Police.

(C) The operator of a vehicle involved in an accident upon public or private property resulting in injury to or the death of a person shall immediately stop at the scene of an accident and shall render to any person injured in the accident reasonable assistance in securing medical aid or transportation.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81143

49-79. ARREST WITHOUT WARRANT.

If a police officer has reasonable cause to believe that a person was, at the time of an accident, the operator of an ORV involved in the accident and was operating the ORV while under the influence of an intoxicating liquor, a controlled substance as defined in § 7104 of the Public Health Code, Public Act 368 of 1978, being M.C.L. § 333.7104, or a combination of intoxicating liquor and a controlled substance or was operating the ORV while his or her ability to operate an ORV was impaired due to the consumption of intoxicating liquor, a controlled substance or a combination of intoxicating liquor and a controlled substance, the police officer may arrest the alleged operator of the ORV without a warrant.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81144

49-80. APPEARANCE TICKETS FOR VIOLATIONS; OWNER PRESUMED TO BE OPERATOR.

(A) Police officers may issue appearance tickets for violations of this article.

(B) In a proceeding for a violation of this article involving prohibited operation or conduct, the registration number or numbered decal or vehicle identification number displayed on an ORV shall constitute prima facie evidence that the owner of the vehicle was the person operating the vehicle at the time of the offense; unless the owner identifies the operator to law enforcement officials, the vehicle was reported as stolen at the time of the violation or the vehicle was stolen or not in use at the time of the violation.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81145

49-81. STOPPING VEHICLES FOR LAW ENFORCEMENT OFFICERS OR LANDOWNERS.

(A) An operator of an ORV who is given by hand, voice, emergency light or siren a visual or audible signal by a police officer acting in the lawful performance of his or her duty directing the operator to bring the vehicle to a stop and who willfully fails to obey the signal by increasing speed, extinguishing lights or otherwise attempting to flee or elude the officer is guilty of a misdemeanor. The officer giving the signal shall be in uniform, and the officer's vehicle shall be easily identifiable as an official law enforcement vehicle.

(B) The operator of a vehicle on the private premises of another, when visibly hailed by the owner or the owner's authorized agent, shall bring the vehicle to an immediate stop and provide personal identification. Refusal to obey such a request to stop or subsequent escape or attempt to escape is a misdemeanor.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81146

49-82. PENALTIES FOR VIOLATIONS.

(A) Except as otherwise provided in this article, a person who violates a provision of this article is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not less than $50 or more than $500 or both, for each violation of the article.

(B) A person who violates § 49-69(B), (C), (D), (F), (G), (H), (J), (L) and (M) is responsible for a civil infraction and may be ordered to pay a civil fine of not more than $500.

(C) A person shall not remove, deface or destroy a sign or marker placed by the Department indicating the boundaries of an ORV trail or area or that marks a route.

(D) In addition to the penalties otherwise provided under this article, a court of competent jurisdiction may order a person to restore, as nearly as possible, any land, water, stream, bank, streambed or other natural or geographic formation damaged by the violation of this article to the condition it was in before the violation occurred.

(E) Any police officer may impound the ORV of a person who violates a provision of this article that is punishable as a misdemeanor or who causes damage to the

particular area in which the ORV was used in the commission of the violation.

(F) Upon conviction of a person for violation of a provision of this article that is punishable as a misdemeanor or any other provision of this article that results in damage to the particular area in which the ORV was used, a court of competent jurisdiction may order an ORV and any personal property on the ORV seized as a result of the violation returned to the owner or upon recommendation of the City Attorney turned over to the Department. If the ORV and any other property is turned over to the Department, they shall be disposed of in the manner provided for condemnation of property in Part 16 of the Act.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81147

49-83. EMERGENCY TRESPASS.

A person shall not have an ORV condemned pursuant to §49-82 if the trespass is the result of an emergency situation.

(Ord. No. 351, § 1, 10-17-00)

Statutory reference:

Similar provisions, see M.C.L. § 324.81148

49-84-49-90. RESERVED.

ARTICLE V. EMERGENCY AND OTHER SERVICES

DIVISION 1. EMERGENCY EXPENSES.

49-91. DEFINITIONS.

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

EMERGENCY SERVICES. The making of a public safety response to the operation of a motor vehicle, snowmobile or ORV while the operator is impaired by or under the influence of intoxicating liquor or a controlled substance or has an unlawful blood alcohol content.

EXPENSE.

(1) The salaries, wages or other compensation, including overtime pay, of Police Department personnel for time spent providing emergency and other services;

(2) The salaries, wages or other compensation, including overtime pay, of Fire Department personnel for time spent in providing emergency and other services; and

(3) The cost of medical and other supplies lost or expended by Police and Fire Department personnel in providing emergency and other services.

OTHER SERVICES. The arresting, processing, investigating, collecting and analyzing of evidence (including determining the blood alcohol content and determining the presence and identifying controlled substances in the blood) in relation to an operator of a motor vehicle, snowmobile or ORV who was operating while impaired by or under the influence of intoxicating liquor or a controlled substance or with an unlawful blood alcohol content.

(Ord. No. 351, § 1, 10-17-00)

49-92. LIABILITY FOR THE EXPENSES OF EMERGENCY AND OTHER SERVICES.

(A) Any person who operates a motor vehicle, snowmobile or ORV while impaired by or under the influence of intoxicating liquor or a controlled substance or with an unlawful blood alcohol content shall be liable to the city for the expense of providing emergency and other services.

(B) A person who operates a motor vehicle, snowmobile or ORV with a blood alcohol level of .07% to .09% by weight of alcohol shall be presumed impaired by and a person who operates a motor vehicle, snowmobile or ORV with a blood alcohol level of .10% or higher by weight of alcohol shall be presumed under the influence of intoxicating liquor.

(Ord. No. 351, § 1, 10-17-00)

49-93. ADMINISTRATION AND PAYMENT OF EXPENSES.

(A) The City Treasurer shall administer this article. He or she shall promptly prepare and deliver to a person who is liable for the payment of expenses for emergency or other services or both a detailed invoice by first class mail or personal service.

(B) A person who is liable for the payment of expenses for emergency services or other services or both shall make payment in full to the City Treasurer within ten days of receipt of a detailed invoice.

(Ord. No. 351, § 1, 10-17-00)

49-94. FAILURE TO PAY EXPENSES WITHIN TEN DAYS.

(A) A person liable for the payment of expenses for emergency services, other services or both who fails to make payment in full to the City Treasurer within ten days of receipt of a detailed invoice shall be responsible for a civil infraction.

(B) The city may commence a civil action against a person who is liable for the payment of expenses for emergency services or other services who fails to make payment in full to the City Treasurer within ten days of receipt of a detailed invoice to recover the expenses, statutory interest, court costs and reasonable attorney fees.

(Ord. No. 351, § 1, 10-17-00)

49-95 - 49-100. RESERVED.

DIVISION 2. RECOVERY OF EMERGENCY MEDICAL SERVICE COSTS.

49-101. DEFINITIONS.

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

COSTS. Any reasonably identifiable costs to or incurred by the city, including but not limited to maintenance costs of vehicles and equipment; fuel costs; insurance costs; staffing or personnel labor costs (including, without limitation, fringe benefit costs calculated using a multiplier); training costs; administrative costs (established as a percentage factor); housing costs for personnel and vehicles; supplies and equipment costs; costs of equipment operation and maintenance; costs of materials; transportation costs; costs of material disposal; depreciation costs; damaged equipment costs; costs associated with outside contractors, independent consultants, and others engaged by the city or assisting the city; attorney fees; litigation costs; any costs, charges, fines, or penalties to the city imposed by any court or state or federal governmental entities; and any other costs associated with any response or service provided by police and/or fire personnel. These costs also include, without limitation, the cost of all city personnel responding to the incident or providing the service and all city personnel engaged in any related investigation, supervision, and report preparation. As an alternative to calculating actual costs, the city's Finance Director may calculate the city's costs as a lump sum figure or figures based upon empirical data and mathematical calculations designed to recover the city's approximate costs in each response circumstance.

EMERGENCY MEDICAL SERVICE RESPONSE COSTS. The costs incurred by the city for emergency medical service response services, including treatment

without transport, routine transport, interfacility medical transport, basic life support transport, and advanced life support transport. The term includes, but is not limited to, ambulance or other emergency response and transport and all associated services provided before, during, and after the transport.

RESPONSIBLE PARTY. Any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity, or any other legal entity responsible for, or receiving the benefit of, an emergency response.

UNSAFE SCENE RESPONSE. An emergency response requiring police, fire, and/or Department of Public Works assistance, or involving the deployment of police, fire, and/or Department of Public Works personnel, to ensure public safety at an unsafe scene. An ***UNSAFE SCENE RESPONSE*** includes, without limitation, the cleanup of spills, debris removal, protection/monitoring of downed power or utility lines, establishing a safe environment around an incident scene, closure of a roadway, or a response to any similar public safety concern involving more than 30 minutes of time on the scene.

UTILITY LINE FAILURE. The failure, exposure, damage, or disabling of any transmission or service line, cable, conduit, pipeline, wire, or other transmission device used to provide, collect, or transport electricity, natural gas, communication or electronic signals, water, or sanitary or storm sewage, regardless of the cause, if the failure, exposure, damage, or disabling is determined by the city to be causing harm, or posing any risk of potential harm, to the public and/or the ecosystem or environment.

(Ord. No. 452, § 2, 6-20-17)

49-102. COST RECOVERY AUTHORIZATION.

(A) The city is authorized to recover its costs from any or all responsible parties jointly or severally for any Unsafe Scene Response.

(B) The City Manager's designee shall determine the total response costs and shall in consultation with other city personnel involved in an Unsafe Scene Response determine whether to assess any, all, or part of such costs against any of the responsible parties. In making the determination, the following factors shall be considered and at least one must be deemed to warrant cost recovery by the city due to the expense that would otherwise be incurred by the taxpayers:

(1) The total costs above and beyond routine response costs, including but not limited to overtime costs, extraordinary time for personnel on the scene, unusual equipment mobilization, utilization of private personnel or agencies to assist with the response, and utilization of assistance from other public agencies;

(2) The risk the incident imposed on the city, its residents, and their property;

(3) Whether there was any injury or damage to persons or property;

(4) Whether the incident required evacuation;

(5) Whether the incident required an unusual or extraordinary use of city personnel and equipment;

(6) Whether the incident required an unusual or extraordinary use of personnel and equipment contributed by outside agencies; and

(7) Whether, and the extent to which, any damage to the environment was caused.

(Ord. No. 452, § 2, 6-20-17)

Statutory reference:

Related state law, see M.C.L. § 333.20948

49-103. EMERGENCY MEDICAL SERVICE RESPONSE COST AUTHORIZATION.

The city is authorized to assess and collect a fee for all emergency medical service responses. The assessment may be to any or all responsible parties jointly or severally. The fee schedule for recovery of emergency medical service response costs shall be established in the city's annual appropriations ordinance.

(Ord. No. 452, § 2, 6-20-17)

Statutory reference:

Related state law, see M.C.L. § 333.20948

49-104. BILLING AND COLLECTION OF COSTS.

(A) After the City Manager's designee determines to assess the fee or costs authorized by this division against a responsible party, an itemized invoice shall be issued to the responsible party's insurance carrier or government insurance program, if known, with an informational copy to the responsible party directly at his/her/its last known address. If no insurance carrier or program information is known to the city, the invoice shall be issued directly to the responsible party at his/her/its last known address. The Fire Department shall enact an operations guideline to establish a protocol for determining insurance coverage information.

(B) The invoice shall be due and payable by the deadline date established on the invoice, which shall not be less than 30 days from the date of mailing. A late payment fee may be added thereafter by the city, if the city is directly billing the responsible party, or by the city's billing vendor. The City Manager shall enact administrative procedures to establish protocols for collections based on insurance coverage and residency.

(C) The invoice shall include notice of the hardship appeal procedure established in this division. If a responsible party submits an appeal, the fees or costs, if upheld in whole or in part, shall be due and payable 30 days from the date of determination of the appeal of the decision of the City Manager.

(D) Any additional expense that becomes known following the transmittal of the invoice shall be billed in the same manner.

(Ord. No. 452, § 2, 6-20-17)

49-105. NO LIMITATION OF LIABILITY.

The recovery of costs pursuant to the provisions of this division does not limit the liability of a responsible party under applicable local, state, or federal law.

(Ord. No. 452, § 2, 6-20-17)

49-106. APPEAL; HARDSHIP.

Responsible parties who receive an invoice for an emergency medical response fee pursuant to this division may submit a letter of appeal to the City Manager for consideration of a financial hardship. Such appeal letters must be submitted prior to the deadline for payment of the invoice. The City Manager or a designee shall determine whether to reduce or waive a fee or costs after investigating and reviewing the nature and extent of the hardship pursuant to administrative procedures implemented by the City Manager that authorize payment plans, options, and criteria for billing reductions and/or waivers.

(Ord. No. 452, § 2, 6-20-17)

CHAPTER 51: VEGETATION

ARTICLE I. IN GENERAL

51-1. DEFINITIONS.

The word ***TREES***, as used in this article, shall not be construed to include shrubs which do not grow higher than 15 feet; the words ***PUBLIC HIGHWAY*** shall be construed to mean all the land laying between private property lines on either side of all public streets, boulevards and alleys; and the words ***PUBLIC PLACE*** shall be

deemed to mean any park, park lot, parkway or other property under the control or jurisdiction of the city.

(1978 Code, § 33-1)

51-2. APPLICATION FOR AND APPROVAL OF PERMITS REQUIRED BY ARTICLE.

Applications for any permit required by the provisions of this article shall be available in the office of the City Manager. No permit shall be granted until it has been approved by the City Manager or his or her designee.

(1978 Code, § 33-2)

Cross reference:

Permits generally, see Ch. 29

51-3. JURISDICTION OF CITY MANAGER WITH RESPECT TO TREES, PLANTS AND GRASSY AREAS IN PUBLIC PLACES.

The City Manager, or his or her designee, shall have exclusive jurisdiction, authority, control, supervision and direction over all trees, plants, shrubs and grassy areas planted or growing in or upon the public highways and public places of the city and the planting, removal, care, maintenance and protection thereof, and he or she may promulgate and adopt rules and regulations to effectuate the provisions of this article.

(1978 Code, § 33-3; Ord. No. 359, § 1, 1-2-02)

51-4. FAILURE OF PROPERTY OWNER OR OCCUPANT TO PERFORM WORK OR PAY MONIES REQUIRED BY ARTICLE.

If the owner or occupant of any premises fails to perform any duty and/or make any deposit or payment required of him or her by this article, the City Manager may serve notice upon the owner or occupant directing that the work be done and/or deposit or payment be received within 30 days. Upon his or her failure to comply with the notice, the city may enter upon the premises and perform the work required and charge the cost to the owner or occupant. If the City Council authorizes that an assessment for amounts due the city pursuant to this article be levied as a lien against the premises benefitted, the Treasurer shall take such action as is necessary to enable the city to impose the lien against the premises and collect the amounts due, including administrative and legal costs.

(1978 Code, § 33-4; Ord. No. 359, § 2, 1-2-02)

Cross reference:

Special assessments, see Ch. 47

51-5. INTERFERENCE WITH CITY PERSONNEL PERFORMING WORK REQUIRED BY ARTICLE.

It shall be unlawful for any person to prevent, delay or interfere or cause or authorize or procure any interference or delay with the City Manager or any of his or her employees, agents or servants, while they are engaged in and about the planting, cultivating, mulching, pruning, spraying or removing of any trees, plants or shrubs in or upon any public highway or public place or upon any private grounds, as authorized in this article, or in removing any device attached to such tree, plant or shrub as may be necessary for the protection and care of any such tree, plant or shrub in accordance with the requirements of this article.

(1978 Code, § 33-5) Penalty, see § 1-9

51-6. GENERAL REGULATIONS FOR PLANTING, TRIMMING, ETC. TREES UPON PUBLIC HIGHWAYS AND PLACES.

The following regulations are established for the planting, trimming and care of the trees in or upon the public highways and public places of the city:

(1) Trees must not be less than one and one-half inch in diameter of trunk one foot above the ground;

(2) All trees from one and one-half to three inches in diameter of trunk one foot above the ground must be protected and supported by tree guards. When guarded with one stake only, the stake must be toward the prevailing wind;

(3) No tree shall hereafter be planted at the intersection of two or more streets or within 20 feet of such intersection;

(4) In cutting down trees, the same must be removed with the root stump grubbed out, when so required by the City Manager or his or her designee;

(5) Trees shall hereafter be planted at least 30 feet apart, except when a special permit is obtained from the City Manager or his or her designee;

(6) No tree shall be planted where the clear space between the curb and the sidewalk is less than five feet;

(7) The trimming and care of trees shall be performed in accordance with the*Pruning Standards for Shade Trees* as adopted and amended by the National Arborists Association;

(8) No tree shall be planted where the soil is too poor to insure the growth of such tree, unless the owner excavates a suitable hole of not less than 36 cubic feet and replaces the material removed with suitable loam or soil stripped from pasture land;

(9) No tree shall be planted nearer than one foot from the curbline or outer line of the sidewalk, unless a special permit is granted by the City Manager or his or her designee;.

(10) The general regulations shall be supplemented by the provisions of the city street tree and stump removal policy as adopted and amended by the City Manager and endorsed by the City Council.

(1978 Code, § 33-6; Ord. No. 359, § 3, 1-2-02)

Charter reference:

Authority of Council to regulate planting of trees and shrubbery in streets, see §16.06

51-7. CERTAIN TREES PROHIBITED WITHIN PUBLIC HIGHWAYS.

It shall be unlawful for any person to plant or have or keep growing a poplar, box elder, silver maple, elm, willow, horse chestnut, tree of heaven or catalpa tree within any public highway within the limits of the city; provided, however, existing trees shall be allowed unless the City Manager or his or her designee determines that removal is appropriate in accordance with the city's street tree and stump removal policy.

(1978 Code, § 33-7; Ord. No. 359, § 4, 1-2-02) Penalty, see§ 1-9

51-8. PERMIT TO PLANT, REMOVE, ETC. TREES IN PUBLIC HIGHWAYS AND PLACES.

(A) No person, except the city, shall plant, remove or destroy any ornamental shade tree or shrub in any public highway or public place without first procuring a permit from the City Manager or his or her designee.

(B) No person shall cut, mutilate, remove, saw or trim any tree within any public highway or public place in the city to make room for any telegraph, telephone or electric lines, moving buildings or machinery or other things or for repairing sidewalks without first procuring a permit from the City Manager or his or her designee.

(C) If required under the provisions of the city street tree and stump removal policy, the owner or occupant shall pay the amount due for a replacement tree as approved by the Council in the annual appropriations ordinance.

(1978 Code, § 33-8; Ord. No. 359, § 5, 1-2-02)

51-9. PAYMENT REQUIRED FOR REMOVAL OF TREE FROM PUBLIC PLACE.

Any person desiring to remove a live tree from any public place for the construction of walks, drives, buildings or any other structures for his or her own benefit shall pay into the city tree fund monies equal to the value of the tree or trees removed, as computed from the International Society of Arboriculture shade tree value formula or substitute valuation formula designated by the City Manager or his or her designee.

(1978 Code, § 33-9; Ord. No. 359, § 6, 1-2-02)

51-10. TRIMMING TREES BY UTILITIES.

No person owning or operating any bus line or other motor transportation over the city streets or any public utility lines upon, above or below the surface shall trim, cut or cause to be trimmed or cut any tree, shrub or plant along any public highway or public place without first having submitted to the City Manager a plan of the work to be done and having procured a permit for such work. Nothing in this section shall be construed to apply to the removal, under the direction of the City Manager or his or her designee, of any stump, roots, tree, shrub, vine, plant or part thereof, wherever such removal shall be found necessary in the construction or repair of any street, sidewalk, sewer, pavement or other public improvement.

(1978 Code, § 33-10; Ord. No. 359, § 7, 1-2-02)

51-11. ATTACHING WIRES, SIGNS, ETC., TO TREES IN PUBLIC HIGHWAYS OR HITCHING ANIMALS THERETO.

No person shall attach, tack or in any manner fasten to any tree in a public highway any wire, rope, chain, cable, sign, card, board, poster or other article or hitch any animal thereto.

(1978 Code, § 33-11; Ord. No. 359, § 8, 1-2-02)

Cross references:

Animals, see Ch. 8;

Posting advertising matter generally, see §§ 3-16 et seq.

51-12. TRIMMING OF TREES, SHRUBS, ETC., NEAR PUBLIC HIGHWAYS.

The owner or person in charge or control of any lot or parcel of land within the city upon which any tree, shrub, vine or plant may be standing adjacent to any public highway shall trim or cause to be trimmed, either at the property line or to a clear height of at least eight feet above the surface of such public highway, all branches thereof which overhang any portion of such public highway or which obstruct or interfere with the passage of light from any street lighting system and shall not plant or maintain any thereof so close to any property line as to obstruct thereby the vision of travelers along the streets. The city may enter upon any such private premises to do such trimming as it determines necessary or to remove such obstructions herein prohibited upon the failure of the owner to do so after notice to him or her in writing. The said owner shall, or the city may, remove from such tree, shrub, plant or vine all dead, decayed, unsightly, broken or dangerous limbs and branches that overhang or are close to the public highway; and when any such tree, shrub, plant or vine is dead, the owner shall remove the same, or after such notice of such intention to the owner, the city may do so and charge the cost thereof to such owner.

(1978 Code, § 33-12; Ord. No. 359, § 9, 1-2-02)

Cross reference:

Shrubbery interfering with vision at street intersections, see zoning ordinance § 28.03

51-13. IMPEDING PASSAGE OF WATER, AIR OR FERTILIZER TO ROOTS OF TREES AND PLANTS IN PUBLIC PLACES.

No person shall place or maintain upon the ground in any public highway or public place of the city any stone, brick, sand, concrete or other material or article which may injure or which may in any way impede the full and free passage of water, air or fertilizer to the roots of any tree, shrub, vine or plant without leaving an open space of ground not less than four feet in diameter surrounding same.

(1978 Code, § 33-13; Ord. No. 359, § 10, 1-2-02)

51-14. PROTECTION OF TREES, PLANTS AND SHRUBS DURING CONSTRUCTION WORK.

In any excavation, or the erection, alteration or repair of any building or structure or other work, the owner thereof or someone for him or her shall place or cause to be placed such guards around all nearby trees, shrubs and plants in the public highway as will effectually prevent injury to them.

(1978 Code, § 33-14; Ord. No. 359, § 11, 1-2-02)

51-15. PLANTING OF TREE IN RIGHT-OF-WAY IN FRONT OF NEW DWELLING.

(A) Any person desiring a building permit for the construction of a new dwelling in the city shall, in the discretion of the City Manager, be required to, in the alternative, either:

(1) Deposit with the Office of Building Services the sum provided for in the annual appropriations ordinance for each permit issued, which shall be used by the City Manager or his or her designee to purchase a tree to be placed in the public right-of-way in front of the dwelling. Where the dwelling is located on a corner lot, a tree shall be placed in the public right-of-way in front and in the side yard of the dwelling. The City Manager or his or her designee shall have complete discretion as to the type of tree to be planted, the time of such planting and shall supervise the planting of the tree; or

(2) Deposit with the Office of Building Services a bond in the sum provided for in the annual appropriations ordinance for each permit issued to insure that the permittee shall plant a tree in the public right-of-way in front of the dwelling and a second tree in the public right-of-way in the side yard of corner lots. The City Manager or his or her designee shall have complete discretion as to the type of tree to be planted and the time of such planting. The bond shall be returned to the permittee one year from the date of the planting of such tree, if the tree is still living. If the tree has died or is dying, the bond shall be forfeited to the city and shall be used by the City Manager or his or her designee to purchase a tree to be placed in the public right-of-way in front of the dwelling.

(B) Any tree planted by the city under the supervision of the City Manager or his or her designee shall be guaranteed by the city for a period of one year after the date of planting; provided however, that the city shall not be responsible for the replacement of trees which are damaged or destroyed by the acts or omissions of the abutting property owner.

(1978 Code, § 33-15; Ord. No. 277, § 1, 9-5-89; Ord. No. 359, § 12, 1-2-02)

51-16. DESTRUCTION OF DISEASED TREES, ETC.

The owner or occupant of any premises on which is located any tree or other growth, if infected by disease or by injurious insects or in a dangerous condition, shall destroy same when such destruction is necessary for the protection of other trees and growth and for the public safety, health and welfare.

(1978 Code, § 33-16)

Charter reference:

Authority of Council to provide for the destruction of diseased trees and shrubbery on private property, see § 6.06

51-17-51-26. RESERVED.

ARTICLE II. RESERVED

51-27-51-35. RESERVED.

ARTICLE III. TREE PRESERVATION

51-36. PURPOSE.

(A) Continual growth, the spread of development and increasing demands upon natural resources have had the effect of encroaching upon, despoiling or eliminating many of the trees and other forms of vegetation and natural resources and associated processes which, if preserved and maintained in an undisturbed and natural condition, constitute important physical, aesthetic, recreational and economic assets to existing and future residents of the city. Specifically, the city finds that woodlands and trees:

(1) Protect public health by absorbing air pollutants and contamination, by providing buffering to reduce excessive noise, wind and storm impacts and by maintaining visual screening with its accompanying cooling effect during the summer months;

(2) Provide for public safety through the prevention of soil erosion, increased siltation and flooding;

(3) Contribute significantly to the general welfare of the city by providing natural beauty and recreational opportunities for existing and future residents; and

(4) Are matters of paramount public concern, as provided by Article IV, Section 52 of the Michigan Constitution of 1963, and the Environmental Protection Act of 1970, Public Act 127 of 1970 (M.C.L. §§ 691.1201 et seq., M.S.A. §§ 14.528 (201) et seq.), as amended.

(B) The purposes of this article are to:

(1) Provide for the protection, preservation, replacement, proper maintenance and use of desirable trees and woodland areas located in the city in order to minimize disturbance to them and prevent damage from erosion and siltation and loss of wildlife habitat and vegetation, consistent with rights of a developer or property owner to reasonably develop or use his or her property in an economically viable manner. It is the intent of this article to require a developer desiring to develop any project to perform a tree survey prior to development to enable the developer and the city to evaluate what woodlands and trees are desirable and worthy of preservation, considering the number of trees, their species, condition, and location, and the likelihood of their continued long-term viability after completion of the improvements in the development. It is the intent of this article to balance the community's interest in preserving desirable woodland areas as a whole which serve as part of an ecosystem, with the rights of a developer to develop or use his or her property in a reasonable, economically productive manner;

(2) Protect existing woodlands and trees within the city in order to support local property values and to promote the natural beauty of the city;

(3) Prevent owners or developers of property from needlessly removing trees from land and encouraging woodland areas and existing trees to be incorporated into site design wherever feasible.

(4) Prohibit owners or developers from removing woodlands or trees prior to or in anticipation of development without proper review and authority;

(5) Provide for the replacement of woodland areas and individual trees that are proposed to be removed, or which have been removed where no feasible alternative site development option is available; and to

(6) Respond to the public concern for the preservation of these natural resources that is in the best interest of health, safety and general welfare of the residents of the city.

(1978 Code, § 33-36; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 1, 5-17-05; Ord. No. 475, § 1, 3-2-21)

51-37. DEFINITIONS.

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

BUILDER. A person who builds or contracts to build a building or structure within the city. The builder and developer may be the same person or entity.

CITY MANAGER. The City Manager of the city or his or her designee.

COMMERCIAL NURSERY or ***TREE FARM.*** A plant or tree nursery or farm in which trees are planted and grown for sale to the general public in the ordinary course of business.

COMMUNITY DEVELOPMENT DEPARTMENT. The Community Development Department of the city which is responsible for engineering and planning within the city, including administration of this Tree Preservation Ordinance.

CRITICAL ROOT ZONE. The area where a tree's roots are located. The critical root zone is described by a circle around the tree with a radius of one and one half (1.5) feet for each inch of diameter at breast height. The critical root zone and the drip line are typically the same area.

DESIGNATED PRESERVED TREE. A regulated tree or landmark tree which is designated by the property owner or developer to be preserved as required by this article in conjunction with development of a site.

DEVELOPER. A person who installs or contracts for the installation of improvements such as sewers, streets and water mains in a residential, office, commercial or industrial development. The developer and builder may be one in the same.

DEVELOPMENT. The improvement of any lot, parcel, site or assembly of any of them which is allowed under the zoning ordinance and approved by the city.

DIAMETER BREAST HEIGHT (D.B.H.). A tree's diameter in inches measured four and one-half (4.5) feet above the ground.

EARTH MATERIAL. Soil, sand, gravel, clay, peat, mud, debris, refuse or other material, organic or inorganic.

GROUNDCOVER. Low growing shrubs, woody vegetation, wild flowers and other small herbaceous plants making up the understory, typically found on the floor of a densely treed area.

GRUBBING. The systematic removal of understory vegetation, groundcovers, and shrubs, and/or trees of less than three inches d.b.h. typically using heavy equipment or machinery.

LAND CLEARING. Operations which remove trees and vegetation (but excluding grubbing) in connection with the development of land. Land clearing does not include grubbing, provided the trees which are grubbed are less than three inches d.b.h.

LANDMARK TREE. A tree that is naturally prevalent in the city and surrounding areas and that stands apart from neighboring trees due to unique characteristics, such as size and species, and which should not be removed unless absolutely necessary. All trees, regardless of species or condition (unless dead or diseased) 32 inches d.b.h. and greater and trees included in the following table of the specified size or greater are considered landmark trees.

Common Name	***Species***	***DBH***
Common Name	***Species***	***DBH***
American Basswood	*Tilia americana*	24
American Beech	*Fagus grandifolia*	18
American Chestnut	*Castanea dentate*	8
Birch	*Betula spp.*	18
Black Alder	*Alnus glutinosa*	12
Black and White Walnut	*Juglans nigra, J cirnerea*	20
Buckeye	*Aesculus glabra*	18
Cedar, red	*Juniperus spp.*	12
Crabapple (cultivar)	*Malus spp.*	12

Eastern Hemlock	*Tsuga canadensis*	12
Flowering Dogwood	*Conus florida*	8
Ginkgo	*Ginkgo biloba*	18
Hickory	*Carya spp.*	18
Horse Chestnut	*Aesculus carnea*	18
Kentucky Coffeetree	*Bymnociadus dioicus*	18
Larch/Tamarack	*Larix laricina (Eastern)*	12
Locust	*Gleditsia triacanthos*	24
London Planetree/Sycamore	*Plantanus spp.*	18
Maple	*Acer spp.*	18
Oak	*Quercus spp.*	16
Pine	*Pinus spp.*	18
Sassafras	*Sassafras albidum*	15
Spruce	*Picea spp.*	18
Tuliptree	*Liriodendron*	18
Wild Cherry	*Prunus spp.*	18

LOCATE. To construct, place, insert or excavate.

OPERATIONS. Locating, moving, depositing or grading of any material or any construction, use or activity or combination of such activities which modifies the conditions of property subject to this article.

PERSON. An individual, partnership, corporation, association, organization or other legal entity, including governmental agencies.

PLANNING COMMISSION. The Planning Commission of the city established pursuant to §2-101 of the City Code.

REGULATED TREE. Any self-supported, woody plant of a species which normally grows to an overall height of 13 feet or more, including coniferous and deciduous tree species, which currently has a d.b.h. of six inches or more.

REMOVE or ***REMOVAL***. The act of removing a tree by digging up, cutting down, land clearing, the effective removal through damage or excessive pruning and trimming, beyond that deemed acceptable by national arborists standards, or any other means.

RESIDENTIAL DEVELOPMENT. Any one-family or multiple-family residential development.

STRUCTURE. Any assembly of materials above or below the surface of the property, including but not limited to residences, buildings, sheds, swimming pools and other fixtures attached to the ground.

TREE. Any self-supported, woody plant of a species which normally grows to an overall height of 13 feet or more, including coniferous and deciduous trees.

TREE REMOVAL PERMIT. An approval to remove one or more regulated trees under the Tree Preservation Ordinance which is issued by the Community Development Department in conjunction with approval of a property owner's application for site plan approval or special land use approval to develop the property owner's property. There is no separate document or permit authorizing removal of one or more regulated trees, and such approval is granted only as part of a site plan or special land use review and approval.

TREE SURVEY. A to scale drawing with a scale of not less than one inch to 100 foot scale that identifies the location of all trees of six inches or greater d.b.h., plotted by accurate techniques, which must include the common or botanical name of those trees, their d.b.h., and a rating of their current health or condition (i.e. good, fair, poor, diseased, or dead).

UNDEVELOPED. A parcel of land or part thereof which is substantially unimproved with buildings or structures.

ZONING BOARD OF APPEALS. The quasi-judicial board operating under the Michigan Zoning Enabling Act designated by the City Council to handle variance requests under this article.

(1978 Code, § 33-37; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 2, 5-17-05; Ord. No. 475, § 1, 3-2-21)

51-38. APPLICATION OF ARTICLE.

This article shall apply to all properties within the city, regardless of their zoning classification under the zoning ordinance, with the exception of (a) those developed lots within existing developed platted subdivisions, or (b) those units developed with residences within developed site condominium developments currently used for single-family residential purposes within one of the city's One Family Residential Zoning Districts.

(1978 Code, § 33-38; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 3, 5-17-05; Ord. No. 475, § 1, 3-2-21)

51-39. TREE REMOVAL PERMITS.

(A) *Permit required.* Except as provided in §51-40, no person shall do any of the following without first having obtained a tree removal permit in conjunction with an application for preliminary site plan approval in accordance with the provisions of §§ 51-41, 51-42 and 51-43:

(1) Remove, damage or destroy any designated preserved tree, or similar woody vegetation of six inches d.b.h. or greater;

(2) Remove, damage or destroy any landmark tree; or

(3) Conduct any land clearing activities.

(B) *Removal of trees after issuance of initial tree removal permit.* The developer of any development which requires site plan approval or special land use approval under the zoning ordinance shall, as part of the tree removal permit review process set forth in this article, identify the location of all buildings, site utilities, off-street parking and maneuvering areas, driveways, streets, loading and unloading areas. Once a tree removal permit has been obtained by the developer for areas of the site, no additional tree removal permit shall be required for erection of a structure(s) or the installation of improvements on the site provided they are in compliance with the approved tree removal permit. Only activities which impact or request removal of additional treed areas or designated preserved trees shall require additional tree removal permits.

(C) *Preservation of required minimum percentage of regulated trees.* Except as provided in § 51-44, the developer of any development shall identify for preservation, and preserve existing trees in good or fair condition equal to at least 50% of the total number of regulated trees identified on the tree survey.

(1978 Code, § 33-39; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-A, §§ 1-3, 8-20-91; Ord. No. 292-C, § 4, 5-17-05; Ord. No. 475, § 1, 3-2-21)

Cross reference:

Licenses and permits, see Ch. 29

51-40. EXCEPTIONS.

Notwithstanding the provisions of §51-39, the following activities are permitted without a tree removal permit unless otherwise prohibited by statute or ordinance:

(A) The removal or trimming of any trees by or on behalf of a resident owner of a one-family dwelling unit in an area under the owner's exclusive control and where

the tree is not a designated preserved tree. This exception does not apply to removal of trees from common areas;

(B) The trimming and pruning of trees as part of normal maintenance of landscaping or orchards, if performed in accordance with accepted forestry or agricultural standards and techniques;

(C) The removal of or trimming of trees necessitated by the installation, repair or maintenance work performed in a public utility easement or approved private easement for public utilities;

(D) The removal or trimming of trees if performed by or on behalf of the city, Macomb County Department of Roads, Michigan Department of Transportation and Macomb County Public Works Office or other public agencies or a public utility company in a public right-of-way upon public property or upon a private easement for public utilities in connection with a publicly awarded construction project, the installation of public streets or public sidewalks or installation of public utilities within a private or public easement established for such purposes;

(E) The removal or trimming of dead, diseased, undesirable, or damaged trees if performed by or on behalf of the city, Macomb County Department of Roads, Michigan Department of Transportation or Macomb County Public Works Office or other public agencies in a public right-of-way or upon public property if done to prevent injury or damage to persons or property;

(F) The removal or trimming of dead, diseased, undesirable, or damaged trees, provided that the removal or trimming is accomplished through the use of standard forestry practices and techniques and does not violate the terms and conditions of this article;

(G) Actions taken in response to unavoidable natural events, such as tornadoes, storms, floods, freezes, dangerous and/or infectious insect infestation or disease, or other natural occurrences in order to prevent or respond to injury or damage to persons or property, or to restore order.

(H) Grubbing, provided that a tree survey meeting the requirements of this article has been provided to the Community Development Department and the owner of the property (or other authorized representative) has provided a statement that only grubbing as defined by this article will be performed and no trees three inches or over in caliper will be removed.

(1978 Code, § 33-40; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 5, 5-17-05; Ord. No. 475, § 1, 3-2-21)

51-41. CONTENTS OF APPLICATION FOR TREE REMOVAL PERMIT.

(A) *Required information.* An applicant for a tree removal permit if required by this article shall submit the following materials to the city:

(1) A completed tree removal permit application on a form prescribed by the city that shall include the following information:

a. The name and contact information of the applicant and/or the applicant's agent;

b. The name, address and telephone number of the owner of the property if not the same;

c. The project location, including as applicable, the address, the street, road or highway, section number, lot or unit number and the name of the subdivision or development;

d. A detailed description and statement of the activity to be undertaken;

e. The proposed development or special land use in conjunction with the proposed tree removal is to be performed.

(2) A tree removal permit application fee in the amount established by the annual appropriations ordinance.

(3) If the applicant is not the owner of the property, a written authorization from the owner allowing the proposed activity.

(4) An electronic PDF version (or other acceptable electronic format deemed acceptable by the city) of a tree survey and a plan for proposed tree removal. Tree surveys must be prepared and sealed or signed by a qualified professional and sealed and signed by a registered arborist or forester containing all of the following information:

a. The shape and dimensions of the property and the location of any existing and proposed structures or improvements;

b. The identification and tagging in the field of all trees with identifying numbers, using non-corrosive metal tags, and shown on the plan with the corresponding number;

c. The location of all existing trees of six inches or greater d.b.h., identified by tag number, and a tree inventory list identifying the size and common or botanical name for each tree, including all landmark trees, which trees are designated preserved trees (to be preserved), and the condition of each tree (good, fair, poor, diseased, or dead) based upon the list in the zoning ordinance.;

d. The location and identification of all regulated trees to be transplanted, and all trees to be removed shall be designated;

e. The clearly indicated list, chart or similar noting the total number of trees on site, the total number of trees to be removed, and the total number of replacement trees credits required to be planted on the site in tabular form on the plan, which shall be done separately for regulated trees and for landmark trees;

f. A tree replacement/landscape plan showing the proposed location of all replacement trees, including a list of proposed replacement tree species, sizes, and replacement credit values, or a statement that the developer elects to pay the required amount into the Tree Preservation Fund in lieu of preserving trees on site;

g. The location of tree protection fences proposed to be erected, and a statement that all designated preserved trees will be identified by a method, such as painting or flagging. The statement shall include a description of how the retained trees are to be protected during construction, with an acknowledgment that the barriers must be in place before operations commence;

h. A depiction and/or statement showing how designated preserved trees will be protected on a permanent basis, including the proposed use of tree wells, protective barriers, tunneling, or retaining walls, shall be included on the plan;

i. A statement indicating that the trees to be removed and tree protection measures will be inspected and approved by the Community Development Department or its designee prior to any tree removal or construction activity occurring on site; and

j. A general grading plan prepared by a registered engineer or land surveyor showing the anticipated drainage patterns, including the location of any areas where cut and fill operations are likely to occur to enable the city to determine the impact of the proposal on the viability of the existing trees.

k. A site plan for the proposed development to be undertaken for which the removal of trees is necessary, or a site plan relating to the development which is the subject of the special land use approval.

(B) *Alternate site plan information.* Where the request for a tree removal permit relates to any site which contains no regulated trees (six inches or greater d.b.h.), the applicant shall so indicate in his or her application and submit a "no regulated tree" affidavit. In such case, the Community Development Department shall conduct an inspection of the site. If the inspection substantiates the applicant's claim, the applicant shall be relieved from the requirement of obtaining a tree removal permit.

(1978 Code, § 33-41; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 6, 5-17-05; Ord. No. 388, § 26, 1-3-07; Ord. No. 475, § 1, 3-2-21)

51-42. APPLICATION REVIEW PROCEDURES.

(A) *Procedure.* The city shall review the submitted application for a tree removal permit required by this article to determine that all required information has been provided. A field inspection of the site may be conducted by the Community Development Department. The review of tree removal permit requests shall be the responsibility of the Community Development Department. All decisions shall be made in accordance with the review standards of § 51-43.

(B) *Denial.* If an application for a tree removal permit is denied, the applicant shall be notified in writing of the reasons for denial by the Community Development Department.

(C) *Approval; conditions; performance requirements.* If an application for a tree removal permit is granted, the reviewing authority may do any or all of the following:

(1) Attach to the granting of the permit reasonable conditions considered necessary by the reviewing authority to ensure the intent of this article is fulfilled and to minimize damage to, encroachment in or interference with natural resources and processes within wooded areas;

(2) Fix a reasonable time to complete tree removal operations;

(3) Require a permit holder to make a cash deposit or file an irrevocable bank letter of credit acceptable to the city in an amount determined necessary by the city to ensure compliance with the terms of this article, including the planting of any required replacement trees. Once the trees designated to be removed have been removed and any required replacement trees have been planted and inspected, the city shall release 80% of the deposit or letter of credit, with the balance to be held to ensure that required maintenance as required by § 51-44 is completed. If the permit holder has provided a performance guarantee to the city under any other ordinance or regulation, and such guarantee is deemed adequate by the city to ensure compliance with this article, no additional performance guarantee shall be required under this section.

(4) The city may require such other additional performance guarantees, as it deems necessary to ensure performance with the provisions of this article.

(1978 Code, § 33-42; Ord. No. 292, § 1, 4-16-91; Ord. No. 475, § 1, 3-2-21)

51-43. APPLICATION REVIEW STANDARDS.

The following standards shall govern the approval or denial of an application for a tree removal permit.

(A) The protection and conservation of natural resources from pollution, impairment or destruction is of paramount concern. Therefore, all treed areas, trees and related natural resources shall be preserved to the greatest extent reasonably possible. The applicant shall consider and pursue all development options available under the zoning ordinance in order to preserve woodland areas and trees.

(B) The integrity of woodland areas shall be maintained to the greatest extent reasonably possible irrespective of whether such woodland areas cross property lines.

(C) Where the proposed development or activity consists of land clearing, it shall generally be limited to designated street rights-of-way, areas dedicated to drainage and utility easements, building and driveway envelopes and other improved areas (such as off-street parking and loading and unloading areas) necessary for site improvements considering the development options which are available to the applicant under the zoning ordinance. Wherever feasible, mass grading and clear cutting of a site shall be avoided.

(D) The removal of trees for which a tree removal permit is required shall be limited to any of the following instances:

(1) When necessary for the location of a structure or site improvements and when no reasonable alternative location for the structure or improvements can be had without causing undue hardship, considering all development options which are available to the applicant under the zoning ordinance;

(2) Where necessary to provide reasonable drainage upon the site and when no reasonable alternative drainage is available without the removal of the trees.

(E) The burden of satisfying the criteria of this section shall be upon the applicant.

(1978 Code, § 33-43; Ord. No. 292, § 1, 4-16-91; Ord. No. 475, § 1, 3-2-21)

51-44. RELOCATION OR REPLACEMENT OF TREES; MAINTENANCE.

(A) Whenever a tree removal permit has been issued authorizing removal of a regulated tree or any landmark tree, the permit holder shall replace or relocate each such tree in accordance with this section. Replacement trees may not be used to satisfy the landscaping requirements of the zoning ordinance or tree planting requirements under any other regulation of the City Code.

(B) *Replacement required.*

(1) If the permit holder cannot preserve the required number of trees onsite but intends to replant the required number of trees onsite to comply with ordinance requirements, the following schedule shall apply:

The permit holder shall provide one replacement credit for each regulated, non-landmark tree to be removed, as follows:

CONIFEROUS	
Replacement Tree Size (Height)	***Replacement Credit Value***
8 feet	1 credit
8.01 - 10 feet	1.5 credits
Greater than 10 feet	2 credits

DECIDUOUS	
Replacement Tree Size (Caliper)	***Replacement Credit Value***
3 inches	1 credit
3 - 3.99 inches	1.5 credits
4 inches or greater	2 credits

(2) If the permit holder cannot preserve the required number of trees onsite and does not intend to replant the required number of replacement trees onsite to comply with ordinance requirements, but elects to pay the required sum into the City's Tree Preservation Fund, the permit holder shall provide one and one-half tree replacement credits for each regulated, non-landmark tree to be removed. The required fee shall equal the total number of replacement credits required times the cost of a street tree as set forth in the annual appropriations ordinance adopted by the City Council.

(C) *Landmark tree replacement required.* When a landmark tree is proposed to be removed, the permit holder shall provide deciduous replacement trees with a cumulative caliper equaling at least 100% of the d.b.h. of the landmark tree that was removed or proposed to be removed (rounded up to the nearest whole number). Landmark tree calculations shall be separate from any other regulated tree replacement calculation or requirement.

(D) *Replacement tree diversity.* No one species of replacement tree shall account for more than 25% of all replacement trees proposed on a site.

(E) *Approval.* All replacement trees shall satisfy American Association of Nurseryman standards and shall be:

(1) No. 1 grade with a straight, unscarred trunk and a well-developed uniform;

(2) Guaranteed for one year;

(3) Approved through inspection by the city; and

(4) Of a species not deemed to be an undesirable tree species by the city.

(F) *Replacement tree location.*

(1) The location of any replacement tree shall be on the same parcel or within the same overall development (in that priority) as the removed tree wherever feasible.

(2) If tree location or replacement on the same parcel is not feasible, the City Planner, or his or her designee, may designate another planting location for the replacement tree within the city.

(3) The planting of any replacement tree on any site shall not satisfy the tree planting requirement for that alternate site or the tree planting requirements under any other ordinance of the city.

(4) Alternatively, the permit holder to pay into the City Tree Fund monies for tree replacement on a per tree basis representing the current market value for the tree replacement that would otherwise be required times 1½.

(G) *Maintenance and inspection.* Replacement trees shall be staked, fertilized, watered and mulched to ensure their survival in a healthy, growing condition. The city shall schedule a reinspection of the site and tree plantings one year from the final inspection of the site to ensure all plantings are still alive, in good conditions and being maintained appropriately.

(H) *Native plantings.* At least 50% of all tree plantings shall be native to the State of Michigan. Any trees that are considered to be invasive species shall be specifically prohibited.

(I) *Allowable tree species.* The City of Sterling Heights Office of Planning shall maintain a list of acceptable tree species for replacement trees.

(1978 Code, § 33-44; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 7, 5-17-05; Ord. No. 475, § 1, 3-2-21)

51-45. TERM OF PERMIT.

(A) Any tree removal permit issued by the city to a developer shall expire one year after the date of (i) issuance of the tree permit, or (ii) expiration of the site plan expires, (including any approved extensions), whichever is later.

(B) Any and all tree removal permits issued by the city to any person for an activity regulated under this article for which a contemporaneous approval of the development is not required under city ordinance (i.e., removal of trees by a builder in connection with construction of a residence upon a lot or parcel) shall expire one year from the date of issuance.

(C) Any activity regulated under this article which is to be commenced after expiration of a tree removal permit shall require a new application, additional fees and new review and approval.

(1978 Code, § 33-45; Ord. No. 292, § 1, 4-16-91; Ord. No. 475, § 1, 3-2-21)

51-46. PROTECTION OF TREES AND WOODLANDS DURING CONSTRUCTION; DISPLAY OF PERMIT.

(A) A person shall not conduct an activity within the critical root zone of any designated preserved tree, including but not limited to placing solvents, building material, construction equipment or soil deposits.

(B) Before development, land clearing, filling or any property alteration for which a tree removal permit is required, the developer or builder shall erect and maintain fences around the critical root zone of any designated preserved tree or grouping of trees. Tree protection fences shall have a minimum height of four feet, and shall be constructed of wood, orange snow fencing, or a similar sturdy and durable material staked with metal stakes ten feet on center which will shield and protect trees from any activity, clearing or land disturbance. Protective barriers shall remain in place until the Community Development Department (i) authorizes their removal, (ii) issues a final release for the overall site development, or (iii) certificate of occupancy for a specific building, whichever occurs first. Barriers are required for all trees designated to remain, except where large property areas separate from the construction or land clearing area onto which no equipment will be utilized will be cordoned off.

(C) The permit holder shall allow representatives from the Community Development Department or other authorized City representative to enter and inspect the premises during normal hours, including weekends.

(D) If a tree originally identified as a designated preserved tree is removed or excessively damaged to the point that it has died or is at risk to die during construction in violation of an approved tree protection plan, the applicant shall be required to replace the tree. Such replacement trees shall have a minimum caliper of three inches. If the removed or damaged tree is a landmark tree, the applicant shall provide replacement trees with a cumulative caliper equal to the d.b.h. of the removed or damaged landmark tree.

(1978 Code, § 33-46; Ord. No. 292, § 1, 4-16-91; Ord. No. 292-C, § 8, 5-17-05; Ord. No. 475, § 1, 3-2-21)

51-47. RESERVED.

51-48. ENFORCEMENT AND ADMINISTRATION; PROMULGATION OF REGULATIONS.

(A) To ensure enforcement of this article and the approved requirements for tree removal permits, various inspections of any development site will be performed by the Community Development Department or its authorized representatives at the site during site development, or at the direction of the City Manager. The applicant shall be responsible for payment of all inspection fees in accordance with the fee schedule set forth in the annual appropriations ordinance.

(B) The City Manager shall have the authority to promulgate regulations to implement the terms of this article.

(1978 Code, § 33-48; Ord. No. 292, § 1, 4-16-91; Ord. No. 475, § 1, 3-2-21)

51-49. PENALTIES; RESTITUTION.

(A) In addition to the penalties provided in §1-11 of this code, any person who violates any provision of this chapter shall forfeit and pay to the city a civil penalty equal to the total value of those trees illegally removed or damaged, as computed from the International Society of Arboriculture shade tree value formula. Such sum shall accrue to the city and may be recovered in a civil action brought by the city. Such sum so collected shall be placed in the City Tree Fund. Replacement of illegally removed trees may be required as restoration in lieu of money. This replacement will be computed on an inch-for-inch ratio times 1.5, based on the total diameter measured at d.b.h. in inches of the illegally removed trees. If, because of destruction of the removed trees, exact inch-for-inch measurements cannot be obtained, the city may use other means to estimate the tree loss. A combination of money and tree replacement may be required.

(B) Any person authorized by the City Manager to enforce or administer this article may issue a stop work order to any person conducting any operation in violation of this article, including but not limited to failing to conspicuously display the tree removal permit upon the site. The written stop work order shall be posted upon the premises. A person shall not continue, or cause or allow to be continued, any operation in violation of such an order, except as authorized by (i) the Community Development Department to abate a dangerous condition or remove the violation, (ii) the City Manager lifting the stop work order as authorized in paragraph (D) below, or (iii) as authorized by order of a court of competent jurisdiction.

(C) If a stop work order is not obeyed, the city may apply to the circuit court for the county in which the premises are located for an order enjoining the violation of the order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance and does not prevent criminal prosecution for failure to obey the order.

(D) Any person aggrieved by a stop work order may request review by the City Manager of the stop work order within one working day of its issuance. The City Manager shall then determine whether the stop work order was properly issued due to operations being conducted in violation of the terms of this article. The City Manager may lift the stop work order if the operations are in compliance with this article.

(E) Any use or activity in violation of the terms of this article is hereby declared to be a nuisance per se and may be abated by order of any court of competent jurisdiction. The City Council, in addition to other remedies, may institute any appropriate action or proceeding to prevent, abate or restrain the violation. All costs, fees and expenses in connection with such action shall be assessed as damages against the violation.

(F) The city may assess the cost incurred by the city in enforcing the terms of this chapter against the property upon which the violation has occurred as provided in paragraphs (F) and (G) of this section. Such costs may include, but are not limited to, administrative fees, attorney fees, consulting fees and any court costs incurred in such enforcement. If the city decides to assess any costs incurred by the city in enforcing the terms of this chapter as a lien against the affected property, the City Manager, Community Development Department, or other enforcing authority shall request that the City Council determine whether and the extent to which such costs will be assessed against the property. The owner of the affected property shall be given written notice as provided in § 33-5(B) of the date of the City Council meeting

at which the assessment of costs will be considered by the City Council.

(G) If the City Council authorizes the assessment of the costs be levied as a lien against the property, the City Treasurer shall take the necessary action to impose the lien against the property and collect all of the costs incurred in enforcement, including but not limited to administrative costs, attorney fees, consulting fees and any court costs incurred in such enforcement. The imposition of the lien against the property shall not be the sole means of collection available to the city but shall be in addition to any other remedies available.

(H) A lien shall not imposed against the property from which one or more trees were illegally removed if ownership of the property has transferred to a good faith purchaser for value which was not in way responsible for the illegal removal of the tree(s).

(I) The developer which removed one or more regulated trees in violation of this article shall be responsible for all of the costs, penalties, restitution, attorney fees, consulting fees, and any court costs incurred in such enforcement for a period of six years from the date such illegal removal occurred, or from the date such removal was discovered, whichever is later.

(1978 Code, § 33-49; Ord. No. 292, § 1, 4-16-91; Ord. No. 328, § 7, 11-5-97; Ord. No. 292-B, § 1, 1-5-99; Ord. No. 475, § 1, 3-2-21)

51-50. VARIANCES.

(A) The standards contained in this article are not intended to be arbitrary or inhibitive to creative solutions. Site and project conditions may justify modifications of these standards when conditions arise where full compliance is impractical or under circumstances where achievement of the city's objectives can be better obtained through modified requirements.

(B) The Board of Ordinance Appeals shall have the authority to hear and decide appeals from and grant variances relating to any order, requirement, decision or determination made by the Community Development Department or any administrative official or body charged with enforcing or administering the terms of this article (other than determinations which are made by the Planning Commission or City Council), where, owing to special conditions such as topography, soil, drainage or other site conditions, a literal enforcement of the provisions of this chapter would involve practical difficulties or cause unnecessary hardships.

(C) In such instances, the Board of Ordinance Appeals shall have the power upon appeal or request for variance in specific cases to modify the provisions of the article with such conditions and safeguards as it may reasonably determine, provided that such conditions are in harmony with the spirit of this article in preserving and enhancing environmental quality.

(D) If an appeal or a variance is granted that contains conditions imposed by the Board of Ordinance Appeals as part of its decision or determination, a notice of such appeal or variance shall be recorded against the property so that subsequent owners or transferees of such property will have notice of such conditions.

(1978 Code, § 33-50; Ord. No. 292, § 1, 4-16-91; Ord. No. 475, § 1, 3-2-21)

CHAPTER 52: VEHICLES FOR HIRE

ARTICLE I. IN GENERAL

52-1-52-15. RESERVED.

ARTICLE II. TAXICABS

DIVISION 1. GENERALLY

52-16. DEFINITIONS.

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

CALL BOX STAND. A place alongside a street or elsewhere where the Council has authorized a holder of a certificate of public convenience and necessity to install a telephone or call box for the taking of calls and the dispatching of taxicabs.

CERTIFICATE. A certificate of public convenience and necessity issued by the Council, authorizing the holder thereof to conduct a taxicab business in the city.

CRUISING. The driving of a taxicab on the streets, alleys or public places of the city in search of or soliciting prospective passengers for hire.

DRIVER'S LICENSE. The permission granted by the Council to a person to drive a taxicab upon the streets of the city.

HOLDER. A person to whom a certificate of public convenience and necessity has been issued.

MANIFEST. A daily record prepared by a taxicab driver of all trips made by the driver showing time and place of origin, destination, number of passengers and the amount of fare of each trip.

OPEN STAND. A public place alongside the curb of a street or elsewhere in the city which has been designated by the Council as reserved exclusively for the use of taxicabs.

RATE CARD. A card issued by the Council for display in each taxicab which contains the rates of fare then in force.

TAXICAB. A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than ten persons and not operated on a fixed route.

TAXIMETER. A meter instrument or device attached to a taxicab which measures mechanically the distance driven and the waiting time upon which the fare is based.

WAITING TIME. The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge but does not include any time that the taxicab is not in motion if due to any cause other than the request, act or fault of a passenger or passengers.

(1978 Code, § 34-16)

52-17. ENFORCEMENT OF ARTICLE.

The Police Department of the city is given the authority to enforce this article and is instructed to watch and observe the conduct of holders and drivers operating under this article. Upon discovering a violation of the provisions of this article, the Police Department shall, in addition to any other action which it may take under this article or other laws, report the same to the Council, which may order or take appropriate action.

(1978 Code, § 34-17)

52-18. IDENTIFICATION; COLOR; ETC.

Each taxicab shall bear on the outside of the vehicle, in painted letters not less than two inches nor more than four inches in height, the name of the taxicab company, and in addition may bear an identifying design and other information as approved by the Council. No vehicle covered by the terms of this article shall be licensed whose color scheme, identifying design, monogram or insignia to be used thereon shall, in the opinion of the Council, conflict with or imitate any color scheme, identifying design, monogram or insignia used on a vehicle or vehicles already operating under this article, in such a manner as to be misleading or tend to deceive or defraud the public. If after a license has been issued for a taxicab hereunder the color scheme, identifying design, monogram or insignia thereof is changed, in the opinion of the Council, so as to be in conflict with or imitate any color scheme identifying design, monogram or insignia used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering such taxicab or taxicabs shall be suspended or

revoked.

(1978 Code, § 34-18; Ord. No. 216, § 1, 2-5-80)

52-19. INSPECTION; MAINTENANCE.

(A) Prior to the use and operation of any vehicle under the provisions of this article, the vehicle shall be thoroughly examined and inspected by the Police Department and found to comply with such reasonable rules and regulations as may be prescribed by the Council. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the Council shall deem necessary therefor. When the Police Department finds that a vehicle has met the standards established by the Council, the Department shall issue a license to that effect, which shall also state the authorized seating capacity of said vehicle.

(B) Every vehicle operating under this article shall be periodically inspected by the Police Department at such intervals as shall be established by the Council.

(C) Every vehicle operating under this article shall be kept in a clean and sanitary condition according to rules and regulations promulgated by the Council.

(1978 Code, § 34-19)

52-20. REQUIRED SERVICE.

All persons engaged in the taxicab business in the city operating under the provisions of this article shall render an overall service to the public desiring to use taxicabs. Holders of certificates of public convenience and necessity shall maintain a central place of business and keep the same open 24 hours a day for the purpose of receiving calls and dispatching cabs. They shall answer all calls received by them for services inside the corporate limits of the city, as soon as they can do so and, if said services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the said call can be answered and give the reason therefor. Any holder who shall refuse to accept a call anywhere in the corporate limits of the city at any time when such holder has available cabs, or who shall fail or refuse to give overall service, shall be deemed a violator of this article and the certificate granted to such holder may be revoked at the discretion of the Council.

(1978 Code, § 34-20)

52-21. ATTACHMENT OF ADVERTISING MATTER ON VEHICLES.

Subject to the rules and regulations of the Council, it shall be lawful for any person owning or operating a taxicab or motor vehicle for hire to permit advertising matter to be affixed to or installed in or on such taxicabs or motor vehicles for hire.

(1978 Code, § 34-21)

Cross reference:

Advertising, Ch. 3

52-22. TAXIMETERS.

All taxicabs operated under the authority of this article shall be equipped with taximeters fastened in front of the passengers, visible to them at all times, day and night. After sundown, the face of the taximeter shall be illuminated. Said taximeter shall be operated mechanically by a mechanism of standard design and construction driven either from the transmission or from one of the front wheels by a flexible and permanently attached driving mechanism. They shall be sealed at all points and connections, which, if manipulated, would affect their correct reading and recording. Each taximeter shall have thereon a flag to denote when the vehicle is employed and when it is not employed, and it shall be the duty of the driver to throw the flag of such taximeter into a nonrecording position at the termination of each trip. The said taximeters shall be subject to inspection from time to time by the Police Department. Any inspector or other officer of the Department is authorized, either on complaint of any person or without such complaint, to inspect any meter and, upon discovery of any inaccuracy therein, to notify the person operating the taxicab to cease operation. Thereupon, the taxicab shall be kept off the highways until the taximeter is repaired and in the required working condition.

(1978 Code, § 34-23)

52-23. RATES OF FARE; RATE CARD REQUIRED.

(A) Mileage rates: $0.80 for the first one-ninth mile or fraction thereof; plus $0.10 for each additional one-ninth mile or fraction thereof; $0.10 per minute waiting time.

(B) Every taxicab operated under this article shall have a rate card setting forth the authorized rates of fare displayed in such a place as to be in view of all passengers.

(1978 Code, § 34-23; Ord. No. 216, § 1, 2-5-80)

52-24. RECEIPTS.

The driver of any taxicab shall, upon demand by the passenger, render to such passenger a receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the owner, license number or motor number, amount of meter reading or charges and date of transaction.

(1978 Code, § 34-24)

52-25. REFUSAL OF PASSENGER TO PAY LEGAL FARE.

It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this article after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service.

(1978 Code, § 34-25) Penalty, see § 1-9

52-26. OPEN STANDS.

(A) The City Council is authorized and empowered to establish open stands in such place or places upon the streets of the city as it deems necessary for the use of taxicabs operated in the city. The Council shall not create an open stand without taking into consideration the need for such stands by the companies and the convenience to the general public. The Council shall prescribe the number of cabs that shall occupy such open stands. The Council shall not create an open stand in front of any place of business where the abutting property owners object to the same or where such stand would tend to create a traffic hazard.

(B) Open stands shall be used by the different drivers on a first come first served basis. The driver shall pull on to the open stand from the rear and shall advance forward as the cabs ahead pull of. Drivers shall stay within five feet of their cabs; they shall not solicit passengers or engage in loud or boisterous talk while at an open stand. Nothing in this article shall be construed as preventing a passenger from boarding the cab of his or her choice that is parked at an open stand.

(C) Private or other vehicles for hire shall not at any time occupy the space upon the streets that has been established as open stands.

(1978 Code, § 34-26)

Cross reference:

Provisions of traffic ordinance relative to establishment and use of taxicab stands, see §49-212

52-27. RESTRICTION ON NUMBER OF PASSENGERS; ACCEPTANCE OF ADDITIONAL PASSENGERS WHEN PREVIOUSLY ENGAGED.

(A) No driver shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of his or her taxicab, as stated in the license for the vehicle issued by the Police Department. A child in arms shall not be counted as a passenger.

(B) No driver shall permit any other person to occupy or ride in the taxicab, unless the person or persons first employing the taxicab shall consent to the acceptance of an additional passenger or passengers. No charge shall be made for an additional passenger, except when the additional passenger rides beyond the previous passenger's destination and then only for the additional distance so traveled.

(1978 Code, § 34-27)

52-28. REFUSAL TO CARRY ORDERLY PASSENGERS.

No driver shall refuse or neglect to convey any orderly person or persons upon request, unless previously engaged or unable or forbidden by the provisions of this article to do so.

(1978 Code, § 34-28)

52-29. PASSENGERS NOT TO BE RECEIVED OR DISCHARGED ON ROADWAY.

Drivers of taxicabs shall not receive or discharge passengers in the roadway, but shall pull up to the right-hand sidewalk as nearly as possible or, in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers, except upon one-way streets, where passengers may be discharged at either the right or left-hand sidewalk or side of the roadway in the absence of a sidewalk.

(1978 Code, § 34-29)

52-30. RIDING ON OUTSIDE OF VEHICLE.

It shall be unlawful for the driver of any taxicab to permit any person to ride outside the vehicle while it is in motion. It shall be unlawful for any person to ride outside the vehicle while it is in motion.

(1978 Code, § 34-30) Penalty, see § 1-9

52-31. DRIVERS SOLICITING BUSINESS; CRUISING.

(A) No driver shall solicit passengers for a taxicab, except when sitting in the driver's compartment of such taxicab or while standing immediately adjacent to the curb side thereof. The driver of any taxicab shall remain in the driver's compartment or immediately adjacent to his or her vehicle at all times when such vehicle is upon the public street, except that, when necessary, a driver may be absent from his or her taxicab for not more than ten consecutive minutes, and provided, further, that nothing herein contained shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of such vehicle.

(B) No driver shall solicit patronage in a loud or annoying tone of voice or by sign or in any manner annoy any person or obstruct the movement of any persons or follow any person for the purpose of soliciting patronage.

(C) No driver shall cruise in search of passengers at any time, and whenever a taxicab is unoccupied, the driver shall proceed at once by the most direct route to the garage where the vehicle is housed or to the taxicab stand customarily occupied by such taxicab.

(D) No driver, owner or operator shall solicit passengers at the terminal of any other common carrier, nor at any intermediate points along any established route of any other common carrier.

(1978 Code, § 34-31)

52-32. DRIVERS SOLICITING FOR HOTELS, DEALING IN LIQUOR OR DRUGS, ETC.

It shall be a violation of this article for any driver of a taxicab to solicit business for any hotel or to attempt to divert patronage from one hotel to another. Neither shall such driver engage in the sale or distribution of intoxicating liquors, drugs, narcotics or solicit business for any house of ill repute or use his or her vehicle for any purpose other than the transporting of passengers.

(1978 Code, § 34-32)

Cross reference:

Alcoholic beverages, see Ch. 5

52-33. DRIVERS' MANIFESTS.

(A) Every driver shall maintain a daily manifest upon which are recorded all trips made each day, showing time and place of origin and destination of each trip and amount of fare and all such completed manifests shall be returned to the owner by the driver at the conclusion of his or her tour of duty. The forms for each manifest shall be furnished to the driver by the owner and shall be of a character approved by the Council.

(B) Every holder of a certificate of public convenience and necessity shall retain and preserve all drivers' manifests in a safe place for at least the calendar year next preceding the current calendar year and said manifests shall be available to the Council and Police Department.

(1978 Code, § 34-33)

52-34. HOLDER'S RECORDS AND REPORTS.

(A) Every holder shall keep accurate records of receipts from operations, operating and other expenses, capital expenditures and such other operating information as may be required by the Council. Every holder shall maintain the records containing such information and other data required by this article at a place readily accessible for examination by the Council.

(B) Every holder shall submit reports of receipts, expenses and statistics of operation to the Council for each calendar year, in accordance with a uniform system prescribed by the Council. The reports shall reach the Council on or before the first day of March of the year following the calendar year for which such reports are prepared.

(C) All accidents arising from or in connection with the operation of taxicabs which result in death or injury to any person or in damage to any vehicle or to any property in an amount exceeding the sum of $200 shall be reported immediately to the Police Department on a form of report to be furnished by the Department.

(D) It shall be mandatory for all holders to file with the Council copies of all contracts, agreements, arrangements, memoranda or other writings relating to the furnishing of taxicab service to any hotel, theatre, hall, public resort, railway station or other place of public gathering, whether such arrangement is made with the holder or any corporation, firm or association with which the holder may be interested or connected. Failure to file such copies within seven days shall be sufficient cause for the revocation of a certificate of any offending holder or the cancellation of any cab stand privileges.

(1978 Code, § 34-34)

52-35-52-44. RESERVED.

DIVISION 2. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

52-45. REQUIRED.

No person shall operate or permit a taxicab owned or controlled by him or her to be operated as a vehicle for hire upon the streets of the city without having first obtained a certificate of public convenience and necessity from the Council.

(1978 Code, § 34-45)

52-46. FILING, VERIFICATION AND CONTENTS OF APPLICATION.

An application for a certificate shall be filed with the Council upon forms provided by the city, and the application shall be verified under oath and shall furnish the following information:

(1) The name and address of the applicant;

(2) The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgments;

(3) The experience of the applicant in the transportation of passengers;

(4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate;

(5) The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals;

(6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;

(7) Such further information as the Council of the city may require.

(1978 Code, § 34-46)

52-47. INVESTIGATION OF APPLICANT.

All applications shall be forwarded to the Police Department. The Chief of Police shall cause an investigation to be made of the fitness of the applicant for a certificate as to character and ability. This investigation shall include the financial status of the applicant, including the number and amounts of all unpaid judgments, the experience of the applicant in the transportation of passengers, whether or not the applicant has a criminal record and any other facts which, in the opinion of the Chief, are relevant to the fitness of the applicant to operate a taxicab or motor vehicle for hire service. The Chief shall transmit the application with his or her attached recommendation to the Council.

(1978 Code, § 34-47)

52-48. APPLICANT'S INSURANCE.

No certificate of public convenience and necessity shall be issued or continued in operation unless there is in full force and effect a liability insurance policy issued by an insurance company authorized to do business in the State of Michigan for each vehicle authorized, in the amount of $100,000 for bodily injury to any one person; in the amount of $300,000 for injuries to more than one person which are sustained in the same accident; and $25,000 for property damage resulting from any one accident. The insurance policy shall inure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a holder, his or her servants or agents. The insurance policy or policies or insurance certificates shall be filed in the office of the City Clerk.

(1978 Code, § 34-49; Ord. No. 216, § 1, 2-5-80)

52-49. PAYMENT OF LICENSE FEES PREREQUISITE TO ISSUANCE.

No certificate shall be issued or continued in operation, unless the holder thereof has paid an annual license fee established by the annual appropriations ordinance for the right to engage in the taxicab business and an additional per vehicle fee established by the annual appropriations ordinance for each vehicle operated under a certificate of public convenience and necessity. The license fees shall be for the calendar year and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his or her operation and control.

(1978 Code, § 34-49) (Ord. No. 388, § 27, 1-3-07)

Cross reference:

License generally, see Ch. 29

52-50. ISSUANCE OR DENIAL.

(A) If the Council finds that further taxicab service in the city is required by the public convenience and necessity and that the applicant is fit, willing and able to perform such public transportation and to conform to the provisions of this article and the rules promulgated by the Council, then the Council shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance, otherwise, the application shall be denied.

(B) In making the above finding, the Council shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public needs, the probable effect of increased service on local traffic conditions and the character, experience and responsibility of the applicant.

(C) The Council shall refuse a certificate when, in its opinion, there are licensed a sufficient number of taxicabs or motor vehicles for hire to adequately service the public, when the use of the streets by additional taxicabs or motor vehicles for hire would interfere with the public use of the streets, congest traffic or endanger the person or property of pedestrians or those using the streets or when, in the opinion of the Council, the applicant does not possess good moral character or fitness.

(1978 Code, § 34-50)

52-51. TRANSFER.

No certificate of public convenience and necessity may be sold, assigned, mortgaged or otherwise transferred, without the consent of the Council.

(1978 Code, § 34-51)

52-52. SUSPENSION OR REVOCATION.

A certificate issued under the provisions of this division may be revoked or suspended by the Council, if the holder thereof has violated any of the provisions of this article; has discontinued operations for more than 30 days; or has violated any ordinances of the city or the laws of the United States or the State of Michigan, the violation of which reflects unfavorably on the fitness of the holder to offer public transportation. Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

(1978 Code, § 34-52)

52-53-52-57. RESERVED.

DIVISION 3. DRIVER'S LICENSE

52-58. REQUIRED.

No person shall operate a taxicab for hire upon the streets of the city, no person who owns or controls a taxicab shall permit it to be so driven and no taxicab licensed by the city shall be so driven at any time for hire, unless the driver of the taxicab has a driver's license issued under the provisions of this division.

(1978 Code, § 34-58)

52-59. APPLICATION GENERALLY.

Each applicant for a taxicab license shall fill out, upon a blank form to be provided by the Police Department, a statement giving his or her full name, residence, place of residence for five years previous to moving to his or her present address, age, height, color of eyes and hair, place of birth, length of time he or she has resided at present address, whether a citizen of the United States, place of previous employment, whether he or she has ever been convicted of a felony or misdemeanor and, if convicted, the nature of the crime and the date when and the place of the conviction, whether he or she has previously been licensed as a driver or chauffeur, and, if so, when and where and whether his or her license has ever been revoked and for what cause, which statement shall be signed and sworn by the applicant and filed

with the Police Department as a permanent record.

(1978 Code, § 34-59)

52-60. INVESTIGATION OF APPLICATION; ADDITIONAL RULES OF POLICE DEPARTMENT.

Investigation of all applications for licenses under the provisions of this division shall be conducted by the Police Department, and when such investigation is completed, it shall be forwarded to the Chief of Police who shall endorse his or her recommendation thereon and forward same to the officer or personnel in charge of issuing such licenses; provided, however, that a temporary license may be issued pending such investigation but not to exceed 20 days. The Police Department is authorized and empowered to establish such additional rules and regulations governing the issuance of driver's licenses, not inconsistent herewith, as may be necessary and reasonable.

(1978 Code, § 34-60)

52-61. QUALIFICATIONS OF APPLICANT GENERALLY.

Each applicant for a taxicab driver's license must:

(1) Be of the age of 18 years or over;

(2) Be of sound physique and good eyesight and not subject to epilepsy, vertigo, heart trouble or any other infirmity which would interfere with his or her operation of a public vehicle and furnish results of a physical examination to the city on the forms provided by the city's aid physical examination to have taken place not more than 90 days prior to the filing of any application;

(3) Be able to speak, read and write the English language;

(4) Be clean in dress and person and not addicted to the use of intoxicating liquors, drugs or narcotics;

(5) Produce, on forms to be provided by the Police Department, certificates of his or her good character from two reputable citizens who have known him or her personally and observed his or her conduct during two months next preceding the date of his or her application.

(1978 Code, § 34-61)

52-62. EXAMINATION OF APPLICANT.

Each applicant for a driver's license under the provisions of this division shall be examined by a person designated by the Police Department as to his or her knowledge of the provisions of this article, the traffic ordinance and the geography of the city, and if the result of the examination be unsatisfactory he or she shall be refused a license. Each such applicant shall, if required by the Police Department, demonstrate his or her skill and ability to safely handle the vehicle by driving it through a crowded section of the city accompanied by an officer designated by the Police Department.

(1978 Code, § 34-62)

52-63. PHOTOGRAPHS OF APPLICANT.

Each applicant for a driver's license shall file with his or her application three recent photographs of himself or herself of a size which may be easily attached to the license, one of which shall be attached to the license, when issued, and the other shall be filed, together with the application, with the Police Department. The photograph shall be so attached to the license that it cannot be removed and another photograph substituted without detection.

(1978 Code, § 34-63)

52-64. ISSUANCE; CONTENTS; FEE; TERM; ETC.

Upon satisfactory fulfillment of the foregoing requirements, there shall be issued to the applicant a license which shall be in such form as to contain the photograph and signature of the licensee. Any licensee who defaces, removes or obliterates any official entry made upon his or her license shall, in addition to any other punishment imposed by this article, have his or her license revoked by the Police Department. Driver's licenses shall be issued as of January 1 of each and every year and shall be valid to and including December 31 next succeeding. No person shall permit any employee to operate a public taxicab or motor vehicle for hire within the city without first obtaining a license as a public driver from the Police Department. The Police Department is authorized to grant a public driver's license to any applicant therefor upon payment of a fee established by the annual appropriations ordinance.

(1978 Code, § 34-64) (Ord. No. 388, § 28, 1-3-07)

52-65. DISPLAY.

Every driver shall have his or her license, together with his or her photograph, conspicuously displayed on the inside of his or her taxicab or motor vehicle for hire and with a light shining on it at night so that it may be easily seen both in the day and night time by occupants of the taxicab or motor vehicle for hire.

(1978 Code, § 34-65)

52-66. RENEWAL.

The Police Department may cause the renewal of a driver's license from year to year by appropriate endorsement by the Police Department upon the application for renewal. A driver, in applying for renewal of his or her license, shall make such application upon a form to be furnished by the Police Department, entitled "application for renewal of license," which shall be filled out with the name and address of the applicant, together with a statement of the date upon which his or her original license was granted and the number thereon. The fee for such renewal shall be established by the annual appropriations ordinance and paid each calendar year, unless the license for the preceding year has been revoked.

(1978 Code, § 34-66) (Ord. No. 388, § 29, 1-3-07)

52-67. SUSPENSION OR REVOCATION.

(A) The Council is given the authority to suspend any driver's license issued under this division for a driver's failing or refusing to comply with the provisions of this article, such suspension to last for a period of not more than 30 days. The Council is also given authority to revoke any driver's license for failure to comply with the provisions of this article. However, a license may not be revoked, unless the driver has received notice and has had an opportunity to present evidence in his or her behalf.

(B) Every driver licensed under this division shall comply with all city, state and federal laws. Failure to do so will justify the Council suspending or revoking his or her license.

(1978 Code, § 34-67)

CHAPTER 53: WATER, SEWERS AND SEWAGE DISPOSAL

ARTICLE I . WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM GENERALLY

53-1. DEFINITIONS.

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

BONDS. Whenever the word ***BONDS*** shall be used in this article, it shall be understood to refer to the water supply and sewage disposal system revenue bonds issued by the City of Sterling and dated April 1,1964.

CITY OF STERLING HEIGHTS, CITY. The City of Sterling Heights is a municipal corporation of the State of Michigan and is the successor municipality to the City of Sterling, County of Macomb, State of Michigan.

REVENUES; NET REVENUES. Whenever the words ***REVENUES*** and ***NET REVENUES*** are used in this article, they shall be understood to have the meaning as defined in Public Act 94 of 1933, § 3, as amended (M.S.A. § 5.2733; M.C.L. § 141.103).

SYSTEM. The ***SYSTEM*** is the water supply and sewage disposal system of the City of Sterling Heights and shall include all water mains and laterals, pumping stations, sewage treatment facilities, sewers, storage facilities or appurtenances used or useful in connection with the supplying and distributing of water or the collection, treatment or disposal of sewage, either now in existence or hereafter acquired. Such ***SYSTEM*** shall be deemed to include, but not by way of limitation, all such facilities acquired, constructed and owned by the City of Sterling Heights and such facilities constructed to service the city by the County of Macomb, or any other public agency, and operated and maintained by the city pursuant to contract authorized by law. Said combined water supply and sewage disposal system is sometimes herein referred to as the ***SYSTEM***.

(1978 Code, § 35-1; Ord. No. 182-F, § 1, 3-31-81)

53-2. JURISDICTION OF CITY MANAGER RELATIVE TO OPERATION, MAINTENANCE, ETC.

The operation, repair and management of the system and the acquiring of the public improvements herein authorized shall be under the immediate supervision and control of the City Manager, subject to the general supervision and control of the City Council. The City Manager may make such rules, orders and regulations as he or she deems necessary to assure the efficient management and operation of the system.

(1978 Code, § 35-2; Ord. No. 182-F, § 1, 3-31-81)

53-3. OPERATING YEAR.

The system shall be operated on the basis of an operating year commencing on July 1 and ending on June 30.

(1978 Code, § 35-3; Ord. No. 182-F, § 1, 3-31-81)

53-4. BONDS PAYABLE FROM SYSTEM REVENUES; LIEN ON SUCH REVENUES; BOND HOLDERS' RIGHTS.

(A) The bonds and the attached coupons shall not be a general obligation or indebtedness of the city but shall be payable solely from the net revenues derived from the operation of the system and to secure such payment there is created a statutory first lien upon the whole of the net revenues of the system to continue until the payment in full of the principal of and interest on said bonds.

(B) The holder or holders of said bonds or coupons representing in the aggregate not less than 20% of the entire issue then outstanding may, by suit, action, mandamus or other proceedings, protect and enforce the statutory first lien upon the revenues of said system and may by suit, action, mandamus or other proceedings enforce and compel performance of all duties of the officers of the city, including the fixing of sufficient rates, the collection of revenues, the proper segregation of the revenues of the system and the proper application thereof; provided, however, that the statutory lien upon said revenues shall not be construed to compel the sale of the system.

(C) If there be any default in the payment of the principal of or interest upon any of said bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate said system on behalf of the city and under the direction of such court and by and with the approval of such court perform all of the duties of the officials of said city more particularly set forth herein and in Public Act 94 of 1933, as amended.

(D) The holder or holders of any such bonds or any coupons therefrom shall have all other rights and remedies given by Public Act 94 of 1933, as amended, for the collection and enforcement of said bonds and the security therefor.

(1978 Code, § 35-4; Ord. No. 182-F, § 1, 3-31-81)

Statutory reference:

The 1933 Act referred to above is codified in M.S.A. §§ 5.2731 et seq.; M.C.L. §§ 141.101 et seq.

53-5. DEBT SERVICE CHARGES AND RATES-PRESCRIBED; BILLING.

(A) The debt service charges for water and sewage services furnished by the systems shall be as follows:

Water Debt Service Charge

The water debt service charge shall consist of:

(1) Capital charge per unit as established by the annual appropriations ordinance. A unit shall be regarded as a normal house service connection for a single-family residence. Based upon this unit charge, charges for other types of connections are as follows:

Type of Use	***Unit***
Residential:	
Single family	1.0 per building
Two family	1.0 per unit
Mobile home	1.0 per mobile home
Multiple family (condominiums & townhouses)	1.0 per unit
Schools:	
Elementary	0.35 per m sq. ft.
Junior High	0.35 per m sq. ft.
Senior High	0.35 per m sq. ft.
Industrial use	0.50 per m sq. ft.
Commercial use	0.50 per m sq. ft.
Temporary use-Over 30 days and less than 6 months	½ unit per connection
Non-Accessory Use (metered City Parks and Road Rows)	0.5 per acre of land sprinkling

Capital charges not listed or for unusual conditions shall be determined by the City Council.

(2) The capital charge shall be the only debt service charge that is payable by premises that have either installed the water line in front of their property at their own expense or have paid a special assessment to defray a portion or all of the cost of installing the water line. Property that does not fall into either of the above categories shall, in addition to the capital charge, pay a front footage charge in an amount established by the annual appropriations ordinance per front foot of property that abuts the water main as a debt service charge in addition to the capital charge. Property of irregular shape shall be computed by the water and sewer department formulae for frontage charge.

All new construction must pay the debt service charge in cash. Existing structures shall have the option of making the debt service payment in cash or may pay the debt service charge over a period of ten years in equal quarterly installments as part of the water bill. If the time payment method of payment is elected, the amount of the debt service charge shall be increased by the percentage established in the annual appropriations ordinance.

Fire Hydrant Rental Payable by City

For water used through fire hydrants and for the availability of such water, the city shall pay a hydrant rental charge as established by the annual appropriations ordinance per hydrant.

Tap Charge

Water tap charges shall be deposited in advance in the amount established by the annual appropriations ordinance. Such deposit shall be payment in full for the water service connection.

The fee for a water service connection shall not be less than the amount specified in the annual appropriations ordinance; provided, however, for a three-inch or larger water service connection, the water service connection may be installed by the owner when the installation is being made concurrently with an on-site extension of the city water system under the jurisdiction and inspection of the city, and in such instances, a minimum tap charge in the amount established by the annual appropriations ordinance shall be paid to cover administrative costs.

The water service connection shall consist of the tap to the water main, the extension of the water service pipe to the curb stop and curb stop box or service control valve and service control valve box/service control valve gate well, whichever is applicable. The water service connection shall be installed completely within the street right-of-way or public easement provided. The person(s) for whose benefit the connection is made shall, on behalf of himself or herself, his or her heirs, executors, administrators or assigns, hold the city harmless for any loss or damage that may in any way be occasioned by the making of such connection. In addition to the above charges, there shall be a meter charge based on the city's cost for said meter, including costs of installation plus an administrative cost of 15%.

For existing nonremote water meters, there shall be a $20 charge for the remote water meters installed by the city to upgrade the existing meters. The $20 charge shall be added to the premises' next water bill following installation of any five-eighths inch to one and one-half inch remote water meter. A charge of the cost of the remote water meter, plus 15% of that cost, shall be added to the premises' next water bill following the installation of any remote water meter greater than one and one-half inches in size.

Private Use of Fire Hydrants

Before the use of fire hydrants is authorized for private purposes, a permit shall be obtained from the city. the monthly service charge for the use of one or more fire hydrants shall be established by the annual appropriations ordinance and shall be paid in advance. Furthermore, the applicant must maintain a deposit with the city in the amount established by the annual appropriations ordinance which must be replenished on a monthly basis, and against which charges for current water usage in accordance with the current rate structure may be charged. In addition, this deposit shall be available to reimburse the city for any additional charges levied as a result of inspection and/or repair to the system.

Billing Period

The billing period for water and sewer service for all individually-metered residences shall be quarterly. The billing period for all other connections shall be monthly.

Sewer Debt Service Charge

The sewer debt service charge shall consist of:

(1) Capital charge per unit as established by the annual appropriations ordinance. A unit shall be regarded as a normal house service connection for a single-family residence. Based upon this unit charge, charges for other types of connections are as follows:

Type of Use	***Unit***
Residential:	
Single family	1.0 per building
Two family	1.0 per unit
Mobile home	1.0 per mobile home
Multiple family (condominiums & townhouses)	1.0 per unit
Schools:	
Elementary	0.35 per m sq. ft.
Junior High	0.35 per m sq. ft.
Senior High	0.35 per m sq. ft.
Industrial use	0.50 per m sq. ft.
Commercial use	0.50 per m sq. ft.
Temporary use-Over 30 days and less than 6 months	½ unit per connection

Capital charges not listed or for unusual conditions shall be determined by the City Council.

(2) The capital charge shall be the only debt service charge that is payable by premises that have either installed the sewer line in front of their property at their own expense or have paid a special assessment to defray a portion or all of the cost of installing the sewer line. Property that does not fall into either of the above categories shall, in addition to the capital charge, pay a front footage charge per front foot of property that abuts the sewer in the amount established by the annual appropriations ordinance, as a debt service charge in addition to the capital charge. Property of irregular shape shall be computed by the Water and Sewer Department formulae for frontage charge.

All new construction must pay the debt service charge in cash. Existing structures may have the option of making the debt service payment in cash or may pay the debt service charge over a period of ten years in equal quarterly installments as part of the sewer bill. If the time payment method of payment is elected, the amount of the debt service charge shall be increased 20%.

Tap Charge

No tap (sewer connection) charges except for inspection shall be made when sewer risers and sewer leads are installed by the property owner at the property owner's cost or when sewer risers and sewer leads are installed by the city and the cost has been included in a special assessment against the property owner.

A tap (sewer connection) charge in the amount established by the annual appropriations ordinance shall be made when a sewer riser or sewer lead is installed by the city at the time of connection on a street with a right-of-way of 60 feet or less and no special soil conditions exist. In the event the street has a right-of-way of more than 60 feet or special soil conditions exist, the tap (sewer connection) charge shall include a charge for 115% of any additional costs.

An inspection charge as established by the annual appropriations ordinance shall be made for approval of each tap (sewer connection).

(B) The water and sewer rates for water and sewage services furnished by the system shall be in accordance with the annual appropriations ordinance.

(1978 Code, § 35-5; Ord. No. 182-B, § 1, 3-14-78; Ord. No. 182-C, § 1, 10-10-78; Ord. No. 182-D, § 1, 12-19-78; Ord. No. 182-E, § 1, 3-4-80; Ord. No. 182-F, § 1, 3-31-81; Ord. No. 182-G, § 1, 2-15-83; Ord. No. 182-H, § 1, 6-19-84; Ord. No. 182-J, § 1, 1-19-88; Ord. No. 182-K, § 1, 6-21-88; Ord. No. 182-L, § 1, 9-20-88; Ord. No. 290, § 1, 3-19-91; Ord. No. 182-M, § 1, 9-21-93; Ord. No. 388, § 30, 1-3-07)

Charter reference:

Authority of city to fix and collect charges for use of water and sewer systems, see §16.11;

Rates and charges for utility services, see §§14.03, 14.04

53-6. SAME-COLLECTION AS LIEN ON PROPERTY; DEPOSIT TO ASSURE PAYMENT IN CASE OF TENANTS; DISCONTINUING SERVICE FOR FAILURE TO PAY.

(A) *Responsibility of property owner.* The charges for water and sewer services, pursuant to the provisions of Public Act 94 of 1933, § 21, being M.C.L. § 141.121, M.S.A. § 5.2751, as amended, of Public Act 216 of 1978, § 1 and Public Act 178 of 1979, § 162, being M.C.L. § 123.162, M.S.A. § 5.2531(2), are made a lien on all

premises served immediately upon the distribution of water or the provision of the sewage system service to the premises or property supplied, unless proper notice by affidavit is given by the property owner to the city that a named tenant is responsible for such charges by the terms of their written lease. Whenever water and sewer charges are made a lien against a parcel of property and payment for such charges is delinquent for six months, the City Manager or his or her designate shall certify semi-annually, not later than July and December 1 of each year, the fact of such delinquency to the city tax assessing officer. That officer shall then enter upon the next tax roll a charge against the premises. The charge shall be collected and the lien enforced in the same manner as general city taxes on such premises are collected.

(B) *Responsibility of residential, commercial and/or industrial tenants.* Whenever notice is given by the property owner to the city through a signed affidavit, in compliance with M.C.L. § 125.165 and M.S.A. § 5.2531(5), that the tenant is responsible for payment of all water and sewer service charges to that property during that lease, the tenant shall be responsible for such charges and the bills for water and sewer services shall be sent to the tenant. However, no water and sewer service may be rendered to commercial and industrial property unless a cash deposit of not less than a sum equal to the estimated billing for such premises for four billing periods is made to the city by the tenant as security for payment of water and sewer services. No water and sewer service may be rendered to residential property unless a cash deposit of not less than a sum of $200 is made to the city by the tenant as security for payment of water and sewer services. The city shall send the tenant notice of his or her obligation to pay the charges for water and sewer services for that premises and the amount of the security deposit.

(C) *Discontinuance of service if bill unpaid.* In addition to other remedies provided, unless otherwise prohibited by law, the city shall have the right to shut off and discontinue the supply of water and sewer services to residential, commercial and industrial premises where the bill remains unpaid for a period in excess of 30 days past the due date. Service which is discontinued shall not be restored until all sums then due and owing shall be paid. A charge of $25 shall be made for restoring services.

(1978 Code, § 35-6; Ord. No. 182-E, § 1, 3-4-80; Ord. No. 182-F, § 1, 3-31-81; Ord. No. 182-1, § 1, 9-22-87; Ord. No. 182-K, § 2, 6-21-88)

53-7. RESERVED.

53-8. SAME-SUFFICIENCY.

The present rates established are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of said system as are necessary to preserve the same in good repair and working order, to provide for the payment of the interest upon and the principal of all bonds, as and when the same become due and payable, and the creation of the reserve therefor required by this article, and to provide for such other expenditures and funds for the system as this article may require and the city covenants and agrees that it will revise said rates from time to time as may be necessary to produce sufficient funds to provide for the foregoing.

(1978 Code, § 35-8; Ord. No. 182-F, § 1, 3-31-81)

53-9. FREE SERVICE PROHIBITED.

No free service shall be furnished by said system to any person, firm or corporation, public or private, or to any public agency or instrumentality.

(1978 Code, § 35-9; Ord. No. 182-F, § 1, 3-31-81)

53-10. ADDITIONAL CHARGE FOR OR TREATMENT OF CERTAIN INDUSTRIAL SEWAGE.

If the character of sewage from any manufacturing or industrial plant or any other building or premises shall be such as to impose an unreasonable additional burden upon the sewers of the system, then an additional charge may be made over and above the regular rates or it may be required that such sewage be treated by the person, firm or corporation responsible therefor before being emptied into the sewer, or the right to empty such sewage may be denied if necessary for the protection of the sewer and sewage disposal facilities of the system or the public health or safety.

(1978 Code, § 35-10; Ord. No. 182-F, § 1, 3-31-81)

53-11. SYSTEM FUNDS GENERALLY.

(A) *Receiving Fund.* The revenues of the system are ordered to be set aside, as collected, and deposited in a bank or trust company duly qualified to do business in Michigan, in an account to be designated Water Supply and Sewage Disposal System Receiving Fund (hereinafter referred to as the "Receiving Fund"), and said revenues so deposited are pledged for the purpose of the following funds and shall be transferred from the receiving fund periodically in the manner and at the times hereinafter specified. The bank or trust company shall be designated from time to time by the City Council.

(B) *Operation and Maintenance Fund.* Out of the revenues in the receiving fund there shall be first set aside, quarterly, into a separate depository account designated Operation and Maintenance Fund, a sum sufficient to provide for the payment of the next quarter's current expenses of administration and operation of the system and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order. The City Council, prior to the commencement of each operating year, shall adopt a budget covering the foregoing expenses for each year, and such total expenses shall not exceed the total amount specified in said budget, except by a vote of five-sevenths of the members of the City Council.

(C) *Bond and Interest Redemption Fund-generally.* There shall next be established and maintained a separate depository account designated Bond and Interest Redemption Fund, which shall be used solely for the purpose of paying the principal of and interest on the bonds authorized. The monies in the Bond and Interest Redemption Fund (including the Bond Reserve Account hereinafter established) shall be kept on deposit with the bank or trust company where the principal and interest on the bonds herein authorized are currently payable. Out of the revenues remaining in the receiving fund, after provision has been made for expenses of operation and maintenance of the system, there shall next be set aside, quarterly, in the Bond and Interest Redemption Fund, a sum proportionately sufficient to provide for the payment of the principal of and interest on all outstanding bonds payable from the revenues of the system, as and when the same become due and payable. The amount so set aside for interest each quarter shall be not less than one-half of the total amount of interest becoming due on said bonds on the next interest payment date, and the amount so set aside for principal each quarter shall be not less than one-fourth of the total amount of principal becoming due on the next principal payment date. If there shall be any deficiency in the amount previously required to be set aside, then the amount of such deficiency shall be added to the current requirements.

(D) *Same-Bond Reserve Account.* There is established in the Bond and Interest Redemption Fund a separate account to be known as the Bond Reserve Account, into which, after provision has been made for the Operation and Maintenance Fund and the Bond and Interest Redemption Fund, the sum of $100,000 has been accumulated. The monies from time to time in the Bond Reserve Account shall be used solely for the payment of principal and interest on said bonds as to which there would otherwise be default. If at any time it shall be necessary to use monies in the Bond Reserve Account for such payment, then the monies so used shall be replaced from the net revenues first received thereafter which are not required by this article to be used for operation and maintenance or for current principal and interest requirements; provided, however, that such Bond Reserve Account shall not be regarded as monies otherwise appropriated or pledged for the purpose of determining the sufficiency of funds available for redemption of callable bonds.

(E) *Same-When payments may stop.* No further payments need be made into the Bond and Interest Redemption Fund after enough of the bonds have been retired so that the amount then held in said fund (including the Bond Reserve Account) is equal to the entire amount of principal and interest which will be payable at the time of maturity of all the bonds then remaining in standing.

(F) *Replacement Fund.* There shall next be established and maintained a separate depository account designated as the Replacement Fund, the monies from time to time on deposit therein to be used solely for the purpose of making major repairs and replacements to the system. There has been accumulated in such fund the sum of $100,000. If at any time it shall be necessary to use monies in said fund for such purpose, the monies so used shall be replaced from the net revenues in the Receiving Fund which are required by this article to be used for the Operation and Maintenance Fund or the Bond and Interest and Redemption Fund, including the Bond Reserve Account.

(G) *Improvement Fund.* There shall next be established and maintained a separate depository account designated Improvement Fund, the monies from time to time on deposit therein to be used solely for the purpose of acquiring and constructing additions, extensions and improvements to the system. There shall be deposited into said Fund, quarterly, such sum as may be determined by the City Council, after meeting of priority requirements of the Operation and Maintenance Fund, the Bond and Interest Redemption Fund (including the Bond Reserve Account) and the Replacement Fund.

(H) *Transfer of surplus money in Receiving Fund.* Monies remaining in the Receiving Fund at the end of any operating year, after full satisfaction of the requirements of the foregoing funds may, at the option of the City Council, be either:

(1) Transferred to the Bond and Interest Redemption Fund and used for calling bonds for redemption in the manner herein specified;

(2) Transferred to the Improvement Fund and used for the purpose for which said funds are established.

(1978 Code, § 35-11; Ord. No. 182-F, § 1, 3-31-81)

53-12. DEFICIENCIES IN RECEIVING FUND.

In the event the monies in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund or the Bond and Interest Redemption Fund, any monies and/or securities in other funds of the system shall be transferred: first, to the Operation and Maintenance Fund, and second, to the Bond and Interest Redemption Fund, to the extent of any deficit therein.

(1978 Code, § 35-12; Ord. No. 182-F, § 1, 3-31-81)

53-13. INVESTMENT OF FUNDS.

The monies in funds or accounts of the system may be invested in the United States government obligations subject to the limitations provided in Public Act 94 of 1933 (M.S.A. §§ 5.2731 et seq.; M.C.L. §§ 41.101 et seq.), as amended, and the income derived from such investments shall be credited to the fund from which such investments were made. In the event of any such investment, the securities representing the same shall be kept on deposit with the bank having the deposit of the fund or funds from which purchase was made.

(1978 Code, § 35-13; Ord. No. 182-F, § 1, 3-31-81)

53-14. COVENANTS WITH BOND HOLDERS.

The city covenants and agrees with the successive holders of the bonds and coupons that, so long as any of the bonds remain outstanding and unpaid as to either principal or interest:

(1) It will maintain the system and all its facilities in good repair and working order, will operate the same efficiently and will faithfully and punctually perform all duties with reference to the system required by the Constitution and laws of the State of Michigan and as may be required by the loan agreement between the city and the housing and home finance agency under the terms of which a portion of the public improvements may be financed, including the establishing, fixing and collecting of sufficient rates and charges for services furnished by the system to meet all the requirements established by this article and the segregation and application of the revenues of the system in the manner provided in this article;

(2) It will cause to be maintained and kept proper books of record and account, separate from all other records and accounts of the city, in which shall be made full and correct entries of all transactions relating to the system. Not later than 60 days after the close of each operating year, the city will cause to be prepared forms furnished by the Municipal Finance Commission, if such forms are available, a statement in reasonable detail, sworn to by its chief accounting officer, showing the cash income and disbursements of the system during each operating year, the assets and liabilities of the system at the beginning and close of the operating year and such other information as is necessary to enable any taxpayer of the city, user of the service furnished or any holder or owner of the bonds or anyone acting in their interest, to be fully informed as to all matters pertaining to the financial operation of the system during such year. A certified copy of such statement shall be filed within 90 days after the close of each operating year with the Municipal Finance Commission and a copy sent to the manager of the account purchasing the bonds and to the housing and home finance agency if any of the bonds are awarded to the United States of America. Such statement and books of record shall be at all reasonable times open to inspection by any taxpayer of the city, user of the service or holder or holders of any bonds or anyone acting in their behalf. The city will also cause an annual audit of such books of record and account for the preceding operating year to be made each year by a recognized independent certified public accountant and will mail a copy of such audit to the manager of the syndicate or account purchasing the bonds and to the housing and home finance agency if any of the bonds are awarded to the United States of America. Such audit shall be completed and so made available not later than three months after the close of each operating year. The city will furnish copies of such audit reports to any bond holder who shall request the same in writing;

(3) It will procure and maintain insurance covering the system as follows.

(a) It shall require that each of its construction contractors and his or her subcontractors shall maintain during the life of his or her contract worker's compensation insurance and public liability and property damage insurance in amounts and on terms satisfactory to the United States of America, Housing and Home Finance Agency (hereinafter in this subparagraph referred to as the "HHFA"), if any portion of the bonds are purchased by HHFA; and if the HHFA does not purchase any of said bonds, in amounts and on terms satisfactory to the city. It will either itself maintain or require that each of its contractors maintain during the life of his or her contract builder's risk insurance in amounts and on terms satisfactory to the HHFA, if the HHFA purchases any portion of said bonds; and if the HHFA does not purchase any of said bonds, on terms and in amounts satisfactory to the city.

(b) Fire and extended coverage in amounts sufficient to provide for not less than full recovery whenever a loss from perils insured against does not exceed 89% of the full insurable value. In the event of any damage to or destruction of any portion of the system, the city shall apply the proceeds of said insurance to the repair or reconstruction of the damaged or destroyed portion thereof. In the event of total loss, the city, in lieu of reconstruction, may apply the proceeds to payment of the outstanding bonds.

(c) As long as any of the bonds are outstanding, it will procure and maintain public liability insurance with limits of not less than $100,000 for one person and $300,000 for more than one person involved in one accident to protect the city from claims for bodily injury or death which may arise from operations of the system and not less than $10,000 property damage insurance to protect the city from claims for damage to property of others which may arise from operations of the system.

(d) So long as any of the bonds are outstanding, it will procure and maintain vehicular public liability insurance with limits of not less than $100,000 for one person and $300,000 for more than one person involved in one accident to protect the city from claims for bodily injury or death which may arise from the operation of motor vehicles in connection with said system and not less than $10,000 property damage insurance to protect the city against claims for property damage to property of others which may arise from the operation of motor vehicles in connection with the system.

(e) Each of its officials or employees having custody of funds during the acquisition, construction, development and operation of the system shall be bonded at all times in an amount at least equal to the total funds in his or her custody at one time.

(4) It will not sell, lease or dispose of the system and the lands and interest in lands comprising the site of the system, or any substantial part thereof, until all of the bonds have been paid in full, both as to principal and interest. The city further will cause the operation of the system to be carried on as economically as possible, will cause to be made to the system all repairs and replacements necessary to keep the same in good repair and working order and will not do or suffer to be done any act which would affect the system in such a way as to impair or affect unfavorably the security of the bonds.

(1978 Code, § 35-14; Ord. No. 182-F, § 1, 3-31-81)

53-15. ISSUANCE OF ADDITIONAL BONDS.

The right is reserved, in accordance with the provisions of Public Act 94 of 1933 (M.S.A. §§ 5.2731 et seq.; M.C.L. §§ 141.101 et seq.), as amended, to issue additional bonds payable from the revenues of the system, which shall be of equal standing with the bonds herein authorized, but only for the following purposes:

(1) To complete the public improvements in accordance with the plans and specifications therefor, and such bonds shall not be authorized unless the consulting engineers or the successor engineers in charge of construction shall execute a certificate evidencing the fact that additional funds are needed to complete the public improvements in accordance with the plans and specifications therefor. If such certificate shall be so executed and filed with the City Clerk, it shall be the duty of the City Council to provide for and issue additional revenue bonds in the amount stated in the certificate to be necessary to complete the public improvements in accordance with the plans and specifications.

(2) For subsequent additions, extensions and improvements to the system; provided, that no such additional bonds shall be issued in accordance with this subsection unless the average annual net revenues for the last two preceding completed operating years of the system, or the net revenues for the last completed operating year, whichever is lower, shall be equal to at least 135% of the largest annual principal and interest requirements thereafter maturing on the bonds herein authorized, on any then previously issued bonds of equal standing with the bonds herein authorized, and on such additional bonds then being issued. For the purpose of determining net revenues under the above requirements, there shall be added to the net revenues for the last two operating years the net revenues estimated to accrue from the additions, extensions and improvements. Prior to the issuance of any additional bonds pursuant to this paragraph, there shall be filed with the City Clerk a statement showing the average annual net revenues for the two preceding completed operating years, the additional or augmented revenues from the

improvements to be acquired and the annual principal and interest requirements on all outstanding bonds payable from revenues of the system and the bonds proposed to be issued. The statement shall be executed by a registered engineer appointed by the city. Permission of the Municipal Finance Commission (or such other state body having jurisdiction over the issuance of municipal bonds) to issue such additional bonds shall constitute a conclusive presumption of the existence of conditions permitting the issuance thereof.

Except as herein authorized, no additional bonds having equal standing with the bonds of this issue shall be authorized or issued.

(1978 Code, § 35-15; Ord. No. 182-F, § 1, 3-31-81)

53-16-53-25. RESERVED.

ARTICLE II. WATER SUPPLY SYSTEM AND WATER USE STANDARDS

53-26. DEFINITIONS.

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

BACKFLOW PREVENTER. An approved device installed in a water service pipe to prevent water from flowing back to the municipal water main.

COMMON AREA. An area of property (usually landscaped) owned or used by more than one person for a common purpose, such as a landscaped greenbelt, landscaped boulevard island, park commons, signage easement or conservation easement.

COMMON AREA IRRIGATION SYSTEM. A lawn or landscape irrigation system installed upon a common area to maintain the common area landscaping, trees and vegetation.

CORPORATION STOP. A valve which is inserted into the municipal main for the connection of the water supply service pipes in sizes up to and including two inches in diameter.

CURB STOP. A valve for insertion in the water supply service pipes of two-inch diameter size or smaller.

CURB STOP BOX. A box or metal housing which encloses, protects and provides access to a curb stop.

METER PIT. An approved vault for housing a water meter.

PLUMBER. A person licensed and registered with the State of Michigan to do plumbing in accordance with the statutes and ordinances relating to such work.

PREMISES. A parcel of land in its entirety which is described as a separate unit on the tax assessment rolls of the city. Such definition includes but is not limited to a building under one roof owned, leased or occupied by one party as a business or residence; a combination of residential buildings or of commercial buildings leased or occupied by one party in common enclosure; or one part of a two-family dwelling having a solid vertical partition wall; or a building owned by one party having more than one internal division, such as apartments, offices, stores and the like, which may have a common or separate entrance.

RIGHT-OF-WAY. Land reserved, used or to be used for a street, alley, walkway or other public purpose as indicated in the master road plan.

SERVICE CONTROL VALVE. A gate valve installed in a water supply service pipe of three-inch diameter size or larger.

SERVICE CONTROL VALVE BOX. A box or metal housing which encloses, protects and provides access to the service control valve of water service pipes of three to six inch diameter.

SERVICE CONTROL VALVE GATE WELL. A structure enclosing, protecting and providing access to a service control valve of eight inch diameter size or larger.

TAP. A water service pipe connection into a municipal water main.

TEMPLATE. A spacer temporarily installed in a water supply service pipe to provide for future installation of a water meter.

WATER MAIN, MUNICIPAL. A municipal water pipe located upon or abutting property to which a water service connection can be made.

WATER METER. A device designed to measure the volume of water utilized by premises, including the remote cable and outside remote reader.

WATER SERVICE. Piping from the water main to and including the water meter, consisting of a corporation stop, curb stop, piping and water meter.

(1978 Code, § 35-26; Ord. No. 182-F, § 1, 3-31-81; Ord. No. 182-M, § 2, 9-21-93)

53-27. PERMIT REQUIREMENTS; APPLICATION.

(A) No person shall make any connection to or alter or replace any connection to the municipal water system within the city without first having obtained a permit for such connection. Any person doing such work without a permit shall be deemed guilty of a violation of this article and shall be subject to such penalties as are provided in this Code.

(B) The application must state in detail the proposed location of the water service connection. In the case of service connections for commercial and industrial uses, the application must include a drawing of the building with sufficient dimensions to determine the square footage of all structures, including all floors, basements, penthouses and mezzanines to be served by the connection. The application shall note whether or not more than one building is intended to be served by the same connection with the street main. Furthermore, the application must disclose whether or not there are any previously installed service lines servicing the property in question.

(C) Upon review to determine that all provisions of this article are complied with, and upon receipt of the necessary fees required for issuance of a permit, as well as any other charges for such service connection, the Department of Public Works shall issue a permit for such water service connection.

(D) In the case of an application for a temporary tap, the applicant must state the length of time for which the connection is anticipated to be used. If a temporary tap is to be used for a longer period than originally requested, the applicant must obtain an extension of the duration of the permit for the temporary tap from the city.

(1978 Code, § 35-27; Ord. No. 182-F, § 1, 3-31-81)

53-28. INSTALLATION OF WATER SERVICE PIPES-SINGLE-FAMILY RESIDENTIAL.

(A) A request for a water tap from the city shall be made at least ten working days prior to its anticipated need. If the proposed use calls for a tap in excess of two inch diameter, additional notice shall be given so that the special materials necessary for installation of the larger tap may be ordered and received. Prior to installation of a water service pipe, the permit holder shall contact "Miss Dig" and obtain the location of all existing utilities. The proposed location of the water service pipe shall be at least three feet from any existing gas lines and five feet from the sanitary sewer service lead.

(B) At least 24 hours prior to the anticipated installation of the water service pipe, the permit holder shall notify the Department of Public Works so that the location of the tap and the point to which the water service pipe must be run can be determined. The Department of Public Works Inspector shall leave a stake indicating the proposed location of the tap and the point to which the water service pipe shall be installed.

(C) Once the tap location is determined, the permit holder shall install the water service pipe in a trench of at least five feet in depth, where the final grades are known, leaving a sufficient length of pipe to connect it to the service control valve. Where the final grades are not known, the top of the service pipe shall be at least six feet below pavement grade. The water service pipe and its installation shall conform strictly to standards established from time to time by the city.

(D) When the building to which water service is to be connected has a basement or cellar, the water service pipe must be extended to same and no branches taken therefrom except on the outlet side of the meter in the cellar or basement.

(E) No pipes shall be installed along the outside wall or in any other position inside the building where there is a danger of freezing. In addition, no new service connections or new attachments to old connections which require a running stream to prevent freezing shall be permitted.

(F) Upon completion of the installation of the water service pipe and prior to the backfilling of the trench, the permit holder shall request an inspection and obtain approval from the Department of Public Works of the installation of the water service pipe and the depth of the trench before proceeding.

(G) Upon inspection and approval of the water service pipe, the Department of Public Works shall install the water tap and the service line from the water main to a location within the easement or to a point within seven feet of the lot line. The Department of Public Works shall tap the main, insert the corporation stop with proper couplings and lay the service pipe and provide a curb stop with a stop box and an approved cover.

(H) All curb stops and service control valves used on water service connections must meet the current specifications of the city as established from time to time.

(1978 Code, § 35-28; Ord. No. 182-F, § 1, 3-31-81)

53-29. SAME-COMMERCIAL AND INDUSTRIAL.

(A) A request for a water tap shall be made at least 15 working days prior to its anticipated need. If the particular installation requires a tap in excess of two inches, additional notice is required so that the special materials necessary for installation may be ordered and received. Prior to the installation of water service pipe, the permit holder shall contact "Miss Dig" and obtain the location of all existing utilities. The proposed location of the water service pipe shall be at least three feet from any existing gas lines and five feet from the sanitary sewer service lead.

(B) Where the water tap is to be made to an on-site water main, the water service pipe shall be run to within six feet of the main. In addition, a sufficient length of water service pipe shall be left exposed so that the city may connect the water service pipe to the box. The permit holder shall place a stake at the end of the water service pipe so that it may easily be located.

(C) Where the tap and connection is to be made within the right-of-way, the water service pipe shall be installed into the right-of-way a minimum distance of seven feet. A sufficient length of water service pipe shall be left exposed so that the city may connect the water service pipe to the box. A stake indicating the location of the water service pipe shall be left by the person installing the water service pipe. Where final grades of the street are established, the water service pipe shall be installed at least five feet below the pavement grade. Where the final grade of the street is not known, the water service pipe shall be installed at least six feet below the surface of the earth.

(D) Upon completion of the installation of the water service pipe and prior to the backfilling of the trench, the permit holder shall request an inspection and obtain approval of the installation of the water service pipe and the depth of the trench.

(E) Following inspection and approval of the water service pipe, the Department of Public Works will ordinarily install the water tap in the service line from the water main to a location within seven feet of the lot line. This work shall include tapping the main, inserting the corporation stop with proper couplings, laying the service pipe and providing a curb stop with a stop box and an approved cover. In instances where larger taps are installed and the city permits the owner to install the water tap in lieu of the city, such installation shall be conducted in strict conformance to the standards established by the city. All new service pipes connecting to the water main shall have an inside diameter of at least one inch and shall extend between the connection to the water main and the water meter. In addition, all water service pipes, curb stops, service control valves, corporation stops, service control valve boxes, service control valve gate wells and service control valves shall meet the current specifications of the city as established from time to time.

(F) A backflow preventor approved by the city shall be installed for each service connection to a building. The owner shall be responsible for the proper operation, maintenance and repair of the backflow preventer.

(G) The following minimum requirements are established for multiple-family dwellings:

Number of Units	***Minimum Service Size***
3-6	1½ inch
7-12	2 inches
13-20	2 to 3 inches
21-36	3 inches
37-60	4 inches
60 or more	to be determined by the city

(1978 Code, § 35-29; Ord. No. 182-F, § 1, 3-31-81)

53-30. SAME-GENERALLY.

(A) There shall be a separate water service pipe for each building unless special approval is obtained from the City Council. Where two or more buildings are originally serviced by one water service pipe and ownership of the buildings subsequently is divided, individual water service pipes shall be installed at the time of such transfer of ownership.

(B) Water service pipes shall not be permitted to cross public streets or rights-of-way without specific permission from the city and the agency with jurisdiction over said street or right-of-way.

(C) All service connections not currently used or contemplated to be used or not meeting current city standards shall be disconnected at the street main. This disconnection shall be done by the city upon payment of the required fee as established by the annual appropriations ordinance. No permit for the installation of a new service line shall be issued until the fees for disconnection for the previous line have been paid.

(D) The builder, contractor or plumber is required to install the water service pipe prior to the installation of the water tap by the city. Exceptions to this requirement will be permitted only with prior approval by the Superintendent of the Department of Public Works or his or her designate.

(E) Where a building is served by city water and also has water from another source or is subject to the provisions of § 53-33 hereunder, then all water service pipes containing potable city water shall be painted or color-coded light blue and all other water pipes painted or color-coded brown. Where a different color code has already been in existence to distinguish city potable water from other water within the building, such code will be permitted provided charts defining the various colors are displayed prominently by the water meter and all required backflow preventors. Failure to comply with the above provisions within 90 days of written notice of said violation shall be deemed sufficient cause to disconnect the water supply to the building.

(F) The property owner shall pay the cost and be responsible for any alteration to the premises' water service line necessary to accommodate the remote water meter installation from the point of connection at the curb stop box to the water meter, including the plumbing required at the meter.

(1978 Code, § 35-30; Ord. No. 182-F, § 1, 3-31-81; Ord. No. 182-J, § 2, 1-19-88; Ord. No. 388, § 31, 1-3-07)

53-30.5 INSTALLATION OF COMMON AREA IRRIGATION SYSTEMS.

(A) A developer or association of owners may request a water service connector for a common area irrigation system to provide irrigation to landscaping located within a common area.

(B) The common area irrigation system and any water meter installed as part of such a system shall be installed in accordance with regulations established by the City Manager under the authority of § 53-2 of the City Code.

(C) The developer or association requesting a water service connector for a common area irrigation system shall enter into a written agreement with the city in a form satisfactory to the city providing for the collection of fees and charges due under any city ordinance or regulation relating to the installation, maintenance, usage or removal of a common area irrigation system. This agreement must provide for the imposition of liens to insure collection of such charges.

(D) If the developer or association installing a common area irrigation system is unable to impose a lien upon the property served by the common area irrigation system because such common area is not under its control or ownership, the city may allow installation of a common area irrigation system if the developer or association enters into an agreement with the city in a form satisfactory to the city providing:

(1) For the deposit in advance of a sum equal to 150% of the estimated water usage charges for such year;

(2) For the replenishment of such fund based upon usage; and

(3) For the discontinuance of water service to the common area if the fees and charges due are not paid on a timely basis.

(E) Any person installing a common area irrigation system shall pay all applicable tap fees, connection charges, capital charges, usage fees or other fees or charges imposed by ordinance or regulation relating to such installation.

(F) The owner, developer, association or occupant responsible for maintenance of the common area upon which the common area irrigation system is located shall exercise reasonable care and caution to insure that the water meter for such system is not damaged in any way, including but not limited to taking precautions against freezing or damage, injury or interference by any person.

(Ord. No. 182-M, § 3, 9-21-93)

53-31. LOCATION OF FIRE HYDRANTS.

All fire hydrants shall be located a minimum distance of two feet from any street, pavement or sidewalk and a minimum of four feet from any driveway, tree or other permanent structure. The property owner whose property abuts a fire hydrant shall be responsible for preventing any interference or obstruction to its use.

(1978 Code, § 35-31; Ord. No. 182-F, § 1, 3-31-81)

53-32. INSTALLATION OF WATER METERS.

(A) All premises using city water shall be metered. All installations of water meters shall be of a remote water meter type and a remote meter reader. All existing nonremote meters shall be upgraded to remote water meters and remote water meter readers. The remote meter reader shall be located on the front exterior of all single-family residential structures. The remote meter reader shall be located on the exterior of commercial or industrial buildings in an area most suitable for easy reading. No person shall tamper with or remove the remote water meter or remote water meter reader or interfere with the reading thereof.

(B) The expense of the meter and its installation shall be borne by the owner of the premises. Water meters shall at all times remain within the ownership and control of the city. All charges for the meter shall be paid at the time that the applicant obtains a permit. The maintenance of a meter shall be at the expense of the Department of Public Works, except in situations where the replacement, repair or adjustment of the meter is made necessary by the acts, neglect or carelessness of the owner or occupants of the premises, in which case the cost incurred may be charged against and collected from the owner of the premises.

The city may contract for the installation of the remote water meters and remote water meter readers installed to upgrade existing water meters. The premises shall be billed for this installation as set forth in § 53-5.

(C) There shall be a separate water meter for each water service. Where conditions of use or occupancy warrant the use of multiple meters, the City Council may approve an exception to this requirement. In such cases, an agreement must be signed by the owner protecting the city against any liability arising from such metering or any loss of revenue caused thereby.

(D) The minimum size of water meters for residential uses shall be as follows:

Single-family dwelling:	3/4 inch
Two-family dwelling:	1 inch
3-6 units:	1 inch
7-12 units:	1½ inch
13-20 units:	2 inch
21-36 units:	3 inch
37-60 units:	4 inch
More than 60 units:	As reflected on approved plans

(E) A template and coupling up to and including one and one half inch diameter will be furnished by the Department of Public Works without additional charge provided the application for permit is properly completed and the permit fees paid. The meter must be set before the building becomes occupied.

(F) The Department of Public Works shall install all meters of one and one half inch diameter in size and smaller. As to meters for applications in excess of that size, the city will provide the larger water meters and all detector check meters but the same must be installed by a plumber on the job site. All such meters in commercial buildings, apartment buildings and industrial buildings shall be installed on an outside wall with a four-inch pipe extended through the wall which is capped on the outside of the building to enable testing and repair of the meters on a regular basis without entry into the building.

(G) All meter installations shall be done in an area which is dry, clean, easily accessible and warm, with sufficient room for the meter to be eight inches from the floor and six inches from any walls or other obstructions. The meters shall be set horizontally with valves on both sides so that a small leak in the flowage of water will cause no damage.

(H) When due to faulty work or an inability to obtain access it is necessary to make more than one trip to set a meter, a charge of $20 will be made for each additional trip.

(I) No person shall interfere with or remove a water meter from any service connection without first obtaining the approval from the Department of Public Works. Whenever any meter is removed with such approval, the meter shall be immediately returned to the Department of Public Works. In the event that a meter is missing from a location where it is known that a meter had previously been installed, the owner of the premises will be charged for a new meter.

(1978 Code, § 35-32; Ord. No. 182-F, § 1, 3-31-81; Ord. No. 182-J, § 3, 1-19-88)

53-33. WATER SUPPLY CROSS-CONNECTIONS; LABELING OF WATER OUTLETS NOT SUPPLIED BY POTABLE SYSTEM.

(A) The city adopts by reference the water supply cross-connection rules of the State Department of Public Health, being 8325.431 to 8325.440 of the Michigan Administrative Code.

(B) It shall be the duty of the Department of Public Works to cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved, shall be as established by the Department of Public Works and as approved by the State Department of Public Health.

(C) The representative of the Department of Public Works 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 Department of Public Works is authorized and directed to discontinue water service after reasonable notice to any property wherein any connections in violation of this section exist and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross-connection has been eliminated in compliance with the provisions of this 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 codes. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as "Water Unsafe for Drinking."

(F) This section does not supersede the state plumbing code and the city plumbing ordinance but is supplementary to them.

(1978 Code, § 35-33; Ord. No. 182-F, § 1, 3-31-81)

Cross reference:

Plumbing Code, see §§ 11-58-11-60

53-34. INSPECTIONS; RIGHT-OF-ENTRY; DENIAL OF ACCESS.

(A) *Entry for purposes of inspection, sampling, etc.* The Superintendent of the Department of Public Works and any other duly authorized employee of the city bearing proper city credentials and identification shall be permitted to enter upon any property for the purpose of inspection, observation, measurement, sampling and testing in accordance with the terms of this article.

(B) *Entry for purposes of remote water meter installation.* The employee of the contractor or subcontractor responsible for the installation of new water meters and remote water meter readers bearing proper identification as an employee of that contractor shall be permitted to enter upon any property for the purpose of remote water meter installation.

(C) *Denial of access to premises; notification of owner; termination of water service.* After reasonable notice by the city to the owner of the premises, the city may terminate water service to that premises if access to that premises for the purposes stated within this chapter has been denied.

(1978 Code, § 35-34; Ord. No. 182-F, § 1, 3-31-81; Ord. No. 182-J, § 4, 1-19-88)

53-35. VIOLATION AND DUTY TO ABATE.

Except as specifically provided to the contrary herein, correction of any violation of any of the provisions contained herein shall be made within ten days after notification by the city. Except in cases of emergency as determined by the Superintendent of the Department of Public Works, or where there is a break in the on-site water service, water service as authorized by this article may be terminated only after 30 days notice in writing to either the owner or occupant of the abutting premises that the City Council has determined that the use of such privilege is being carried on in violation of the provisions of this article. In the case of an emergency, or where a break in on-site water service occurs, the Superintendent of the Department of Public Works, or his or her designate, may terminate service without notice.

(1978 Code, § 35-35; Ord. No. 182-F, § 1, 3-31-81)

53-36. DAMAGE TO WATER MAIN OR HYDRANT; NOTICE TO REPAIR.

In all cases where a water main, remote water meter, hydrant or any other appurtenance to the water supply system is damaged by the acts or negligence of the property owner whose property abuts the water main, remote water meter, hydrant or appurtenance, it shall be the duty of the Superintendent of Public Works, after determining the cause and responsibility for such damage, to give notice to the owners or parties in interest of the property serviced by such facilities or equipment of the need to have such facilities or equipment repaired, except where emergency conditions require immediate remedial action without notice. The city shall make the repairs to the water main and to public property damage incidental to such repairs. The city shall be reimbursed for the cost of such repairs. Such expenses incurred for repairs shall be charged to the owners or parties in interest of the property abutting such facilities or equipment, and if not paid, such charges shall be assessed against the abutting premises serviced by such facilities and equipment as a special assessment levied and collected by the city in the same manner as taxes and special assessments.

(Ord. No. 182-M, § 4, 9-21-93)

53-37-53-45. RESERVED.

ARTICLE III. SEWAGE DISPOSAL, SEWER CONNECTION AND USE STANDARDS

53-46. AUTHORITY.

By the virtue of the obligations placed upon the City of Sterling Heights by the amended consent judgment in the cause of United States of America vs. State of Michigan, Case No. 77-1100, in the United States District Court, Eastern District of Michigan, Southern Division as well as the rate settlement agreement in that same cause, by the Federal Water Pollution Control Act of 1972 (Pub. L. 92-500, as amended), State of Michigan Act 245 of 1979, as amended, and the National Pollution Discharge Elimination System Permit No. MI 0022N02, as well as existing and future contracts between the City of Sterling Heights and the Board of Water Commissioners of the City of Detroit, these regulations shall apply to every user whose waste water is conveyed, directed or drained into the sewer system of the City of Sterling Heights.

(1978 Code, § 35-46; Ord. No. 230, § 1, 6-22-81)

53-47. DEFINITIONS.

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

BOARD. The Board of Water Commissioners of the City of Detroit.

BOD (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 milligrams per liter (mg/l).

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

BUILDING SEWER. The extension of the building drain and/or sanitary building drain to the public sewer.

CITY. The City of Sterling Heights.

CITY CODE. The Municipal Code of Ordinances of the City of Sterling Heights.

CITY CODE OF DETROIT. The Municipal Code of the City of Detroit (1964).

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

COUNCIL. The Council of the City of Sterling Heights.

COUNCIL OF DETROIT. The City Council of the City of Detroit.

DIRECTOR DWSD. Director of the Water and Sewerage Department.

GARBAGE. Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

INDUSTRIAL WASTES. Any liquid, solid or gaseous waste or form of energy or combination thereof resulting from any process of industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

INTERNAL SANITARY BUILDING DRAIN. That part of the lowest horizontal piping of the drainage system which conveys internal sanitary sewage to the building sewer, beginning five feet outside the inner face of the building wall.

INTERNAL STORM BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which conveys the internal storm water to the storm sewer or to discharge on the ground.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. As defined in the Federal Water Pollution Control Act, 33 USC 1342, Pub. L. 92-500, Section 402 and 40 CFR 125.

NATURAL OUTLET. Any outlet into a watercourse, river, pond, ditch, lake or other body of surface or groundwater.

PERSONS or ***USER***. 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.

PRIVATE DRAIN. Any drain or storm sewer connecting a private source to a public storm sewer.

PRIVATE SEWERS. A sanitary sewer not under the jurisdiction or ownership of a governmental entity.

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

PUBLIC RIGHT-OF-WAY. A street, easement or alley under government jurisdiction that is for public use.

PUBLIC SEWER. A sewer in which all the owners of abutting properties have equal rights and which is controlled by a public authority or governmental agency.

SANITARY SEWER. A sewer that carries liquid or water-carried waste from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

SEWAGE. A combination of water-carried wastes from residences, businesses, buildings, institutions and/or industrial establishments, together with such ground, surface and storm waters as may be present.

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

SEWER. A pipe or conduit carrying liquid and/or liquid-bearing waste.

SHALL, MAY. Shall is mandatory; may is permissive.

SLUG. Any discharge of water, sewage or industrial waste which in concentration of any given constituent or quantity of flow exceeds, for any period of duration longer than 15 minutes, more than five times the average 24 hour concentration of flows during normal operations.

STORM SEWER. A sewer which carries storm and surface water and drainage, but excludes waste water and industrial waters other than unpolluted cooling water.

SUBURBAN SEWER. A sewer that emanates from and serves areas outside the City of Detroit.

SUPERINTENDENT. The Superintendent of the Department of Public Works in the City of Sterling Heights or his or her deputy or his or her designated representative.

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

UNPOLLUTED WATER. Water in its original, natural or unused state; if used, it shall be at least equal chemically, physically and biologically to its state before use.

WATERCOURSE. A channel in which a flow of water occurs either continuously or intermittently.

WASTE WATER. A combination of waters, liquid and/or liquid or water-carried wastes coming from or by domestic, commercial or manufacturing users of the system and discharging into a sanitary sewer.

(1978 Code, § 35-47; Ord. No. 230, § 1, 6-22-81)

53-48. USE OF PUBLIC SEWERS REQUIRED.

The use of and the requirement to connect to the city public sewers shall be in accordance with §§8-58 through 8-60 of the City Code. No person, as owner, occupant or tenant of any lot, parcel of land or building thereon within the city shall discharge any sanitary sewage, industrial waste and/or other objectionable or deleterious matter into any stream, watercourse, lake or pond within, leading to or bordering upon the city. Such sewage or waste shall be discharged into the public sewers having connection to the sewage works of the City of Sterling Heights, unless such sanitary sewage or other objectionable or deleterious matter is treated in a manner approved by the Superintendent of the Department of Public Works for the City of Sterling Heights and the Health Department so as not to endanger public health and as required by other governmental agencies and in a manner or fashion not in conflict with or otherwise consistent with the rules and regulations of the Detroit Water and Sewage Department and the City of Detroit.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(1978 Code, § 35-48; Ord. No. 230, § 1, 6-22-81) Penalty, see §1-9

53-49. PRIVATE SEWAGE DISPOSAL.

The use of any private sewage works shall be governed by §§11-58 through 11-60 of the City Code.

(1978 Code, § 35-49; Ord. No. 230, § 1, 6-22-81)

53-50. BUILDING SEWERS AND CONNECTIONS.

(A) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sewer of the city is required at his or her expense to install suitable facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article within 90 days after official notice to do so; provided that said public sewer passes, joins or abuts upon the property and is within 200 feet of the building structure in which sanitary sewage originates.

(B) All building sewers and private drains tributary to a city public sewer and all sewer connections to city public sewers shall comply with §§53-46 et. seq. of the City Code, which regulates industrial and commercial waste discharge; the Council's rules and regulations applying to sewer permit work when the work is in a public right-of way and/or involves a connection to a public sewer; and §§ 11-58 through 11-60 of the City Code.

(C) No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the city.

(1) All costs and expenses incident to the installation and connection of the building 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.

(D) A separate and independent building shall be provided for every building as follows:

(1) Where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer;

(2) Where there is more than one building located on a single lot, a parcel of land or on a group of adjacent parcels used as a single piece of property, provided that such lots or parcels are held in an undivided ownership.

In such case as the servicing of more than one building by a single sewer, the several buildings so located may be served by one connection with the main, provided the sewer is of sufficient size to meet all requirements. Where two or more buildings are on one service and the ownership is subsequently divided, individual service must then be installed.

The granting of an exception to the above requirement may be made by the City Council only upon such terms and conditions as may be reasonable under the circumstances.

(3) Existing building sewers may be used in connection with new buildings only when they are found upon examination and testing by the city to meet all requirements of this article.

(E) There shall be two classes of building sewer permits: one for single family residential service and one for service to commercial and industrial establishments. In either case, the owner or his or her agent shall make application to the city on a standardized form. The permit application shall be supplemented by any plans, specifications or other information for the proposed project.

(F) No permit shall be issued for connection to a city public sewer until the proposed sewer work has been approved by all agencies regulating sewer use and construction within the city and a construction permit, if required, has been issued by the Michigan Department of Natural Resources.

(G) All city public sewers and all private sewers constructed in public rights-of-way in the city shall be designed and constructed in accordance with the city's engineering department design standards which shall be in compliance with the Detroit City Code, §§ 56-6-1 et seq. and this section.

(H) New sewer connections will be granted contingent upon the available capacity in the downstream sewers, lift stations and sewage treatment plant, including BOD and suspended solid capacity.

(I) In any case where the Department of Public Works has, upon investigation, made a determination of the fact that sewage or industrial waste inimical to public health and welfare or constituting a public nuisance is being discharged into any stream, watercourse, lake or pond within, leading to or bordering upon the city, the Department of Public Works shall notify the appropriate regulatory agency to take the necessary action to abate and discontinue said discharge of sewage and industrial waste. The cost of any remedial action to abate or discontinue said discharge of sewage or industrial waste shall be the responsibility of and borne by the owner of the property from which said discharge emanates.

(J) A person having any building sewer or private drain from his or her premises that is connected with any city or private sewer shall pay all expenses necessary for maintenance for keeping such city or private sewer in repair.

(1978 Code, § 35-50; Ord. No. 230, § 1, 6-22-81)

53-51. RULES AND REGULATIONS APPLYING TO SEWER PERMIT WORK.

The city shall have the authority to establish rules and regulations applying to sewer permit work and design, detailing and construction standards for sanitary sewers.

(1978 Code, § 35-51; Ord. No. 230, § 1, 6-22-81)

53-52. USE OF PUBLIC SEWERS.

(A) Unless authorized by the City Manager, or his or her designee, as hereafter provided, no person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer. The City Manager shall have the authority to permit the installation of monitoring wells and the discharge of treated ground water into the city sanitary sewer system in accordance with an agreement executed by the party discharging the treated ground water and the city, which shall be in a form satisfactory to the city. Permit and inspection fees for the installation of monitoring wells and discharge of treated ground water into the sanitary sewer system and inspection of such equipment and operations shall be established by the annual appropriations ordinance.

(B) Storm water and all other unpolluted waters shall be discharged to sewers specifically designated as storm sewers or to a natural outlet approved by the appropriate state agency. Industrial cooling water and unpolluted processed water may be discharged to a storm sewer upon approval by the City of Sterling Heights. The discharge of such waters to a natural outlet must be approved by the appropriate state agency. With the exception of such storm, industrial cooling and unpolluted waters, no liquid, semi-liquid or solid waste or material may be spilled, dumped or discarded into the storm sewer system unless in association with a National Pollution Discharge Elimination System (NPDES) permit or fire fighting activities undertaken by the city.

(C) No person shall remove or cause to be removed any grate, cover or barricade from a manhole, catch basin or sewer inlet over which it is placed or in any way, directly or indirectly, injure any city public sewer or any part thereof.

(D) No person shall make or construct any sink, drain or sewer leading into any city public sewer without providing a sufficient strainer at the head of it.

(E) No person shall deposit or cause to be deposited in any city public sewer or in any private sewer connecting therewith any improperly shredded garbage, glass, metal, earthenware, stone, sand, gravel, cinders, cement, concrete, lime or lime waste, rags, lint, dust, grass, hay, straw, manure, offal, grease, feathers, sticks or bits of wood, gasoline, oil or oily waste, tar, acids, chemicals, offensive or harmful gaseous waste or gases, either free or in solution, nor shall any waste or materials or combinations thereof be deposited that are liable to cause injury to or stoppage of or unreasonably offensive odors in such sewers.

(F) No person shall deposit or allow to be deposited any refuse, dripping or nauseous liquid or other substance from any distributing pipe or gas conductor into any sewer, receiving basin, gutter or other place within the city or force or discharge into any public or private sewer or drain any steam, vapor or gas.

(G) Grease, oil and sand interceptors shall be provided as required by §§11-58 through 11-60 of the City Code for the proper handling of liquid wastes containing grease, flammable wastes and 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 and shall be located as to be readily and easily accessible for cleaning and inspection.

All restaurants and vehicle service garages shall be required to install grease and oil interceptors. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which when bolted in place shall be gastight and watertight. 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.

(H) Unless authorized by the City Manager, or his or her designee, as hereafter provided, no surface, roof or ground water from any source shall be allowed to enter the sanitary sewer system of the city. The City Manager shall have the authority to permit the installation of monitoring wells and the discharge of treated ground water into the city sanitary sewer system in accordance with an agreement executed by the party discharging the treated ground water and the city, which shall be in a form satisfactory to the city. Permit and inspection fees resolution for the installation of monitoring wells and discharge of treated ground water into the sanitary sewer system and inspection of such equipment and operations shall be established by the annual appropriations ordinance.

(I) The prohibition of surface, roof or groundwater from entering the sanitary sewer system may be modified to provide for temporary connection of an open basement during construction of a building for a time period not to exceed 90 days. The connection shall be made through a strainer system which shall be in accordance with standard plans adopted by the city. The temporary connection shall be removed when backfilling of the basement and initial roofing is completed.

(J) Footing drain tile from buildings existing and connected to a sanitary sewer system prior to February 20, 1968 shall not be required to disconnect from the sanitary sewer system.

(K) In each basement constructed upon properties located in all sections of the city, after the effective date of this amendment, no fewer than two floor drains shall be provided and installed in compliance with the Plumbing Code adopted by the city.

(L) Whenever a new building with footing drains is constructed or a sump pump in an existing building is installed on property where a storm sewer or storm drain is available within the abutting street right-of-way or a public easement, a connection shall be made in accordance with a standard plan adopted by the city to provide for the discharge of the groundwater and stormwater collected within the footing drains directly into the storm sewer or storm drain.

(M) Where existing developed properties discharge groundwater and storm drainage from footing drains and/or basement floor drains directly onto lawn surfaces and where these waters are transmitted onto public rights-of-way or easements thereby creating nuisance conditions, such as sidewalk and street icing or perpetual surface wetting conditions, and where a storm sewer or storm drain is available or where a storm sewer is extended for the purpose of connection, then such properties shall cause such discharge to be connected into the storm sewer or storm drain in accordance with a standard plan adopted by the city. The connection shall be accomplished within 90 days after receipt of proper notice.

(N) Sump pumps, for which permits are to be obtained, shall be required to be installed in all new buildings constructed after the effective date of this article having basement or footing drains. The sump pump shall be installed in accordance with an approved plan for installation as developed by the Building Department.

(O) A standard fee to cover inspection costs and/or treatment costs shall be charged; said fees to be established by the annual appropriations ordinance.

(P) The final building grade shall be established and maintained at an elevation that will provide a minimum 5% slope away from the building or house for a minimum distance of ten feet and the balance of the building or house site shall be graded to provide positive surface drainage from that point to the street, ditch or

other drainage course.

(Q) Where local setback, side yard or rear yard requirements would result in the building being located less than ten feet from the property line, then the surface of the ground shall slope away from the building or house wall at a uniform minimum slope of five-eighths inch per foot in a manner approved by the Building Official for the city.

(R) All new buildings or houses constructed after the effective date of this section having footing drains shall be required to provide eavestroughs, gutters and down spouts. Roof waters from the building or house shall not discharge into any flower or shrub bed adjacent to the building wall, but shall be piped five feet away from the foundation walls or discharged on splashblocks extending a minimum of five feet from the building or house foundation wall.

(1) Where local setback, side yard or rear yard requirements would result in the building or house being located less than five feet from the property line, then the downspouts shall be discharged in a manner approved by the Building Official for the city.

(2) Downspout piping shall be permanently affixed to the building wall and shall be discharged onto a five foot splashblock or other similar method approved by the Building Official for the city.

(3) No approval shall be given by the Building Official unless the method being used shall provide a positive slope away from the building foundation wall.

(1978 Code, § 35-52; Ord. No. 230, § 1, 6-22-81; Ord. No. 230-A, §§ 1, 2, 1-16-90; Ord. No. 286-A, §§ 2, 3, 10-1-91; Ord. No. 64-C & 266-B, § 2, 6-1-93; Ord. No. 230-B, § 1, 11-3-99; Ord. No. 388, § 32 - 34, 1-3-07)

53-53. MAINTENANCE OF BUILDING SEWER.

The owner shall be responsible for the internal maintenance of the building sewer between the building and the municipal sewer. The owner shall also be responsible for all external repairs to the building sewer where excavation is required to the building sewer between the building and the curb or pavement edge and for the repair of the remainder of the building sewer to the municipal sewer where failure is attributable to the owner's negligence, abuse or misuse. If any excavation is necessary in the public right-of-way, permission must be obtained from the public authority having jurisdiction.

(1978 Code, § 35-53; Ord. No. 230, § 1, 6-22-81)

Cross reference:

Excavations, see §§ 17-1-17-19

53-54. NOTICE TO REPAIR.

(A) In all cases where private drains or private sewers or building drains or building sewers shall be obstructed or injured or shall cause obstruction or injury to any public sewer so as to produce in the opinion of the Superintendent of the Department of Public Works a nuisance; or in the event the repairs are necessitated to any private drains or private sewers or building drains or building sewers or any city public sewer due to any of the causes outlined in § 52-52 or for any other causes whatsoever, such as the collapse of any private drains or private sewers or building drains or building sewers because of age, deterioration, improper maintenance or construction, it shall be the duty of the Superintendent of Public Works to give notice to owners or parties in interest and any occupant of suitable age and discretion of the properties connected with and serviced by such drains and sewers to repair the same except where emergency conditions require immediate remedial action. If such drains and sewers are not forthwith repaired, the city may cause the necessary repairs to be made. The city shall make the repairs to the city public sewers and to the public property damaged incidentally thereto. The city shall be reimbursed for such repairs in the manner provided. Such expenses incurred for repairs shall be charged to the owners or parties in interest of the properties connected with and serviced by such drains and sewers in a ratable proportion and, if not paid, the same shall be assessed against the premises connected with such drains and sewers as a special assessment and levied and collected in the same manner provided for in the Charter of the city in the case of special assessments.

(B) During the construction of buildings, the building sewer permit applicants shall be held responsible and shall take steps necessary to prevent sand, mud and water from entering the sanitary sewer. If the public sewer has to be cleaned due to sand and debris entering the sewer, it will be cleaned and the cost of cleaning shall be prorated against all buildings and properties involved.

(1978 Code, § 35-54; Ord. No. 230, § 1, 6-22-81)

Cross reference:

Special assessments, see Ch. 47

53-55. PROTECTION FROM DAMAGE.

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

(1978 Code, § 35-55; Ord. No. 230, § 1, 6-22-81)

Cross reference:

Damage to public property, see § 35-20

53-56. POWER AND AUTHORITY OF INSPECTORS.

(A) The Superintendent of the Department of Public Works and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article.

(B) The City Manager or his or her designee shall be permitted to enter upon all properties to inspect for the unauthorized discharge of non-storm water to the city storm sewer system and to verify and report to the designated authorities the occurrence of any spill or release of any contaminate or commercial, construction, industrial or hazardous waste material or pollutant into the storm sewer system.

(1978 Code, § 35-56; Ord. No. 230, § 1, 6-22-81; Ord. No. 64-C § 286-8, § 3, 6-1-93)

53-57. PENALTIES.

(A) Any person found to be violating any provision of this article shall be served by the city with a written notice stating the nature of the violation, providing a reasonable time limit for satisfactory correction thereof.

(B) Reserved.

(C) Any person violating any other provisions of this article shall become liable to the city for any penalties, fines, expense, loss or damage occasioned by the city by reason of such violation.

(1978 Code, § 35-57; Ord. No. 230, § 1, 6-22-81; Ord. No. 328, § 7, 11-5-97)

ARTICLE IV. SEWER SURCHARGES

53-58. DECLARATION OF PURPOSE.

The purpose of this portion of the chapter is to enable the City of Sterling Heights to comply with the requirements of the Federal Water Pollution Control Act of 1972 (Pub. L. 92-500), as amended, State of Michigan Act 245 of 1929, as amended and the National Pollutant Discharge Elimination System Permit No. MI 0022802, Federal District Court Consent Judgment CA No. 77-1100 of 1979, existing or future contracts between the Board of Water Commissioners of the City of Detroit and local communities or other governmental entities and the common law usage of the sewage system and, further, to require users of the public waste water and sewage system to pay a surcharge which reflects the commercial and industrial user's equitable share of the cost of waste water treatment in excess of the strength of

domestic sewage.

(1978 Code, § 35-58; Ord. No. 230, § 1, 6-22-81)

53-59. ADOPTION OF INDUSTRIAL COST RECOVERY SURCHARGE.

In order to protect public health and safety and because of the widely varying quality characteristics of the sewage discharge by different users of the public sewer and the publicly owned treatment works, sewage charges shall be imposed which reflect the cost of treating sewage strength factors as well as sewage volume. The sewage charges to commercial and industrial users shall be in the form of a payment, called a surcharge, and will reflect industry's equitable costs of waste water treatment in excess of the strength of domestic sewage. The said charges shall be based on a volume rate and surcharge based on volume of discharge and the strength of BOD, suspended solids and phosphorus or other pollutants present in the waste water.

(1978 Code, § 35-59; Ord. No. 230, § 1, 6-22-81)

53-60. ADOPTION OF SCHEDULE OF INDUSTRIAL WASTE POLLUTANT STRENGTH SURCHARGES AND NONRESIDENTIAL WASTE FLOW SURCHARGES.

The schedule of industrial waste pollutant strength surcharges, promulgated by the Detroit Water and Sewerage Department, is adopted and made effective for the users of the waste water and sewage system of the City of Sterling Heights. The schedule of nonindustrial waste water flow surcharges, promulgated by the Detroit Water and Sewerage Department, is adopted and made effective for the users of the waste water and sewage system of the City of Sterling Heights.

(1978 Code, § 35-60; Ord. No. 230, § 1, 6-22-81)

53-61. COMPUTATION OF INDUSTRIAL WASTE POLLUTANT STRENGTH SURCHARGES.

The industrial waste pollutant strength surcharge shall be computed in accordance with the following formula:

(SC = 0.0624 V (a (BOD - 250) + b (TSS - 300) + c (P-12))

Where:

SC = Pollutant strength surcharge fee in dollars for the billing period.

V = Volume of waste discharged in the billing period in Mcf (1,000 cubic feet).

BOD = Five day biochemical oxygen demand of the waste expressed in milligrams per liter (ppm)

TSS = Total suspended solids in the waste expressed in milligrams per liter (ppm).

P = Phosphorus in the waste expressed in milligrams per liter (ppm).

a,b,c = Surcharge rates, $/pound for treating BOD, TSS and P, respectively, promulgated by Detroit Water and Sewerage Department.

0.0624 = Factor which converts Mcf to MM pounds.

For purposes of surcharge computation, the values of pollutant strengths shall not be less than the allowable values. The allowable values are:

BOD: 300 ppm

TSS: 250 ppm

P: 12 ppm

The total sewage charge for a particular industry would be the sum of the base flow charge and the surcharge would be calculated from the following formula:

UC = V(R)+SC+NRSC.

UC = Total sewage charge for the billing period in dollars.

V = Volume of waste discharge.

R = Basic flow sewage rate as set forth in the Code of Ordinances of the City of Sterling Heights.

SC = Surcharge in dollars as computed above.

NRSC = Nonresidential surcharge

(1978 Code, § 35-61; Ord. No. 230, § 1, 6-22-81)

ARTICLE V. SEWER SERVICE CHARGE; METERS

53-62. DECLARATION OF PURPOSE.

The purpose of this portion of the chapter is to provide for the regulation of sewer service charges and to govern the installation of sewage meters where permitted under the terms of this chapter.

(1978 Code, § 35-62; Ord. No. 230, § 1, 6-22-81)

53-63. DETERMINATION OF SEWAGE SERVICE RATES.

The rates for sewage services furnished by the City of Sterling Heights shall be levied upon each lot or parcel of land, building or premises having any connection with the City of Sterling Heights sewage system on the basis of the quantity of water used thereon or therein as the same is measured by the City of Sterling Heights water meter there in use. The rates shall be collected at the same time and in the same manner as provided for the payment of water bills; provided that the City of Sterling Heights, acting by and through City Council, shall be empowered to make such adjustments for sewage charges as may be equitable.

(1978 Code, § 35-63; Ord. No. 230, § 1, 6-22-81)

53-64. BILLING FOR CUSTOMERS WITH ALTERNATIVE SOURCE OF WATER SUPPLY.

Charges against property served and/or users, including manufacturing and industrial plants, obtaining all or part of their water supply from sources other than the City of Sterling Heights water system, shall be determined by gauging, metering or any other equitable method of measuring, in a manner approved by the city, acting by and through its City Council, the actual sewage entering the sewage system and the corresponding water use. Meters or other means for gauging or metering as above provided shall be installed by the property served where applicable and/or the user of the sewer system, as required by and under the supervision of the Superintendent of Public Works for the City of Sterling Heights, as a condition of the use of the sewage system.

The rate to such users shall be established in accordance with the City Charter of the City of Sterling Heights, Code of Ordinances of the City of Sterling Heights and state law.

Bills to said users shall be rendered periodically, as set forth inChapter 53, Article II of the City Code. All bills shall be due and payable and penalties for nonpayment assessed as set forth in said provision of the City Code.

(1978 Code, § 35-64; Ord. No. 230, § 1, 6-22-81)

53-65. DISCHARGE PROHIBITIONS.

Unless authorized by the City Manager or his or her designee, no person, entity or operator who is or may be required by federal law to obtain an individual NPDES permit shall discharge or cause to be discharged into the storm sewer system any non-storm water without such a permit. No individual or entity shall be permitted to discharge, release, spill or discard any contaminate, pollutant, hazardous substance, commercial, construction or industrial or other waste into the storm sewer system of the city. The City Manager or his or her designee is authorized to make available, at the city offices, copies of the National Pollutant Discharge Elimination System permit requirements. All operators of a storm water discharge associated with industrial activities are charged with notice of such federal regulations.

(Ord. No. 64-C & 286-B, § 4, 6-1-93)

53-66-53-74. RESERVED.

ARTICLE VI. WASTEWATER POLLUTION CONTROL

53-75. PURPOSE.

(A) The purpose of this article is the protection of the environment and of public health and safety by abating and preventing pollution through the regulation and control of the quantity and quality of wastes admitted or discharged into the wastewater collection and treatment system under the jurisdiction of the City of Sterling Heights and to enable the City of Sterling Heights as control authority to comply with all applicable state and federal laws required by the Federal Water Pollution Control Act, being 33 USC 1251 et seq., and the General Pretreatment Regulations, being 40 CFR 403.

(B) The objectives of this article are:

(1) To prevent the introduction of pollutants into the POTW which will interfere with the operation of the system or contaminate the resulting sludge or will pose a hazard to the health or welfare of the people or of employees of the community or the City of Detroit Water and Sewerage Department;

(2) To prevent the introduction of pollutants into the POTW which will pass inadequately treated through the system and into the receiving waters, the atmosphere or the environment or will otherwise be incompatible with the system;

(3) To improve the opportunity to recycle or reclaim wastewater or sludge from the system in an economical and advantageous manner; and

(4) To provide for the recovery of costs from the users of the Detroit POTW sufficient to administer regulatory activities and meet the costs of the operation, maintenance, improvement or replacement of the system.

(C) This article provides for the regulation of contributors to the Detroit POTW through the issuance of wastewater discharge permits to certain users and the enforcement of general requirements for all users, authorizes monitoring and enforcement and authorizes fees and penalties.

(1978 Code, § 35-75; Ord. No. 284, § 1, 5-15-90; Ord. No. 284-A, § 1, 5-18-99)

53-76. AUTHORITY.

By virtue of the obligations and authority placed upon the community and the City of Detroit by the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, (being 33 USC 1251 et seq.); the Constitution of the State of Michigan; Public Act 245 of 1929, as amended; (being M.C.L. §§ 323.1 et seq; M.S.A. §§ 3.521 et seq.) the Charter of the City of Sterling Heights; the National Pollutant Discharge Elimination System (NPDES) permit for the City of Detroit (POTW); the consent judgment in U.S. EPA v. City of Detroit, et al., Federal District Court for the Eastern District of Michigan Case No. 77-1100, as amended; the Urban Cooperation Act of 1967, as amended; Public Act 35 of 1951, as amended; and existing or future contracts between the Board of Water Commissioners and the community, suburban communities, other governmental or private entities; or by virtue of common law usage of the system, this article shall apply to every user contributing, or causing to be contributed, or discharging pollutants or wastewater into the wastewater collection and treatment system of the City of Detroit POTW.

(1978 Code, § 35-76; Ord. No. 284, § 2, 5-15-90; Ord. No. 284-A, § 1, 5-18-99)

53-77. DEFINITIONS.

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

ACT or ***THE ACT.*** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 USC 1251 et seq.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER. Responsible corporate officer, where the industrial user submitting the reports required by this article is a corporation, who is either (a) the President, Vice-President, Secretary or Treasurer of a corporation in charge of a principal business function or any other person who performs similar policy or decision making functions for the corporation; or (b) the Manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 in second-quarter 1980 dollars, when authority to execute documents has been assigned or delegated to said manager in accordance with corporate procedures; or (c) a general partner or proprietor where the industrial user submitting the reports required by this article is a partnership or sole proprietorship respectively. (See § 53-79(N))

AVAILABLE CYANIDE. The quantity of cyanide that consists of cyanide ion (CN^-); hydrogen cyanide in water (HCNaq); and the cyano-complexes of zinc, copper, cadmium, mercury, and silver, determined by EPA method OIA-1677, or other method designated as a Standard Method or approved under 40 CFR Part 136.

BEST MANAGEMENT PRACTICES (BMP). Programs, practices, procedures, or other directed efforts, initiated and implemented by a user, which can or do lead to the reduction, conservation, or minimization of pollutants being introduced into the ecosystem, including but not limited to the Detroit sewer system. BMPs include, but are not limited to, equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw material, and improvements in housekeeping, maintenance, training, or inventory control, and may include technical and economic considerations.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of dissolved oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five days at 20°C, expressed in terms of mass and concentration (milligrams per liter (mg/l)) as measured by Standard Methods.

BOARD. The Board of Water Commissioners of the City of Detroit.

BYPASS. The intentional diversion of a wastestreams from any portion of an industrial user's treatment facility. (See 40 CFR 403.17)

CENTRALIZED WASTE TREATMENT (CWT) FACILITY. A user which provides waste treatment and disposal services to other industrial and commercial users by collecting, receiving and transporting wastewater for proper storage, treatment and disposal that is generated by a facility other than the facility from which the wastewater will be discharged and is designed to handle specific waste from industries with similar wastestreams.

CITY. The City of Sterling Heights or the City Council of the City of Sterling Heights or their authorized representatives or employees, unless otherwise specified.

COMMUNITY. The City of Sterling Heights or the City Council of the City of Sterling Heights or their authorized representatives or employees, unless otherwise specified.

COMPATIBLE INDUSTRIAL WASTEWATER. Wastewater that is produced by an industrial user which has a pollutant strength or characteristics similar to those found in domestic wastewater and which can be efficiently and effectively transported and treated with domestic wastewater.

COMPATIBLE POLLUTANT. Pollutants which can be effectively removed by the POTW treatment system to within acceptable levels for the POTW residuals and the receiving stream.

COMPOSITE SAMPLE. A collection of individual samples which are obtained at regular intervals and collected on a time-proportional or flow-proportional basis over a specified period and which provides a representative sample of the average stream during the sampling period. A minimum of four aliquot per 24 hours shall be used where the sample is manually collected. (See 40 CFR 403, Appendix E)

CONFIDENTIAL INFORMATION. Information which would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user. (See § 53-84)

CONTROL AUTHORITY. The Detroit Water and Sewerage Department (DWSD) or authorized representatives or employees of the DWSD, which has been officially designated as such by the State of Michigan under the provisions of 40 CFR 403.12.

COOLING WATER. The noncontact water discharged from any use such as air conditioning, cooling or refrigeration and whose only function is the exchange of heat.

DAYS. Consecutive calendar days for the purpose of computing a period of time prescribed or allowed by this article.

DEPARTMENT. The City of Detroit Water and Sewerage Department and its authorized employees.

DIRECT DISCHARGE. The discharge of treated or untreated wastewater directly into the waters of the State of Michigan.

DIRECTOR. The Director of the Detroit Department of Water and Sewerage or the Director's designee.

DISCHARGER. A person who, directly or indirectly, contributes, causes or permits wastewater to be discharged into the POTW.

DOMESTIC SEWAGE. Waste and wastewater from humans or household operations which is discharged to or otherwise enters a treatment works.

ENVIRONMENTAL PROTECTION AGENCY or ***ADMINISTRATOR*** or ***EPA ADMINISTRATOR.*** The United States Environmental Protection Agency or, where appropriate, the authorized representatives or employees of the EPA.

FACILITY. A location which contributes, causes or permits wastewater to be discharged into the POTW, including but not limited to a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable.

FATS, OIL OR GREASE (FOG). Any hydrocarbons, fatty acids, soaps, fats, waxes, oils and any other nonvolatile material or animal, vegetable or mineral origin that is extractable by solvent in accordance with Standard Methods.

FLOW PROPORTIONAL SAMPLE. A composite sample taken with regard to the flow rate of the wastestream.

GRAB SAMPLE. An individual sample collected over a period of time not exceeding 15 minutes, which reasonably reflects the characteristics of the stream at the time of sampling.

INDIRECT DISCHARGE or ***DISCHARGE***. The discharge or the introduction of pollutants into the POTW from any nondomestic source, regulated under 33 USC 1317 (b), (c) or (d).

INDUSTRIAL USER. A person who contributes, causes or permits wastewater to be discharged into the POTW, including but not limited to a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable, but excludes single-family and multi-family residential dwellings with discharges consistent with domestic waste characteristics.

INDUSTRIAL WASTE. Any liquid, solid or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

INTERFERENCE. A discharge which, alone or in conjunction with a discharge or discharges from other sources, both (i) inhibits or disrupts the POTW or its treatment processes or operations, or its sludge processes, use or disposal, and (ii) therefore causes a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations):

Section 405 of the Clean Water Act, as amended, being 33 USC 1345, the Solid Waste Disposal Act (SWDA), as amended, (including the Resource Conservation and Recovery Act (RCRA); and state regulations contained in any state sludge management plan prepared pursuant to Subtitle D or the SWDA), the Clean Air Act, the Toxic Substances Control Act and the Marine Protection Research and Sanctuaries Act.

MAY. Permissive.

NATIONAL CATEGORICAL PRETREATMENT STANDARD. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 33 USC 1317 (b) and (c) which applies to a specific class or category of industrial users.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. A permit issued pursuant to 33 USC 1342.

NEW SOURCE. This term shall mean:

(a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which is commenced after the publication of proposed pretreatment standards under 33 USC 1317(c) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided, that: (1) the building, structure, facility or installation is constructed at a site where no other source is located; or (2) the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or (3) the production of wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site where an existing source is located resulting in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (a) (2) or (a) (3) of this subsection but otherwise alters, replaces or adds to existing process or production equipment.

(c) Construction of a new source has commenced where the owner or operator has: (1) begun or caused to begin as part of a continuous on site construction program; (i) any placement, assembly or installation of facilities or equipment; or (ii) significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities that are necessary for the placement, assembly or installation of new source facilities or equipment; or (2) entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this section.

PASS-THROUGH. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit including an increase in the magnitude or duration of a violation.

PERSON. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, unit of government, school district or any other legal entity, or their legal representative, agent or assigns.

pH. The intensity of the acid or base condition of a solution calculated by taking the negative base-ten logarithm of the hydrogen ION activity. Activity is deemed to be equal to concentration in moles per liter.

POLLUTANT. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt or industrial, municipal and agricultural waste which is discharged into the water.

POLLUTION. The introduction of any pollutant that, alone or in combination with any other substance, can or does result in the degradation or impairment of the chemical, physical, biological or radiological integrity of water.

PRETREATMENT. The reduction of the amount of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction, removal or alteration may be attained by physical, chemical or biological processes, or process changes by other means, except as prohibited by federal, state or local law, rules and regulations.

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirements related to pretreatment other than a national pretreatment standard imposed on an industrial user. (See 40 CFR 403.3 (r).)

PRETREATMENT STANDARDS. All National Categorical Pretreatment Standards, the general prohibitions specified in 40 CFR 403.5 (a), the specific prohibitions delineated in 40 CFR 403.5 (b) and the local or specific limits developed pursuant to 40 CFR 403.5 (c), including the discharge prohibitions specified in § 53-79 of this code.

PUBLIC SEWER. A sewer of any type controlled by a governmental entity.

PUBLICLY OWNED TREATMENT WORKS (POTW). A treatment works as defined by 33 USC 1292 (2)(A), which is owned by a state or municipality, as defined in 33 USC 1362, including (a) any devices and systems used in the storage, treatment, recycling or reclamation of municipal sewage or industrial wastes of a liquid nature, (b) sewers, pipes and other conveyances only if they convey wastewater POTW treatment plant, or (c) the municipality, as defined in 33 USC 1362, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. ***(POTW) TREATMENT PLANT*** shall mean that portion of the POTW designed to provide treatment to wastewater, including recycling and reclamation of wastewater.

QUANTIFICATION LEVEL. The measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring of the contaminant.

REPRESENTATIVE SAMPLE. Any sample of wastewater which accurately and precisely represents the actual quality, character and condition of one or more pollutants in the wastestream being sampled. Representative samples shall be collected and analyzed in accordance with 40 CFR 136.

SANITARY WASTEWATER. The portion of wastewater that is not attributable to industrial activities and is similar to discharges from domestic sources, including but not limited to discharges from sanitary facilities and discharges incident to the preparation of food for on-site noncommercial consumption.

SHALL. Mandatory.

SIGNIFICANT NONCOMPLIANCE. Any violation which meets one or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined as those in which 66% or more of all of the measurements taken during a six month period exceed by any magnitude the daily maximum limit or the average limit for the same parameter;

(b) Technical Review Criteria (TRC) violations, defined as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the environment or has resulted in the POTW's exercise of its emergency authority;

(e) Failure to meet compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance within 90 days after the scheduled date;

(f) Failure to provide required reports such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules within 30 days after the due date;

(g) Failure to accurately report noncompliance; or

(h) Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

SIGNIFICANT INDUSTRIAL USERS. Any user of the POTW who (A) has an average discharge flow of 25,000 gallons per day or more of process wastewater excluding sanitary, boiler blowdown and noncontact cooling water; or (B) has discharges subject to the National Categorical Pretreatment Standards; or (C) requires pretreatment to comply with the specific pollutant limitations of this article; or (D) has, in its discharge, toxic pollutants as defined pursuant to 33 USC 1317 or other applicable federal and state laws or regulations that are in concentrations and volumes that are subject to regulation under this article as determined by the control authority; or (E) is required to obtain a permit for the treatment, storage or disposal of hazardous waste pursuant to regulations adopted by this state or adopted under the Federal Solid Waste Disposal Act, as amended, by the Federal Resource Conservation and Recovery Act, as amended, and may or does contribute or allow waste or wastewater into the POTW, including but not limited to leachate or runoff; or (F) is found by the City of Detroit or community to have a reasonable potential for adverse effect, either singly or in combination with other contributing industries, on the POTW operation, the quality of sludge, the POTW's effluent quality or air emissions generated by the POTW.

SLUG. Any discharge of a nonroutine episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended.

STANDARD METHODS. The laboratory procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater, prepared and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control federation or methods set forth in 40 CFR 136, "Guidelines for Establishing Test Procedures for Analysis of Pollutants." Where these two references are in disagreement on procedures for the analysis of a specific pollutant, the methods given in 40 CFR 136 shall be followed.

STATE. The State of Michigan.

STORMWATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUSPENDED SOLIDS (TOTAL). The total suspended matter which floats on the surface of or is suspended in water, wastewater or other liquids and which is removable by laboratory filtration or as measured by Standard Methods.

TOTAL PCB. The sum of the individual analytical results for each of the PCB aroclors 1016, 1221, 1232, 1242, 1248, 1254, and 1260 during any single sampling event with any aroclor result less than the quantification level being treated as zero.

TOTAL PHENOLIC COMPOUNDS. The sum of the individual analytical results for each of the phenolic compounds of 2-chlorophenol, 4-chlorophenol, 4-chloro-3-methylphenol, 2,4-dichlorophenol, 2,4-dinitrophenol, 4-methylphenol, 4-nitrophenol, and phenol during any single sampling event expressed in mg/l.

TOXIC POLLUTANT. Any pollutant or combination of pollutants designated as toxic in regulations promulgated by the Administrator of the U.S. Environmental Protection Agency under the provisions of the Clean Water Act being (33 USC 1317) or included in the Critical Materials Register promulgated by the Michigan Department of Natural Resources or by other federal or state laws, rules or regulations.

TRADE SECRET. The whole, or any portion or phase, of any proprietary manufacturing process or method, not patented, which is secret, is useful in compounding an article of trade having a commercial value and whose secrecy the owner has taken reasonable measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes but excludes any information regarding the quantum or character of waste products or their constituents discharged or sought to be discharged into the Detroit wastewater treatment plant or into the wastewater system tributary thereto.

UPSET. An exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards due to factors beyond the reasonable control of the industrial user, but excludes noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless or improper operation.

USER. Any person who, who directly or indirectly, contributes, causes or permits the discharge of wastewater into the POTW as defined herein.

WASTEWATER or ***WASTESTREAM***. The liquid and water-carried industrial or domestic wastes of dwellings, commercial buildings, industrial facilities and institutions, whether treated or untreated, which are contributed to or permitted to enter the POTW, including infiltration and inflow waters, storm water and cooling water.

WASTEWATER DISCHARGE PERMITS. Permits issued by the control authority as set forth in accordance with §53-81 of this article.

WATERS OF THE STATE. Groundwater, lakes, rivers, streams, all other watercourses and waters within the confines of this state as well as bordering this state in the form of the Great Lakes.

The following acronyms shall have the designated meanings:

BMR - Baseline Monitoring Report

BOD - Biochemical Oxygen Demand

CFR - Code of Federal Regulations

EPA - Environmental Protection Agency

FOG - Fats, Oil or Grease

l Liter

mg Milligrams

mg/l - Milligrams per Liter

NPDES National Pollutant Discharge Elimination System

POTW - Publicly Owned Treatment Works

RCRA - Resource Conservation and Recovery Act, being 42 USC 6901 et seq.

SIC - Standard Industrial Classification

SWDA - Solid Waste Disposal Act, being 42 USC 6901 et seq.

TSS - Total Suspended Solids

USC - United States Code

(1978 Code, § 35-77; Ord. No. 284, § 3, 5-15-90; Ord. No. 284-A, § 1, 5-18-99; Ord. No. 402, § 1, 4-21-09)

53-78. DELEGATION OF AUTHORITY.

The City of Detroit Water and Sewerage Department, as the state-approved control authority, is authorized to administer and enforce the provisions of this article on behalf of the city. The city has previously entered into a contract with the City of Detroit Water and Sewerage Department which sets forth the terms and conditions of such delegated authority that is consistent with this article that allows the City of Detroit Water and Sewerage Department to perform the specific responsibilities as control authority, pursuant to state and federal law.

(1978 Code, § 35-78; Ord. No. 284, § 4, 5-15-90; Ord. No. 284-A, § 1, 5-18-99; Ord. No. 402, § 3, 4-21-09)

53-79. DISCHARGE PROHIBITIONS.

(A) *General pollutant prohibitions.* No user shall discharge or cause to be discharged into the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass-through. These general discharge prohibitions apply to all such users of the POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other federal, state or local pretreatment standards or requirements. In addition, it shall be unlawful for a user to discharge into the POTW:

(1) Any liquid, solid or gas which, by reason of its nature or quantity, is sufficient, either alone or by interaction with other substances, to create a fire or explosion hazard or to be injurious in any other way to persons, to the POTW, or to the operation of the POTW. Pollutants which create a fire or explosion hazard in a POTW, include but are not limited to wastestreams with a closed cup flash point of less than 140°F (60°C), using the test methods specified in 40 CFR 261.21;

(2) Any solid or viscous substance, in concentrations or quantities which are sufficient to cause obstruction to the flow in a sewer or other encumbrance to the operation of the POTW, including but not limited to: grease, animal guts or tissues, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes or tumbling and deburing stones;

(3) Any wastewater having a pH less than 5.0 or greater than 10.5;

(4) Any wastewater containing petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin or toxic pollutants in sufficient concentration or quantity, either singly or by interaction with other pollutants, to cause interference or pass-through or constitute a hazard to humans or animals;

(5) Any liquid, gas or solid or form of energy which either singly or by interaction with other waste is sufficient to create toxic gas, vapor or fume within the POTW in quantities that may cause acute worker health and safety problems or may cause a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair;

(6) Any substance which is sufficient to cause the POTW's effluent or any other product of the POTW, such as residue, sludge or scum, to be unsuitable for reclamation processing where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria guidelines or regulations developed under 33 USC 1345 with any criteria, guidelines or developed and promulgated regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Toxic Substances Control Act or with state criteria applicable to the sludge management method being used;

(7) Any substance which will cause the POTW to violate either the consent judgment in U.S. EPA v. City of Detroit, et al., Federal District Court for the Eastern District of Michigan Case No. 77-1100 or the City of Detroit's National Pollutant Discharge Elimination System permit;

(8) Any discharge having a color uncharacteristic of the wastewater being discharged;

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference but in no case wastewater with a temperature at the introduction into a public sewer which exceeds 150°F (66°C) or which will cause the influent at the wastewater treatment plant to rise above 140°F (40°C);

(10) Any pollutant discharge which constitutes a slug;

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable federal or state regulations;

(12) Any floating fats, oil or grease which are sufficient to cause interference with or pass through the POTW; or

(13) Any solid materials having a specific gravity greater than 1.2 or a cross-section dimension of one-half inch or greater which are sufficient to cause interference with the POTW.

(B) *Specific pollutant prohibitions.* No user shall discharge wastewater containing in excess of the following limitations:

(1) *Compatible pollutants.* See Appendix C.

(2) *Noncompatible pollutants.* No user shall discharge wastewater containing in excess of:

Total arsenic (As): 1.0 mg/l

Total cadmium (Cd): See Appendix C

Total chromium (Cr): 25.0 mg/l

Total copper (Cu): 2.5 mg/l

Total cyanide (CN) [available]: 1.0 mg/l

Total iron (FE): 1000.0 mg/l

Total lead (Pb): 1.0 mg/l

Total nickel (Ni): 5.0 mg/l

Total silver (Ag): 1.0 mg/l

Total zinc (Zn): 7.3 mg/l

Total Phenolic compounds : 1.0 mg/l or see Appendix B

All limitations are based on samples collected over an operating period representative of an industrial user's discharge and in accordance with 40 CFR 136.

a. The limitations for Total PCB is Non-detect - Total PCB shall not be discharged at detectable levels, based upon U.S., EPA Method 608, and the quantification level shall not exceed 0.2 gm/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one or more samples indicate detectable levels of Total PCB, the user shall be required to demonstrate compliance. For purposes of this section, this demonstration may be made using analytical data shown that the Total PCB concentration is below the detection level, or submission of a BMP in accordance with Section 53-86 (D).

b. The limitation for Mercury (Hg) is Non-detect, Mercury (Hg) shall not be discharged at detectable levels, based upon U.S. EPA Method 245.1, and the quantification level shall not exceed 0.2 gm/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one or more samples indicate detectable levels of Mercury, the user shall be required to demonstrate compliance. For purposes of this section, this demonstration may be made using analytical data showing that the mercury concentration is below the detection level, or submission of a BMP in accordance with Section 53-86 (D).

All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 CFR Part 136.

(3) *Compliance Period.* Within 30 days of the effective date of this section, the Department shall notify all existing industrial users operating under an effective wastewater discharge permit of the requirement to submit a compliance report within 180 days after the effective date of this section. The compliance report shall demonstrate the user's compliance or non-compliance with these limitations, and in the event of non-compliance, include the submission of a plan and schedule for achieving compliance with the stated limitation. In no event shall a compliance schedule exceed 18 months from the effective date of this section.

An Industrial User who does not demonstrate compliance may petition the Department for a second extension as part of an Administrative Consent Order. The Department shall include appropriate monitoring, reporting, and penalties into an Administrative Consent Order that relates to a second extension, and shall enter into such an agreement only upon a good-faith showing by the Industrial User of the actions taken to achieve compliance with this provision.

(C) *National categorical pretreatment standards.* All users shall comply with the applicable national categorical pretreatment standards and requirements promulgated pursuant to the act as set forth in 40 CFR Subchapter N, Effluent Guidelines and Standards, which are incorporated by reference and with all other applicable standards and requirements, provided, however, where a more stringent standard or requirement is applicable pursuant to state law, or regulation or to this article, then the more stringent standard or requirement shall be controlling. Affected dischargers shall comply with the applicable reporting requirements under 40 CFR 403 and as established by the control authority. The national categorical pretreatment standards which have been promulgated as of the effective date of this section are delineated in Appendix A.

(1) *Intake water adjustment.* Industrial users seeking adjustment of national categorical pretreatment standards to reflect the presence of pollutants in their intake water must comply with the requirements of 40 CFR 403.15. Upon notification of approval by the control authority, the adjustment shall be applied by modifying the permit accordingly. Intake water adjustments are not effective until incorporated into an industrial users permit.

(2) *Modification of national categorical pretreatment standards.* When and if removal credit authority is reinstated, the control authority may apply to the U.S. Environmental Protection Agency or to the Michigan Department of Environmental Quality, whichever is appropriate, for authorization to grant removal credit in accordance with the requirements and procedures of 40 CFR 403.7. Such authorization may be granted only when the POTW treatment plant can achieve consistent removal for each pollutant for which a removal credit is being sought, provided that any limitation on such pollutant(s) in the NPDES permit neither are being exceeded nor pose the prospect of being exceeded as a result of the removal credit's being granted. Where such authorization is given to the control authority, any industrial user desiring to obtain such credit shall make an application to the control authority, consistent with the provisions of 40 CFR 403.7 and of this article. Any credits which may be granted under this section may be subject to modification or revocation as specified in 40 CFR 403.7 or as determined by the control authority. A requisite to the granting of any removal credit may be that the industrial user pay a surcharge based upon the amounts of such pollutants removed by the POTW, such surcharge being based upon fees or rates which the board may establish and, when appropriate, revise from time to time. Permits shall reflect or be modified to reflect any credit granted pursuant to this section.

(3) *New sources.* Industrial users who meet the new sources criteria shall install, maintain in operating condition and "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time and not to exceed 90 days, new sources must meet all applicable pretreatment standards.

(4) *Concentration and mass limits.* When limits in a categorical pretreatment standard are expressed only in terms of mass of pollutants per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users. Equivalent limitations shall be calculated in accordance with 40 CFR 403.6 (c) (3) and/or 40 CFR 403.6 (c) (4) and shall be deemed pretreatment standards for the purposes of 33 USC 1317 (d) and of this article. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(5) *Reporting requirements for industrial users upon effective date of categorical pretreatment standards-baseline report.*Within 180 days after the effective date of a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6 (a) (4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging into or scheduled to discharge into the Detroit POTW shall submit to the control authority a report containing the information listed in 40 CFR 403.12 (b) (1-7). Where reports containing this information have already been submitted to the Director of Regional Administrator in compliance with the requirement of 40 CFR 128.140 (b), the industrial user will not be required to resubmit this information. At least 90 days before commencement of any discharge each new source and any existing sources that become industrial users after the promulgation of an applicable categorical pretreatment standard shall submit to the control authority a report which contains the information listed in 40 CFR 403.12 (b) (1-5). In such report, new sources shall include information concerning the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall provide estimates of the information requested in 40 CFR 403.12 (b) (4) and (5).

(D) *Dilution prohibited.* Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall increase the use of process water or, in any way, dilute or attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards or in any other pollutant-specific limitation or requirement imposed by the Community, the City of Detroit or by the State of Michigan.

(E) *Hauled-in wastewater.* Any waste material or wastewater which is hauled into or within the service region for discharge to the POTW is subject to the requirements of this article, including but not limited to permits, inspection, monitoring and enforcement. Unloading liquid or solid waste from hauling vehicles, directly or indirectly, into the POTW, with or without the benefit of pretreatment, is prohibited unless the person proposing to unload such waste has applied for and received a permit from the control authority for unloading such waste in accordance with the Board's rules pertaining thereto. The discharger shall be subject to applicable terms and conditions, surcharges, fees or rates as established by the Board. Hauled in wastewater shall only be discharged at points designated by the POTW after authorization or approval issued pursuant to the general permit requirements specified in § 53-81 of this article. The control authority may establish specific limitations for sludge from municipally owned or operated POTW treatment plants which are different than the specific limitations in this article.

(F) *Centralized waste treatment.* It is unlawful for a user to discharge into the POTW any wastewater generated by, collected at or received and transported from a facility other than the facility where it will be discharged without a wastewater discharge permit from the Detroit Water and Sewerage Department unless expressly directed by the control authority. An industrial user who has submitted an application to the control authority and received approval to transport, treat and discharge wastewater from a designated facility is not required to get further authorization from the control authority before discharging such wastewater. An industrial user filing an application for the treatment and disposal of such wastewater, which was received by and transported to a designated facility for treatment and discharge shall provide the following minimum information:

(1) The general nature, source and process(es) generating the wastewater. Wastewater generated from those processes, which are subject to national

categorical pretreatment standards as delineated in Appendix A, or requirements, shall be so designated;

(2) The identity of the toxic pollutants known or suspected to be present in the wastewater;

(3) At least one sample report showing the results of an analysis for the EPA priority pollutants for each wastestream or category of wastestream for which application is made in subsection (F)(1);

(4) A statement addressing the treatability and compatibility of the wastewater received or collected by the facility's treatment processes which shall be certified by a professional engineer;

(5) The identity of the materials and/or pollutants whose transport or treatment are regulated by the EPA, by the state or by some other agency in Michigan. Upon request, a copy of any permits shall be provided; and

(6) Other information requested by the control authority, including but not limited to that enumerated in §53-81 of this article or the rules adopted by the Board.

A discharge will be deemed approved upon issuance of a permit in accordance with the procedures in §53-81 of this article, and the centralized waste treater shall comply with all provisions applicable to permits in § 53-81 of this article. In furtherance of its obligations as control authority, the control authority may include in the permit a requirement to report the information mandated in paragraphs (1) through (6) of this subsection (F) at selected intervals.

All users granted a permit under this section shall maintain records which, at a minimum, identify the source, volume, character and constituents of the material. These records may be reviewed by the control authority at any time.

(G) *Groundwater discharge.* The discharge of any groundwater into the POTW, with or without the benefit of pretreatment, is prohibited unless the person proposing to discharge such waste has applied for and received a permit from the control authority authorizing discharge of the groundwater. Permits shall be issued in accordance with the procedures in § 53-81 of this code or with the rules of the Board.

(H) *Right of revision.* The City of Detroit and the community reserves the right to establish rules or regulations adopted by the Board, additional or more stringent limitations or requirements on discharges to the POTW. These rules and regulations shall be adopted in accordance with the rule-making procedures in § 2-111 of the 1974 Detroit City Charter. Ninety days after adoption by the Board, industrial users shall comply with such rules and regulations.

(I) *Accidental discharges.*

(1) Each industrial user which does not currently have an approved spill prevention plan or slug control plan shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article, and all significant industrial users shall submit to the control authority detailed plans which show facilities and operating procedures to be implemented to provide protection against such accidental discharges. Facilities and measures to prevent and abate accidental discharges shall be implemented, provided and maintained at the owner's or industrial user's cost or expense. Unless the significant industrial user has an approved spill prevention or slug control plan, all existing significant industrial users shall complete and submit such a plan within 60 days of the effective date of this article (July 19, 1990). New significant industrial users shall submit such a plan prior to the time they commence discharging.

For purposes of this section, the information provided shall include the approximate average and maximum, quantities of such prohibited materials or substances kept on the premises in the form of raw materials, chemicals and/or wastes therefrom and the containment capacity for each. Only substances that are in a form which could readily be carried into the POTW and constitute a concentration of 5% or greater in the raw material chemical solution or waste material are required to be reported. Volumes of less than 55 gallons, or the equivalent thereof, need not be reported unless lesser quantities could cause pass-through or cause interference with the POTW.

The industrial user shall promptly notify the control authority of any significant changes or modifications to the plan, including but not limited to a change in the contact person or substance inventory.

(2) At least once every two years, the control authority shall evaluate whether a significant industrial user needs a plan to control slug discharges, as defined by 40 CFR 403.8 (F)(2)(v). Unless otherwise provided, all significant users shall complete, implement and submit such a plan within 30 days of notification by the control authority.

(J) *Notification requirements.* Unless a different notice is provided by this article or applicable law, within one hour of becoming aware of a discharge into the POTW which exceeds or does not conform with federal, state, control authority or community laws, rules, regulations or permit requirements, which could cause problems to the POTW or which has the potential to cause the industrial user to implement its plan prepared in accordance with subsection (I) of this section, the industrial user shall telephone the control authority at its control center and notify the control authority of the discharge. The notification shall include the name of the caller, location and time of discharge, the type of wastewater, the estimated concentration of excessive or prohibited pollutants and estimated volume and the measures taken or being taken to abate the discharge into the POTW. Within five calendar days after the discharge, the industrial user shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences, and when required by the control authority, the industrial user's wastewater discharge permit may be modified to include additional measures to prevent such future occurrences. Such notification shall not relieve the industrial user of any expense, cost of treatment, loss, damages or other liability which may be incurred as a result of damage to the POTW, fish kills or any other environmental impairment or any other damage to person or property.

(K) *Notice to employees.* A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to contact in the control authority in the event of an actual or excessive or prohibited discharge.

(L) *Recovery of costs.* Any user discharging in violation of any of the provisions of this article which produces a deposit or obstruction, causes damage to or impairs the POTW or causes the City of Detroit to violate its NPDES permit shall be liable to the control authority for any expense, loss, damage, penalty or fine incurred by the control authority because of said violation or discharge. Prior to assessing such costs, the control authority shall notify the user of its determination that the user's discharge was the proximate cause of such damage, obstruction, impairment or violation of the City of Detroit's NPDES permit and the intent to assess such costs to the user. Any such notice shall include written documentation which substantiates the determination of proximate cause and a breakdown of cost estimates. Failure to pay the assessed costs shall constitute a violation of this article. Such charge shall be in addition to, and not in lieu of, any penalties or remedies provided under this article or this code or other statutes and regulations or at law or in equity.

(M) *Hazardous waste notification.* All industrial users who discharge into the Detroit collection system shall notify the control authority in writing of any discharge of a substance which, if otherwise disposed of, would be a hazardous waste as set forth in 40 CFR 261. Such notification must comply with the requirements of 40 CFR 403.12(P).

(N) *Authorized representative.* The authorized representative, as defined in §53-77 of this code, may designate a duly authorized representative of the individual designated in § 53-77 where:

(1) The authorization is made in writing by the individual defined in §53-77;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility where the industrial discharge originates, such as the position of plant manager, operator of a well or well field superintendent or a position of equivalent responsibility or having general responsibility for environmental matters for the company; and

(3) The written authorization is submitted to the control authority.

(O) *Pollution prevention.* The control authority shall encourage and support industrial users to develop and implement pollution prevention programs designed to eliminate or reduce pollutant contributions beyond the levels required by this article.

The control authority may require an industrial user to implement pollution prevention initiatives as part of an enforcement response or a necessary to comply with its NPDES permit.

(1978 Code, § 35-79; Ord. No. 284, § 5, 5-15-90; Ord. No. 284-A, § 1, 5-18-99; Ord. No. 402, § 2, 4, 4-21-09)

53-80. FEES.

(A) The purpose of this section is to provide for the recovery of costs from users of the POTW. The applicable charges or fees shall be sufficient to meet the costs of the operation, maintenance, improvement or replacement of the system or as provided by law, contractual agreement or board action.

(B) Charges and fees shall include but not be limited to:

(1) Fees for reimbursement of costs of establishing, operating, maintaining or improving the control authority's industrial waste control and pretreatment programs;

(2) User fees based upon volume of waste and concentration or quantity of specific pollutants in the discharge and treatment costs, including sludge handling and disposal;

(3) Reasonable fees for reimbursement of costs for hearings, including but not limited to expenses regarding hearing officers, court reporters and transcriptions; and

(4) Other fees deemed necessary to carry out the requirements contained herein or as may be required by law.

(1978 Code, § 35-80; Ord. No. 284, § 6, 5-15-90; Ord. No. 284-A, § 1, 5-18-99)

53-81. WASTEWATER DISCHARGE PERMITS.

(A) *Required*. It shall be unlawful for users to discharge into the POTW any wastewater which will cause interference or pass-through or otherwise not comply with the discharge prohibitions of § 53-79 of this article. It shall be unlawful for a significant industrial user to discharge into the POTW without a wastewater discharge permit from the Detroit Water and Sewer Department. Unless otherwise expressly authorized by the control authority through permit, order, rule or regulation, any discharge must be in accordance with the provisions of this article.

(1) All significant industrial users which are in existence on the effective date of this article shall apply for a wastewater discharge permit within 30 days of the effective date of this article. Significant industrial users who are currently operating with a valid wastewater discharge permit are not subject to this provision. These applications are to include all information specified in § 53-81 of this code and, where applicable, any additional information which may be needed to satisfy the federal baseline monitoring report requirements of 40 CFR 403.12 (b).

(2) All new significant users shall apply for a wastewater discharge permit at least 90 days prior to commencement of discharge. The application must include all information specified in § 53-81 of this code and, where applicable, any additional information that may be needed to satisfy the federal BMR requirements of 40 CFR 403.12 (b). Until a permit is issued and finalized by the control authority, no discharge shall be made into the POTW.

(3) Any user who proposes to discharge any wastewater other than sanitary or noncontact cooling water into the POTW shall request approval from the control authority for the discharge(s) at least 30 days prior to the commencement of the discharge.

(B) *Permit application or reapplication.* The control authority may require any user to complete a questionnaire and/or a permit application and to submit the same to the control authority for determining whether the industrial user is a significant user or to determine changes in the wastewater discharges from a user's facility. Within 30 days of being so notified, a user shall comply with the control authority's request in the manner and form prescribed by the control authority. Failure of the control authority to so notify a user shall not relieve the user of the duty to obtain a permit as required by this article.

(1) A user which becomes subject to a new or revised national categorical pretreatment standard shall apply for a wastewater discharge permit within 90 days after the promulgation of the applicable national categorical pretreatment standard, unless an earlier date is specified or required by 40 CFR 403.12 (b). The existing user shall provide a permit application which includes all the information specified in § 53-81(C) of this code.

(2) A separate permit application shall be required for each separate facility.

(3) Existing permittees shall apply for permit reissuance a minimum of 90 days prior to the expiration of existing permits on a form prescribed by the control authority.

(C) *Application or reapplication information*. In support of an application or reapplication for a wastewater discharge permit, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Corporate or individual name, any assumed name(s), federal employer identification number, address and location of the discharging facility;

(2) Name and title of the authorized representative of the industrial user who shall have the authority to bind the industrial user financially and legally;

(3) All SIC numbers of all processes at this location according to the Standard Industrial Classification Manual, issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended;

(4) Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application form. Such parameters shall include those applicable pollutants having numeric limitations as enumerated in § 53-79(a) and (b) of this article, those pollutants limited by national categorical pretreatment standards or regulations for applicable industries and any toxic pollutants known or suspected to be present in the discharge regulated in the previous permit or specifically requested by the Detroit Water and Sewage Department. For each parameter, the expected or experienced maximum and average concentrations during a one year period shall be provided. For industries subject to national categorical pretreatment standards or requirements, the data requested herein shall be separately shown for each categorical process wastestream. Combined wastestreams proposed to be regulated by the combined wastewater formula shall also be identified. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to 33 USC 1314 (g) and contained in 40 CFR 136, as amended. Where 40 CFR 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the Administrator;

(5) A listing and description of activities, facilities and plant processes on the premises. Those processes which are subject to national categorical pretreatment standards or requirements shall be so designated. As pertains to subsection (C)(4), identify which pollutants are associated with each process;

(6) Restricted to only those pollutants referred to in subsection (C)(4), a listing of raw materials and chemicals that are either used in the manufacturing process or could yield the pollutants referred to in subsection (C)(4). Any user claiming immunity from having to provide such information for reasons of national security shall furnish acceptable proof of such immunity;

(7) A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the seven days of the week;

(8) Denote: (i) the average and maximum 24 hour wastewater flow rates, including, if any, daily, monthly and seasonal variations, (ii) each national categorical process wastestream flow rate and the cooling water, sanitary water and storm water flow rates separately for each connection to the POTW; and (iii) each combined wastestream;

(9) A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW; also a flow schematic showing which connections receive each national categorical process wastestream and which connections receive stormwater, sanitary water or cooling water; also show which lines handle each combined wastestream. This schematic shall be cross-referenced to the information furnished in subsection (C)(8);

(10) Each product produced by type, amount, process or processes and rate of production as pertains to processes subject to production-based limits under the national categorical pretreatment standards or requirements only;

(11) A statement regarding whether or not the requirements of this article and the national categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance work and/or additional construction is required for the industrial user to meet the applicable standards and requirements. This statement shall be reviewed and signed by the authorized representative and as appropriate certified by a qualified professional;

(12) Basic information on the program for the prevention of accidental discharges in accordance with the requirements of § 53-79 of this code;

(13) Proposed or actual hours of operation of each pretreatment system for each production process;

(14) A schematic and description of each pretreatment facility which identifies whether each pretreatment facility is of the batch type or continuous process type;

(15) If other than Detroit Water and Sewerage Department potable water, the industrial user's source of intake water, together with the types of usage and disposal method of each water source and the estimated wastewater volumes from each source;

(16) If additional construction and/or operation and maintenance procedures will be required to meet the requirements of this article and the national categorical pretreatment standards the shortest schedule by which the user will provide such additional construction and/or implement the required operation and maintenance procedures;

(17) Identify whether the user has conducted a waste minimization assessment or audit of its operations in order to identify all feasible source reduction and recycling practices that may be employed to reduce or eliminate the generation of pollutants and other wastes at the facility;

(18) Any other information as may reasonably be required to prepare and process a wastewater discharge permit.

(D) *Permit issuance.* Upon receipt of an application, the control authority shall review the application, determine and so notify the industrial user of any of the following:

(1) The industrial user does not meet the definition of a significant industrial user and is not required to have a wastewater discharge permit;

(2) The industrial user does meet the definition of a significant industrial user but is found by the control authority to have no reasonable potential for adversely affecting the POTW operation or for violating any pretreatment standard or requirement and is not required to have a wastewater discharge permit. The control authority shall make such determination in accordance with the requirements of 40 CFR 403.8 (f) (6);

(3) The application is incomplete or the information only partially satisfies the information and data required by 40 CFR 403.12 or by the control authority and that additional information and data are required which shall be promptly furnished. Where appropriate, the industrial user is notified regarding specific information that is missing or that the application is unacceptable;

(4) The industrial user is required to have a wastewater discharge permit. The control authority shall notify the industrial user of its determination and the basis of the determination;

The control authority may withhold issuance of a permit to a significant user which has not submitted an adequate or timely report or permit application to the control authority in accordance with the reporting requirements of 40 CFR 403.12 or whose discharge is in violation of this article. If the control authority determines that an industrial user is required to have a wastewater discharge permit and has evaluated and accepted the data furnished, the industrial user will be notified accordingly by certified mail. The notification shall contain a copy of the draft permit, so marked, for the industrial user's review. In accordance with the procedures of § 53-87 of this code, an industrial user has 30 days to file a response to the draft permit and 20 days to file an appeal of a final permit from the date of mailing. A permit shall be issued as final upon disposition by the control authority of any contested terms or conditions. Only one facility location shall be included in each permit.

(E) *Permit conditions.* Wastewater discharge permits shall contain all requirements of 40 CFR 403.8 (f) (1) (iii) and shall be deemed to incorporate all provisions of this article, other applicable laws, rules, regulations and user charges and fees established without repetition therein.

(1) In addition, permits may also contain the following:

a. Limits on the average and maximum wastewater constituents or characteristics which are equivalent, more restrictive than or supplemental to the numeric limits enumerated in § 53-79 of this article or the applicable national categorical pretreatment standards;

b. Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;

c. Requirements for installation, operation and maintenance of discharge sampling manholes and monitoring facilities by the industrial user;

d. Restrictions on which of the user's discharge waste streams are to be allowed to be discharged at each point of connection to the POTW;

e. Specifications for industrial user monitoring programs which may include sampling locations, frequency and type of sampling, number, types and standards for tests and reporting schedule;

f. Requirements for the prevention of accidental discharges and the containment of spills or slug discharges;

g. Restrictions based on the information furnished in the application;

h. Additional reporting requirements:

(i) All permittees shall submit a report to the control authority on the prescribed form or on an alternative approved form approved by the control authority indicating the status of compliance with all conditions numerated or referred to in the wastewater discharge permit or made applicable to the permit by this article. Unless required more frequently, the reports shall be submitted at six month intervals on a schedule to be established by the control authority. Analytical data generated by the control authority may not be submitted in lieu of the facility's own monitoring data as required by the wastewater discharge permit. Permittees not subject to national categorical pretreatment standards or requirements shall submit a report in accordance with the requirements of subsections (iii) and (iv) of this subsection (E). The report shall show the concentration of each substance for which there is a specific limitation in the permit or which may be identified by the control authority in accordance with § 53-81(E)(1)(i) and (k) of this code.

(ii) Permittees subject to national categorical pretreatment standards or requirements shall submit compliance reports at the times and intervals specified by the federal regulations and by the control authority. A compliance report shall be submitted to the control authority no later than 90 days following the final compliance date for a standard or in the case of a new source no later than 90 days, following commencement of the introduction of wastewater into the POTW and in accordance with 40 CFR 403.12 (d). A report on continued compliance shall be submitted at six month intervals thereafter on the schedule established by the control authority and incorporated into the industrial users discharge permit and in accordance with subsections (iii) and (iv) below. The reports shall be either on a form prescribed by the control authority or on an alternative form approved by the control authority and shall indicate the nature and concentration of all pollutants in the discharge from each regulated process which are limited by national categorical pretreatment standards, which there is a specific limitation in the permit or which may be identified by the control authority in accordance with § 53-81 (E)(1)(i) and (k) of this code. The report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharges regulated by the permit. The combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the control authority, provided there have been no changes to the elements composing the combined wastestream.

(iii) Reports shall contain the results of representative sampling performed during the period covered by the report and of the discharge and analysis of pollutants contained therein and for significant industrial users subject to production based standards shall be cross-referenced to the related flow or production and mass as required to determine compliance with the applicable pretreatment standards. The frequency of monitoring shall be as prescribed in the applicable general pretreatment regulations, being 40 CFR 403, or by the control authority, but no less than is necessary to assess and assure compliance by the industrial user with the most stringent applicable pretreatment standards and requirements. All sampling and analysis shall be performed in accordance with applicable regulations contained in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not include sampling or analytical techniques for the pollutants in questions, sampling and analysis shall be performed using validated analytical methods approved by the Administrator.

If an industrial user monitors any pollutant more frequently than required by the control authority using the procedures of this section as prescribed above, the results of this monitoring shall be included in such report.

The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment system improvements or changes are necessary to bring the industrial user into compliance with the applicable pretreatment standards.

(iv) This report, and those required under §§ 53-79(C)(5) and 53-81(E)(1)h(i) and 53-81(E)(1)h(ii) of this code, shall include the following certification statement "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and/or imprisonment for knowing violations." Said certification shall be signed by the facility's authorized representative, as defined in § 53-77 of this code. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of the authorized representative definition must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.

(v) If sampling performed by a permittee indicated a violation, the user shall notify the control authority within 24 hours of the time the user becomes, or should have become, aware of the violation. In addition the user shall repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after the user becomes, or should have become, aware of the violation.

i. In the event the Director determines that an industrial user is discharging substances in quality, quantity or at locations which may cause problems to the POTW, or the receiving stream, the control authority has the authority to develop and enforce effluent limits applicable to the user. To the extent the control authority

seeks to impose restrictions in a permit which are more restrictive than established in this article, the control authority shall provide written documentation to explain the greater restriction for protection against pass-through, interference or violation of the NPDES permit.

j. Requirement for pollution prevention initiatives.

k. Other requirements reasonably necessary to ensure compliance with this article.

(F) *Permit duration.* Permits shall be issued for a specified time period. Except as deemed necessary by the control authority, or as otherwise provided for under this article, permits shall be issued for a specified period or not more than five years nor less than one year. The existing permit for significant industrial users who timely submit an application for permit reissuance to the control authority shall be automatically extended until a final permit is issued.

(G) *Permit modification.* The terms and conditions of the permit may be subject to modification by the control authority during the term of the permit as limitations or pretreatment standards and requirements as identified in § 53-79 of this code are amended or other just cause exists. Just cause for a permit modification includes, but shall not be limited to, the following:

(1) Material or substantial changes to an industrial user's facility or operation or changes in the characteristics of the industrial user's effluent. It shall be the industrial user's duty to request an application form and apply for a modification of the permit within 30 calendar days of the change;

(2) Change(s) in the City of Detroit's NPDES permit;

(3) Embodiment of the provisions of a legal settlement or of a court order;

(4) Any changes necessary to allow the City of Detroit to fulfill its role as control authority;

(5) An industrial user's noncompliance with portions of an existing permit;

(6) A change of conditions within the POTW;

(7) A finding of interference or pass-through attributable to the industrial user;

(8) Amendments to or promulgation of national categorical pretreatment standards or requirements, including 40 CFR 403 and those delineated in Appendix A of this article. Permittees shall request an application form and apply to the control authority for a modified permit within 90 days after the promulgation of a new or revised national categorical pretreatment standard to which the industrial user shall be subject. Information submitted pursuant to this subsection shall be confined to that information related to the newly promulgated or amended national categorical pretreatment standards or requirement. However, information previously submitted need not be duplicated insofar as the previously submitted information continues to be current and applicable. In addition, the control authority may initiate this action;

(9) Changes in the monitoring location; (See §53-82 of this code.)

(10) Typographical errors or omissions in permits;

(11) The control authority may modify the permit on its own initiative based on its findings or reasonable belief of the above;

(12) The user may request a modification of the permit;

When initiated by the control authority, the industrial user shall be informed of any proposed change in its permit. The control authority will issue a draft permit and an industrial user has 30 days to file a response to the draft modified permit. Thereafter, the control authority will issue a final permit and, unless appealed in accordance with the procedures contained in § 53-87 of this code, the permit will become effective 20 days after issuance.

(H) *Permit custody and transfer.* Wastewater discharge permits are issued to a specific person as defined herein for a specific discharge. A wastewater discharge permit shall not be reassigned or transferred or sold to a different person, new owner, new industrial user, different premises or a new or changed operation without notice to and the written approval of the control authority and provision of a copy of the existing permit to the new owner or operator. It shall be the permit holder's duty to notify the control authority of any such change at least 30 days before the date of the change. Wastewater discharge permits which do not receive the written approval of the control authority prior to the change shall be null and void regardless of reassignment, transfer or sale. If it determines that an unreported change has occurred, the control authority may revoke a permit. If a change takes place, the control authority may require the application for a new or modified permit. Any succeeding person shall comply with the terms and conditions of any existing permit which the control authority allows to be retained.

(I) *Permit notification requirements.* All industrial users shall promptly notify the control authority in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which initial notification under 40 CFR 403.12(p) has been made, request a permit application form and apply for a modification of the permit at least 30 calendar days prior to the change. Failure of the industrial user to so apply shall be considered a violation of this article.

(1978 Code, § 35-81; Ord. No. 284, § 7, 5-15-90; Ord. No. 284-A, § 1, 5-18-99) Penalty, see §1-9

53-82. MONITORING FACILITIES.

(A) Significant industrial users shall provide, operate and maintain at their own expense a sampling manhole or special structure to facilitate monitoring, inspection, sampling and flow measurement of their discharge by the control authority and the industrial user and to enable the control authority to conduct such other monitoring and sampling as required for determining compliance with discharge requirements, limits and standards as provided for in this article. In the event the control authority determines that the monitoring facility identified in the permit application is inadequate, a new monitoring facility must be identified or provided which shall allow for collection of a representative sample of the wastewater discharged from the facility. Unless otherwise determined at the discretion of the control authority, the facility shall be provided within 90 days of receipt of notification by the control authority. The industrial user shall provide the control authority with 1) a drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW; 2) a flow schematic showing (i) which connections receive each national categorical process wastestream, (ii) which connections receive storm water, sanitary water or cooling water, and (iii) which lines handle each combines wastestream. This report shall be certified by a professional engineer. If a significant industrial user fails to install the monitoring facilities within the prescribed time limits, then the control authority may install such structure or device and the significant user shall reimburse the control authority for any costs incurred therein.

(B) The sampling manhole should be situated on the industrial user's premises in a location readily accessible to the control authority. It shall be the responsibility of the industrial user to obtain any necessary approvals from the community or other government entities which may be required by the location and construction of monitoring facilities in the public street or sidewalk area. Such construction shall only occur when another location would be impractical or cause undue hardship upon the industrial users. In no case shall the location be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling or monitoring manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and any permanently installed sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial users. Whether constructed upon public or private property, the sampling and monitoring facilities shall be provided in accordance with the control authority's requirements and all applicable local construction standards and specifications. (See § 53-83).

(1978 Code, § 35-82; Ord. No. 284, § 8, 5-15-90; Ord. No. 284-A, § 1, 5-18-99)

53-83. INSPECTION, SAMPLING AND RECORDKEEPING.

(A) For purposes of administering and enforcing this article, the control authority may inspect the establishment, facility or other premises of the industrial user. The control authority shall have access to the industrial user's premises for purposes of inspection, sampling, compliance monitoring and/or metering activities.

(B) Each such inspection or sampling activity shall be commenced and completed at reasonable times, within reasonable limits and in a reasonable manner. Upon arrival at the industrial user's premises, the control authority shall inform the industrial user or the industrial user's employees that sampling and/or inspection is commencing and that the facility's authorized representative has the right to observe the inspection and/or sampling. The control authority shall neither refrain from, nor be prevented or delayed from, carrying-out its inspection or sampling duties due to the unavailability of the authorized representative of the facility to observe or participate in the inspection or sampling activity.

(C) While performing work on private property, employees or authorized representatives of the control authority and the community shall observe all reasonable safety, security and other reasonable rules applicable to the premises as established by the industrial user. Duly authorized employees of the control authority shall

bear proper credentials and identification and at the industrial user's option may be accompanied by a duly authorized representative of the industrial user. Duly authorized representatives shall not be restricted from viewing any of the facility site. Control authority employees or representatives may take photographs of facilities subject to this article which shall be maintained by the control authority as confidential in accordance with § 53-84 of this code.

(D) Where an industrial user has security measures in force, the industrial user shall make prompt and necessary arrangements with the security personnel so that upon presentation of appropriate credentials, personnel from the control authority will be permitted to enter for the purposes of performing their specific responsibilities.

(E) Significant industrial users shall sample and analyze their discharges in accordance with the provisions of their permits. The control authority may require such samples to be split for the control authority's independent analysis.

(F) Industrial users shall maintain records of all information from monitoring activities required by this article or by 40 CFR 403.12 (n). Industrial users shall maintain the records for no less than three years. This period of records retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the City of Detroit's Industrial Waste Program or when requested by the control authority, EPA or the state.

(G) Upon the request of the control authority, industrial users shall furnish information and records relating to discharges into the POTW. Industrial users shall make such records readily accessible to the control authority at all reasonable times and allow the control authority to copy such records.

(H) In the event the control authority obtains samples and analyses are made of such samples, a copy of the results of such analysis shall be promptly furnished to the owner, operator or agent in charge of the premises upon written request by the industrial user's authorized representative. When requested by the industrial user, the control authority employee or representative shall leave with the user, a portion of any sample of the user's discharge taken from any sampling point on or adjacent to the premises for the user's independent analysis. In cases of disputes arising over shared samples, the portion taken and analyzed by the control authority shall be controlling unless proven invalid.

(I) In addition to any other violation caused by the discharge described herein, in the event a single grab sample of the industrial user's discharge is obtained by the control authority and then analyzed in accordance with 40 CFR 136 and found to contain concentrations of pollutants which are two or more times greater than the numeric limitations as listed in § 53-79 (B) of this article or as contained in the facility wastewater discharge permit, the industrial user shall implement its slug control plan and shall provide a written report to the control authority within 14 days, which describes the cause of greater concentration and provides a description of the means by which future discharge concentrations will be held to values of less than two times the limitation in the future.

(1978 Code, § 35-83; Ord. No. 284, § 9, 5-15-90; Ord. No. 284-A, § 1, 5-18-99)

53-84. CONFIDENTIAL INFORMATION.

(A) Information and data on an industrial user obtained from written reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the control authority that the release of such information would divulge information, processes or methods or production entitled to protection as trade secrets of the industrial user. When submitted to the control authority, all information claimed to be confidential must be clearly marked "Confidential." When requested by the person furnishing the report, the portions of a report determined by the control authority to disclose trade secrets or trade secret processes and which are clearly labeled as confidential, shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this article, the National Pollutant Discharge Elimination System (NPDES) permit and to the state disposal system permit and/or the pretreatment programs; provided, however that the information shall be treated as confidential by the governmental agency, until such time as the information has been determined to be non-confidential by the governmental agency. Confidential information on industrial users, which the control authority releases pursuant to request of another government agency, should be handled by the other government agency pursuant to its own confidential procedures. The control authority cannot control how another government agency handles such confidential information and assumes no responsibility for the disposition of the information released to the government agency. The control authority will use sufficient care to inform the other agency of the existence of the industrial user's confidentiality claim. The control authority shall determine whether the information requested to be treated as confidential, in fact, satisfies the requirements of confidential information as defined herein. The decision of the control authority shall be made in writing.

Wastewater constituents and characteristics will not be recognized as confidential information.

(B) Except as otherwise determined by the control authority or provided for by applicable law, all information with respect to an industrial user on file with the control authority shall be made available upon request by such user or the user's authorized representative during normal business hours.

(1978 Code, § 35-84; Ord. No. 284, § 10, 5-15-90; Ord. No. 284-A, § 1, 5-18-99)

53-85. STATUTES, LAWS AND REGULATIONS.

The national categorical pretreatment standards defined in 40 CFR Chapter I, subchapter n, Parts 405-471, shall be and are incorporated by reference herein and made a part hereof. Unless otherwise provided, any reference in this article to a code, standard, rule, regulation or law enacted, adopted, established or promulgated by any private organization or any element or organization of government other than the community shall be construed to apply to such code, standard, rule, regulation or law in effect or as amended or promulgated from the date of enactment of this article (May 15, 1990).

(1978 Code, § 35-85; Ord. No. 284, § 11, 5-15-90; Ord. No. 284-A, § 1, 5-18-99)

53-86. ENFORCEMENT.

(A) *Violations*. It shall be a violation of this article for any user to:

(1) Fail to completely and/or accurately report the wastewater constituents and/or characteristic of the industrial user's discharge;

(2) Fail to report significant changes in the industrial user's operations or wastewater constituents and/or characteristics within the time frames provided in §3-81 of this article;

(3) Refuse reasonable access to the industrial user's premises, waste discharge or sample location for the purpose of inspection or monitoring;

(4) Restrict, lockout or prevent, directly or indirectly, access to any monitoring facilities constructed on public or private property. The locking or securing of the monitoring facility shall constitute a violation pursuant to this subsection, provided, that upon request reasonable access to the facility is promptly provided to the control authority;

(5) Restrict, interfere, tamper with or render inaccurate any of the control authority's monitoring devices, including but not limited to samplers;

(6) Fail to comply with any condition or requirement of the industrial user's wastewater discharge permit;

(7) Fail to comply with any limitation, prohibition or requirement of this article, including any rule, regulation or order issued hereunder. Industrial users acting in full compliance with wastewater discharge permits issued prior to the effective date of this article (July 19, 1990) shall be deemed to be in compliance with the requirements of this article and such permits shall remain in effect and be enforceable under this article until a superseding permit is effective. Industrial users shall comply with applicable national categorical pretreatment standards and requirements on the date specified in the federal regulations, regardless of compliance schedules.

(B) *Upsets*. An upset shall constitute an affirmative defense to an action brought for noncompliance with national categorical pretreatment standards where the requirements of subsection (1) are met.

(1) An industrial user who wishes to establish the affirmation defense shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

a. An upset occurred and the industrial user can identify the specific cause(s) of the upset;

b. At the time, the facility was being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

c. The industrial user has submitted the following information to the department, orally or in writing, within 24 hours of becoming aware of the upset (and where this information is provided orally, a written submission must be provided within five days):

(i) A description of the discharge and cause of noncompliance;

(ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;

(iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(2) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(3) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with this article upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(C) *Bypass.* Bypasses are prohibited unless the bypass does not cause a violation of pretreatment standards or requirements but only if it is for essential maintenance to ensure efficient operation of the treatment system. These bypasses are not subject to the provisions of subsections (1) and (2) of this section.

(1) *Notice of anticipated bypass.* Industrial users anticipating a bypass shall submit notice to the control authority at least ten days in advance.

(2) *Notice of unanticipated bypass.* An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the industrial user becomes or should have become aware of the bypass. A written submission shall be provided within five days of the time the industrial user becomes or should have become aware of the bypass. The written submission shall contain a description of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the bypass.

(3) *Prohibition of bypass and enforcement.* Bypass is prohibited and the control authority may take enforcement action against a user for a bypass, unless:

a. The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal period of equipment downtime or preventative maintenance.

c. The industrial user properly notified the control authority as described in subsection (C)(2).

(4) *Bypass approval.* Where it meets all conditions in subsection (C)(3) of this section, the control authority may approve an anticipated bypass.

(D) *Pollution prevention initiatives.* Where one or more of the measurements taken for any pollutant defined in Section 53-79(B) of this code during a six month period exceed by any magnitude the daily maximum non-detect ordinance limit for the same parameter, the industrial user may develop and implement pollution prevention initiatives, or a BMP as part of its response. The Department may, as part of an Administrative Order, also require development of a BMP as part of an enforcement response. Upon approval of the Department, these pollution prevention initiatives, or BMP, shall be made an enforceable part of the Wastewater Discharge Permit.

The industrial user shall provide, at six month intervals, analytical results and certifications in support of its implementation of approved pollution prevention initiatives, or BMP. Upon demonstration of compliance, the industrial user may request to be relieved of this implementation requirement.

(E) *Emergency suspensions and orders.* The control authority may order suspension of the sewer or wastewater treatment service and/or a wastewater discharge permit where, in the opinion of the control authority, such suspension is necessary to stop any actual or threatened discharge which presents or may present an imminent or significant hazard to the health or welfare of persons or to the environment, interferes or may interfere with the POTW or causes or may cause the City of Detroit to violate any condition of its NPDES permit. Any person notified of a suspension of the sewer or wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event the control authority provides informal notification under this section, written confirmation and an order shall be provided within 24 hours. In the event of a failure of the person to comply voluntarily with any suspension or revocation order, the control authority shall take such steps as deemed necessary, including immediate severance of the sewer connection or services to prevent or minimize damage to the POTW system or danger to any individual or the environment. In the event such steps are taken, the Director shall notify the industrial user within 24 hours in writing of such action and order and the specific recourse available. In any event, the control authority shall provide the industrial user with an opportunity for a hearing before the Director or his or her designated representative within ten days of such action. The control authority shall notify the community of this action within ten days of such action. The industrial user shall submit a detailed written statement to the control authority within 15 days of the occurrence describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Upon proof of elimination of the noncomplying discharge the control authority shall reinstate the wastewater discharge permit and/or the sewer or wastewater treatment service.

(F) *Notice of violation.* Except in the case of an actual or threatened discharge as specified in subparagraph (D) of this section, whenever the control authority has reason to believe that any industrial user has violated or is violating this article, the control authority shall serve a written notice stating the nature of the violation upon such industrial user. Where applicable, the control authority shall pursue appropriate escalating enforcement action as defined within its approved enforcement response plan. The failure of the control authority to issue a notice of violation shall not preclude the control authority from escalating its enforcement response.

(G) *Notice of control authority action.* The community or designated department thereof shall be notified by the control authority of any enforcement activity taken within its boundaries.

(H) *Administrative actions.* Whenever the control authority has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit or a pretreatment standard or requirement of any prohibition of this article, the control authority, except in the case of emergency or flagrant violation, may initiate appropriate administrative enforcement action in order to compel the industrial user to eliminate or to remedy such violation as soon as possible.

(1) a. *Conferences*. The control authority may order any person who violates this article to attend a conference wherein the control authority may endeavor to cause the user to eliminate or remedy the violation by establishing an enforceable compliance schedule. The notice of violation shall be served at least ten days before the scheduled conference and shall set forth the date, time and place thereof. The conference shall be conducted by a representative of the control authority. The industrial user shall present a plan and schedule for achieving compliance with this article. Nothing contained herein shall require the control authority to accept or agree to any proposed plan or schedule or prevent the control authority from proceeding with a show-cause hearing as set forth in subsection (G)(2) of this section. If the attendees agree upon a compliance schedule, the user and the control authority's duly authorized representative may enter, by consent, into a compliance agreement or an administrative order setting forth the terms of such agreement. An industrial user must exhibit good faith and expeditious efforts to comply with this article and any procedures, requirements and agreements hereunder.

b. *Compliance schedules.* The user and the control authority may agree upon a schedule which sets forth the terms and conditions and time periods or schedules for completion of actions to remedy or to eliminate the causes of violation. These schedules may be developed as part of a compliance agreement or an administrative consent order. Schedules developed under this subsection shall adhere to the following conditions:

(i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of upgraded or additional pretreatment facilities or to the implementation of additional operation and maintenance procedures required for the industrial user to meet the applicable pretreatment requirements and standards, including but not limited to hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction and completing construction.

(ii) No single increment referred to in subsection (G)(1)b(i) shall exceed nine months.

(iii) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority, including, at a minimum, whether it complied with the increment of progress to be met on such date and, if not, the date which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the industrial user to return to the established schedule.

(iv) Any deviation from the compliance schedule may result in the industrial user being found in violation of this section.

c. *Administrative orders.* The control authority may order any industrial user who violates or continues to violate this article or a duly issued permit to install and to properly operate devices, treatment facilities or other related appurtenances. In addition, orders may contain such other requirements as might reasonably be necessary and appropriate to address the violations, including the installation of pretreatment technology, additional self-monitoring and management practices, implementation of a waste minimization assessment to identify and implement feasible source reduction and recycling practices to reduce the generation or release of pollutants at the facility. An order may be either an administrative consent order which is the result of an agreement or a unilateral administrative order.

(2) *Show-cause hearing.*

a. *Authorized*. The control authority may order any industrial user who violates this article or allows such violation to occur to show cause before the control authority why a proposed enforcement action should not be taken. A notice shall be served upon the industrial user specifying the time and place of a hearing before the control authority regarding the violation, the reasons why the action is to be taken and the proposed enforcement action and directing the industrial user to show cause before the control authority why any proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail with return receipt requested at least ten days before the hearing. Service may be made upon any agent or officer of a corporation or its authorized representative.

b. *Hearing proceeding.* The hearing shall be conducted in accordance with the procedures adopted by the Board. A hearing officer shall conduct the showcause hearing and take the evidence and may:

(i) In the name of the Board, issue notices of hearings requesting the attendance and testimony of the witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Director for action thereon;

(iii) Transcript. At any showcause hearing held pursuant to this article, testimony shall be recorded by a court reporter.

(3) *Actions*. After a show-cause hearing has been conducted, the hearing officer shall issue an order to the industrial user by the control authority directing any of the following actions:

a. Immediate compliance with the industrial user's wastewater discharge permit or with any applicable limitation, condition, restriction or requirement of this article or applicable local, state or federal law or regulation;

b. Pretreatment of waste by installation of adequate treatment equipment or proper operation and maintenance of existing treatment equipment be accomplished within a specified time period;

c. Submission of compliance reports on effluent quality and quantity as determined by self-monitoring and analysis during a specified time period;

d. Submission of periodic reports on effluent quality and quantity determined by self-monitoring analysis throughout the final period set by a compliance date;

e. Control of discharge quantities;

f. Payment of costs for reasonable and necessary inspection, monitoring and administration of the industrial user's activities by the control authority during compliance efforts;

g. Any such other orders as are appropriate, including but not limited to immediate termination of sewer or wastewater treatment services or revocation of a wastewater discharge permit or orders directing that following a specified time period, sewer or wastewater treatment service will be discontinued unless adequate treatment facilities, devices or operation and maintenance practices have been employed;

h. A finding that the user has demonstrated by clear and convincing evidence that it did not violate this article or a duly issued permit.

(4) *Public notification of significant noncompliance.* The control authority shall publish in the largest daily newspaper published in the City of Detroit a list of all industrial users which were in significant noncompliance with applicable pretreatment requirements at any time during the previous 12 months, All industrial users identified in a proposed publication shall be provided with a copy of the proposed notice at least 30 days before publication and allowed an opportunity to comment as to its accuracy.

(I) *Legal actions.*

(1) *Criminal action.* Any user who violates any provision of this article, including the failure to pay any fees, fines, charges or surcharges imposed or any condition or limitation of a permit issued pursuant thereto or who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article or wastewater discharge permit or who tampers with or knowingly renders inaccurate any monitoring device required under this article is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed $500 per day for each violation or by imprisonment for not more than 90 days, or by both. The control authority is authorized through its counsel to seek prosecution of criminal charges against any person violating any provision of this article.

(2) *Civil action.* Whenever the control authority has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, a pretreatment standard or requirement or any requirement of this article, the Director may commence a civil action to compel compliance in a court of competent jurisdiction to enjoin the user from discharging and/or to obtain appropriate relief to remedy the violations. The control authority or the community may also seek additional legal and/or equitable relief. The commencement of suit does not constitute an exclusive election of remedies and does not prohibit the control authority or the community from commencing action in federal court for discharges believed to be in violation of this article, state and federal requirements contained in the Clean Water Act, the City of Detroit's NPDES permit or other applicable laws or requirements. In addition, the control authority may recover reasonable attorney fees, court costs, court reporters' fees and other unusual expenses related to enforcement activities or litigation against the person found to have violated this article or the orders, rules, regulations and permits issued hereunder.

(1978 Code, § 35-86; Ord. No. 284, § 12, 5-15-90; Ord. No. 284-A, § 1, 5-18-99; Ord. No. 402, § 5, 4-21-09)

53-87. RECONSIDERATION AND APPEAL.

Reconsideration and appeal are the methods which a user may contest decisions, actions or determinations by the control authority resulting from the application and enforcement of this article. The following procedures govern the reconsideration and appeal process before the control authority with respect to construction, application and enforcement of this article.

(A) *Selection of reconsideration or appeal process.*

(1) Except for those actions, decisions or determinations which are expressly identified as subject only to the appeal process, reconsideration may be requested by any permit applicant, permittee, authorized industrial wastewater discharger or other discharger who is adversely affected by any decision, action or determination that is made by or on behalf of the control authority by the Director or any authorized representative and that interprets, implements or enforces the provisions of this article.

(2) Appeal may be requested by any permit applicant, permittee, authorized industrial wastewater discharger or other discharges, who is adversely affected by a final permit issued by the control authority or administrative order entered after a show cause order and hearing or after a reconsideration hearing.

(3) Unless otherwise expressly provided for by this article, request for reconsideration or appeal must be signed by an authorized representative and received at the control authority's general offices within 20 days of the date of the occurrence of the action, decision or determination in dispute. All requests shall contain the requester's name, address and a brief statement of the reasons and the factual basis underlying the request. Requests shall be filed in triplicate by hand delivery or certified mail to the general offices of the control authority. If a request is not made within the time period provided in this section, the action, determination or decision of the Director or the control authority's authorized representative is final and any rights to appeal or reconsideration may be deemed waived.

(B) *Reconsideration*. Within 15 days of receipt of any request for reconsideration, the control authority shall notify the applicant of the time and place for hearing.

(1) An aggrieved party may request a hearing on reconsideration. Reconsideration hearings shall be conducted by the Director, or the Director's designee who may be an employee of the control authority. The decision of the hearing officer shall be in a form of a recommendation to the Director and embodied in an administrative order. Except for an administrative consent order that was negotiated and agreed to by both parties, the administrative order is appealable under subsection (C) of this section.

(2) If it is improperly or untimely submitted the control authority may reject a request for reconsideration. The control authority shall notify the requester in writing that the request has been rejected.

(3) Unless the date is mutually extended by both parties, the hearing shall be conducted by the Director, or the control authority's authorized representative, neither less than ten days nor more than 30 days after mailing of the notice. At the discretion of the hearing officer, the hearing may be continued for a reasonable

time for cause. The hearing shall be an informal consultation and conference where the requester in person, or by counsel, shall present their argument, evidence, data and proof in connection with the issue being reconsidered. The parties shall not be bound by the Michigan Rules of Evidence. The hearing shall be transcribed and, upon request and payment for the cost of the transcript, a requestor shall be provided a transcript of the hearing. A final decision shall be issued to the requestor by certified mail within 30 days after conclusion of the hearing.

(4) Unless such action is necessary to prevent pass-through, interference or harm to the POTW, the public or the waters of this state, the filing of request for reconsideration, which is consistent with this article, shall stay the action that is the subject of the recommended hearing by the control authority.

(C) *Appeal*. The control authority shall notify the applicant within 30 days after receipt of any request for appeal of the time and place for a hearing. The hearing shall be conducted in accordance with procedures set by the control authority. The following conditions shall apply:

(1) Any request for an appeal hearing must be made within 20 days of the decision, determination or action of the control authority on the request for reconsideration or any permit issued pursuant to this article. If a request is not made within 20 days, the action, determination or decision of the control authority is final and any right of appeal may be deemed waived.

(2) If it is improperly or untimely submitted, the control authority may reject a request for appeal. The control authority shall notify the requestor in writing that the appeal has been rejected.

(3) The control authority shall appoint a hearing officer, who shall have training and experience appropriate to the subject hearing, may be an employee of the control authority but is not an employee involved in the determination, decision or action being challenged. Upon request of an industrial user, an independent hearing officer may be used in the appeal process. Where a request has been made to retain an independent hearing officer, the control authority shall assess costs against the industrial user for the services of an independent hearing officer. In the event that such a request is made and accepted by the control authority, the requester shall be liable for the costs of the hearing, including but not limited to a court reporter and transcription costs.

(4) The hearing officer shall review the evidence and within 15 days after the close of the hearing issue a written recommendation to either uphold, modify or reverse the action, determination or decision of the control authority. The recommendation shall be submitted to the Board which shall render a final decision within 30 days. The industrial user or the control authority then has 30 days to appeal the Board's decision to a court of competent jurisdiction.

(5) Unless such action is necessary to prevent pass-through, interference or other harm to the POTW, the public or waters of this state, the filing of a request for appeal or appearance before the Board, consistent with this article, shall stay the action by the control authority which is the subject of the appeal.

(1978 Code, § 35-87; Ord. No. 284, § 13, 5-15-90; Ord. No. 284-A, § 1, 5-18-99)

APPENDIX A

ARTICLE VI. WASTEWATER POLLUTION CONTROL

Aluminum forming	40 CFR 467
Asbestos manufacturing	40 CFR 427
Battery manufacturing	40 CFR 461
Builder's paper and board mills	40 CFR 431
Canned and preserved fruits and vegetables	40 CFR 407
Canned and preserved seafood processing	40 CFR 408
Carbon black manufacturing	40 CFR 458
Cement manufacturing	40 CFR 411
Coal mining	40 CFR 434
Coil coating	40 CFR 465
Copper forming	40 CFR 468
Dairy products processing	40 CFR 405
Electrical and electronic components I & II	40 CFR 469
Electroplating	40 CFR 413
Explosives manufacturing	40 CFR 457
Feed lots	40 CFR 412
Ferroalloy manufacturing	40 CFR 424
Fertilizer manufacturing	40 CFR 418
Glass manufacturing	40 CFR 426
Grain mills	40 CFR 406
Gum and wood chemicals manufacturing	40 CFR 454
Hospital	40 CFR 460
Ink formulating	40 CFR 447
Inorganic chemicals manufacture (I & II)	40 CFR 415
Iron and steel	40 CFR 420
Leather tanning & finishing	40 CFR 425
Meat products	40 CFR 432
Metal finishing	40 CFR 433
Metal molding and casting	40 CFR 464
Mineral mining and processing	40 CFR 436
Nonferrous metals forming	40 CFR 471
Nonferrous metal manufacturing I	40 CFR 421
Nonferrous metals manufacturing II	40 CFR 421
Ore mining and dressing	40 CFR 440
Organic chemicals, plastics and synthetic fibers	40 CFR 414
Paint formulating	40 CFR 446
Paving and roofing materials	40 CFR 443
Pesticide chemicals	40 CFR 455
Petroleum refining	40 CFR 419
Pharmaceutical	40 CFR 439
Phosphate manufacturing	40 CFR 422
Photographic	40 CFR 459
Plastics molding and forming	40 CFR 463
Porcelain enameling	40 CFR 466
Pulp, paper and paperboard	40 CFR 430 and 431
Rubber manufacturing	40 CFR 428
Soap and detergent manufacturing	40 CFR 417

Steam electric	40 CFR 423
Sugar processing	40 CFR 409
Textile mills	40 CFR 410
Timber products	40 CFR 429

APPENDIX B

An industrial user may elect, in lieu of the Total Phenols Limitation specified in Section 53-79(B)(2), to substitute specific limitations for each of the eight individual phenolic compounds identified under the Total Phenols Limitation. The following specific limitations, expressed in mg/l, shall be applied in lieu of the Total Phenols limitation, upon election;

	mg/l
2-Chlorophenol	2.0
4-Chlorophenol	2.0
4-Chloro-3-Methylphenol	1.0
2,4-Dichlorophenol	5.5
2,4-Dinitrophenol	2.0
4-Methylphenol	5.0
4-Nitrophenol	15.0
Phenol	14.0

Following election, the Wastewater Discharge Permit shall be modified to incorporate these substituted parameters and an Industrial User shall be responsible for monitoring and reporting compliance with these parameters.

(Ord. No. 402 § 6(part), 4-21-09)

APPENDIX C

INTERIM DISCHARGE LIMITATIONS

a. Any Fats, Oil or Grease (FOG) in concentrations greater than 1,500 mg/l based on the average of all samples collected within a 24 hour period;

b. Any Total Suspended Solids (TSS) in concentrations greater than 7,500 mg/l;

c. Any Biochemical Oxygen Demand (BOD) in concentrations greater than 7,500 mg/l;

d. Any Phosphorus (P) in concentrations greater than 250 mg/l.

Unless otherwise stated, all limitations are based upon samples collected over an operating period representative of a user's discharge and in accordance with 40 CFR Part 136.

No user shall discharge wastewater containing any of the following pollutants in excess of the following interim pollutant discharge limitations:

(1) *Compatible Pollutants:*

a. Any Fats, Oil or Grease (FOG) in concentrations greater than 1,500 mg/l based on an average of all samples collected within a twenty-four hour period.

b. Any Total Suspended Solids (TSS) in concentrations greater than 7,500 mg/l.

c. Any Biochemical Oxygen Demand (BOD) in concentrations greater than 7,500 mg/l.

d. Any Phosphorus (P) in concentrations greater than 250 mg/l.

Unless otherwise stated, all limitations are based upon samples collected over an operating period representative of a User's discharge, and in accordance with 40 CFR Part 136.

(2) *Non-Compatible Pollutants:*

Cadmium (Cd) 1.0 mg/l

(Ord. No. 402 § 6 (part), 4-21-09)

ARTICLE VII. WATER SYSTEM MANAGEMENT

53-101. PURPOSE AND INTENT.

The city, through its water service contract with the Detroit Water and Sewerage Department, benefits through the implementation of a municipal water system customer demand management strategy. A primary objective for this strategy is to insure that whenever possible, the use of the municipal water system for purposes of lawn and landscaping irrigation shall be during non-peak hours. Achieving this primary objective furthers the public interests in providing affordable water service to all residents and maximizing the efficiency of the water system by decreasing peak period usage throughout the city.

(Ord. No. 397, § 1, 6-3-08)

53-102. DEFINITIONS.

As used in this article, the following terms shall be defined as follows:

DIRECTOR. The Director of Public Works, or in his or her absence, his or her duly authorized representative.

DWSD. The Detroit Water and Sewerage Department and its officials, Director, or assigns.

NON-PEAK HOURS. The hours between 12:00 a.m. and 5:00 a.m. from Memorial Day through Labor Day each year.

(Ord. No. 397, § 1, 6-3-08)

53-103. ADMINISTRATIVE ORDER.

The City Manager shall create and implement an administrative order that shall be designed to further the City's objective of limiting use of the municipal water system for purposes of lawn and landscaping irrigation to non-peak hours. Such order shall have the full force and effect of a duly promulgated City ordinance and shall be enforceable under this section as if fully incorporated herein and adopted by reference. The terms and conditions of the order shall be guided by the following considerations:

(A) *Weather conditions.* Extended periods of hot and dry conditions may require more strict enforcement of non-peak hours requirements than periods of less extreme conditions.

(B) *Seasons.* The administrative order shall recognize that certain seasons require more strict enforcement of non-peak hours requirements than others.

(C) *Necessity.* The administrative order may exempt new sod or landscaping from some or all of its water restrictions upon a finding of necessity by public works officials.

(D) *DWSD requirements.* The administrative order shall allow for additional water use restrictions upon a reasonable request by DWSD, whether due to weather conditions, seasonal conditions, the condition of the water system, or otherwise.

(E) *Emergencies.* Water main breaks and other unforeseeable and/or uncontrollable occurrences may require stricter enforcement of non-peak hours requirements, and may in fact justify short-term watering moratoriums if the same are in the best interests of the water system.

(F) *Miscellaneous.* Any other considerations or circumstances that might impact the enforcement, flexibility, or necessity of water use prohibitions or restrictions.

(Ord. No. 397, § 1, 6-3-08)

53-104. NOTICE.

(A) The Director, upon receiving the effective administrative order from the City Manager, shall cause public announcement of any water use prohibitions and/or restrictions and the affected areas by means of broadcasts and/or telecasts from various commercial television and radio stations serving the city, and on the city's cable television channel and website, and through the use of the emergency alert notice system of any cable television franchisee servicing the city. The water use prohibitions and/or restrictions triggered by weather conditions, season, or any other reason under the administrative order shall become effective twelve (12) hours after the restrictions have been announced in accordance with this section.

(B) The Director shall also be authorized to publish in a newspaper of general circulation in the city, and by posting in conspicuous places upon city properties, notice that a water use prohibition or restriction is in effect. Such notices may be published or posted prior to or during the occurrence of a triggering event. However, any notice under this subsection shall contain the date of its issuance, shall make reference to this article or any other applicable ordinance, and shall only be effective for a period of one year from the date of the posting or publication.

(Ord. No. 397, § 1, 6-3-08)

53-105. ENFORCEMENT.

(A) Members of the Police Department and code enforcement officers are hereby authorized to turn off any outdoor water use that is in violation of the administrative order, so long as the source of the water use is located outside of a structure and can be accessed without removing or opening any doors, gates, fences, or the like. For water sources that are located indoors or otherwise cannot be accessed because they are not located in areas to which members of the public are invited or have access, police and code enforcement officers are authorized to make contact with the property owner and/or the water user in an effort to terminate the improper use. In the event that contact cannot be made on-site, police and code enforcement officers are authorized to seek an administrative warrant in order to terminate the water use, and/or they may issue and serve a municipal civil infraction citation upon the owner of the property, as determined by assessing records, and/or upon the user of the water. Such citation shall be in the form prescribed by state law, and may be mailed to the offender via first class mail, or conspicuously affixed to the offending property, or personally provided to the offender. A separate municipal civil infraction citation may be issued for each 24-hour period during which water is improperly used.

(B) The owner of real property where improper water use is occurring or has occurred is presumed, for purposes of this article, to be responsible for the improper water use. In any prosecution with regard to improper water use, proof that the water use originated upon a particular parcel of real property in violation of a provision of this article, together with proof that the defendant named in the complaint was at the time the owner listed in assessing records, shall constitute prima facie evidence that the defendant is responsible for violating this article.

(Ord. No. 397, § 1, 6-3-08)

53-106. TERMINATION.

Once in effect, a restriction and/or prohibition under this article shall remain in effect until terminated by announcement of the Director in accordance with this article.

(Ord. No. 397, § 1, 6-3-08)

53-107. PENALTY.

Any person, firm, corporation, or other entity that violates any term or provision of the administrative order implemented pursuant to this article is responsible for a municipal civil infraction and shall pay a civil fine as prescribed by Chapter 1. It shall not be a defense that a person was not personally or otherwise advised in advance of the issuance of the violation that the applicable water use restriction was in effect, so long as the public notice procedures of this article were followed by the city. Any person, firm, corporation, or other entity that violates or allows this chapter to be violated a second time within 24 hours after receiving a municipal civil infraction citation shall be guilty of a misdemeanor, for which the police shall have arrest authority in order to ensure compliance with the directives of this article.

(Ord. No. 397, § 1, 6-3-08)

53-108. APPEALS.

If any of the prohibitions or restrictions in the administrative order implemented pursuant to this article creates a practical hardship for a municipal water user, the water user may petition the Director with a request for relief from the pertinent restriction. The petition must set forth the requested relief and must detail the extraordinary circumstance that would justify the requested relief, as well as the proposed duration for the requested relief. The Director may grant or deny or modify the petition, taking into consideration the contractual obligations of the city, balanced against the articulated circumstances of the petitioner. The decision of the Director shall be final.

(Ord. No. 397, § 1, 6-3-08)

53-109. RESERVED.

ARTICLE VIII. ILLICIT DISCHARGE

53-110. SHORT TITLE.

This article of Chapter 53 shall be known and cited as the Illicit Discharge Elimination Program.

(Ord. No. 467, § 1, 12-3-19)

53-111. STORM WATER STANDARDS.

Purpose. This article has been enacted to regulate and control all storm water runoff for new land development or re-development; to regulate non-storm water discharges to the storm drainage system within the City of Sterling Heights; to protect the public health, safety, and general welfare of the citizens of the city; and to provide minimum requirements for storm water management, including regulating the contribution of pollutants to the city's municipal separate storm sewer system (MS4) through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. In order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process, the objectives of this article are:

(1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user; and

(2) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and

(3) To establish legal authority to regulate and control all storm water runoff for new land development or re-development within the city; and

(4) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this article.

(Ord. No. 467, § 1, 12-3-19)

Statutory reference:

State law requirements, see MCL §§ 324.101 et seq.

53-112. DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AUTHORIZED ENFORCEMENT AGENCY. The City of Sterling Heights, through its Public Works Department by its Public Works Director and his/her authorized representatives, which shall specifically include all inspectors and code enforcement, and any other individual designated by the City Manager of the City of Sterling Heights to enforce this article. Where applicable the terms may also mean the Director of the Michigan Department of Environment, Great Lakes, and Energy (EGLE) or his/her designated official, and/or the United States EPA Administrator or his/her designated official.

BEST MANAGEMENT PRACTICES (BMPS). A practice or combination of practices based on current, accepted engineering standards that prevent or reduce storm water runoff and/or associated pollutants. BMPs include schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMP's also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CITY. The City of Sterling Heights.

CLEAN WATER ACT. The federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), and any subsequent amendments thereto.

COUNTY. The County of Macomb.

CONSTRUCTION ACTIVITY. Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of five acres or more requiring an issued permit and small construction activities impacting one to five acres of land deemed to operate under a national permit. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system, unless exempted in another provision of the City Code.

ILLICIT CONNECTION. Either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY. Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26(b)(14).

MS4. A municipal separate storm sewer system.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by the United States Environmental Protection Agency (EPA), or by the State of Michigan under authority delegated pursuant to 33 U.S.C. § 1342(b) and codified in the Michigan Natural Resources and Environmental Protection Act at MCL §§ 324.101, et seq., that authorizes the discharge of pollutants to waters of the United States or State of Michigan, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

PERSON. Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform, and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

RUNOFF. The excess portion of precipitation that does not infiltrate into the ground or is not captured by vegetation, but flows overland to a stream, storm sewer, or water body.

STORM SEWER SYSTEM or ***STORM DRAINAGE SYSTEM.*** A publicly owned facility by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORM WATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORM WATER POLLUTION PREVENTION PLAN. A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

WASTEWATER. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(Ord. No. 467, § 1, 12-3-19)

53-113. APPLICABILITY.

This article shall apply to all water entering the storm drain system generated on any developed or undeveloped lands unless expressly exempted by an authorized enforcement agency.

(Ord. No. 467, § 1, 12-3-19)

53-114. ENFORCEMENT, RESPONSIBILITY FOR ADMINISTRATION.

This article shall be enforceable by the agents of any authorized enforcement agency with authority to issue municipal civil infraction violations or take action to protect the health, safety, and welfare of the public.

(Ord. No. 467, § 1, 12-3-19)

53-115. MINIMUM STANDARDS.

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore, this article does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 467, § 1, 12-3-19)

53-116. DISCHARGE PROHIBITIONS.

(A) *Prohibition of illegal discharges.* No person shall discharge or cause to be discharged into the storm drain system or watercourses, any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct, or continuance of any illegal discharge to the storm drain system is prohibited; however, the following discharges are exempt from prohibition as described:

(1) The discharges and flows from firefighting activities if they are identified as not being a significant source of pollutants to the waters of the state.

(2) Discharges specified in writing by the Public Works Director or designee as being necessary to protect public health and safety.

(3) Dye testing, when there has been verbal notification to the Public Works Director or designee and State Department of Environmental Quality procedures have been followed.

(4) Discharges permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(5) The following discharges or flows if they are identified as not being a significant contributor to violations of water quality standards: water line flushing and discharges from potable water sources; landscape irrigation runoff, lawn watering runoff, and irrigation waters; diverted stream flows and flows from riparian habitats and wetlands; rising groundwater and springs; uncontaminated pumped groundwater, except for groundwater cleanups specifically authorized by NPDES permits; water from foundation drains; water from crawl space pumps, footing drains, and basement sump pumps; air conditioning condensation; waters from noncommercial car washing; street wash water; dechlorinated swimming pool water from single-, two-, or three-family residences. Other swimming pools shall not be discharged to storm water or to surface waters of the state without NPDES permit authorization from EGLE.

(B) *Prohibition of illicit connections.*

(1) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this article if the person connects a line conveying sewage to a storm drain system or MS4, or allows such a connection to continue.

(C) *Prohibition of direct dumping or disposal of materials into the MS4.* The direct dumping of materials or discharges into the MS4 is prohibited except for those illicit discharges identified as not being a significant contributor to violations of water quality standards.

(Ord. No. 467, § 1, 12-3-19)

53-117. RIGHT OF ENTRY.

Authorized officers and personnel of any authorized enforcement agency shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling, and testing of suspected non-storm water discharges in accordance with the provisions of this article. Refusal of reasonable access to any part of the premises is a violation of this article.

(Ord. No. 467, § 1, 12-3-19)

53-118. SUSPENSION OF STORM SEWER SYSTEM ACCESS.

(A) *Suspension due to illicit discharges in emergency situations.* Any authorized enforcement agency may seek immediate injunctive relief to suspend storm sewer system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm sewer system or the waters of the United States or the State of Michigan. If the violator fails to comply with a suspension order issued in an emergency, the enforcement officials may take such steps as deemed necessary to prevent or minimize damage to the storm sewer system or the waters of the United States or the State of Michigan, or to minimize danger to persons.

(B) *Suspension due to the detection of illicit discharge.* Any person discharging to the storm sewer system in violation of this article may have storm sewer system access terminated by order of the District Court, or other court of competent jurisdiction, if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its storm sewer system access. The violator may petition the City Engineer for reconsideration and hearing.

(Ord. No. 467, § 1, 12-3-19)

53-119. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City Engineer prior to the allowing of discharges to the MS4.

(Ord. No. 467, § 1, 12-3-19)

53-120. MONITORING OF DISCHARGES.

The Public Works Director or designee has the right to require non-residential dischargers to install monitoring equipment as necessary, in accordance with a court order, if a non-storm water discharge is suspected. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

(Ord. No. 467, § 1, 12-3-19)

53-121. REQUIREMENTS TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

(A) The Public Works Director or designee will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs.

(B) Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. No. 467, § 1, 12-3-19)

53-122. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or

operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the United States or the State of Michigan, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify an authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Public Works Director or designee within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. No. 467, § 1, 12-3-19)

53-123. ENFORCEMENT.

(A) *Notice of violation.* Whenever the Public Works Director or designee determines that a person has violated a prohibition or failed to meet a requirement of this article, the city may order compliance by written notice of violation to the responsible person and the owner of the property where the violation is occurring, requiring compliance within a period set forth within the notice. Such notice may require without limitation:

(1) The performance of monitoring, analyses, and reporting;

(2) The elimination of illicit connections or discharges;

(3) That violating discharges, practices, or operations shall cease and desist;

(4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;

(5) Payment of a fine to cover administrative and remediation costs; and

(6) The implementation of source control or treatment BMPs.

(B) *Abatement of a violation.* If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator, and/or the city may issue all applicable municipal civil infraction and/or misdemeanor citations, and/or the city may seek a court order from a court of competent jurisdiction requiring the restoration to be completed within an established deadline and authorizing the city or its designee to complete the work at the violator's expense.

(C) *Penalties*. Violations of this article shall be punishable as set forth in Chapter 1 of the City Code.

(Ord. No. 467, § 1, 12-3-19)

53-124. COST OF THE ABATEMENT OF THE VIOLATION.

In the event the violator fails to correct the violation as required, and the city undertakes the corrective action in accordance with a court order or otherwise, within 30 days after abatement of the violation the responsible person and the owner of the property will be notified of the cost of abatement, including administrative costs. Pursuant to this section, if the amount due is not paid within a timely manner, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Assessments that remain unpaid for 30 days shall be entered upon the next tax roll as a lien against the premises which shall be subject to the same penalties, interest, and collection procedures that are applicable to delinquent special assessments, including the tax roll penalty set forth in the annual appropriations ordinance.

(Ord. No. 467, § 1, 12-3-19)

53-125. REMEDIES NOT EXCLUSIVE.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies, including, but not limited to circuit court actions in law or equity.

(Ord. No. 467, § 1, 12-3-19)

53-126 – 53-129. RESERVED.

ZONING ORDINANCE

Title

Enacting Clause

ORDINANCE NO. 278

TITLE

An Ordinance, in accordance with and under the authority of Public Act 110 of 2006, as amended, to provide for the establishment of zoning districts in such sizes, shapes and areas as are deemed best suited to carry out the provisions of this Ordinance; within which districts the proper use of land and natural resources is encouraged and regulated and the improper use of same prohibited; to designate in said districts the use of land for recreation, residence, industries, trade, soil conservation, natural resources and the uses for which buildings and structures shall or shall not be erected, altered or moved and designate the trades and industries that shall be permitted or excluded or subjected to special regulations and in each of such districts; to provide for amendments and supplements to this ordinance; to provide for the administration and enforcement of this ordinance; to provide for a zoning board of appeals and its powers and duties; to provide penalties for the violation of its provisions; and to repeal all ordinances and parts of ordinances which may be in conflict with this Ordinance.

(Ord. No. 278-NN, § 1, 1-6-09)

ENACTING CLAUSE

THE CITY OF STERLING HEIGHTS ORDAINS:

ARTICLE 1. SHORT TITLE AND INTERPRETATION

SECTION 1.00. SHORT TITLE.

This ordinance shall be known and may be cited as the City of Sterling Heights Zoning Ordinance and may be referred to herein as "this ordinance."

SECTION 1.01. INTENT.

The purpose of this ordinance is to promote the public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability; to limit the improper use of land; to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources and energy, places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding and congestion of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties, with reasonable consideration among other things, to the character of each district, its peculiar suitability for particular uses, the general and appropriate trend and character of land, building and population development, as studied and recommended within the Master Land Use Plan adopted by the Sterling Heights Planning Commission.

(Ord. No. 278-NN, § 2, 1-6-09)

SECTION 1.02. INTERPRETATION AND CONFLICT.

In interpreting and applying the provisions of this ordinance, these regulations shall be held to be the minimum requirements necessary for the promotion of the public safety, health, convenience, comforts, prosperity and general welfare. It is not intended by this ordinance to interfere with or abrogate or annual any ordinances, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings and premises and, likewise, not in conflict with this ordinance. Nor is it intended to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon heights of buildings or required larger open spaces or larger lot areas than are imposed or required by such other ordinance or agreements, the provisions of this ordinance shall control.

The provisions of this ordinance shall be considered as minimum standards and requirements within each respective zoning district and shall not preclude the establishment of higher or more restrictive standards or requirements for the authorization of any special approval land use permit by the Sterling Heights Planning Commission or City Council where such higher or more restrictive conditions meet the following state requirements and are found necessary after review by the Council or Planning Commission to attain the intent of this ordinance. For the purpose of this ordinance, all conditional uses or uses permitted after special approval shall be special approval land uses as authorized in Public Act 110 of 2006, as amended.

Reasonable conditions may be required with the approval of a special approval land use, planned unit development or other land uses or permitted activities necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

A. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole;

B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity;

C. Be necessary to meet the intent and purpose of this ordinance; be related to the standards established in this ordinance for the land use or activity under consideration; and be necessary to insure compliance with such standards.

The conditions imposed with respect to the approval of a land use or activity shall be recorded in the minutes of the approval action. The City Clerk shall maintain a record of conditions and any amendments thereto.

(Ord. No. 278-EE, § 7, 10-5-04; Ord. No. 278-NN, §§ 3-4, 1-6-09)

SECTION 1.03. VESTED RIGHT.

It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any person, firm or corporation any vested right, license, privilege or permit.

SECTION 1.04. CONFLICTING REGULATIONS.

Whenever any provisions of this ordinance impose more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this ordinance, then the provisions of such law or ordinance shall apply.

ARTICLE 2. ZONING DISTRICTS AND MAP

SECTION 2.00. ZONING DISTRICTS AND BOUNDARIES.

A. For the purposes of this ordinance, the City of Sterling Heights is hereby divided into zoning districts within which the use of land and structures, the height, the area, the density of population and the size and location of buildings are regulated. To the extent possible, these zoning districts are established in accordance with the city's Master Land Use Plan.

B. The boundaries of these districts are hereby established as shown on the Zoning Districts Map, City of Sterling Heights, which accompanies this ordinance, and which map, with all notations, references and other information shown thereon, shall be as much a part of this ordinance as if fully described herein.

In accordance with the provisions of this ordinance, if changes are made in district boundaries or other matter portrayed on the Official Zoning Districts Map, such changes shall be made on the Official Zoning Districts Map after the amendment has been approved by the City Council, together with an entry on the Official Zoning Map as follows: amended ___date___, Ordinance No. (_____).

C. Two copies of the Official Zoning Ordinance and Map are to be maintained and kept up-to-date. One copy shall be filed in the City Planning Department and the other shall be filed with the City Clerk, whose copy shall be the final authority as to the current zoning status of lands, buildings and other structures in the city.

SECTION 2.01. DISTRICT BOUNDARIES INTERPRETED.

Where, due to the scale, lack of details or illegibility of the Zoning Map, there is any uncertainty, contradiction or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined by the Zoning Board of Appeals upon written application. The Board, in arriving at a decision on such matters, shall apply the following standards:

A. The boundaries of zoning districts are intended to follow centerlines of alleys, streets or other rights-of-way, watercourses or lot lines or be parallel or perpendicular thereto, unless such district boundary lines are otherwise clearly indicated on the Zoning Districts Map;

B. Where district boundaries are so indicated that they approximately follow lot of record lines, such lines shall be construed to be boundaries;

C. In unsubdivided property, or where a district boundary divides a lot of record, the location of such boundary, unless shown by dimensions on the Zoning Districts Map, shall be determined by use of the map scale shown thereon.

(Ord. No. 278-NN, § 34, 1-6-09)

SECTION 2.02. CONFORMITY TO ORDINANCE REGULATIONS.

A. No structure or land shall be used, occupied, erected, constructed, moved or altered, except in conformity with the regulations specified for that zoning district. Unless a use is permitted in a particular zoning district, it shall be prohibited in that zoning district.

B. Except as otherwise provided, regulations governing land and building use, minimum lot size, lot area per dwelling unit, building height, building placement, required yards and other pertinent factors are hereby established as stated in the detailed provisions for each of the zoning districts. In each zoning district a "permitted use" shall be a use of land or buildings subject to the minimum requirements specified for such use in the zoning district in which such use is located, plus applicable requirements found elsewhere in this ordinance. A special approval land use shall be a use of land or buildings which may be permitted in that district only after following special procedures designed to ensure site and use compatibility with existing or proposed surrounding land uses. In evaluating and deciding each application for such permission, the Planning Commission shall apply the standards contained in section 25.02 of this ordinance and any special conditions imposed for that use.

ARTICLE 3. R-60, R-70, R 80, R-9O AND R-100 ONE FAMILY RESIDENTIAL DISTRICTS

SECTION 3.00. INTENT.

The one family districts are established to provide an environment suitable for families who typically have children. The districts are principally for one family dwellings at varying densities. The specific intent of these districts is to encourage the construction and continued use of one family dwellings and to prohibit the use of the land which would substantially interfere with the development of one family dwellings. The city also discourages any land use which, because of its character and size, would create requirements and costs for public services substantially in excess of those needed for the one family densities of that zoning district. The city also discourages any land use which would be incompatible or generate excessive traffic on local streets.

SECTION 3.01. PERMITTED USES.

The following uses shall be permitted, subject to the limitations of this ordinance:

A. One family detached dwellings (subject to section 28.08);

B. Agriculture, provided that on parcels of less than eight acres, there shall be no raising of livestock, fowl or other animals;

C. City-owned and/or operated libraries, museums, administrative offices, Police and Fire Department facilities, parks and recreational facilities, subject to the screening and setback requirements of section 3.02F;

D. Essential services needed to serve the immediate vicinity, provided that appropriate screening, as determined by the Planning Department, shall be required when abutting single family dwellings;

E. Site condominiums as defined herein and subject to section 22.00;

F. Model homes for the sale of residences within subdivisions in the City of Sterling Heights.

G. State licensed residential facilities providing residential services for six or fewer individuals, provided such facility is not an adult foster care facility licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

(Ord. No. 278-NN, § 5, 1-6-09)

SECTION 3.02. SPECIAL APPROVAL LAND USES.

The following uses, and others similar to those cited in this article, may be permitted by the Planning Commission subject to the general standards of section 25.02 and the specific standards imposed for each use:

A. Churches, synagogues, mosques and places of group worship, subject to the following:

1. Buildings of greater than the maximum height allowed in this district may be permitted, provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed;

2. All ingress to and egress from the site shall be directly onto a major or secondary thoroughfare having an existing or planned right-of-way width of at least 86 feet as indicated on the Master Road Plan;

3. Parking lot screening meeting the requirements for moderate intensity impacts shall be provided as required in section 24.01;

4. Such facilities may include related community centers, provided that such centers are limited to activities sponsored by church members only. Said facilities shall not be used as banquet facilities to the general public;

5. All principal and accessory buildings, except for accessory storage buildings, such as a shed or detached garage, shall maintain minimum rear and side yard setbacks of at least 50 feet.

B. Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education, all subject to the following conditions:

1. Any use permitted herein shall be developed only on sites of at least 15 acres in area;

2. All ingress to and egress from the site shall be directly onto a major thoroughfare having an existing or planned right-of-way width of at least 120 feet, as indicated on the Master Road Plan. Landscaped berms shall be provided along the frontage of the site as per the requirements of section 24.01;

3. No building shall be closer than 100 feet to any property line when said property line abuts, or is adjacent to, land zoned for residential purposes;

4. Screening, meeting the requirements for moderate intensity impacts of section 24.01, shall be provided for all parking lots and service, maintenance or activity centers, when visible from adjoining residentially zoned land;

5. The site shall consist of a minimum area of 400 square feet per pupil.

C. Golf courses (but not including golf driving ranges, miniature golf courses, banquet or catering facilities or freestanding commercial uses), related clubhouses, accessory seasonal restaurants and recreation areas, all subject to the following conditions:

1. Any use permitted herein shall be developed only on sites of at least 50 acres in area;

2. All ingress to and egress from the site shall be directly onto a major or secondary thoroughfare having an existing or planned right-of-way width of at least 86 feet as indicated on the Master Road Plan;

3. No clubhouse, swimming pool, tennis court, maintenance or equipment storage building or similar use shall be located closer than 100 feet to any property line;

4. Whenever a swimming pool is constructed, said pool area shall be surrounded with a protective fence six feet in height and entry shall be provided by means of a controlled gate;

5. Screening, meeting the requirements for moderate intensity impacts of section 24.01, shall be provided for all outside storage, service and maintenance areas and parking lots when visible from adjoining residentially zoned land.

D. Cemeteries, subject to the following conditions:

1. The cemetery shall be located on a site of at least ten acres;

2. All access shall be provided from a major or secondary thoroughfare having a right-of-way width of 86 feet or more as indicated on the Master Road Plan;

3. Crematoriums and chapels shall be centrally located on the site so as not to create traffic flow or compatibility problems for adjoining property;

4. Screening, meeting the requirements for moderate intensity impacts of section 24.01, shall be provided along those sides of a cemetery adjoining residentially zoned property;

5. Adequate off-street waiting space shall be provided for funeral processions so that no vehicle stands or waits in a dedicated right-of-way.

E. Public, parochial and other private elementary, intermediate and/or high schools offering courses in general education, subject to the following conditions:

1. No building shall be closer than 100 feet to any property line when said property line abuts or is adjacent to land zoned for residential purposes. If the abutting property is developed with a nonresidential use, all buildings shall be setback a minimum of 50 feet from the property line abutting that nonresidential use;

2. All such facilities shall be located so as to provide convenient access to the city's major thoroughfare system;

3. A six foot cyclone fence shall be constructed and maintained to separate any school playground or recreational area from any adjacent properties.

F. Public (non-city) owned and/or operated libraries, museums, administrative offices, Police and Fire Department facilities, parks and recreational facilities, subject to the following conditions:

1. Screening, meeting the requirements for moderate intensity impacts of section 24.01, shall be provided whenever the site abuts a residentially zoned district;

2. All buildings shall be set back a minimum of 100 feet from the property line when abutting residentially zoned districts. If the abutting property is developed with a nonresidential use, all buildings shall be set back a minimum of 50 feet from the property line.

G. Recreational facilities furnished by private contractors for a period exceeding seven continuous days at city owned or operated parks and other publicly owned and/or operated parks, subject to the following conditions:

1. All buildings and structures 15 feet or less in height and/or active recreation areas shall be set back a minimum of 100 feet from any property line abutting a residentially zoned district. Building and/or structures exceeding 15 feet in height may be permitted, provided the setback is increased one foot for each foot of building or structure height exceeding 15 feet. If the abutting property is developed with a nonresidential use, the setback shall be a minimum of 50 feet;

2. All ingress to and egress from the site shall be directly onto a major or secondary throughfare having an existing or planned right-of-way width of at least 86 feet as indicated on the Master Road Plan;

3. Devices for the transmission of broadcasting of voices or music shall be so directed or muffled in order to prevent said sound or music from being audible beyond the boundaries of the site;

4. All lighting shall be directed away from public streets and abutting uses;

5. Screening, meeting the requirements for moderate intensity impacts of section 24.01, shall be provided whenever the site abuts a residentially zoned district;

6. Approval of the City Council shall be required for any such facility or use at a public park not owned or operated by the city;

7. Improved off-street parking may be required by the Planning Commission;

8. The use shall comply with all applicable federal, state and local statutes, rules, regulations and licensing requirements;

9. The city may require a written agreement satisfactory to the City Attorney.

H. Public riding and boarding stables, subject to the following conditions:

1. The site shall contain not less than 20 acres, with a minimum of one acre of land for each five horses;

2. All areas of the site where horses or other equine are permitted to roam, exercise or feed shall be enclosed by a fence of not less than four feet and not more

than six feet constructed of materials determined to be structurally sound by the Building Official;

3. All structures which house, board or show horses, ponies or other equine or store food, hay, straw or manure shall be set back at least 100 feet from all property lines;

4. Direct ingress and egress from a public right-of-way to stable area shall be provided;

5. All stockpiled manure shall be kept in a central area at least 200 feet from any property line and shall be regularly treated so as to properly control flies and [other] insects.

I. Public utilities, gas and oil pipelines and storage fields serving a wider geographic area than the City of Sterling Heights, subject to the following conditions:

1. Utility lines and pipelines shall follow section lines or mile roads wherever possible. Bisecting or diagonal cuts through parcels of land shall be permitted only when it is shown to benefit the environment and/or the residents of the city or where there is no other reasonable route;

2. Buildings and related uses must be screened and/or landscaped so that they do not adversely affect the surrounding properties or neighborhood;

3. It shall be shown in the review that every reasonable precaution has been taken to provide maximum safety and minimum interference to the normal daily living patterns of residents within the vicinity;

4. Utility, radio, television and similarly designed freestanding towers, antennas and related structures shall be located and designed to be harmonious with the surrounding area, provided the structure shall be set back (a) from any residential use or proposed or existing right-of-way a distance not less than the height of the tower and (b) from any nonresidential use or district a distance not less than that required to meet the minimum yard requirements for a principal building located on the site as provided in the area, height and bulk requirements of that zoning district. Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

J. Private clubs, fraternal organizations and cultural centers, subject to the following conditions:

1. All such uses shall have ingress and egress directly onto a major or secondary thoroughfare having an existing or planned right-of-way width of at least 86 feet, as indicated on the Master Road Plan;

2. All activities, other than parking of motor vehicles and loading and unloading, shall be conducted within a completely enclosed building, except for outdoor activity specifically approved and/or licensed by the City Council;

3. No building shall be closer than 50 feet to any property line;

4. Maximum lot coverage of all buildings shall not exceed 30%;

5. Screening meeting the requirements for moderate intensity impacts (section 24.01) shall be provided where the site abuts property zoned or developed for single family purposes.

K. One family cluster option, subject to the provisions of section22.01.

L. Planned open space subdivisions, subject to the provisions of section22.02.

M. Child or adult foster care facilities, subject to the following requirements:

1. These regulations shall not apply to a "state licensed residential facility" providing supervision or care to six or less adults or children for 24 hours a day;

2. The site shall have ingress and egress directly onto a major or secondary thoroughfare having an existing or planned right-of-way width of at least 86 feet, as indicated on the Master Road Plan;

3. Screening, meeting the requirements for moderate intensity impacts, (section 24.01) shall be provided where off-street parking areas abut property zoned or developed for single family purposes;

4. Foster care facilities shall be licensed by the State of Michigan;

5. Adequate ingress and egress, parking and circulation shall be provided on the site;

6. The facility shall provide adequate outdoor open space and recreational area. As a minimum, these areas shall be at least 1,500 square feet, 300 square feet of which shall be landscaping;

7. There shall be a minimum of 150 square feet of usable floor area per occupant of the premises;

8. There shall be at least one parking space on site for every two employees and for every two residents capable of driving a car.

N. Child or adult day care facilities, subject to the following requirements:

1. These regulations shall not apply to a "state licensed residential facility" permitted under Public Act 116 of 1973, as amended, which serves six or less adults or children;

2. The site shall have ingress and egress directly onto a major or secondary thoroughfare having an existing or planned right-of-way width of at least 86 feet, as indicated on the Master Road Plan;

3. For child care facilities, the site shall contain a minimum of 150 square feet of outdoor play area for each child and shall not have less than 5,000 square feet in total area dedicated to outdoor play area. There shall also be a minimum of 35 square feet of indoor play space per child;

4. The Planning Commission shall consider the impact on abutting properties from the proposed facility, including but not limited to outdoor lighting, noise and traffic generated by the use, location of outdoor play areas, loading and unloading and pedestrian circulation;

5. Such use shall not abut a one family residential zoning district on more than two sides. Screening meeting the requirements for major intensity impacts, as specified in section 24.01, shall be provided along any side of the site zoned for one family residential purposes, unless the Planning Commission determines as part of its review under section 3.02, subparagraph N4 that alternative screening is more appropriate and harmonious with the adjoining land uses.

O. Full and limited assistance housing in the R-60 and R-70 Districts only, subject to the following conditions:

1. Any use permitted herein shall be developed on a site with a net developable area of not less than five acres. The net developable area shall include perimeter yards but shall exclude flood plain or wetland areas;

2. Such facilities shall be located upon parcels of property which the Planning Commission determines to have characteristics which make them difficult to develop, such as flood plain areas, wetlands, prior contamination or other unusual land characteristics;

3. The location of the site shall be upon a street with a right-of-way of at least 86 feet or greater as shown on the Master Road Plan;

4. There shall be provided at least 2,500 square feet of lot area for each bed in the primary assisted living facility, or for each person cared for, whichever is greater. Density shall be calculated on the basis of the net developable area;

5. No delivery area or employee parking shall be allowed within 100 feet of any land which is zoned or used for single family residential purposes;

6. The primary facility may include multi-purpose recreation rooms, kitchens and meeting rooms, libraries, limited medical examination rooms and limited space for ancillary services for the residents of the facility, such as beauty and barber facilities, snack shops and gift stores;

7. Front, side and rear yards for the development shall not be less than 50 feet where the yard abuts a street with a right-of-way of 86 feet or greater as shown on the Master Road Plan or where any such yard abuts property zoned or used for single family residential purposes. Where the development abuts a street with a right-of-way of less than 86 feet shown on the Master Road Plan, the minimum yard requirement of section 3.04 shall apply;

8. The development may include, in addition to the primary assisted living facility building, free standing single family dwelling units owned by the operator of the facility at a ratio of one such dwelling unit for each four residents that reside in the primary assisted living facility;

9. The minimum size of any permitted single family dwelling unit shall be not less than 700 square feet. Two single family dwelling units may be attached to one another, provided they are attached by an approved exterior architectural wall detail or a common interior wall;

10. All such single family dwelling units shall be aesthetically compatible in design and appearance with other residences located within 1,000 feet of the proposed dwelling unit. Each unit constructed shall have as a minimum two bedrooms, one full bathroom, a one car attached garage and an adjoining open space for patio or deck;

11. The minimum distance between the two free-standing single family dwelling units shall be 15 feet;

12. The minimum distance between any single family residential facility and the primary assisted living facility shall be 30 feet;

13. Screening meeting the requirements for moderate intensity impact as set forth in section24.01 shall be provided between the development and any abutting property zoned or used for single family residential purposes;

14. The facility shall be licensed and operated in accordance with the applicable laws of the State of Michigan and any other authority having jurisdiction over such use.

(Ord. No. 278-E, §§ 1, 2, 7-3-90; Ord. No. 278-N, §§ 1, 2, 8-1-95; Ord. No. 278-R, § 1, 8-20-96; Ord. No. 278-S, § 1, 2-18-97; Ord. No. 278-T, § 1, 6-3-97; Ord. No. 278-U, §§ 1, 2, 1-6-98; Ord. No. 278-X, § 1, 4-6-99; Ord. No. 278-Y, §§ 1, 2, 5-16-00)

SECTION 3.03. ACCESSORY USES PERMITTED.

The following accessory uses may be permitted:

A. Accessory buildings, structures and uses customarily incidental to the permitted or special approval land uses of this article and subject to the provisions of section 28.00;

B. Private stables on lots or parcels containing at least two acres of land per horse;

C. Accessory agricultural sales on parcels of one and one half acres or more, provided that such parcels are located along a major thoroughfare;

D. Home occupations, as defined in section31.01, provided:

1. That such use is conducted only by permanent residents of the dwelling;

2. That such use is wholly confined within the dwelling (does not include attached or detached garages or other outbuildings);

3. That such occupation shall not require internal or external alterations or construction features or equipment or machinery not customary in residential areas;

4. That such occupation is incidental to the residential use to the extent that not more than 20% of the floor area of the principal building shall be occupied by such occupation;

5. That no sign of any nature is displayed;

6. That such use does not generate traffic or a need for parking beyond that required for the dwelling unit, nor shall such use create any external effect not normally associated with a single family use;

E. Amusement devices as specified in section28.01;

F. Minor automobile repair, but excluding major automotive repairs, including bumping and/or painting and any repairs on vehicles not owned by persons living in the residence;

G. Swimming pools, provided that they do not exceed more than 60% of the width of the lot and do not exceed a maximum of 42 feet in length, including all attached raised decks.

H. Accessory banquet or event uses, provided that such uses are conducted in accordance with all applicable provisions of the City Code. The City Planner may require the installation of additional landscaping, screening, or other devices or materials designed to contain noise, light, and or other impacts that are anticipated to extend beyond the property line of the site and/or to provide separation from abutting parking and maneuvering areas.

(Ord. No. 278-U, § 3, 1-6-98; Ord. No. 278-QQ, § 1, 2-16-10; Ord. No. 278-BBB, § 1, 7-18-17)

SECTION 3.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. In the one family residential districts, the following area, height, bulk, density and placement shall apply:

	R-100	***R-90***	***R-80***	***R-70***	***R-60***
1. Minimum interior lot dimensions (in feet)					
a. Width	100	90	80	70	60
b. Depth	140	130	125	120	120
2. Minimum corner lot dimensions (in feet)					
a. Width	120	110	100	90	80
b. Width (where one side abuts a major road)	130	120	110	100	90
c. Depth	140	130	125	120	120

With the approval of the Planning Department, where the size and the shape of the parcel or the proposed curvilinear road pattern requires greater flexibility in subdivision design, a platted subdivision (except a subdivision developed under the Planned Subdivision Option) may be permitted to contain not more than 15% of all lots with less than the minimum required lot depth. Where such permission is granted, the minimum lot width of such lot shall be increased by two feet in all residential districts for each one foot reduction in lot depth; however, in no case shall the lot depth of the R-60, R-70, R-80, R-90 and R-100 districts be decreased by more than ten feet from the standard noted in section 3.04 above.

	R-100	***R-90***	***R-80***	***R-70***	***R-60***
3. Minimum lot size (in square feet)	14,000	11,700	10,000	8,400	7,200
4. Minimum corner lot area per dwelling unit in square (feet)	16,800	14,300	12,500	10,800	9,600
5. Maximum height of building:					
a. In stories	2	2	2	2	2
b. In feet	30	30	30	30	30

6. Minimum yard setback (in feet):

a. Front and street-side setbacks shall be measured from the centerline of each road right-of way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

	R-100	R-90	R-80	R-70	R-60
(1) Regional (204' R.O.W.)	142	142	142	142	142
(2) Regional (150' R.O.W.)	115	115	115	115	115
(3) Major	100	100	100	100	100
(4) Secondary	73	73	73	73	73
(5) Collector	65	65	65	65	65
(6) Local	60	60	60	60	60
(7) 60' Cul-de-sac radius	90	90	90	90	90
55' Cul-de-sac radius	85	85	85	85	85
50' Cul-de-sac radius	80	80	80	80	80
(8) Freeway	40*	40*	40*	40*	40*
(9) Private road	30**	30**	30**	30**	30**
b. Side:					
(1) Least one (no side entry garage)	10	8	5	5	5
(2) Least one (with side entry garage)	8	8	5	5	5
(3) Total of two (all instances)	25	20	15	15	15
Where a side entry garage is to be constructed, the distance between the side lot line and the front entrance of the side entry garage shall not be less than 22 feet.					
c. Rear:	40	35	35	35	35
7. Minimum floor area per dwelling unit (in square feet)	2,000	2,000	1,800	1,400	1,000
8. Maximum lot coverage by all buildings	30%	30%	30%	30%	30%

9. Parking for uses other than one family dwellings shall be located at least 35 feet from any property line.

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street plus 40 feet for major and regional roads and one-half of the actual right-of-way plus 30 feet for all other roads.

10. The City Planner may modify the parking setbacks requirements where uses of a nonresidential type (churches, schools, public facilities, etc.) abut one another, provided that in no instance shall the Planner reduce the parking setback to less than ten feet.

11. The required rear yard may be reduced by five feet in R-100 and R-90 districts where the rear lot abuts a private open space area of not less than 20 feet in depth which is part of the development. This provision shall also apply to the planned plat subdivisions for which tentative preliminary plan approval was granted by the City Council prior to the effective date of this amendment.

(Ord. No. 278-A, §§ 1-3, 4-17-90; Ord. No. 278-F, § 3, 7-3-90; Ord. No. 278-N, §§ 3-6; Ord. No. 278-R, § 2, 8-20-96; Ord. No. 278-CC, § 1, 6-3-03; Ord. No. 278-JJ, §§ 1, 2, 3-4-08)

ARTICLE 4. R-2 TWO FAMILY RESIDENTIAL DISTRICT

SECTION 4.00. INTENT.

The two family district is established to provide an environment suitable for families who typically have children, but will be of smaller size than those families living in the R1 One Family Residential Districts. To achieve this goal, uses are primarily limited to moderately low density two family dwelling units, plus certain residentially related uses designated to provide an acceptable neighborhood environment. The district may also provide a transition between higher density residential districts or nonresidential districts and low density one family residential districts. The two family district also permits the construction of residences at a slightly higher density than one family.

SECTION 4.01. PERMITTED USES.

The following uses shall be permitted, subject to the limitations of this ordinance:

A. One family detached dwellings as regulated in the abutting one family district, excluding cluster housing or planned open space subdivisions or site condominiums;

B. Two family dwellings;

C. City-owned and/or operated libraries, museums, administrative offices, Police and Fire Department facilities, parks, parkways and recreational facilities;

D. Essential services needed to serve the immediate vicinity, provided that appropriate screening, as determined by the Planning Department, shall be required when abutting single family dwellings;

E. Model homes for the sale or rental of residences within subdivisions in the City of Sterling Heights.

SECTION 4.02. SPECIAL APPROVAL LAND USES.

All special approval land uses included in section 3.02 may be permitted by the Planning Commission, subject to the specific requirements established for each use.

Uses similar to those cited in this article may be permitted by the Planning Commission subject to the general standards of section 25.02 and the specific standards imposed for each use.

SECTION 4.03. ACCESSORY USES PERMITTED.

The following accessory uses may be permitted:

A. Accessory buildings, structures and uses customarily incidental to the permitted or special approval land uses of this article and subject to the provisions of section 28.00;

B. Private stables on lots or parcels containing at least two acres of land per horse;

C. Accessory agricultural sales on parcels of two or more acres, provided that such parcels are located along a major thoroughfare;

D. Home occupations, as regulated by section 3.03(D);

E. Amusement devices as specified in section 28.01.

Major automotive repairs, including bumping and/or painting and any repairs on vehicles not owned by persons living in the residence are prohibited. Construction trailers are specifically prohibited.

SECTION 4.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. In the two family residential district, the following area, height, bulk, density and placement regulations shall apply:

1. Minimum lot size in square feet: 12,000.

2. Minimum lot dimensions in feet:

a. Width: 100.

b. Depth: 120.

3. Maximum height of building:

a. In stories: 2.

b. In feet: 25.

4. Minimum yard setback in feet:

a. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

(1) Regional (204' R.O.W): 142.

(2) Regional (150' R.O.W.): 115.

(3) Major: 100.

(4) Secondary: 73.

(5) Collector: 65.

(6) Local: 60.

(7) Cul-de-sac radius: 90.

(8) Freeway: 40*.

(9) Private road: 30**.

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street plus 40 feet for major and regional roads and one-half of the actual right-of-way plus (30) feet for all other roads.

b. Side (in feet):

(1) Least one: 10.

(2) Total of two: 20.

c. Rear (in feet): 35.

5. Minimum floor area per dwelling unit (in square feet): 800.

6. Maximum lot coverage by all buildings: 30%.

(Ord. No. 278-A, § 4, 4-17-90)

ARTICLE 5. MHP MOBILE HOME PARK DISTRICT

SECTION 5.00. INTENT.

This district is designed to create a residential zoning district which will permit and encourage single family development in mobile homes. Unlike the typical one family subdivision in which the individual lot provides the open space and amenities for family living, the overall development pattern would be similar to that of multifamily development. The mobile home park will be managed, organized and regulated by the developer. Streets, utilities, open space, recreation and amenities will be provided and regulated by the developer. As a result, the City of Sterling Heights has recognized the need to locate such zoning districts along major transportation routes and in areas of adequate utilities and public services. Similar to multiple family developments, the mobile home parks shall be designed to provide adequate space and land use separation consistent with the city's other zoning districts. The rules and regulations, as promulgated by the State of Michigan Mobile Home Commission, shall be applicable, except as modified by the following [provisions].

SECTION 5.01. PERMITTED USES.

A. Mobile home parks, subject to the requirements as established and regulated by the Mobile Home Commission pursuant to Public Act 96 of 1987, as amended, as well as all other applicable city codes and ordinances referenced herein.

B. Clubhouse, swimming pool and recreation facilities for the use of the park residents.

C. Accessory uses and structures, such as manager's offices, laundry facilities, home occupations, tool or storage sheds and other services for the residents of the park shall be permitted. Adequate parking for such services shall be provided, as required by the Michigan Mobile Home Commission Rules, as amended from time to time. The park proprietor or management may display for sale mobile homes and accessories (provided the accessories are contained within a mobile home or an approved permanent structure for such purpose). Such sales are allowed to permit the development of the park and are not intended to be a retail operation. Such sales should cease with the total development of the park.

D. One sign, not larger than 25 square feet in area, for identification of the premises and use (without additional advertising) may be placed at the main entrance of the mobile home park. One sign, not larger than ten square feet, limited to the same identification contained on the entrance sign, may be erected on any secondary entrance to the mobile home park adjoining a public road. The identification sign shall be a part of a permanent decorative entranceway and shall be compatible with the surrounding area. All signs shall observe the setback and height limitations cited in section 28.13 of this ordinance.

SECTION 5.02. AREA, HEIGHT AND PLACEMENT REGULATIONS.

A. *Lot size.* The mobile home park shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced by 20%, provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through a reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space; but in no case shall the open space and distance requirements be less than that required under R 125.1946, rule 946 and R 125.1941, rules 941 and 944 of the Michigan Administrative Code.

B. *Perimeter yard setbacks.* No mobile home shall be located closer than 110 feet from the centerline of any abutting public road. Minimum yard setbacks of 25 feet shall be observed for all other perimeter property lines.

C. *Floor space.* There shall be not less than 720 square feet of floor area within each mobile home. The floor area of any porch, sundeck or other structure shall not be used to meet the 720 foot requirement.

D. *Internal yard setbacks.* The placement of mobile homes within a mobile home park shall observe the following setback requirements:

1. Twenty feet from any part or attached structure of another mobile home which is used for living purposes;

2. Ten feet from an on-site parking space of an adjacent mobile home site;

3. Ten feet from an attached or detached structure or accessory building which is not used for living purposes;

4. Fifty feet from a permanent building;

5. Ten feet from the edge of an internal road;

6. Seven and one-half feet from a parking bay;

7. Seven feet from a common pedestrian walkway.

E. *Maximum heights.* The maximum height of any clubhouse building shall not exceed 25 feet or two stories in height. Storage or service buildings shall not exceed 15 feet or one story in height. No such service buildings shall be located adjacent to an adjoining parcel that is either zoned or developed for single family purposes.

SECTION 5.03. DEVELOPMENT STANDARDS.

A. *Minimum site size.* Each mobile home park must have a site of not less than 15 acres of land.

B. *Access to public roads.* All mobile home parks shall have at least one property line abutting an existing or planned thoroughfare with a paved surface and a right-of-way width of at least 120 feet. All access to the park shall be from such thoroughfares. Two access points shall be provided to the major thoroughfare to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of interior park roads shall be interpreted as satisfying this requirement.

C. *Paving.* All internal roads and parking facilities shall be provided with a paved surface in compliance with the standards of the AASHTO specifications referenced in rule 922 of the Michigan Mobile Home Commission Rules. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to prevent the drainage of water onto adjacent property or toward buildings. No portion of any off-street parking area may be allowed to encroach into sidewalk areas.

D. *Parking.* A minimum of two parking spaces shall be provided for each mobile home unit. A minimum of one parking space for every three mobile home sites shall be provided for visitor parking. Such parking shall be located convenient to the area served.

E. *Sidewalks.* Concrete sidewalks, which meet the standards established in rule 928 of the Michigan Mobile Home Commission Rules, shall be installed along one side of all internal roads to the public right-of-way and to all service facilities, including but not limited to central laundry, central parking and central recreation/park areas. Sidewalks shall also be required along that portion of a site fronting along major thoroughfares.

F. *Plumbing, electrical and TV.* All electrical and telephone wiring shall be underground. Where a master antenna is provided, service shall be constructed and maintained with underground leads servicing each mobile home site. All mobile home units shall be provided with an opportunity for access to a cable TV service with emergency alert override system capabilities.

G. *Skirting.* Skirting shall be installed around all mobile homes. Such skirting shall be compatible aesthetically with the appearance and construction of the mobile home. All skirting shall be installed prior to the issuance of a certificate of occupancy. In the event that such installation is delayed due to weather, or for other similar reasons, a temporary certificate of occupancy may be issued for a period not to exceed 90 days. All skirting shall meet the specifications established by the Michigan Mobile Home Commission Rules.

H. *Storage*. There shall be no storage of any kind permitted under a mobile home; nor shall any outside storage be permitted. The developer shall provide a central storage facility or shall permit or provide individual utility cabinets for each mobile home site. Any utility cabinets placed on individual mobile home sites shall be maintained in good condition and kept painted. Utility cabinets shall be placed in side or rear yard areas.

I. *Fuel tanks.* Individual fuel oil, liquid petroleum or other fuel tanks shall not be permitted to be stored in or under any mobile home unit in a mobile home park.

J. *Storage/parking*. If boats, boat trailers and utility trailers are permitted to be parked within a mobile home park, adequate parking spaces for such vehicles shall be provided in a central or collective parking area. This area shall be in addition to the automobile parking requirements of this ordinance and shall be adequately fenced, locked or secured and visually buffered.

K. *Lighting*. Service roadway and parking lights shall be installed so as to permit the safe movement of vehicles and pedestrians at night. All lighting shall be so located and shielded as to direct the light away from adjacent properties. All site lighting shall meet the requirements of the Michigan Mobile Home Commission Rules.

L. *Site plan.* In accordance with section 11, 12 and 13 of the Mobile Home Commission Act, Public Act 96 of 1987, as amended, a person desiring to develop a mobile home park shall submit a preliminary plan to the Planning Department and Engineering Department for review and approval. The preliminary plan shall include the location, layout, general design and a general description of the project. The preliminary plan does not need to include detailed construction plans.

SECTION 5.04. SPECIAL APPROVAL LAND USES.

The following uses, and others similar to those cited in this section, may be permitted by the Planning Commission subject to the general standards of section 25.02 and the specific standards for each use:

A. All special approval land uses included in section 3.02, subject to the specific requirements established for each use. Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

(Ord. No. 278-Y, § 3, 5-16-00; Ord. No. 278-EE, § 7, 10-5-04)

ARTICLE 6. RM-1 AND RM-2 MULTIPLE FAMILY LOW RISE DISTRICTS

SECTION 6.00. INTENT.

The RM-1 and RM-2 multiple family residential districts (low rise) are intended to provide a proper environment for families who live in low rise multiple family dwellings. Such families typically are smaller in size than those living in single family dwellings. The districts are designed to furnish sites for various types of multiple family dwelling structures and generally serve as a transition between nonresidential districts and lower density one and two family residential districts. Both RM districts are intended to encourage development which, though multiple in nature, is complementary in character to one family development through the utilization of lower density, some attached garages and limited dwelling units per structure.

SECTION 6.01. PERMITTED USES.

The following uses shall be permitted, subject to the limitations of this ordinance:

A. Multiple family dwellings of a low rise type, including but not limited to multiplexes, townhouses and apartments and duplexes;

B. Independent and limited assistance housing for the elderly, subject to the following:

1. Only ranch type and/or apartment type dwellings or rooming units shall be permitted;

2. The total area devoted to common areas shall equal not less than 35 square feet for each dwelling unit. If a common dining area is provided, the total area devoted to a dining room shall equal not less than 18 square feet for each seat.

(Ord. No. 278-A, §§ 5, 6, 4-17-90; Ord. No. 278-N, § 7, 8-1-95; Ord. No. 278-R, § 3, 8-20-96)

SECTION 6.02. SPECIAL APPROVAL LAND USES.

The following uses and others similar to those cited in this article may be permitted by the Planning Commission, subject to the general standards of section 25.02

and the specific standards imposed for each use:

A. Multiple family dwellings of a low rise type in excess of two stories but not to exceed three stories and a maximum of 34 feet in height may be permitted in the RM-2 district only, subject to the following conditions:

1. No residential structure in excess of two stories in the proposed development shall be located closer than 150 feet to any one family residential or R-2 zoning district;

2. The multiple family structure shall be screened from the view of adjoining one family residential or R-2 zoning districts as provided in section 24.01;

3. Independent and limited assisted housing for the elderly in excess of two stories but not to exceed three stories and a maximum of 34 feet in height may be permitted subject to the following conditions:

a. Only apartment-type dwelling or rooming units shall be permitted;

b. The total area devoted to common areas shall equal not less than 35 square feet for each dwelling unit. The total area devoted to a dining room shall equal not less than 18 square feet for each seat.

B. Churches, synagogues, mosques and places of worship, subject to the following:

1. Buildings of greater than the maximum height allowed in this district may be permitted, provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed;

2. All ingress to and egress from the site shall be directly onto a major or secondary thoroughfare having an existing or planned right-of-way width of at least 86 feet, as indicated on the Master Road Plan;

3. Parking lot screening meeting the requirements for moderate intensity impacts shall be provided as required in section 24.01;

4. Such facilities may include related community centers, provided that such centers are limited to activities sponsored by church members only. Said facilities shall not be used as catering halls;

5. All principal and accessory buildings, except for accessory storage buildings such as a shed or detached garage, shall maintain minimum rear and side yard setbacks of at least 50 feet.

C. Essential services needed to serve the immediate vicinity, provided that appropriate screening, as determined by the Planning Department, shall be required when abutting single family dwellings.

D. Public utilities, as regulated by section 3.02(1). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

E. Rehabilitation centers for the treatment and rehabilitation of criminal offenders, chemical offenders or substance abuse, subject to the following conditions:

1. All such facilities must be licensed and inspected by the State of Michigan;

2. All centers shall be residential facilities providing 24 hour supervision, care and security on site;

3. The site shall have ingress and egress directly onto a major thoroughfare having an existing or planned right-of-way width of at least 120 feet as indicated on the Master Road Plan;

4. Screening, meeting the requirements for moderate intensity impacts (section 24.01), shall be provided adjacent to any areas that abut property zoned or developed for residential purposes;

5. There shall be at least one parking space on site for every two employees;

6. Adequate ingress and egress, parking and circulation shall be provided on the site;

7. The facility shall provide adequate outdoor open space and recreational area;

8. The site shall be a minimum of 500 feet from any single family residential zone.

F. Full assisted housing for the elderly, subject to the following conditions:

1. All such facilities shall have ingress and egress from a site directly onto a major or secondary throughfare having an existing or planned right-of-way of at least 86 feet as indicated on the Master Road Plan;

2. There shall be provided at least 2,000 square feet of lot area for each bed in the facility or for each person cared for in the facility, whichever is greater;

3. No delivery areas or employee parking areas shall be permitted within 100 feet of a single family residential zoning district;

4. Screening, meeting the requirements for moderate intensity impacts of section 24.01, shall be provided adjacent to any areas that abut property zoned or developed for single family residential purposes;

5. Such facilities may include multi-purpose recreational rooms, kitchens and meeting rooms. Such facilities may also include medical examination rooms and limited space for ancillary services for the residents of the facility, such as barber and beauty facilities;

6. Licensing shall be in accordance with the State of Michigan and/or appropriate authority or jurisdiction.

G. Boarding houses.

(Ord. No. 278-A, §§ 7, 8, 4-17-90; Ord. No. 278-N, §§ 8, 9, 8-1-95; Ord. No. 278-U, § 4, 1-6-98; Ord. No. 278-Y, §§ 4, 5, 5-16-00)

SECTION 6.03. ACCESSORY USES PERMITTED.

The following accessory uses shall be permitted:

A. Accessory building structures and uses, including community garages, utility sheds and maintenance buildings, community buildings and swimming pools not in excess of 60 feet in length which are part of the multiple family project as regulated by section 28.00;

B. Amusement devices as regulated by section 28.01.

SECTION 6.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The following minimum gross site land area shall be provided for each dwelling unit in each respective multiple family district:

	Apartments		*Multiplex and Townhouses*
	Elderly	*Non Elderly*	
RM-1 District	***Square Feet***	***Square Feet***	***Square Feet***
1-bedroom	2,900	5,450	4,850
2-bedroom	3,100	5,800	5,100
3-bedroom	3,350	6,400	5,600

In the RM-1 District, not more than eight dwelling units shall be permitted per building. This density standard shall not apply to elderly housing developments.

	Apartments		Multiplex and Townhouses
	Elderly	Non Elderly	
RM-2 District	Square Feet	Square Feet	Square Feet
1-bedroom	2,175	4,100	3,800
2-bedroom	2,290	4,600	4,100
3-bedroom	2,420	5,100	4,600

B. The area used for computing dwelling unit density shall be the total site exclusive of any existing public right-of-way of perimeter bounding roads at the time of initial approval.

C. The following area, height and setbacks shall apply in each respective district:

	RM-1	RM-2
1. Maximum height of building:		
a. In stories	2	2
b. In feet	30	30

2. Minimum yard setback in feet:

a. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

Distance from centerline	(in feet)
(1) Regional (204' R.O.W.)	152.
(2) Regional (150' R.O.W.)	125.
(3) Major	110.
(4) Secondary	93.
(5) Collector	70.
(6) Local	65.
(7) Cul-de-sac radius	95.
(8) Freeway	35.*
(9) Private roads	35.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement of common usage line abutting the subject lot.

If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street plus 50 feet for secondary, major and regional roads and one-half of the actual right-of-way plus 35 feet for all other roads.

	RM-1	RM-2
b. Side	35	35
c. Rear	35	35

Also see paragraphs D and G below.

	Efficiency	1-BR	2-BR	3-BR	4-BR
3. Minimum floor area per dwelling unit (in sq. ft.)	600	600	750	950	1,100
Elderly (Independent)	525	580	700	-	-
Elderly (Limited Assisted)	425	490	-	-	-
4. Maximum lot coverage by all buildings	30%	30%	30%	30%	30%
All elderly housing	30%	30%	30%	30%	30%

5. Plans presented which include a den, library or extra room shall be counted as a bedroom for the purposes of this ordinance.

6. To encourage innovative, aesthetically pleasing building arrangement, the minimum perimeter and interior yard spacing requirements may be reduced by up to ten feet upon approval of the Planning Department, provided where the yard space on one side of the building is reduced, the yard space on the opposite side of the building is increased by the same amount. (For example, if a front yard is reduced by ten feet, then the rear yard shall be increased by ten feet.) This reduction shall not apply to those perimeter yards abutting single family zoning districts or public roadways.

D. Except for two family dwellings, the minimum distance between any two buildings shall be governed by the formula noted below, and in no instance shall this distance be less than 30 feet. The minimum distance between two family dwelling structures shall be 20 feet.

S equals LA plus LB plus 2 (HA plus HB), divided by 6

or

$$S=\frac{LA+LB+2(HA+HB)}{6}$$

where:

S equals required minimum horizontal distance between any wall of building "A" and any wall of building "B" or the vertical prolongation of either.

LA equals total length of building "A." The total length of building "A" is the length of that portion or portions of a wall or walls of building "A" from which, when viewed directly from above, lines drawn perpendicular to building "A" will intersect any wall of building “B.”

LB equals total length of building "B." The total length of building "B" is the length of that portion or portions of a wall or walls of building "B" from which, when viewed directly from the above, lines drawn perpendicular to building "B" will intersect any wall of building "A."

HA equals height of building "A." The height of building "A" at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building "A." Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the

total length of the building.

HB equals height of building "B." The height of building "B" at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building "B." Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

E. The City Planner may modify the parking setback requirements where uses of a nonresidential type (churches, schools, public facilities, etc.) abut one another provided that in no instance shall the planner reduce the parking setback to less than ten feet.

(Ord. No. 278-A, §§ 9-11, 4-17-90; Ord. No. 278-F, §§ 1, 2, 8-8-90; Ord. No. 278-G, § 1, 9-18-90; Ord. No. 278-N, §§ 10, 11, 8-1-95; Ord. No. 278-R, §§ 4, 5, 8-20-96; Ord. No. 278-X, § 2, 4-6-99; Ord. No. 278-JJ, § 3, 3-4-08)

SECTION 6.05. STRUCTURE AND SITE REQUIREMENTS.

A. Recreation areas and facilities shall be provided to sufficiently meet the anticipated needs of the residents of the development. The minimum land area for recreation areas and developed facilities shall be provided at the following rates exclusive of all required front yard setbacks. Side and rear yard setback areas may be included if they serve as a functional extension of a designated recreation area. These standards shall not apply to elderly housing developments.

Apartment: 500 square feet/dwelling unit.

Multiplex: 400 square feet/dwelling unit.

Townhouse 300 square feet/dwelling unit.

In determining the adequacy of any proposed recreation areas and facilities, the City Planner may consider the type of unit, the demographic characteristics of anticipated residents and their recreation needs and the proximity of nearby recreation facilities.

Provision of separate adult and youth recreation is encouraged. Recreation facilities generally shall be provided in a central location and should be convenient to the community center. A location adjacent to the community center is preferable for efficient construction, use and maintenance of all facilities. In larger developments, however, recreation facilities may be decentralized or part of an approved open space area plan.

Natural features occurring on the site may be counted towards meeting the open space requirement, provided that improvements are provided which allow for the passive recreation usage of any such areas.

All recreation areas shall be clearly delineated on a site plan with said land irrevocably reserved for this use. In phased development, a land reservation and a cash deposit or letter of credit shall be required to guarantee the completion of said improvements, if not completed in phase I.

B. Driveway approaches, but not driveways, shall be permitted in the required front yards.

C. Front, side or rear yards for the project of not less than 50 feet shall be provided whenever such yard abuts on major or secondary thoroughfares having a right-of-way width of 86 feet or more as indicated on the Master Road Plan or abuts on a single family residential district, subject to the provisions of section 6.04C6.

D. The maximum length of continuous and/or contiguous building frontage shall not exceed 180 feet for non-elderly housing developments and 300 feet for elderly housing developments.

E. Parking shall not be permitted in the project front yard, within 25 feet of any living area, or in tandem except parking may be allowed in driveway approaches leading to individual garages where provided.

F. In the RM-1 District, at least one of the required parking spaces per unit shall be provided in an attached enclosed garage. This standard shall not apply to elderly housing developments.

G. In addition to the parking required under section23.02, an area of hard-surfaced parking with stalls of minimum size 10 feet by 25 feet shall be provided for the storage of boats, trailers and recreational vehicles. There shall be at least one parking space provided for every ten dwelling units which shall be adequately fenced, locked or secured and visually buffered, meeting the requirements for moderate intensity impacts as specified in section 24.01. Such parking shall be collective and in a central location. In no case, however, shall a recreation vehicle be parked or stored closer than 30 feet to any building or 100 feet to site boundary line. Parking for recreational vehicles shall not be required in those instances where said parking/storage is prohibited within the development. Such prohibition shall be incorporated into a legally recordable document that runs with the land.

H. No roadway within a multiple family development shall extend more than 400 feet without a curve, turn or stopped intersection.

I. Parking areas and active use recreational areas shall be effectively screened from abutting one family development as provided in section24.01.

J. All units shall be provided with an opportunity for access to cable television with emergency alert or override system capabilities.

(Ord. No. 278-F, § 3, 8-8-90; Ord. No. 278-N, § 12, 8-1-95; Ord. No. 278-T, § 2, 6-3-97; Ord. No. 278-CC, § 2, 6-3-03)

ARTICLE 7. RM-3 MULTIPLE FAMILY MID AND HIGH RISE DISTRICTS

SECTION 7.00. INTENT.

The RM-3 Multiple Family Residential District is intended to serve the residential needs of families and single persons desiring greater density, apartment-type of accommodation with central services, as opposed to the residential pattern found in one and two family and low rise multiple family districts. The RM-3 District will provide sites for multiple dwelling structures adjacent to high traffic generators usually found in areas of large nonresidential development and sectors abutting major thoroughfares. The district is further designed to provide a zone of transition between high traffic generators and other residential districts.

SECTION 7.01. PERMITTED USES.

The following uses shall be permitted, subject to the limitations of this ordinance:

A. Multiple family dwellings of a low rise type, including but not limited to multiplexes, townhouses and apartments as regulated in the RM-2 district;

B. Multiple family dwellings at greater density, subject to the following:

1. All ingress to and egress from the site shall be directly onto a major or secondary thoroughfare, having an existing or planned right-of-way width of at least 86 feet, as indicated on the Master Road Plan;

2. The site shall be developed so as to service only the residents of the multiple family development and any accessory buildings, uses or services shall be solely for the use of residents. Uses considered herein as accessory uses include: parking structures, swimming pools, recreation areas, pavilions, cabanas and other similar uses;

C. Independent and limited assisted housing for the elderly, subject to the following:

1. Only ranch-type and/or apartment-type dwelling or rooming units shall be permitted;

2. The total area devoted to common areas shall equal not less than 35 square feet for each dwelling unit. The total area devoted to a dining room shall equal not less than 18 square feet for each seat.

(Ord. No. 278-A, §§ 12, 13, 4-17-90; Ord. No. 278-N, § 13, 8-1-95; Ord. No. 278-R, § 6, 8-20-96)

SECTION 7.02. SPECIAL APPROVAL LAND USES.

The following uses and others similar to those cited in this article may be permitted by the Planning Commission, subject to the general standards of section25.02 and the specific standards imposed for each use.

A. Churches, synagogues, mosques and places of worship, subject to the following:

1. Buildings of greater than the maximum height allowed in this district may be permitted, provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed;

2. All ingress to and egress from the site shall be directly onto a major or secondary thoroughfare having an existing or planned right-of-way width of at least 86 feet as indicated on the Master Road Plan;

3. Parking lot screening meeting the requirements for moderate intensity impacts shall be provided as required in section 24.01;

4. Such facilities may include related community centers, provided that such centers are limited to activities sponsored by church members only. Such facilities shall not be used as catering halls;

5. All buildings shall maintain minimum rear and side yard setbacks of at least 50 feet.

B. Business and service uses located within a high or mid rise apartment building for the convenience of its occupants, including news, tobacco or candy stands, personal service shops, restaurants, delicatessens and similar shops as may be appropriate from those permitted in the C-1 Local Convenience Business District, subject to the following:

1. At least 100 dwelling units shall be contained within the high or mid rise building or group of buildings on the site;

2. All such incidental business and service uses shall be located within the interior of the building, totally obscured from any exterior view, with no part thereof accessible to the general public or to tenants from any public or private street, sidewalk or walkway;

3. No sign or window display for such business or service uses shall be visible from a sidewalk, street or public or private way;

4. Such business or service uses shall cover an area not in excess of 50% of the total area of the first story; not in excess of 25% of the story immediately above the first story; and shall be prohibited on all other floors. Such uses shall not be permitted on the same story or floor as residential uses unless separated by a firewall.

C. Essential services needed to serve the immediate vicinity, provided that appropriate screening, as determined by the Planning Department, shall be required when abutting single family dwellings.

D. Public utilities as regulated by section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

(Ord. No. 278-Y, § 6, 5-16-00)

SECTION 7.03. ACCESSORY USES PERMITTED.

The following accessory uses shall be permitted:

A. Accessory building structures and uses, including community garages, utility sheds and maintenance buildings, community buildings and swimming pools not in excess of 60 feet in length which are part of the multiple family project as regulated by section 28.00;

B. Amusement devices as regulated by section 28.01.

SECTION 7.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The following minimum site area in square feet shall be required per dwelling unit for each multiple family unit type:

	Apartment or Other
	(in square feet)
Efficiency	900
1 Bedroom	1,200
2 Bedroom	1,800
3 Bedroom	2,400

B. The area used for computing density shall be the total site exclusive of any public right-of-way of perimeter bounding roads.

C. The following area and height shall apply:

1. Maximum height of building:

a. In stories: None.

b. In feet: None.

2. Minimum yard setback in feet:

a. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as specified in the following schedule, plus the height of the building:

Distance from centerline:

(1) Regional (204' R.O.W.)	102 feet + height of building.
(2) Regional (150' R.O.W.)	75 feet + height of building.
(3) Major	60 feet + height of building.
(4) Secondary	43 feet + height of building.
(5) Collector	35 feet + height of building.
(6) Local	30 feet + height of building.
(7) Cul-de-sac radius	60 foot radius + height of building.
(8) Freeway	Height of building.*
(9) Private roads	Height of building.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement of common usage line abutting the subject lot.

If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street plus the height of the building for all classes of roads. Parking may be permitted to occupy a portion of the required front yard setback, provided it does not encroach into the first 50 feet of the project front yard.

b. Side:

(1) Least one: See paragraph (D).

(2) Total of two: See paragraph (D).

c. Rear: See paragraph (D).

	Efficiency	*1-BR*	*2-BR*	*3-BR*	*4-BR*
3. Minimum square feet floor area per dwelling unit	600	600	700	900	1,100
Elderly (independent)	525	580	700	-	-
Elderly (limited assisted)	425	490	-	-	-
4. Maximum lot coverage by all buildings	30%	30%	30%	30%	30%

5. Plans presented which include a den, library or extra room shall be counted as a bedroom for the purpose of this ordinance.

D. The minimum project yards shall be equal to the height of the building, but in no instance shall any project yard setback be less than 50 feet. The minimum distance between any two buildings shall be regulated according to the length and height of such buildings and in no instance shall this distance be less than 30 feet. The formula regulating the required minimum distance between two buildings is as follows:

S equals LA plus LB plus 2 (HA plus HB), divided by 6

or

$$S=\frac{LA+LB+2(HA+HB)}{6}$$

where:

S equals required minimum horizontal distance between any wall of building "A" and any wall of building “B” or the vertical prolongation of either.

LA equals total length of building "A." The total length of building "A” is the length of that portion or portions of a wall or walls of building "A" from which, when viewed directly from above, lines drawn perpendicular to building "A" will intersect any wall of building “B.”

LB equals total length of building "B." The total length of building "B" is the length of that portion or portions of a wall or walls of building "B" from which, when viewed directly from the above, lines drawn perpendicular to building "B" will intersect any wall of building "A."

HA equals height of building "A." The height of building "A" at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building "A." Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

HB equals height of building "B.” The height of building "B" at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building "B." Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

E. The City Planner may modify the parking setback requirements where uses of a nonresidential type (churches, schools, public facilities, etc.) abut one another, provided that in no instance shall the planner reduce the parking setback to less than ten feet.

(Ord. No. 278-A, §§ 14, 15, 4-17-90; Ord. No. 278-F, § 4, 8-8-90; Ord. No. 278-G, § 2, 9-18-90; Ord. No. 278-R, § 7, 8-20-96; Ord. No. 278-X, § 3, 4-6-99)

SECTION 7.05. STRUCTURE AND SITE REQUIREMENTS.

A. Recreation areas and facilities shall be provided to sufficiently meet the anticipated needs of the residents of the development. The minimum land area for recreation areas and developed facilities shall be provided at the following rates exclusive of all required front yard setbacks. Side and rear yard setback areas may be included if they serve a functional extension of a designated recreation area.

Apartment: 500 square feet/dwelling unit.

Multiplex: 400 square feet/dwelling unit.

Townhouse: 300 square feet/dwelling unit.

In determining the adequacy of any proposed recreation areas and facilities, the City Planner may consider the type of unit, the demographic characteristics of anticipated residents and their recreation needs and the proximity of nearby recreation facilities.

Provision of separate adult and youth recreation areas is encouraged. Recreation facilities generally shall be provided in a central location and should be convenient to the community center. A location adjacent to the community center is preferable for efficient construction, use and maintenance of all facilities. In larger developments, however, recreation facilities may be decentralized or part of an approved open space area plan.

Natural features occurring on the site may be counted towards meeting the open space requirement, provided that improvements are provided which allow for the passive recreation usage of any such areas.

All recreation areas shall be clearly delineated on a site plan with said land irrevocably reserved for this use. In phased development, a land reservation and a cash deposit or letter of credit shall be required to guarantee the completion of said improvements, if not completed in phase I.

B. Driveway approaches, but not driveways, shall be permitted in the required front yards.

C. Parking shall not be permitted in the first 50 feet of the project front yard or within 25 feet of any building. Parking shall be permitted in 50% of the required project side and rear yards but not closer than 25 feet to the building unless enclosed in a garage. Parking in tandem is prohibited, except parking may be allowed in driveway approaches leading to individual garages where provided.

D. In addition to the parking required under section23.02, an area of hard-surfaced parking with stalls of minimum size ten feet by 25 feet shall be provided for the storage of boats, trailers and recreational vehicles. There shall be at least one parking space provided for every ten dwelling units which shall be adequately fenced, locked or secured and visually buffered. Such parking shall be collective and in a central location. In no case, however, shall a recreation vehicle be parked or stored closer than 30 feet to any building or 100 feet to site boundary line.

Parking for recreational vehicles shall not be required in those instances where said parking/storage is prohibited within the development. Such prohibition shall be incorporated into a legally recordable document that runs with the land.

E. No roadway within the multiple family development shall extend more than 400 feet without a curve, turn or stopped intersection.

F. Parking areas and active use recreational areas shall be effectively screened from abutting one family development as provided in section24.01.

G. All units shall be provided with an opportunity for access to cable television with emergency alert or override system capabilities.

(Ord. No. 278-F, § 5, 8-8-90; Ord. No. 278-R, § 8, 8-20-96)

ARTICLE 8. O-1 BUSINESS AND PROFESSIONAL OFFICE DISTRICT

SECTION 8.00. INTENT.

The O-1 Business and Professional Office District is designed to provide a suitable environment for various types of office uses performing administrative, professional and related service occupations. This district is also intended to provide a transition or buffer between more intense uses and/or major thoroughfares and abutting single family residential neighborhoods.

SECTION 8.01. PERMITTED USES.

The following uses shall be permitted, provided that all business shall be conducted within a completely enclosed building and shall not include drive-through facilities:

A. Executive and administrative offices;

B. Medical and dental offices and clinics, but excluding veterinary offices, clinics and kennels;

C. Professional occupations, including attorneys, accountants, architects, professional engineers, community planners, landscape architects, land surveyors and similar professional occupations;

D. Business offices for advertising, insurance and real estate agencies and public utilities;

E. Financial institutions, including banks, savings and loan associations and credit unions;

F. Offices of organizations offering stenographic, mailing, tax services, credit reporting and other business services;

G. Offices of nonprofit groups, including professional organizations, labor unions, civic, fraternal, political and religious organizations, but not including rooms for social, assembly or worship activities, rental halls or churches;

H. Office uses similar to the above and demonstrated to be of a business or professional nature, as determined by the Zoning Official;

I. Essential services needed to serve the immediate vicinity, provided that appropriate screening, as determined by the Planning Department, shall be required when abutting single family dwellings;

J. Uses similar to those above and demonstrated to be of a business or professional nature as determined by the Zoning Official.

SECTION 8.02. SPECIAL APPROVAL LAND USES.

The following uses, and others similar to those cited in this article, may be permitted by the Planning Commission subject to the general standards of section 25.02 and the specific standards imposed for each use.

A. Uses customarily related to medical and dental offices, including pharmacies, laboratories and stores offering supportive or corrective garments and prosthetic appliances, subject to the following conditions:

1. The use shall be located within the same building as the principal medical facility that it is intended to serve;

2. All customer entrances shall be restricted to the inside of the building;

3. No advertising or public displays shall be visible from a public thoroughfare;

4. Outdoor storage of goods and the warehousing or indoor storage of goods beyond that normally incidental to the above use is prohibited.

B. Child and adult day care centers and nursery schools, subject to the following conditions:

1. Adequate and safe drop-off and pick-up areas shall be provided on site;

2. The parcel upon which the facility is located shall contain at least 300 square feet of land area per person attending the facility, with a minimum parcel size of 15,000 square feet;

3. For child care centers and nursery schools, a minimum area of 5,000 square feet of outdoor play space for children shall be provided in a safe, convenient and accessible location fenced by a six foot high fence, with screening with plantings from any adjoining nonresidential district;

4. Maximum lot coverage of all structures shall not exceed 30%;

5. Such use shall not abut a one family residential zoning district on more than two sides.

C. Drive-through facilities compatible with any of the permitted uses listed in section 8.01, subject to the following conditions:

1. No drive-through lanes shall be located closer than 20 feet to any residential lot line;

2. Adequate stacking shall be provided for each drive-through lane as required in section 23.01. No stacking lane shall tend to obstruct parking or vehicular circulation areas;

3. Devices for electronically amplifying voices shall be directed or muffled to prevent any noise from being audible at the lot line;

4. Canopies over drive-through lanes shall be a minimum of 14 feet in height or shall be located in such a manner that a driveway of no less than 20 feet in width, unobstructed by the canopy, shall be provided to assure emergency vehicle access.

D. Full assisted housing, subject to the following conditions:

1. All such facilities shall have ingress and egress from a site directly onto a major or secondary thoroughfare having an existing or planned right-of-way of at least 86 feet, as indicated on the Master Road Plan;

2. There shall be provided at least 1,000 square feet of lot area per bed;

3. Licensing shall be in accordance with the State of Michigan and/or appropriate authority or jurisdiction.

E. Public utilities, as regulated by section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18

(Ord. No. 278-T, §§ 3, 4, 6-3-97; Ord. No. 278-U, §§ 5, 6, 1-6-98; Ord. No. 278-Y, §§ 7, 8, 5-16-00; Ord. No. 278-BB, § 1, 12-18-01)

SECTION 8.03. ACCESSORY USES PERMITTED.

Accessory buildings and uses customarily incidental to the principal permitted uses enumerated in sections 8.01 and 8.02 are permitted. Amusement devices shall be permitted, subject to the requirements of section 28.01.

SECTION 8.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The minimum size of each lot per building:

1. Area: 12,000 square feet.

2. Width: 80 feet.

B. Maximum height of any structure:

1. In stories: 1.

2. In feet: 25.

C. Minimum building floor area:

1. Area: 800 square feet.

D. Minimum yard setback per lot:

1. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

Distance from centerline (in feet):

a. Regional (204' R.O.W.): 137.

b. Regional (150' R.O.W.): 110.

c. Major: 95.

d. Secondary: 78.

e. Collector: 70.

f. Local: 65.

g. Cul-de-sac: 95.

h. Freeway: 35.*

i. Private roads: 35.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

Parking shall not be permitted in the required front yard setback.

If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street plus 35 feet for all classes of roads.

2. Side: 5 feet. Where the wall of a structure faces interior side lot lines and contains windows or other openings, a side yard of not less than 20 feet shall be provided. No building shall be located closer than 35 feet to the outer perimeter (property line) of such district when the property line abuts any residential district. A suitable 20-foot wide access drive shall be provided to the rear yard.

3. Rear: 20 feet. No building shall be located closer than 35 feet to the outer perimeter property line of such district when the property line abuts any residential zoning district.

E. Maximum lot coverage. The maximum lot coverage shall be governed by meeting all requirements for yard space, landscaping, screening and off-street parking and loading.

(Ord. No. 278-A, § 16, 4-17-90; Ord. No. 278-Y, § 9, 5-16-00; Ord. No. 278-CC, § 3, 6-3-03)

SECTION 8.05. STRUCTURE AND SITE REQUIREMENTS.

A. The exterior of all buildings hereafter erected shall be constructed of brick and/or stone building materials or other similar durable, decorative building materials as may be approved by the Planning Department, subject to any additional requirements set forth in section 26.01, paragraph H. The architecture and exterior finish of any building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior.

B. All portions of the site not used for parking, driveway and buildings shall be provided with a lawn or landscaping (section 24.02) approved by the Planning Department and so maintained in an attractive condition.

C. Once a building line has been established by the construction of a principal building upon an approved site, no other principal building or use shall be located between the established building line and the front lot line (or side line abutting a side street) without first obtaining approval of the Planning Commission. The Planning Commission shall review the building and/or use proposed to be located in front of the established building to determine whether the building or use is of such location, size and character to be in harmony with the appropriate and orderly development of the balance of the site, is not detrimental to the development of adjacent uses, does not create any vehicular or pedestrian hazards and is aesthetically compatible with the buildings and uses located upon the site. Landscaping plans, site plans (including signs and the location of dumpsters) and elevations of all sides of any building to be constructed shall be submitted to enable the Planning Commission to determine whether the proposed additional building and/or use conforms with the requirements of this section. All dumpsters shall be screened from visibility from any area visible to the public by use of a wall constructed of the same material as the building walls to ensure aesthetic compatibility. In reviewing this request, the Planning Commission shall apply the standards contained herein and in section 25.02 and may impose reasonable conditions as authorized by section 25.03(D) to ensure that the standards are satisfied.

D. Roof-mounted appliances and fixtures shall be effectively screened on all sides by the roof line so as not to be visible from off the site (section 24.04).

(Ord. No. 278-A, § 17, 4-17-90; Ord. No. 278-OO, § 1, 8-5-09)

ARTICLE 9. O-2 PLANNED OFFICE DISTRICT

SECTION 9.00. INTENT.

The purpose of the O-2 district is to accommodate the development of larger scale office buildings or office building complexes or other institutional or public service uses of an intensity that is normally greater than what is permitted in the O-1 district. The O-2 district is intended to be applied to larger parcels that have direct access to major thoroughfares. Offices within this district are intended to be developed as a planned or integrated cluster of establishments served by consolidated driveways and parking areas as well as unified architecture and landscaping features.

SECTION 9.01. PERMITTED USES.

The following uses shall be permitted, provided that all businesses shall be conducted within a completely enclosed building:

A. Any one or more of the permitted uses in section 8.01 of the O-1 district, except as otherwise provided herein;

B. Any one or more of the special approval land uses specified in section 8.02 of the O-1 District, as regulated in the O-1 District, but not requiring Planning Commission approval;

C. Office uses which, by their nature, are more intense and of a scale larger than that permitted in the O-1 District;

D. Retail businesses normally associated with, and complementary to, office districts, i.e., stationery shops, office supplies and office equipment;

E. Uses similar to those above, as determined by the Zoning Official.

SECTION 9.02. SPECIAL APPROVAL LAND USES.

The following uses and others similar to those cited in this article may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards of imposed for each.

A. General hospitals, subject to the following conditions:

1. All such hospitals shall be developed only on sites consisting of at least ten acres in area and providing a minimum of 1,500 square feet of lot area per bed;

2. All ingress and egress from the site shall be directly onto a major thoroughfare having an existing or planned right-of-way width of at least 120 feet as indicated

on the Master Road Plan;

3. Ambulance delivery and service areas, when visible from adjacent land zoned for residential purposes, shall be obscured from view by a wall at least six feet in height;

4. The minimum distance between any structure and a property line shall be 75 feet;

5. Maximum lot coverage shall not exceed 30%.

B. Colleges, universities and other similar institutions of higher learning, public and private, offering courses in general, technical or religious education, subject to the following conditions:

1. Any use permitted herein shall be developed on sites of at least 15 acres in area;

2. All ingress to and egress from the site shall be directly onto a major thoroughfare having an existing or planned right-of-way width of at least 120 feet as indicated on the Master Road Plan;

3. No building shall be closer than 50 feet to any property line when said property line abuts or is adjacent to land zoned for residential purposes;

4. The site shall consist of a minimum area of 400 square feet per pupil.

C. Private, noncommercial recreation areas, nonprofit swimming pool clubs, institutional or community recreation centers, subject to the following conditions:

1. Any use permitted herein shall not be permitted on a lot or group of lots of record, except in those instances wherein 100% of the owners of property immediately abutting and 65% of the owners of property within 300 feet of any property line of the site herein proposed for development shall sign a petition indicating concurrence with said site;

2. Front, side and rear yards shall be at least 50 feet in width and shall be landscaped with trees, shrubs and grass;

3. Maximum lot coverage shall not exceed 30%;

4. Whenever a swimming pool is constructed, said pool area shall be surrounded with a protective fence six feet in height, and entry shall be provided by means of a controlled gate.

D. Private clubs, fraternal organizations, lodge halls, cultural centers and union halls, subject to the following conditions:

1. All such uses shall have ingress and egress directly onto a major thoroughfare having an existing or planned right-of-way width of at least 120 feet as indicated on the Master Road Plan;

2. All activities, other than parking of motor vehicles and loading and unloading, shall be conducted within a completely enclosed building, except for outdoor activity specifically approved and/or licensed by the City Council;

3. No building shall be closer than 50 feet to any property line;

4. Maximum lot coverage shall not exceed 30%;

5. No such uses shall abut an existing residential district on more than one side.

E. Restaurants, when incidental in size to the principal office uses included on the site, subject to the following conditions:

1. Adequate ventilation shall be provided to ensure that any odors associated with any food preparation will be confined to the site so as not to create a nuisance for any adjoining parcels. Evidence of the type and adequacy of any such ventilation system shall be provided and approved by the City of Sterling Heights Building Department and the Macomb County Health Department;

2. All restaurants shall be located in an existing office building and shall not be permitted as a freestanding building;

3. The site shall be located on a major thoroughfare with at least 120 feet of right-of-way, existing or proposed.

F. Establishments relating to the trade, investment, sale or appraisal of precious metals, precious stones, jewelry, coins, stamps, rare books and paintings, subject to the following conditions:

1. The use shall be located in the office building with access from a common corridor within the building;

2. The use shall be located entirely within a building containing other business and/or professional offices. The total floor area devoted to such uses shall not exceed 40% of the total usable floor area of the entire building;

3. No more than 2,000 square feet of the total usable floor area of the office building shall be devoted to such uses;

4. No advertising or display for such business or use shall be visible from a public thoroughfare or sidewalk;

5. No sign shall be visible from a public thoroughfare or sidewalk, except one wall sign for identification purposes;

6. Temporary use of the premises by transient dealers or traders shall be prohibited.

G. Mortuaries, not including crematories, subject to the following conditions:

1. Sufficient off-street automobile parking and assembly area is provided for vehicles to be used in a funeral procession. The assembly area shall be provided in addition to any required off-street parking area;

2. The site shall be located so as to have one property line abutting a major thoroughfare of at least 120 feet of right-of-way, existing or proposed;

3. Adequate ingress and egress shall be provided to said major thoroughfare;

4. Loading and unloading area used by ambulances, hearses or other such service vehicles shall be obscured from all residential view by a wall six feet in height.

H. Fully assisted housing, subject to the following conditions:

1. All such facilities shall ingress and egress from a site directly onto a major or secondary thoroughfare having an existing or planned right-of-way of at least 86 feet as indicated on the Master Road Plan or a private road of at least four lanes which serves as a secondary thoroughfare;

2. All such facilities shall be developed only on sites consisting of at least five acres in area;

3. There shall be provided at least 1,000 square feet of lot area per bed;

4. Licensing shall be in accordance with the State of Michigan and/or appropriate authority or jurisdiction.

I. Office developments in excess of two stories in height, but not exceeding three stories and a maximum of 40 feet in height, may be permitted in the O-2 district only, subject to the following conditions:

1. No office structure in excess of two stories in the proposed development shall be located closer than 100 feet to any residential zone district.

2. The use shall have ingress and egress directly onto a major thoroughfare having an existing or proposed right-of-way of at least 120 feet as indicated on the master road plan.

J. Public utilities, as regulated by section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

(Ord. No. 278-T, § 5, 6-3-97; Ord No. 278-Y, §§ 10, 11, 5-16-00; Ord. No. 278-BB, § 2, 12-18-01)

SECTION 9.03. ACCESSORY USES PERMITTED.

Accessory buildings and uses customarily incidental to the principal permitted uses enumerated in sections 9.01 and 9.02 are permitted. Amusement devices shall be permitted, subject to the requirements of section 28.01.

SECTION 9.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The minimum size of each lot:

1. Area: 1 acre.

2. Width: 100 feet.

B. Maximum height of any structure:

1. In stories: 2.

2. In feet: 30.

C. Minimum building floor area:

1. Area: 5,000 square feet.

D. Minimum yard setback per lot:

1. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

Distance from centerline (in feet):

a. Regional (204' R.O.W.): 131.

b. Regional (150' R.O.W.): 110.

c. Major: 95.

d. Secondary: 78.

e. Collector: 70.

f. Local: 65.

g. Cul-de-sac radius: 95.

h. Freeway: 35.*

i. Private roads: 35.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

Where the majority of lots are located in a commercially platted subdivision, the lots abut private roads and/or public roads with a right-of-way equal to or less than 86 feet as shown on the Master Road Plan and adequate access to the building for fire fighting and emergency equipment is available, parking shall be permitted to encroach not more than 20 feet into the required front yard setback measured from the required front building setback line. The required front yard shall be landscaped and maintained thereafter in a neat and orderly fashion.

If existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street plus 35 feet for all classes of roads.

2. Side: 25 feet. Where a lot line abuts a side street, that street yard setback shall be the same as the front yard required for the use fronting on the street adjacent to said property. No building shall be located closer than 50 feet to the outer perimeter (property line) of such district when such property line abuts any residential zoning district.

3. Rear: 40 feet. No building shall be located closer than 75 feet to the outer perimeter property line when such property line abuts any residential zoning district.

E. Maximum lot coverage. The maximum lot coverage shall be governed by meeting all requirements for yard space, landscaping, screening and off-street parking and loading.

(Ord. No. 278-E, § 4, 7-3-90; Ord. No. 278-G, § 3, 9-18-90; Ord. No. 278-P, § 1, 10-3-95; Ord. No. 278-U, § 7, 1-6-98; Ord. No. 278-Y, § 12, 5-16-00)

SECTION 9.05. STRUCTURE AND SITE REQUIREMENTS.

A. The exterior of all buildings hereafter erected shall be constructed of brick and/or stone building materials or other similar durable, decorative building materials as may be approved by the Planning Department, subject to any additional requirements set forth in section 26.01, paragraph H. The architecture and exterior finish of any building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior.

B. All portions of the site not used for parking, driveway and buildings shall be provided with a lawn or landscaping (section 24.02) approved by the Planning Department and so maintained in an attractive condition.

C. Once a building line has been established by the construction of a principal building upon an approved site, no other principal building or use shall be located between the established building line and the front lot line (or side lot line abutting a side street) without first obtaining approval of the Planning Commission. The Planning Commission shall review the building and/or use proposed to be located in front of the established building to determine whether the building or use is of such location, size and character to be in harmony with the appropriate and orderly development of the balance of the site, is not detrimental to the development of adjacent uses, does not create any vehicular or pedestrian hazards and is aesthetically compatible with the buildings and uses located upon the site. Landscaping plans, site plans (including signs and the location of dumpsters) and elevations of all sides of any building to be constructed shall be submitted to enable the Planning Commission to determine whether the proposed additional building and/or use conforms with the requirements of this section. All dumpsters shall be screened from visibility from any area visible to the public by use of a wall constructed of the same material as the building walls to ensure aesthetic compatibility. In reviewing this request, the Planning Commission shall apply the standards contained herein and in section 25.02 and may impose reasonable conditions as authorized by section 25.03(D) to ensure that the standards are satisfied.

D. Roof mounted appliances and fixtures shall be effectively screened on all sides by the roof line so as not to be visible from off the site. (Section 24.04)

E. The distance of the closest point between any two buildings shall not be less than 30 feet.

(Ord. No. 278-A, § 18, 4-17-90; Ord. No. 278-OO, § 2, 8-5-09)

ARTICLE 10. O-3 HIGH-RISE OFFICE COMMERCIAL SERVICE

SECTION 10.00. INTENT.

The High Rise Office Commercial Service (O-3) District is designed and intended to provide and accommodate various types of office uses performing administrative, professional, personal and technical services. This intense land use, with typically large office buildings of greater height than normally found in other areas of the city, is intended to provide compatible and similar scale development, ancillary to commercial development. This district is specifically intended to

discourage commercial establishments of a retail nature or other activities which require constant short-term parking and traffic from the general public, but is intended to permit those businesses which are required to serve the normal daily needs of the occupants of the permitted primary uses. The High Rise Office Service District is designed to provide a site for high density office structures adjacent to major thoroughfares and in planned relationship to other large scale development.

SECTION 10.01. PERMITTED USES.

The following uses shall be permitted, provided that all businesses shall be conducted within a completely enclosed building:

A. Any one or more of the permitted uses in section 9.01 of the O-2 district, excluding mortuaries and funeral homes;

B. Photographic studios, artist studios and interior decorating studios;

C. Studios for professional work or teaching of interior decorating, photography, music, drama or dancing;

D. Data processing and computer centers, but not including service and maintenance of electronic data processing equipment;

E. Office uses similar to the above and demonstrated to be of a business or professional nature, as determined by the Zoning Official;

F. Hotels and motels (more than three stories).

SECTION 10.02. SPECIAL APPROVAL LAND USES.

The following uses, and others similar to those cited in this article, may be permitted by the Planning Commission subject to the general standards of section 25.02 and the specific standards imposed for each use.

A. Restaurants and lounges serving food, beverages or both, subject to the following:

1. The use shall not have drive-in, drive-through or in-car service. Take-out service may be permitted, provided it is a minor part of the restaurant service (40% or less of total sales);

2. The use shall be located within a high rise building or a freestanding, one or two story building meeting the following requirements:

a. The building shall be designed to be an integral part of, or as a compatible accessory use to, an existing or proposed high rise office-commercial service development. The exterior appearance shall be compatible and in harmony with the surrounding development;

b. The layout of the proposed use shall be designed to encourage pedestrian traffic from the O-3 development and nearby commercial uses;

c. No independent structure of less than 5,000 square feet shall be permitted;

d. No freestanding restaurant shall be located within 500 feet of an existing freestanding restaurant, except if such uses are separated by a street or public thoroughfare of not less than 120 feet of right-of-way.

B. Essential services needed to service the immediate vicinity, subject to the following condition:

1. All such facilities shall be located in an enclosed building constructed of masonry or other fire-resistant materials. The exterior finish of any such building shall be complementary in style to the principal buildings and shall be of uniform finish on all sides of its exterior.

C. Public utilities, as regulated by section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

(Ord. No. 278-Y, § 13, 5-16-00)

SECTION 10.03. ACCESSORY USES PERMITTED.

Accessory uses customarily incidental to any of the above permitted uses, such as service for employees and other persons normally associated with the permitted uses, such as coffee shops, pharmacy, barber or beauty shops, tobacco shops, newsstands, parking structures and post offices are permitted within the high rise structures.

Amusement devices shall be permitted, subject to the requirements of section 28.01.

SECTION 10.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The minimum size of each lot per building: None.

B. Minimum building height (except restaurants and

utility buildings):

1. Stories: 3.

2. Feet: 35.

C. Maximum building height: None.

D. Minimum yard setback per lot:

1. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan as specified in the following schedule, plus the height of the building:

Distance from centerline:

a. Regional (204' R.O.W.): 177 feet.

b. Regional (150' R.O.W.): 150 feet.

c. Major: 135 feet.

d. Secondary: 118 feet.

e. Collector: 110 feet.

f. Local: 105 feet.

g. Cul-de-sac: 135 foot radius.

h. Freeway: 76 feet.*

i. Private roads: 75 feet.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

Parking may be permitted to occupy a portion of the front yard setback, provided it does not exceed a distance of 40 feet measured from the front building setback as specified in D.1. above.

If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the

right-of-way shall be equal to one-half of the actual right-of-way of the street plus 75 feet for all classes of roads.

E. Side: 20 feet, plus the height of each level of the building which exceeds 35 feet in height measured from the nearest point of each level to the property line. Side yards abutting any residential district shall provide a setback of 50 feet, plus the height of the building which exceeds 35 feet in height measured from the nearest point of each level to the property line.

F. Rear: 30 feet, plus the height of each level of the building which exceeds 35 feet in height measured from the nearest point of each level to the property line. Rear yards abutting any residential district shall provide a setback of 50 feet, plus the height of the building which exceeds 35 feet in height measured from the nearest point of each level to the property line.

G. Maximum lot coverage: the maximum lot coverage including accessory buildings shall not exceed 35%.

H. Distance between buildings: the minimum distance between buildings shall be equal to one-half the total height of each building.

(Ord. No. 278-A, § 19, 4-17-90)

SECTION 10.05. STRUCTURE AND SITE REQUIREMENTS.

A. All portions of the site not used for parking, driveways and building shall be provided with a lawn or landscaping (section 24.02) approved by the Planning Commission.

B. Screening, meeting the requirements for moderate intensity impacts (section 24.01), shall be provided on those sides of the property used for parking or service drives, loading or unloading or servicing and abutting land zoned for residential use.

C. Landscaped areas shall not be less than 10% of the total site (section 24.02).

D. Once a building line has been established by the construction of a principal building upon an approved site, no other principal building or use shall be located between the established building line and the front lot line (or side lot line abutting a side street) without first obtaining approval of the Planning Commission. The Planning Commission shall review the building and/or use proposed to be located in front of the established building to determine whether the building or use is of such location, size and character to be in harmony with the appropriate and orderly development of the balance of the site, is not detrimental to the development of adjacent uses, does not create any vehicular or pedestrian hazards and is aesthetically compatible with the building and uses located upon the site. Landscaping plans, site plans (including signs and the location of dumpsters) and elevations of all sides of any building to be constructed shall be submitted to enable the Planning Commission to determine whether the proposed additional building and/or use conforms with the requirements of this section. All dumpsters shall be screened from visibility from any area visible to the public by use of a wall constructed of the same material as the building walls to ensure aesthetic compatibility. In reviewing this request, the Planning Commission shall apply the standards contained herein and in section 25.02 and may impose reasonable conditions as authorized by section 25.03(D) to ensure that the standards are satisfied.

E. Roof-mounted appliances and fixtures shall be effectively screened on all sides by the roof line so as not to be visible from off the site (section 24.04).

F. Limited display of goods for sale and visible from the interior only is permitted.

G. The required side and rear yards may be used for off-street parking and loading, provided adequate access to the rear of the building for firefighting and emergency equipment is provided.

(Ord. No. 278-A, § 20, 4-17-90)

SECTION 10.06. SPECIFIC PARKING REQUIREMENTS.

Since the intent of this district is to encourage high rise office development and to permit selected ancillary commercial enterprise which will serve the daily needs of the office workers, there will be less parking demand than if each use were estimated separately. Also, to encourage the high rise development and to limit the parking requirements of those necessary to serve these uses, specific parking requirements are established for the O-3 district. These standards are included in section 23.01.

ARTICLE 11. C-1 LOCAL CONVENIENCE BUSINESS DISTRICT

SECTION 11.00. INTENT.

The C-1 Local Convenience Business District is designated to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas. Protection of nearby residential districts is considered of importance; thus, businesses which tend to be a nuisance to immediately surrounding residential areas are excluded, even though the goods sold or services offered might fall within the convenience classification.

It is further the intent of this district to provide these goods and services in a physical setting that is compatible with surrounding residential neighborhoods and which are of a neighborhood size and character. Whenever possible, local convenience business districts should be developed with consolidated site features to provide for a continuity of appearance and function and to minimize any negative impacts on nearby residential neighborhoods or the city's thoroughfare system. A more intense use, such as a supermarket, shall be permitted in this district only if: (1) the goods and services offered from within the use are limited to those which are permissible under the permitted uses of that district; and (2) the proposed use primarily serves the convenience needs of the immediately surrounding residential areas rather than satisfying the convenience and comparison shopping needs of a broader market area.

(Ord. No. 278-0, § 1, 9-5-95)

SECTION 11.01. PERMITTED USES.

The following retail and service uses shall be permitted, provided that all business, servicing or processing (except for off-street parking or loading) shall be conducted within a completely enclosed building, and all goods produced on the premises shall be sold at retail on the same premises:

A. Any one or more of the permitted uses in section 8.01 of the O-1 District, except as otherwise provided herein;

B. Hardware store;

C. Paint, wallpaper and window treatment stores;

D. Grocery stores;

E. Meat and fish markets;

F. Fruit and vegetable markets;

G. Candy, nut and confectionery store;

H. Retail bakery;

I. Drugstore and proprietary store;

J. Beauty shop;

K. Barber shop;

L. Shoe repair shop;

M. Miscellaneous repair services only limited to:

1. Radio, television and VCR repair;

2. Stereophonic repair;

3. Small appliance repair;

4. Watch, clock and jewelry repair;

5. Locksmith;

6. Tailors;

N. Video tape rental;

O. Dry cleaning pick-up services only;

P. Miscellaneous personal services:

1. Toning and tanning salons;

2. Diet workshops;

3. Quilting for individuals;

Q. The following miscellaneous retail stores:

1. Liquor store;

2. Bookstore, excluding adult bookstores;

3. Stationery store;

4. Jewelry store;

5. Hobby, toy and games shop;

6. Camera and photographic supplies;

7. Gift, novelty and souvenir shop;

8. Florist;

9. Tobacco store;

10. Sewing, needlework and piece goods store;

11. Pet supplies store (excluding the sale of pets);

12. Home decorating and accessory stores;

13. Cellular telephone and pager stores (no on-premises installation);

R. Dance studios, martial arts schools and similar forms of activities, provided that the total useable floor area shall not exceed 5,000 square feet;

S. Apparel and accessory stores (excluding re-sale and second hand stores);

T. Supermarkets subject to the following:

1. The site's gross floor area shall not be in excess of 60,000 square feet;

2. The site shall be located on a major thoroughfare having a right-of-way equal to or greater than 120 feet, as specified on the Master Road Plan;

3. The site shall have a minimum depth of 550 feet and shall contain at least four acres;

U. Essential services needed to serve the immediate vicinity, provided that appropriate screening, as determined by the Planning Department, shall be required when abutting single family dwellings;

V. Other convenience commercial uses of a similar character as determined by the Zoning Official.

Outdoor storage and display of merchandise is prohibited.

(Ord. No. 278-E, §§ 5, 6, 7, 7-3-90; Ord. No. 278-0, § 2, 9-5-95; Ord. No. 278-DD, § 1, 7-6-04)

SECTION 11.02. SPECIAL APPROVAL LAND USES.

The following uses and others similar to those cited in this article may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards imposed for each use.

A. Veterinary offices or clinics providing medical, surgical and grooming facilities for small nonfarm animals, subject to the following:

1. The incidental boarding of animals for the limited time period immediately before and after the furnishing of medical, surgical or grooming services allowed under this section 11.02A. shall be permitted as an accessory use;

2. All facilities shall be completely enclosed within a freestanding building or corner tenant space in such a manner as to produce no offensive odor or audible sound at the lot line;

3. An adequate, enclosed method of refuse storage and disposal shall be maintained so that no public nuisance shall be created at any time;

4. The site shall be located so as to have one property line abutting a major thoroughfare of at least 120 feet of right-of-way, existing or proposed.

B. Child and adult day care centers and nursery schools, subject to the following conditions:

1. Such use shall not abut a one family residential zoning district on more than one side;

2. The parcel upon which the facility is located shall contain at least 300 square feet of land area per person attending the facility, with a minimum parcel size of 15,000 square feet;

3. For child care centers and nursery schools, a minimum area of 5,000 square feet of play space for children shall be provided in an accessible, convenient and safe location which is fenced by a six foot high fence, with screening with plantings from any adjoining nonresidential district;

4. Maximum lot coverage of all structures shall not exceed 30%.

C. Gasoline self-service stations (only on sites where a gasoline service station has existed as a lawful nonconforming use), subject to the following:

1. The site for the gasoline self-service station shall have 150 feet of frontage on the principal street serving the station;

2. The site shall contain an area of not less than 21,000 square feet;

3. All buildings shall observe front or street-side setbacks as specified in section 11.04, area, height and bulk requirements, plus 15 feet;

4. In order to facilitate safe pedestrian circulation and safety, no parking or standing of customer vehicles shall be permitted in the area immediately adjacent to any customer entrance or payment window;

5. Curbs, curb cuts, driveway widths and acceleration or deceleration lanes shall meet the requirements of the City of Sterling Heights or other agencies having

jurisdiction thereof;

6. Pump islands used for the sale or distribution of petroleum products and service lanes shall observe the front or street-side setback requirements as specified in section 11.04, area, height and bulk requirements. Service lanes in which automobiles are temporarily parked shall be no less than 12 feet in width;

7. Canopies used to shelter pump islands and adjacent service lanes shall be required, provided such canopies do not encroach into the required front yard, and provided further that such canopies shall have a minimum height of 14 feet and be located to ensure clearance for and access to the site by firefighting equipment.

D. Dry cleaning and laundry establishments, subject to the following conditions:

1. Such use shall be limited to serving customers of the specific establishment only and shall not be used to service other pick-up stations;

2. The total usable floor area of the use shall not exceed 1,800 square feet;

3. The operation and all materials and processes used in the dry cleaning business shall be nonflammable and shall be conducted in accordance with all applicable statutes, rules, regulations and standards established by any federal, state or local government or authority;

4. Adequate ingress and egress shall be provided from a major thoroughfare of at least 120 feet of right-of-way, as indicated in the Master Road Plan.

E. Carry-out restaurants (excluding drive-through facilities), subject to the following conditions:

1. Adequate ventilation shall be provided to ensure that any odors associated with any food preparation will be confined to the site so as not to create a nuisance for any adjoining residential parcels. All such ventilation systems shall be maintained in good working order at all times;

2. Evidence of the type and adequacy of any such ventilation system shall be provided and approved by the Sterling Heights Building Department and the Macomb County Health Department;

3. Side and rear yard setbacks for restaurants may be increased when adjacent to residential zoning districts.

F. Public utilities, as regulated by section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

G. Restaurants (excluding fast food restaurants and drive-through facilities), subject to the following conditions:

1. The total usable floor area of the restaurant shall not exceed 5,000 square feet;

2. Adequate ventilation shall be provided to ensure that any odors associated with any food preparation will be confined to the site so as not to create a nuisance for any adjoining residential uses. All such ventilation systems shall be maintained in good working order at all times;

3. Evidence of the type and adequacy of the ventilation system shall be provided and approved by the Sterling Heights Building Department and the Macomb County Health Department;

4. Side and rear yard setbacks for restaurants may be increased when adjacent to residential zoning districts.

H. Home furnishings, subject to the following conditions:

1. The total usable floor area shall not exceed 5,000 square feet;

2. The use shall be devoted primarily to product display. Only incidental warehousing and storage shall be permitted. Deliveries shall be made from off-site warehouses or distribution centers.

I. Auto supply stores, subject to the following conditions:

1. The floor area of the building shall not exceed 12,500 square feet;

2. The site shall be located on a major thoroughfare having a right-of-way equal to or greater than 120 feet, as specified on the Master Road Plan;

3. No repair, service or parts installation shall be conducted on the premises without the approval of the Planning Commission. The Planning Commission shall not approve such an activity without determining specifically that the proposed activity meets the requirements of section 25.02 of this ordinance and that it will be conducted solely within the building. The Planning Commission shall have the right to revoke such approval if the activity, in practice, is determined by the Planning Commission to have an adverse effect on the premises or nearby properties after the activity is undertaken;

4. No storage or other activities relating to the auto supply business shall be permitted outside of the building;

5. The sale of auto parts shall be limited to new parts and remanufactured or reconditioned parts which are remanufactured or reconditioned off of the premises.

(Ord. No. 278-F, § 6, 8-8-90; Ord. No. 278-G, § 4, 9-18-90; Ord. No. 278-O, § 3, 9-5-95; Ord. No. 278-V, § 1, 1-20-98; Ord. No. 278-Y, § 14, 5-16-00; Ord. No. 278-BB, § 3, 12-18-01; Ord. No. 278-DD, § 1, 7-6-04)

SECTION 11.03. ACCESSORY USES PERMITTED.

Accessory buildings and uses customarily incidental to the principal permitted uses enumerated in sections 11.01 and 11.02 are permitted. Amusement devices shall be permitted, as provided in section 28.01.

SECTION 11.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The minimum size of each lot per building:

1. Area: 12,000 square feet.

2. Width: 80 feet.

B. Maximum height of any structure:

1. In stories: 1.

2. In feet: 25.

C. Minimum building floor area:

1. Area: 700 square feet.

D. Minimum yard setback per lot:

1. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

Distance from centerline:

a. Regional (204' R.O.W.): 137 feet.

b. Regional (150' R.O.W.): 110 feet.

c. Major: 95 feet.

d. Secondary: 78 feet.

e. Collector: 70 feet.

f. Local: 65 feet.

g. Cul-de-sac: 95-foot radius.

h. Freeway: 35 feet.*

i. Private roads: 35 feet.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

The required front yard shall be landscaped and maintained thereafter in a neat and orderly condition. Driveway approaches, but not driveways, shall be permitted in the required front yard.

If the existing right-of-way is greater than shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street, plus 35 feet for all classes of roads.

2. Side: 5 feet. If walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than 15 feet shall be provided. No building shall be located closer than 50 feet to the outer perimeter (property line) of such district when such property line abuts any residential district.

3. Rear: 30 feet. No building shall be located closer than 50 feet to the outer perimeter (property line) of such district when such property line abuts any residential district.

E. Maximum lot coverage: the maximum lot coverage shall be governed by meeting all requirements for yard space, landscaping, screening, off-street parking and loading.

(Ord. No. 278-A, §§ 21, 22, 4-17-90; Ord. No. 278-AA, § 1, 3-20-01; Ord. No. 278-CC, § 4, 6-3-03)

SECTION 11.05. STRUCTURE AND SITE REQUIREMENTS.

A. The exterior of all buildings hereafter erected shall be constructed of brick and/or stone building materials or other similar durable, decorative building materials as may be approved by the Planning Department, subject to any additional requirements set forth in section 26.01, paragraph H. The architecture and exterior finish of any building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior.

B. All portions of the site not used for parking, driveway and buildings shall be provided with a lawn or landscaping (see section 24.02, environmental provisions) approved by the Planning Department and so maintained in an attractive condition.

C. Loading shall be provided only in rear yards. Side yard loading may be permitted by the Planning Department when such space and loading facilities do not interfere with parking and circulation, either vehicular or pedestrian.

D. Once a building line has been established by the construction of a principal building upon an approved site, no other principal building or use shall be located between the established line and the front lot line (or side lot abutting a side street) without first obtaining approval of the Planning Commission. The Planning Commission shall review the building and/or use proposed to be located in front of the established building to determine whether the building or use is of such location, size and character to be in harmony with the appropriate and orderly development of the balance of the site, is not detrimental to the development of adjacent uses, does not create any vehicular or pedestrian hazards and is aesthetically compatible with the buildings and uses located upon the site. Landscaping plans, site plans (including signs and the location of dumpsters) and elevations of all sides of any building to be constructed shall be submitted to enable the Planning Commission to determine whether the proposed additional building and/or use conforms with the requirements of this section. All dumpsters shall be screened from visibility from any area visible to the public by use of a wall constructed of the same material as the building walls to ensure aesthetic compatibility. In reviewing this request, the Planning Commission shall apply the standards contained herein and in section 25.02 and may impose reasonable conditions as authorized by section 25.03(D) to ensure that the standards are satisfied.

E. Roof-mounted appliances and fixtures shall be effectively screened on all sides by the roof line so as not to be visible from off the site (section 24.04).

(Ord. No. 278-A, § 23, 4-17-90; Ord. No. 278-OO, § 3, 8-5-09)

ARTICLE 12. C-2 PLANNED COMPARISON DISTRICT

SECTION 12.00. INTENT.

This district is intended to provide a combination of convenience and comparison retail goods and services serving the needs of a broader market area than several neighborhood areas, as is the case with the C-1 district. These commercial centers may include an anchor tenant, such as a supermarket or an intermediate department store. Uses within this district are intended to be developed as a planned or integrated cluster of common wall establishments served by consolidated driveways and parking areas as well as unified architecture and landscaping features.

SECTION 12.01. PERMITTED USES.

The following uses shall be permitted, provided that all business, servicing or processing (except for off-street parking or loading) shall be conducted within a completely enclosed building, except as otherwise provided herein; that all businesses shall be of a retail and service nature dealing directly with consumers; and that all goods produced on the premises shall be sold at retail on the same premises:

A. Any one or more of the permitted uses in section 11.01 of the C-1 District, except as otherwise provided herein. The size limitations of the C-1 District shall not apply in the C-2 District;

B. Retail nursery, lawn and garden supply store;

C. Department store;

D. General merchandise store;

E. Supermarket;

F. Physical fitness facilities;

G. Pet shops, retail;

H. Bulk food stores;

I. Apparel and accessory store;

J. Home and office furniture, furnishings and appliance stores;

K. Eating and drinking establishments, (including outdoor eating areas and catering if accessory to a principally permitted use), but excluding fast-food restaurants, stands, cabarets and discotheques;

L. Photographic studio;

M. Motion picture theater (except adult motion and mini-motion picture theaters);

N. Museum and art gallery;

O. Dry cleaning and laundry establishments;

P. Children recreation services (when part of a planned development) featuring exercising and game playing activities, subject to the following:

1. All activities shall be restricted to the inside of the building or part of the building in which the use is a part of;

2. The building or part of the building devoted to this use shall be designed and constructed such that no audible sound may be heard by adjoining tenants or at the lot line;

3. This use shall be limited to short term or infrequent users and shall not be used as a child day-care facility;

Q. Essential services needed to serve the immediate vicinity, provided that appropriate screening as determined by the Planning Department shall be provided when abutting single family dwellings;

R. Other similar uses as determined by the Zoning Official.

(Ord. No. 278-A, § 24, 4-17-90; Ord. No. 278-E, § 7, 7-3-90; Ord. No. 278-0, § 4, 9-5-95)

SECTION 12.02. SPECIAL APPROVAL LAND USE.

The following uses, and others similar to those cited in this article, may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards imposed for each use:

A. Veterinary offices and clinics, subject to the conditions enumerated in section 11.02(A);

B. The following open air uses, subject to the conditions enumerated:

1. Retail sales of plant materials not grown on the site and sale of lawn furniture, playground equipment and home garden supplies, when located in excess of 300 feet beyond the intersection of major thoroughfares;

2. Children's recreation facilities, including a children's amusement park, shuffleboard and similar recreation, when part of a planned development, but not located at the intersection of two major thoroughfares. All such recreation space shall be enclosed on all sides with a six foot fence. Such uses shall not abut any residential zoning district;

C. Automobile service centers, when developed as part of a large planned shopping center, designed so as to integrate the automobile service center within the site plan and architecture of the total shopping center, subject to the following conditions:

1. All repair activities shall be confined to the building;

2. No outdoor storage is permitted;

3. An adequate means of waste disposal shall be provided;

4. Adequate measure shall be taken to ensure that any noise, dust, smoke, odor, fumes or other negative environmental impacts are confined to the site;

D. Fast-food restaurants, subject to the following conditions:

1. The site and use shall be located on a major thoroughfare having a right-of-way equal to, or greater than, 120 feet as specified by the Master Road Plan;

2. Adequate ingress and egress to handle the traffic anticipated to be generated by the use shall be provided;

3. No freestanding fast-food restaurant shall be located within 500 feet of an existing fast-food restaurant, except if fast-food restaurants are separated by a street or public thoroughfare of not less than 120 feet of right-of-way;

4. No freestanding fast-food restaurant or drive-through lane shall be located within 300 feet of any residentially zoned property, unless the fast-food restaurant is separated from the residentially zoned property by a street or public thoroughfare of not less than 120 feet of right-of-way;

5. Any freestanding fast-food restaurant located in a shopping center shall be aesthetically compatible in design and appearance with the other buildings and uses located in the shopping center. In making this determination, the Planning Commission shall consider the architectural design of the building, the signage and the landscaping to ensure that the design and appearance of the developed fast-food restaurant site is compatible with the design and appearance of the remainder of the shopping center;

6. Drive-through service shall be permitted only if a satisfactory traffic pattern for the drive-through lane can be established to prevent traffic congestion and the impairment of vehicular circulation for the remainder of the development. Vehicle stacking lanes shall not cross any maneuvering lanes, drives or sidewalks;

7. Devices and controls adequate to ensure that no smoke, odor or gases are emitted so as to constitute a nuisance to adjoining tenants or to the public shall be provided;

8. A drive-through speaker system shall emit no more than 50 decibels db(A) four feet between the vehicle and the speaker and in no case shall the transmission of voices or music from such speaker system be audible at any lot line;

9. The use shall comply with all other applicable Code provisions and ordinances of the city.

E. The use shall comply with all other applicable Code provisions and ordinances of the city;

F. Amusement device centers located in enclosed mall area of a shopping center containing a gross floor area of not less than 400,000 square feet, subject to the following:

1. All such uses shall have public access only from the interior mall pedestrian areas;

2. Adequate on-site security for the shopping center mall shall be provided;

3. Noise associated with the use shall be confined within the tenant space so as to not constitute a nuisance to adjoining or nearby tenants;

4. Such use shall be conducted in accordance with all applicable provisions of the City Code;

G. Amusement device centers located in an unenclosed shopping center or planned center development with a gross floor area in excess of 20,000 square feet, subject to the following conditions:

1. The days and hours of operation of an amusement device center may be limited by the Planning Commission based on the size and nature of the operation, proximity to surrounding residential properties, and the standards of Section 25.02;

2. All patron entrances shall be at least 500 feet from the nearest applicable property line of any school, playground, or public park;

3. All patron entrances shall be located at least 200 feet from any residential district measured by the shortest walking distance between the patron door and the zoning district line;

4. No amusement device center shall be located within 1,000 feet of any existing amusement device center measured from the nearest applicable walls or leasable space of each center;

5. There shall be adequate provision for the parking of bicycles, in accordance with the bicycle rack requirements set forth elsewhere in this Zoning Ordinance, for the center or development in which the amusement device center is proposed to be located;

6. The building or part of the building devoted to the use shall be designed and constructed such that no audible sound may be heard by adjoining tenants or at the lot line;

7. Such use shall be conducted in accordance with all applicable provisions of the City Code;

H. Regional shopping centers with a gross floor area exceeding 1,000,000 square feet, subject to the following conditions:

1. Building may exceed the height requirements of the district, provided that side and rear yard setbacks equal to the height of the building are provided. In no

instance shall the building be located closer to the property line than the setbacks specified in section 12.04(C);

2. Access to all parking areas shall be provided by an internal road system;

I. Adult entertainment uses.

The City of Sterling Heights is characterized by a strong real estate market and high property values. One intent of the zoning ordinance is to preserve these values and avoid the concentration of uses which would have a detrimental effect on either property values or the overall character of the city.

The purpose of this ordinance as it relates to adult entertainment uses is, therefore, to control blight and to maintain or increase economic vitality and not to restrict the freedom of speech or to restrict access to alternative forms of entertainment.

It is a well-established fact that a concentration of adult entertainment uses, including adult bookstores, adult video stores, adult motion picture theaters and similar uses, can lead to urban blight. It is, therefore, the intent of the provisions relating to adult entertainment uses to minimize this impact by avoiding the concentration of such uses in close proximity to one another or to residential zoning districts.

It is recognized that adult entertainment uses are not dependent upon the surrounding neighborhood for their market. In fact, they can be classified as comparison shopping facilities whose market extends far beyond the adjacent neighborhood. Restricting the uses to the C-2 Planned Comparison District recognizes this market impact.

It is further noted that the impact of adult entertainment uses on nearby residential areas is increased by the location of such uses in freestanding commercial structures. Restricting the location of adult entertainment uses to planned shopping centers helps minimize this impact by de-emphasizing their visibility and their impact on the nearby residential neighborhood. Furthermore, any negative impacts associated with such a use would be restricted primarily to surrounding commercial tenants. The overall community impact of such a use would, therefore, be reduced by this requirement.

For the reasons stated above, adult bookstores or video stores, adult motion picture theaters, adult mini-motion picture theaters, adult establishments, cabarets or massage parlors, adult novelty businesses or adult personal service businesses shall be allowed as a special approval land use in the C-2 district, subject to the following requirements:

1. An adult entertainment use shall not be located closer than 1,000 feet from any other adult entertainment use;

2. All patron entrances for the adult entertainment use shall be located at least 1,000 feet from any church, school, playground or public park and 500 feet from any residential zoning district, measured by the shortest walking distance between the patron door and the property line of the church, school, playground or public park or the nearest residential zoning district line;

3. Adult bookstores or video stores, adult motion picture theaters, adult mini- motion picture theaters, cabarets and massage parlors, adult novelty businesses or adult personal service businesses shall be located in a consolidated shopping center with a gross floor area exceeding 100,000 square feet. Such uses shall be an integral part of such center and shall not be included as a use in a freestanding building;

4. All signs advertising adult bookstores or video stores, adult motion picture theaters, adult mini-motion picture theaters, cabarets, massage parlors, adult novelty businesses or adult personal service businesses shall comply to all applicable provisions of section 28.13. Further, no such sign shall include language or graphics referring to either specified anatomical areas or specified sexual activities;

5. There shall be no display of adult merchandise or adult materials visible by the public from the exterior of the building;

6. The adult entertainment use shall not permit entry by any person under the age of 18 either as an employee or a customer;

7. All access to adult merchandise or adult materials in the adult entertainment use shall be restricted to persons 18 years of age or older;

8. The adult entertainment use shall not be occupied by any person or any residential purpose.

J. Body art facilities, subject to the following:

1. All body art facilities shall be located in a consolidated shopping center with a gross floor area exceeding 100,000 square feet. Such uses shall be an integral part of the center and shall not be located within a freestanding building.

2. A body art facility shall not be located closer than 1,000 feet to an adult entertainment use, pawnbroker, resale shop, or other body art facility measured by the shortest walking distance between the customer entrance of each use.

3. All customer entrances to a body art facility (or retail/customer service area if there is no distinct customer entrance) shall be located at least 1,000 feet from any church, school, playground, or public park and at least 500 feet from any residential zoning district, measured by the shortest walking distance between the customer entrance (or retail/customer service area if there is no distinct customer entrance) and the property line of the church, school, playground or public park or the nearest residential zoning district line.

4. The body art facility shall obtain and maintain any licenses required by local or state law, and shall operate the facility in full compliance with any local, state or federal regulatory ordinances or statutes, rules, or regulations.

K. Pawnbrokers, subject to the following:

1. All pawnbrokers shall be located in a consolidated shopping center with a gross floor area exceeding 100,000 square feet. Such uses shall be an integral part of the center and shall not be located within a freestanding building.

2. A pawnbroker shall not be located closer than 1,000 feet to an adult entertainment use, body art facility, resale shop, or other pawnbroker measured by the shortest walking distance between the customer entrance of each use.

3. All customer entrances to a pawnbroker facility (or retail/customer service area if there is no distinct customer entrance) shall be located at least 1,000 feet from any church, school, playground, or public park and at least 500 feet from any residential zoning district, measured by the shortest walking distance between the customer entrance (or retail/customer service area if there is no distinct customer entrance) and the property line of the church, school, playground or public park or the nearest residential zoning district line.

4. Pawnbrokers shall obtain and maintain any licenses required by local or State law and shall operate the facility or business in full compliance with any local, State, or federal regulatory ordinances or statutes, rules, or regulations.

L. Banquet and event facilities, subject to the following:

1. The use shall be located in a freestanding building.

2. The site shall be located upon a major thoroughfare having an existing or proposed right-of-way of at least 86 feet, as indicated on the Master Road Plan.

3. Any open air area where patrons of the banquet facility may congregate shall not face any property used for or zoned for residential use.

4. The banquet and event facility shall be operated in compliance with all applicable provisions of the City Code.

5. The City Planner may require the installation of additional landscaping, screening, or other devices or materials designed to contain noise, light, and or other impacts that are anticipated to extend beyond the property line of the site and/or to provide separation from abutting parking and maneuvering areas.

M. Public utilities, as regulated by section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

(Ord. No. 278-U, § 8, 1-6-98; Ord. No. 278-X, § 4, 4-6-99; Ord. No. 278-Y, § 15, 5-16-00; Ord. No. 278-EE, § 7, 10-5-04; Ord. No. 278-MM, §§ 1-3, 10-8-08; Ord. No. 278-OO, § 4, 8-5-09; Ord. No. 278-AAA, § 3, 5-3-16; Ord. No. 278-BBB, § 2, 7-18-17)

SECTION 12.03. ACCESSORY USES PERMITTED.

The following accessory uses may be permitted:

A. Accessory buildings and uses incidental to the principal permitted uses enumerated in sections12.01 and 12.02 are permitted.

B. Amusement devices shall be permitted as provided in section28.01.

C. Accessory banquet or event uses, provided that such uses are conducted in accordance with all applicable provisions of the City Code, and provided further that the City Planner may require the installation of additional landscaping, screening, or other devices or materials designed to contain noise, light, and or other impacts that are anticipated to extend beyond the property line of the site and/or to provide separation from abutting parking and maneuvering areas.

(Ord. No. 278-BBB, § 3, 7-18-17)

SECTION 12.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The minimum size of each lot:

1. Area: 8 acres.

A site may consist of one or more contiguous parcels of C-2 zoned property, the total of which shall equal eight acres or more; provided, however, in order to assure compliance with the intent of the C-2 district, a development on a parcel of less than eight acres contained within a contiguous eight acre site may occur only if reviewed and approved in conjunction with an overall development plan. In making such determination, the Planning Department shall consider placement of buildings, parking areas, landscaping and points of ingress and egress to ensure that the proposed development is harmonious with existing or future adjacent developments on or off said site. If a C-2 parcel of property is split so as to create two contiguous C-2 parcels or if a C-2 parcel of property is developed or proposed to be developed in conjunction with a contiguous C-2 parcel, then the minimum yard requirements established from the common lot line of the C-2 parcels may be modified if determined by the City Planner to promote the intent of the C-2 zoning district.

2. Width: 300 feet.

B. Maximum height of any structure:

1. In stories: 2.

2. In feet: 30.

C. Minimum yard setback per lot:

1. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

Distance from centerline:

a. Regional (204' R.O.W.): 177.

b. Regional (150' R.O.W.): 150.

c. Major: 135.

d. Secondary: 118.

e. Collector: 110.

f. Local: 105.

g. Cul-de-sac: 135.

h. Freeway: 75.*

i. Private roads: 75.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

The required front yard shall be landscaped and maintained thereafter in a neat and orderly condition. Driveway approaches but not driveways shall be permitted in the required front yard. Parking may be permitted to occupy a portion of the required front yard setback, provided it does not exceed a distance of 40 feet measured from the required front building setback as specified in (C)(1) above. Where the majority of the lots are located in a commercially platted subdivision, the lots abut private roads and/or public streets with a right-of-way equal to or less than 86 feet as shown on the Master Road

Plan and adequate access to the building for firefighting and emergency equipment is available, parking shall be permitted to encroach not more than 60 feet into the required front yard setback measured from the required front building setback line.

If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street side setback) is measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street, plus 50 feet for all classes of roads.

2. Side: 25 feet. Corner lots shall observe front yard setbacks for both lot lines abutting the street.

3. Rear: 40 feet.

D. Maximum lot coverage: the maximum lot coverage shall be governed by meeting all requirements for yard space, landscaping, screening, off-street parking and loading.

(Ord. No. 278-E, § 8, 7-3-90; Ord. No. 278-G, § 5, 9-18-90; Ord. No. 278-O, §§ 5, 6, 9-5-95)

SECTION 12.05. STRUCTURE AND SITE REQUIREMENTS.

A. No building shall be closer than 75 feet to the outer perimeter (property line) of such district when said property line abuts any residential district.

B. The proposed development shall be constructed in accordance with an overall plan, shall be designed as a single architectural unit with appropriate landscaping and shall provide initially for the construction of a minimum of 20,000 square feet of floor area.

C. All buildings shall be arranged in a group or groups.

D. The distance at the closest point between any two buildings or groups of units of attached buildings shall not be less than 30 feet.

E. Required side and rear yards may be used for off-street parking, provided adequate access to the rear of the building for firefighting and emergency equipment is available. Design of rear yard parking shall be done so as to encourage designated areas for "employee parking."

F. No part of any loading or unloading area may be located closer than 50 feet to any rear property line adjacent to a residential district.

G. The exterior of all buildings hereafter erected shall be constructed of brick and/or stone building materials or other similar durable, decorative building materials as may be approved by the Planning Department, subject to any additional requirements set forth in section 26.01, paragraph H. The architecture and exterior finish of any building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior.

H. Portions of the site not used for parking, driveways and building shall be provided with a lawn or landscaping (see section24.02, environmental provisions) approved by the Planning Department and so maintained in attractive condition.

I. Off-street loading spaces shall be provided in the ratio of at least one space per each establishment. In the event that several establishments are under common

ownership or control, one space may be provided for each 6,000 square feet of building floor area.

J. Roof-mounted appliances and fixtures shall be effectively screened on all sides by the roof line so as not to be visible from off the site (section 24.04).

K. Once a building line has been established by the construction of a principal building upon an approved site, no other principal building or use shall be located between the established building line and the front lot line (or side lot line abutting a side street) without first obtaining approval of the Planning Commission. The Planning Commission shall review the building and/or use proposed to be located in front of the established building to determine whether the building or use is of such location, size and character to be in harmony with the appropriate and orderly development of the balance of the site, is not detrimental to the development of adjacent uses, does not create any vehicular or pedestrian hazards and is aesthetically compatible with the buildings and uses located upon the site. Landscaping plans, site plans (including signs and the location of dumpsters) and elevations of all sides of any building to be constructed shall be submitted to enable the Planning Commission to determine whether the proposed additional building and/or use conforms with the requirements of this section. All dumpsters shall be screened from visibility from any area visible to the public by use of a wall constructed of the same material as the building walls to ensure aesthetic compatibility. In reviewing this request, the Planning Commission shall apply the standards contained herein and in section 25.02 and may impose reasonable conditions as authorized by section 25.03(D) to ensure that the standards are satisfied.

L. Loading shall be provided only in rear yards. Side yard loading may be permitted by the Planning Department when such space and loading facilities do not interfere with parking and circulation, either vehicular or pedestrian.

(Ord. No. 278-A, § 25, 4-17-90; Ord. No. 278-OO, § 5, 8-5-09)

ARTICLE 12A. LAKESIDE OVERLAY DISTRICT

SECTION 12.01A INTENT

The Lakeside Overlay District is intended;

A. To provide, through a comprehensive, collaborative planning, zoning and project review process a development within the Lakeside Overlay District that is transformative, flexible and mixed-use, where a multitude of dynamic uses are integrated into a well-planned cohesive development that best positions Lakeside Mall and the adjoining area for continued, long term economic vitality and sustainability. Encouraged uses in the Lakeside Overlay District include but are not limited to, retail, restaurant, food and beverage, entertainment, hotel, medical and healthcare facilities, educational and vocational training facilities and campuses, office buildings, residential buildings, and civic or public uses.

B. To provide an environment that allows for a higher intensity/density of overall site usage, fostering a critical mass of people, buildings, uses, activities, and an overall more efficient, attractive use of land while still minimizing impacts to abutting uses through careful attention to building design, use, orientation and materials paired with appropriate, abundant landscaping.

C. To provide safe and efficient integrated access and on-site circulation for automobiles and pedestrians through a cohesive network of streets, sidewalks, paths, and public areas.

D. To allow a flexibility in the mixture and types of uses, building designs and overall layout, etc. that can be responsive to changes in market demands while still promoting quality through a variety of compatible uses, services and building types throughout the Lakeside Overlay District which can be accomplished through a mutually agreed upon Development Agreement between city and developer.

E. To provide active and passive recreational spaces, civic spaces, public art opportunities, and natural landscapes in a meaningful manner that take a variety of forms and are dispersed throughout the Lakeside Overlay District area to service residents, business owners, workers and attract visitors to the overall Lakeside Overlay District.

F. To promote a development that meets the goals of the City's 2030 Visioning Plan, in that it provides successful, vibrant and attractive commercial centers with unique offerings, well maintained and desirable neighborhoods, plentiful leisure and recreational opportunities, abundant pedestrian connections, aesthetically pleasing roads and greenspaces and is a destination for emerging business and entrepreneurs.

(Ord. No. 278-CCC, § 1, 4-2-19)

SECTION 12.02A APPLICABILITY

The Lakeside Overlay District shall apply to those properties designated within the City of Sterling Heights Master Land Use Plan as Lakeside Village District that are located within Lakeside Circle.

(Ord. No. 278-CCC, § 1, 4-2-19)

SECTION 12.03A PROCESS

At the time of request for permitting of any new development that significantly alters or expands the footprint of Lakeside Mall or its anchor buildings or creates new buildings or structures, an overall master development plan shall be submitted pursuant to the City's Planned Unit Development Ordinance, section 22.03.

(Ord. No. 278-CCC, § 1, 4-2-19)

SECTION 12.04A EXISTING USES/DEVELOPMENT

Existing buildings/structures within the Lakeside Overlay District area shall not be considered as non-conforming provided they were approved and legal at the time of passage of this Section and have not been modified unless in compliance with the this Section.

Until such time as a master development plan is approved pursuant to section12.03(A), existing and proposed uses within the existing Lakeside Mall, its anchors and outbuildings shall be consistent with the applicable permissible and special approval land uses within the C-2 Planned Comparison Business District.

(Ord. No. 278-CCC, § 1, 4-2-19)

ARTICLE 13. C-3 GENERAL BUSINESS DISTRICT

SECTION 13.00. INTENT.

The C-3 General Business District is designed to provide for a wide diversity of business activities which are predominantly but not necessarily totally retail in character. In addition to retail uses, a number of other activities, usually requiring considerable land area and access to major thoroughfares, are permitted. Uses in this district normally must have good automobile accessibility, but should not cause congestion on adjacent thoroughfares.

SECTION 13.01. PERMITTED USES.

The following uses shall be permitted, provided that all business, servicing or processing (except for off-street parking or loading) shall be conducted within a completely enclosed building, except as otherwise provided herein; that all businesses shall be of a retail and service nature dealing directly with consumers; and that all goods produced on the premises shall be sold as retail on the same premises:

A. Any one or more of the permitted uses in section12.01 of the C-2 district, except as otherwise provided herein;

B. Veterinary offices and clinics provided the conditions enumerated in the C-1 district, section11.02.A. are satisfied. Planning Commission permission is not required;

C. Building materials, hardware and garden supplies. Outdoor storage is prohibited;

D. New and used passenger vehicle dealers (but excluding dealers of farm machinery and equipment, construction machinery and equipment and tractors, trailers and similar industrial and commercial vehicles and equipment) on parcels containing a minimum of five acres;

E. Eating and drinking establishments, (including outdoor eating areas and catering if accessory to a principally permitted use), banquet facilities and fast-food restaurants. Fast-food restaurants shall be subject to the requirements of section 12.02(D)(1), (3),(4), (5), (7), (8) and (9);

F. Hotels and motels;

G. Mortuaries, as permitted and regulated in the O-2 District (section9.02(G));

H. Rental of tools and household goods;

I. Large appliance repair;

J. Automotive supply;

K. Automotive rental;

L. Essential services needed to serve the immediate vicinity, provided that appropriate screening, as determined by the Planning Department, shall be required when abutting single family dwellings;

M. Other similar uses as determined by the Zoning Official.

(Ord. No. 278-E, § 9, 7-30-90; Ord. No. 278-O, § 7, 9-5-95; Ord. No. 278-Y, §§ 16-18, 5-16-00; Ord. No. 278-AA, §§ 2, 3, § 3-20-01)

SECTION 13.02. SPECIAL APPROVAL LAND USE.

The following uses and others similar to those cited in this article may be permitted by the Planning Commission subject to the general standards of section25.02 and the specific standards imposed for each use:

A. New passenger vehicle dealers (on parcels containing less than five acres) and outdoor sales lots for the sale of used automobiles, subject to the following:

1. The lot or area shall be provided and maintained with a permanent durable and dustless surface constructed of either asphalt or concrete and shall be so graded and drained as to dispose within the site of all surface water accumulated within the area;

2. The location of the site shall be upon a street with a right-of-way of at least 120 feet (existing or proposed) and shall contain no fewer than 40,000 square feet;

3. Such use shall be located no closer than 500 feet from any single family zoning district;

4. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets and shall be determined by the Engineering Department of the City of Sterling Heights;

5. No vehicle repair, bumping, painting or refinishing shall be done on the lot site. Cleaning and refurbishing of vehicles or units shall be permitted if done completely within an enclosed building;

6. If such a use abuts a street of less than 120 feet of right-of-way located abutting an R district, a berm and landscaping in the front yard on such street shall be provided to screen all outdoor facilities, including storage and display areas from adjacent residential property. In addition, all other areas of the site shall be landscaped in accordance with the landscaping requirements contained in section 24.02 of this ordinance;

7. Devices for the transmission or broadcasting of voices and or music shall be prohibited;

8. Display areas, storage areas and all other vehicle parking contained on the site shall comply with the parking design and layout requirements of section23.03 of this ordinance;

B. Businesses of a drive-in nature but not including outdoor theaters, subject to the following:

1. All buildings shall observe the front or street-side setbacks as specified in section13.04, area, height and bulk requirements, plus 25 feet;

2. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets and shall be determined by the Engineering Department of the City of Sterling Heights;

3. The entire site other than that area occupied by buildings and/or structures shall be landscaped or provided with a permanent, durable and dustless surface constructed of either asphalt or concrete. The site shall be landscaped and maintained in accordance with the standards and specifications of article 24. In addition, the site shall be graded and drained, hardsurfaced and maintained in accordance with the standards and specifications of the Engineering Department of the City of Sterling Heights;

4. Devices for the transmission or broadcasting of voices shall be so directed or muffled as to prevent said sounds or music from being audible beyond the boundaries of the site;

5. All driveway approaches, road drainage, curbs and curb cuts shall meet the requirements of the City of Sterling Heights or of other agencies having jurisdiction thereof;

6. All adjacent side yards shall be zoned for business use;

C. The following open air business use, subject to the conditions enumerated:

1. Retail sales of plant materials not grown on the site and sale of lawn furniture, playground equipment, boats and home, garden or building supplies, when located in excess of 300 feet of the intersection of major thoroughfares;

D. Bowling alleys, tennis houses, racquetball facilities and similar forms of indoor commercial recreation, provided that no such use within the building shall be located within 100 feet of any residential district;

E. Gasoline service stations other than gasoline self-service stations subject to the following:

1. The site for the gasoline service station shall have 160 feet of frontage on the principal street serving the station;

2. The site shall contain an area of not less than 24,000 square feet;

3. All buildings shall observe front or street-side setbacks as specified in section13.04, area, height and bulk requirements, plus 15 feet. For purposes of this section, canopies, gasoline pumps and pump islands shall not be considered buildings but shall observe the setbacks of this article;

4. Curbs, curb cuts, driveway widths (and) acceleration or deceleration lanes shall meet the requirements of the City of Sterling Heights or other agencies leaving jurisdiction thereof;

5. Storage of vehicles awaiting repair shall be limited to no more than five such vehicles for each repair bay. In no case shall vehicles be stored for a period in excess of 15 days;

6. In order to facilitate safe pedestrian circulation and safety, no parking or standing of customer vehicles shall be permitted in the area immediately adjacent to any customer entrance or payment window;

F. Gasoline self-service stations, subject to the following:

1. The site for the gasoline self-service station shall have 150 feet of frontage on the principal street serving the station;

2. The site shall contain an area of not less than 21,000 square feet;

3. All buildings shall observe front or street-side setbacks as specified in section13.04, height and public requirements, plus 15 feet. For purposes of this section, canopies, gasoline pumps and pump islands shall not be considered buildings, but shall observe the setbacks of this article;

4. Curbs, curb cuts, driveway widths and acceleration or deceleration lanes shall meet the requirements of the City of Sterling Heights or other agencies having

jurisdiction thereof;

5. In order to facilitate safe pedestrian circulation and safety, no parking or standing of customer vehicles shall be permitted in the area immediately adjacent to any customer entrance or payment window;

G. Amusement device centers located in an enclosed mall area of a shopping center containing a gross floor area of not less than 400,000 square feet, subject to the following:

1. All such uses shall have public access only from the interior mall pedestrian areas;

2. Adequate on-site security for the shopping center mall shall be provided;

3. Noise associated with the use shall be confined within the tenant space so as to not constitute a nuisance to adjoining or nearby tenants;

4. Such uses shall be conducted in accordance with all applicable provisions of the City Code;

H. Amusement device centers located in an unenclosed shopping center or planned center development with a gross floor area in excess of 20,000 square feet, subject to the following conditions:

1. The days and hours of operation of an amusement device center may be limited by the Planning Commission based on the size and nature of the operation, proximity to surrounding residential properties, and the standards of Section 25.02;

2. All patron entrances shall be located at least 500 feet from the nearest applicable property line of any school, playground, or public park;

3. All patron entrances shall be located at least 200 feet from any residential district measured by the shortest walking distance between the patron door and the zoning district line;

4. No amusement device center shall be located within 1,000 feet of any existing amusement device center measured from the nearest applicable walls or leasable space of each center;

5. There shall be adequate provision for the parking of bicycles, in accordance with the bicycle rack requirements set forth elsewhere in this Zoning Ordinance, for the center or development in which the amusement device center is proposed to be located;

6. The building or part of the building devoted to the use shall be designed and constructed such that no audible sound may be heard by adjoining tenants or at the lot line;

7. Such use shall be conducted in accordance with all applicable provisions of the City Code;

I. Automobile service centers, subject to the following conditions:

1. All repair and service activities shall be confined to the interior of the building;

2. No outdoor storage is permitted;

3. An adequate means of waste disposal shall be provided;

4. Adequate measures shall be taken to ensure that any noise, dust, smoke, odor, fumes or other negative environmental impacts are confined to the site;

J. Self storage facilities used to provide temporary storage needs for businesses, apartment dwellers and other individuals on a self-serve basis, subject to the following:

1. The minimum size of the site devoted entirely to such use shall be not less than seven acres;

2. Such use shall (except for frontage on a major thoroughfare of 120 feet in width or greater) abut C-3 zoned property on at least two sides or residentially zoned property on one side with all remaining sides C-3;

3. All ingress and egress from the site shall be directly onto a major thoroughfare having a right-of-way equal to, or greater than, 120 feet as indicated on the city's Master Road Plan;

4. No storage of combustible or flammable liquids, combustible fibers or explosive materials as defined in the Fire Prevention Code or toxic materials shall be permitted within the self-storage buildings or upon the premises;

5. No storage outside of the self-storage buildings shall be permitted. Storage of rental trucks, specifically intended to serve individuals and businesses, shall be permitted up to a maximum of five. Parking of such vehicles shall be in an area designated on the site which is screened and not visible from residential or office zoned properties or a public thoroughfare;

6. Except as provided herein, the use of the premises shall be limited to storage only and shall not be used for operating any other business, for maintaining or repairing of any vehicles, recreational equipment or other items or for any recreational activity, hobby or purpose other than the storage of personal items and business items as hereinbefore set forth;

7. Screening shall be provided, as specified in section 24.01;

8. A security manager shall be permitted to reside on the premises to the extent required by such use;

9. The site shall be graded, drained, hard-surfaced and maintained in accordance with the standards and specifications of the Engineering Department of the City of Sterling Heights;

10. Limited retail sales to tenants of products and supplies incidental to the principal use, such as parking materials, packing labels, tape, rope, protective covers and locks and chains shall be permitted on the site devoted to this use;

11. Access to the self-service storage facility premises shall be restricted to tenants only, by means of entrance-controlled devices;

12. No building or structure shall be located closer than 150 feet from any abutting residential property;

13. The use of barbed wire fence shall not be permitted;

K. Miniature golf and golf driving ranges, subject to the following:

1. Such uses shall only abut nonresidentially zoned properties;

2. Devices for the transmission of broadcasting of voices or music shall be so directed or muffled in order to prevent said sound or music from being audible beyond the boundaries of the site;

3. All lighting shall be directed away from public streets and abutting uses;

L. Automobile wash establishments, subject to the following:

1. The site and use shall be located on a major thoroughfare having a right-of-way equal to or greater than 120 feet as shown on the Master Road Plan;

2. Adequate measures shall be taken to ensure that any noise, dust, smoke, odor, fumes, lighting or other negative environmental impacts are confined to the site;

3. Such use shall (except for frontage on a major thoroughfare of 120 feet in width or greater) abut non-residentially zoned property on at least two sides;

M. Public utilities, as regulated by section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18;

N. Gasoline service stations (including self-service stations) and automobile wash establishments, subject to the following:

1. The site for the gasoline service station shall have 190 feet of frontage on the principal street serving the station and car wash;

2. The site shall contain an area of not less than 30,000 square feet;

3. In order to facilitate safe pedestrian circulation and safety, there shall be a minimum distance of 24 feet between the principal building and any pump island. In addition, no parking or standing of customer vehicles shall be permitted immediately adjacent to any customer entrance or payment window;

4. All buildings shall observe front or street-side setbacks as specified in section13.04, area, height and bulk requirements, plus 15 feet. For purposes of this section, canopies, gasoline pumps and pump islands shall not be considered buildings, but shall observe the setbacks of this article;

5. Curbs, curb cuts, driveway widths and acceleration or deceleration lanes shall meet the requirements of the City of Sterling Heights or other agencies having jurisdiction thereof;

6. Storage of vehicles awaiting repair shall be limited to no more than five such vehicles for each repair bay. In no case shall vehicles be stored for a period in excess of 15 days;

7. All car washing activities shall be carried on within a building. Vacuuming activities shall be permitted in the side or rear yard only. Self-service vacuum operations shall be located in an area to encourage use after the vehicle is washed to provide more drip time before the vehicle exits the site;

8. All vacuuming areas, stacking lanes and exit aprons shall be separate from the station itself. No less than four stacking spaces shall be provided for each car wash facility;

9. A minimum distance of 100 feet shall be maintained between the exit door of the wash structure to the nearest exit drive approach of the principal street serving the car wash to permit adequate time for excess water to drip off of the vehicle. Additional measures, including the installation of a sloping heated concrete exit ramp of at least 20 feet in length, a trench drain system and an automated mechanical dryer at the exit of the wash cycle shall be installed to limit icing conditions and water run off;

10. All automatic car wash facilities must be equipped with at least one video monitor system, with cameras located in such a manner as to provide a complete and unobstructed view of the vehicle at all times within the wash facility. The monitors must be located in an area easily viewed by the facility employees;

O. Dance halls, subject to the following:

1. The site and use shall be located on a major thoroughfare having a right-of-way equal to or greater than 120 feet as shown on the Master Road Plan;

2. The use shall be setback at least 100 feet from any property line abutting a residentially zoned district;

3. Adequate measures shall be taken to ensure that any noise, lighting and all other negative impacts are confined to the site.

P. Banquet and event facilities, subject to the following:

1. The use shall be located in a freestanding building.

2. The site shall be located upon a major thoroughfare having an existing or proposed right-of-way of at least 86 feet, as indicated on the Master Road Plan.

3. Any open air area where patrons of the banquet facility may congregate shall not face any property used for or zoned for residential use.

4. The banquet and event facility shall be operated in compliance with all applicable provisions of the City Code.

5. The City Planner may require the installation of additional landscaping, screening, or other devices or materials designed to contain noise, light, and or other impacts that are anticipated to extend beyond the property line of the site and/or to provide separation from abutting parking and maneuvering areas.

(Ord. No. 278-A, § 26, 4-17-90; Ord. No. 278-G, §§ 6-10, 9-18-90; Ord. No. 278-O, §§ 8, 9, 9-5-95; Ord. No. 278-Y, §§ 19, 20, 5-16-00; Ord. No. 278-AA, § 4, 3-20-01; Ord. No. 278-AAA, § 4, 5-3-17; Ord. No. 278-BBB, § 4, 7-18-17)

SECTION 13.03. ACCESSORY USES PERMITTED.

The following accessory uses may be permitted:

A. Accessory buildings and uses incidental to the principal permitted uses enumerated in sections 13.01 and 13.02 are permitted.

B. Amusement devices shall be permitted as provided in section 28.01.

C. Accessory banquet or event uses, provided that such uses are conducted in accordance with all applicable provisions of the City Code, and provided further that the City Planner may require the installation of additional landscaping, screening, or other devices or materials designed to contain noise, light, and or other impacts that are anticipated to extend beyond the property line of the site and/or to provide separation from abutting parking and maneuvering areas.

(Ord. No. 278-BBB, § 5, 7-18-17)

SECTION 13.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The minimum size of each lot per building:

1. Area: 0,000 square feet.

2. Width: 100 feet.

B. Maximum height of any structure:

1. In stories: 2.

2. In feet: 30.

(Except as otherwise permitted in section 13.04(D).

C. Minimum yard setback per lot:

1. Front yard street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

Distance from the centerline:

a. Regional (204' R.O.W.): 137 feet.

b. Regional (150' R.O.W.): 110 feet.

c. Major: 95 feet.

d. Secondary: 78 feet.

e. Collector: 70 feet.

f. Local: 65 feet.

g. Cul-de-sac: 95-foot radius.

h. Freeway: 35 feet.*

i. Private roads: 35 feet.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

Parking shall not be permitted in the required front yard, except where the majority of lots are located in commercial platted subdivisions where the lot abuts private roads and/or public roads with a right-of-way equal to or less than 86 feet as shown on the Master Road Plan, and provided further that adequate access to the building for firefighting and emergency equipment is available. In those instances, parking shall be permitted to encroach not more than 20 feet into the required front yard setback measured from the required front building setback line. If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street, plus 35 feet for all classes of roads.

2. Side: 5 feet. If walls or structures facing such interior side lot lines contain windows or other openings, side yards or not less than 15 feet shall be provided. In addition, when a side yard lot line of the property abuts property zoned for residential purposes, the building shall be set back no less than 50 feet from the side lot line abutting the residential district.

3. Rear: 35 feet; however, not within 75 feet of any residential district.

D. The following conditions shall be applied to a building site with frontage on a major thoroughfare (120 feet of right-of-way) where said building exceeds 30 feet in height or two stories:

1. Minimum yard setback in feet:

a. Front: the building shall observe the front yard setback specified in C-1, plus 15 feet, plus the height of each level of the building which exceeds 30 feet measured from the nearest point of each level to the property line. The first 50 feet shall be landscaped and maintained in a neat and orderly condition. No parking shall be permitted in the 50 foot required yard;

b. Side: 20 feet, plus the height of each level to the property which exceeds 30 feet measured from the nearest point of each level to the property line. Side abutting a residential district: 100 feet, plus the height of each level of the building which exceeds 30 feet measured from the nearest point of each level to the property line;

c. Rear: 50 feet, plus the height of each level of the building which exceeds 30 feet measured from the nearest point of each level to the property line. Rear abutting a residential district: 100 feet, plus the height of each level of the building which exceeds 30 feet measured from the nearest point of each level to the property line.

2. Maximum percentage of site coverage shall be 35%, including accessory building.

3. Landscaped areas shall not be less than 15% of a total building site.

E. Maximum lot coverage: the maximum lot coverage shall be governed by meeting all requirements for yard spaces, landscaping, off-street parking and loading.

(Ord. No. 278-A, § 27, 4-17-90; Ord. No. 278-O, § 10, 9-5-95; Ord. No. 278-CC, § 5, 6-3-03; Ord. No. 278-JJ, §§ 4, 5, 3-4-08)

SECTION 13.05. STRUCTURE AND SITE REQUIREMENTS.

A. The exterior of all buildings hereafter erected shall be constructed of brick and/or stone building materials or other similar durable, decorative building materials as may be approved by the Planning Department, subject to any additional requirements set forth in section 26.01, paragraph H. The architecture and exterior finish of any building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior.

B. All portions of the site not used for parking, driveways and buildings shall be provided with a lawn or landscaping (see section 24.02, environmental provisions) approved by the Planning Department and so maintained in an attractive condition.

C. Roof-mounted appliances and fixtures shall be effectively screened on all sides by the roof line so as not to be visible from off the site (section 24.04).

D. Once a building line has been established by the construction of a principal building upon an approved site, no other principal building or use shall be located between the established building line and the front lot line (or side lot line abutting a side street) without first obtaining approval of the Planning Commission. The Planning Commission shall review the building and/or use proposed to be located in front of the established building to determine whether the building or use is of such location, size and character to be in harmony with the appropriate and orderly development of the balance of the site, is not detrimental to the development of adjacent uses, does not create any vehicular or pedestrian hazards and is aesthetically compatible with the buildings and uses located upon the site. Landscaping plans, site plans (including signs and the location of dumpsters) and elevations of all sides of any building to be constructed shall be submitted to enable the Planning Commission to determine whether the proposed additional building and/or use conforms with the requirements of this section. All dumpsters shall be screened from visibility from any area visible to the public by use of a wall constructed of the same material as the building walls to ensure aesthetic compatibility. In reviewing this request, the Planning Commission shall apply the standards contained herein and in section 25.02 and may impose reasonable conditions as authorized by section 25.03(D) to ensure that the standards are satisfied.

E. Loading shall be provided only in rear yards. Side yard loading may be permitted by the Planning Department when such space and loading facilities do not interfere with parking and circulation, either vehicular or pedestrian.

(Ord. No. 278-A, § 28, 4-17-90; Ord. No. 278-OO, § 6, 8-5-09)

ARTICLE 14. C-4 MULTI USE DISTRICT

SECTION 14.00. INTENT.

The C-4 Multi Use District is established to encourage a diversity of compatible land uses, which may include a mixture of residential, office, retail, recreational, office research and other miscellaneous uses within an aesthetically attractive environment conducive to the development and protection against nuisance type uses and combinations.

Development shall be guided by an approved project development plan that conforms with public places and policies and is implemented through the use of the special approval land use and site plan review processes. The project development is intended to accomplish the following:

A. Help create major new multi use developments in planned locations with appropriate densities, heights and mixtures of uses;

B. Encourage areas devoted primarily to pedestrians by separating pedestrian from vehicular circulation patterns and by requiring off-street parking spaces in accordance with this objective and with the objectives of an approved project development plan;

C. Encourage originality, flexibility and innovation in site planning and development, including architecture, landscaping and graphic design, in a manner compatible and harmonious with adjoining development and within the district as a whole;

D. Make recreation areas more accessible to the district's residents, visitors and nearby residential and commercial areas;

E. Create environments conducive to a higher quality of life and surroundings for residents, businesses, employees and institutions, as specified in the City of Sterling Heights plans and policies. It is further the intent that multi use be applied only to those areas where a mixture of uses and building intensities is designed and arranged to carry out elements of the city's Master Land Use Plan, in pursuit of the goals for land use, population, transportation, housing, public facilities and environmental quality. In these designated areas, the mixture of uses and building intensities shall be intended to promote and protect the public health, safety, convenience, order, prosperity and general welfare of the city.

The multi use area and any other affected area shall be provided with adequate public facilities, services and transportation networks to support the proposed uses; or such facilities, services and transportation networks should be planned to be provided concurrently with the development of the project.

Uses which are not compatible with the overall intent of this district and which may include activities that would serve to detract from the design and function of this

district are prohibited.

(Ord. No. 278-EE, § 7, 10-5-04)

SECTION 14.01. PERMITTED USES.

The following uses shall be permitted, provided that all business, servicing or processing (except for off street parking or loading) shall be conducted entirely within a completely enclosed building:

A. Retail sales or services as specified in section 12.01;

B. Office;

C. Hotel or inn;

D. Private club, restaurant or fast-food restaurant;

E. Theaters, auditoriums, concert halls and similar places of assembly, when conducted within a completely enclosed building;

F. Business and technical schools;

G. Health and athletic clubs;

H. Artist's studios and galleries;

I. Community center;

J. Indoor recreation;

K. Library or museum;

L. Multiple family residential;

M. Common open space, including pedestrian plazas and courts;

N. Similar uses as determined by the Zoning Official;

O. Automobile service centers, when designed and developed as part of a larger planned shopping center, subject to the following conditions:

1. No freestanding buildings shall be permitted;
2. All repair activities shall be conducted within the building;
3. Overhead service doors servicing the facility shall be positioned so as to minimize negative impacts on abutting properties;
4. No outdoor storage is permitted;
5. An adequate means of waste disposal shall be provided;
6. Adequate measure shall be taken to ensure that any noise, dust, smoke, odor, fumes or other negative environmental impacts are confined to the site.

Outdoor storage and display of merchandise or equipment is prohibited.

(Ord. No. 278-T, §§ 6, 7, 6-3-97)

SECTION 14.02. SPECIAL APPROVAL LAND USES.

The following buildings, structures and other uses similar to those cited in this article may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards imposed for each use:

A. Office research as regulated in Article 17;

B. Banquet and event facilities, subject to the following:

1. The use shall be located in a freestanding building.
2. The site shall be located upon a major thoroughfare having an existing or proposed right-of-way of at least 86 feet, as indicated on the Master Road Plan.
3. Any open air area where patrons of the banquet facility may congregate shall not face any property used for or zoned for residential use.
4. The banquet and event facility shall be operated in compliance with all applicable provisions of the City Code.

C. Essential services needed to serve the immediate vicinity, provided that appropriate screening, as determined by the Planning Commission, shall be required when abutting single family dwellings;

D. Public utilities, as regulated by section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

(Ord. No. 278-Y, § 21, 5-16-00; Ord. No. 278-BBB, § 6, 7-18-17)

SECTION 14.03. ACCESSORY USES PERMITTED.

Accessory buildings and uses customarily incidental to the principal permitted uses, or the entire project, enumerated in sections 14.01 and 14.02 are permitted. Included are the following:

A. Indoor and outdoor recreational facilities, such as swimming pools, saunas, game and craft rooms, tennis courts and exercise studios, which are provided in association with a permitted use;

B. Amusement devices shall be permitted if accessory to retail business, personal service shops, restaurants or in various permitted indoor commercial recreation facilities as regulated in section 28.01;

C. Daycare facilities;

D. Parking and loading or unloading facilities and areas provided in conjunction with a permitted use;

E. Radio, telephone and television towers, antennas and similar structures.

F. Accessory banquet or event uses, provided that such uses are conducted in accordance with all applicable provisions of the City Code, and provided further that the City Planner may require the installation of additional landscaping, screening, or other devices or materials designed to contain noise, light, and or other impacts that are anticipated to extend beyond the property line of the site and/or to provide separation from abutting parking and maneuvering areas.

(Ord. No. 278-BBB, § 7, 7-18-17)

SECTION 14.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The minimum size of each project development area:

1. Area: 40 acres.

2. Width-to-depth ratio: 1 to 4 maximum.

Nothing contained in this section shall be construed to prevent the owner of land from dividing any project development plan into two or more lots. The project development plan shall include provisions for the development of any adjoining out-parcels as an integral part of the overall development concept. The development of any out-parcels shall conform to the development as reflected in the project development plan.

B. Minimum individual lot or parcel requirements:

1. Building coverage is limited to 30% of the gross lot area.

C. Minimum yard setback per lot:

1. Building setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan as specified in the following schedule, plus the height of the building which exceeds 30 feet:

Distance from the centerline:

a. Regional (204' R.O.W.): 177 feet.

b. Regional (150' R.O.W.): 150 feet.

c. Major: 135 feet.

d. Secondary: 118 feet.

e. Collector: 110 feet.

f. Local: 105 feet.

g. Cul-de-sac: 135 foot radius.

h. Freeway: 75 feet.*

i. Private roads: 75 feet.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

If the existing right-of-way is greater than shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street, plus 75 feet for all classes of roads.

D. Side: 20 feet, plus the height of each level of the building which exceeds 30 feet in height measured from the nearest point of each level to the property line. Side yards abutting any residential district shall provide a setback of 50 feet, plus the height of the building which exceeds 30 feet in height measured from the nearest point of each level to the property line.

E. Rear: 30 feet, plus the height of each level of the building which exceeds 30 feet in height measured from the nearest point of each level to the property line. Rear yards abutting any residential district shall provide a setback of 50 feet, plus the height of the building which exceeds 30 feet in height measured from the nearest point of each level to the property line.

F. Distance between buildings: the minimum distance between any two buildings shall be regulated according to the length and height of such buildings, and in no instance shall this distance be less than 30 feet. The formula regulating the required minimum distance between two buildings is as follows:

S equals LA plus LB plus 2 (HA plus HB), divided by 6

or

$$S=\frac{LA+LB+2(HA+HB)}{6}$$

where:

S equals required minimum horizontal distance between any wall of building "A" and any wall of building "B" or the vertical prolongation of either.

LA equals total length of building "A." The total length of building "A" is the length of that portion or portions of a wall or walls of building "A" from which, when viewed directly from above, lines drawn perpendicular to building "A" will intersect any wall of building "B."

LB equals total length of building "B." The total length of building "B" is the length of that portion or portions of a wall or walls of building "B" from which, when viewed directly from the above, lines drawn perpendicular to building "B" will intersect any wall of building "A."

HA equals height of building "A." The height of building "A" at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building "A." Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

HB equals height of building "B." The height of building "B" at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building "B." Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

(Ord. No. 278-A, § 29, 4-17-90; Ord. No. 278-T, § 8, 6-3-97)

SECTION 14.05. PARKING REQUIREMENTS.

Parking requirements shall be governed by Article 23 of this ordinance, unless as otherwise specified, and shall be permitted to occupy a portion of the required front yard, provided that there shall remain a minimum landscaped setback measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

Distance from centerline:

a. Regional (204' R.O.W.): 137 feet.

b. Regional (150' R.O.W.): 110 feet.

c. Major: 95 feet.

d. Secondary: 78 feet.

e. Collector: 70 feet.

f. Local: 65 feet.

g. Cul-de-sac: 95 foot radius.

h. Freeway: 35 feet.*

i. Private roads: 35 feet.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

In the instance of high-rise office development and selected ancillary commercial enterprises which will serve the daily needs of the office workers, there may be less parking demand than if each use were estimated separately and the parking requirements would be those established for the particular use. These standards are included in section 23.01E. and F.

If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street, plus 35 feet for all classes of roads.

(Ord. No. 278-A, § 30, 4-17-90)

SECTION 14.06. STRUCTURE AND SITE REQUIREMENTS.

A. Access to each outlot must be from an internal street and not from abutting major thoroughfare.

B. The internal circulation system shall include pedestrian walkways which provide continuous circulation from the boundary streets to each lot or parcel within the development, common open space area and all other important interior site destinations.

C. There shall be set aside for common open space not less than one acre of land for every ten acres of land, or fraction thereof, in the project development area. Such computation shall exclude the right-of-way area devoted to the internal street system.

The location of common open space shall be consistent with the declared purpose of the common usable open space and, where possible, the common open space shall be planned as a contiguous area, located on the site in accordance with the approved project development plan for the maximum benefit of the area. Protected environmentally sensitive areas, such as woodlands, wetlands and drainage areas and the island portion of landscaped boulevards, may be included in the calculation of required common open space.

Open spaces for public congregation (plazas) are required and must be equipped or designed to allow pedestrian seating and to be easily observed and accessible from the pedestrian system.

D. As a minimum, there shall be one square foot of open space for every 100 square feet of gross building floor area. Step space shall not be counted as meeting this requirement. Such plaza area must be located behind the required setback and easily accessible to, and visible from, the street, but in no instance more than three feet above or below the level of the adjoining grade.

Within the plaza area, one tree must be planted for each 500 square feet of plaza area, or portion thereof, up to 2,000 square feet of plaza area. One additional tree is required for each additional 1,000 square feet of plaza space. At least 20% of this requirement shall be of the ornamental variety. Urban design features are encouraged as part of pedestrian plazas. The following amenities, such as but not limited to ornamental fountains, stairways, waterfalls, sculptures, arbors, trellises, planted beds, drinking fountains, clock pedestals, public telephones, awnings, unlit canopies and similar structures are permitted.

E. The buildings shall be constructed of aesthetically pleasing brick and/or stone building materials or other similar durable building materials as may be approved by the Planning Department, subject to any additional requirements set forth in section 26.01, paragraph H. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design, relationship to surroundings, sensitive integration of form, textures and colors with the particular landscape and setting.

F. Portions of the site not used for parking, driveway and buildings or plazas shall be provided with landscaping approved by the Planning Department in accordance with section 24.02.

G. The need for, and type of, screening required between development features in the C-4 district and abutting zoning districts shall be determined by the Planning Commission in consideration of the project development plan.

H. In addition to the requirements specified above, the following additional standards shall apply to the C-4 District.

1. *Perimeter street setbacks.* A minimum landscaped buffer shall be provided between any perimeter roads and any building or parking area. Said setback shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan as follows:

Distance from centerline:

a. Regional (204' R.O.W.): 137 feet.

b. Regional (150' R.O.W.): 110 feet.

c. Major: 95 feet.

d. Secondary: 78 feet.

e. Collector: 70 feet.

f. Local: 65 feet.

g. Cul-de-sac: 95 foot radius.

h. Freeway: 35 feet.*

i. Private roads: 35 feet.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

This setback shall be landscaped to include street trees that are the same or similar species as those on the perimeter of other developments within the district.

If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street plus 35 feet for all classes of roads.

2. *Screening of parking, loading and truck maneuvering areas.* A landscaped berm (maximum slope of 1:3) poured decorative concrete wall or massed plantings of sufficient height shall be provided to screen the view of loading and truck maneuvering activity and buffer parking areas from adjoining public access roads or properties.

I. All required landscape areas shall be continuously maintained in a livable condition. All landscaping shall have an irrigation (water sprinkler) system installed to assist in maintaining plant materials in a healthy condition. The Planning Department may waive the irrigation requirements for those portions of the site characterized by natural vegetation.

J. All site lighting shall conform to the requirements of section24.06.

K. Signs shall be governed by section 28.13 of this ordinance, unless as otherwise approved as part of the project development plan.

L. No other storage of materials or equipment shall be allowed, except for collection facilities for solid waste and rubbish. All such trash receptacles shall be located and screened in compliance with the requirements of section 24.05.

(Ord. No. 278-A, § 31, 4-17-90: Ord. No. 278-T, § 9, 6-3-97; Ord. No. 278-OO, § 7, 8-5-09)

SECTION 14.07. PROCESSING REQUIREMENTS.

The process for obtaining review and approval of a multi use development project is as follows.

A. *Review conference.* Prior to committing to any project development plan or site design, the developer and its professional consultants shall meet with the

Planning Department and other appropriate city departments to review the proposal. The applicant is expected to outline to the city the project in terms of land use, anticipated building arrangement and site design and proposed construction timetable. The Planning Department will review the information and issue a preliminary review and report to the Planning Commission for its consideration. The preliminary review and report shall consider the following:

1. Whether the proposal has the following characteristics and furthers the objectives of the multi use district:

a. Has three or more significant revenue-producing uses (such as retail, office, residential, hotel/motel, entertainment/cultural/recreation) that are well-planned and mutually supporting;

b. Contains significant physical and functional integration of project components (and thus a relatively intense use of land), including uninterrupted pedestrian connections;

c. Will be developed to produce a coherent project development plan which identifies the type and scale of uses, permitted densities and related items;

d. Possesses a catalytic use or arrangement that will drive the synergistic relationship of the multi use mix;

2. The relationship of the proposal to the purposes listed in the intent of the district and other planning considerations for the area and the City of Sterling Heights as a whole, including specific plans, programs and policies of the city's departments and agencies;

3. Adequacy of public and private services/infrastructure;

4. The impact of the proposal on neighboring properties;

5. The proposal's relationship of different uses on the site.

B. *Project development plan review.* A project development plan for the total acreage embraced by the proposal shall be submitted to the City Planning Commission for its review and approval before any site plan may be submitted within the multi use district or any development may be undertaken. This review shall occur in the following sequence:

1. An application shall be submitted by the applicant and be accompanied by statements, plans, evidence, material and documentation necessary to enable the Planning Commission to make the findings required by this article. The required documentation shall consist of any or all of the following:

a. A project development plan drawn to appropriate scale showing the arrangement of the proposed development on the site, including building locations, driveways, walkways, parking areas, natural areas (streams, drains, woodlands) and open areas, among other features;

b. A narrative which provides the evidence that the project satisfies the requirements of this ordinance and describes existing site characteristics, the proposed character of the development and a discussion of the means of serving the development;

c. Statement of covenants, grants of easements and other restrictions to be imposed upon the uses of land and structures;

d. A legal description of the property;

e. A schedule indicating the proposed timing of the development, including phasing and parcelization, if appropriate;

f. Any other data, plans or drawings considered by the Planning Commission to be necessary for the consideration of the proposal.

All materials required to be submitted as part of the application shall be submitted in the required number of copies for distribution to the Planning Commission and appropriate reviewing agencies.

2. The Planning Commission shall review the application materials and reviewing agencies' comments. In the process of review, the Planning Commission shall consider:

a. Specific development requirements set forth in this ordinance;

b. The location and design of service roads or drives and driveways, providing vehicular ingress to and egress from each building site, in relation to streets giving access to the site and in relation to pedestrian traffic;

c. The traffic circulation features within the site and location of automobile parking areas and may make such requirements with respect to any matters as will assure:

(1) Safety and convenience of both vehicular and pedestrian traffic, both within the site and in relation to access;

(2) Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and adjacent parcels and districts;

(3) Accessibility afforded to emergency vehicles;

d. The arrangement of use areas on the site in relation to functional, efficient and compatible arrangements within the site and also to adjacent uses;

(1) The treatment of public space;

(2) The availability of sewer and water capacity and the capacity of other utilities;

(3) The impact on air quality;

(4) The potential noise from commercial and traffic sources;

e. The proposal's conformity with and compatibility to the character of the surrounding property and that it will not substantially interfere with the safety, light, air and convenience of the surrounding private and public property;

f. Any other matters that are within the agencies' or the commission's jurisdiction.

C. *Project development action.*

1. Upon review of the project development plan, the Planning Commission shall approve, approve with conditions or deny. If the facts regarding the proposal being reviewed do not establish, by a preponderance of the evidence, that the standards and requirements set forth in this ordinance will be met by the proposal, the Planning Commission shall deny incorporating into a statement containing the conclusions relative to the request under consideration the specific reasons for the decision.

2. Upon approval of the project development plan, the development shall be pursued to be built substantially in accordance with the approved project development plan as reflected in subsequent individual site plans submitted for each parcel or lot of the project. Subsequent amendments to an approved project development plan shall not require Planning Commission approval, unless said amendments significantly impact factors considered by the Planning Commission in approving said plan. Such factors may include changes to the circulation system, densities and building arrangements. If the Planning Department deems that there is a substantial change or deviation from that shown on the approved project development plan, the owner/applicant or his or her successors shall be required to return to the city for approval of an amended plan, following the procedure outlined for original approval in this section.

3. Development of the site shall begin within five years following the approval of the project development plan and pursued diligently to completion. If development of the site has lapsed for a period exceeding two years, the owner/applicant, or his or her successors, shall be required to return to the city for reconsideration of the plan following the procedure outlined for original approval in this section.

ARTICLE 14A. VAN DYKE MIXED USE DISTRICT (VDMUD)

SECTION 14A.00. INTENT.

The Van Dyke Mixed Use District ("VDMUD") is intended to:

A. Provide a comprehensive, collaborative planning, zoning and project review process through this overlay district in order to create an environment that is supportive of the development and redevelopment of mixed use developments along Van Dyke Avenue within the VDMUD, that extends generally from 14 Mile Road to 18 Mile Road.

B. Allow for uses, development and redevelopment of property in a manner which is transformative, flexible and allows for the enhancement and redevelopment of existing sites with dynamic uses that are integrated into a well-planned corridor that best positions the VDMUD, the adjoining area, and the city as a whole for continued, long term economic vitality and sustainability.

C. Provide an environment that allows for a higher intensity/density of overall site usage, fostering a critical mass of people, buildings, uses, activities, and an overall more efficient, attractive use of land while still minimizing impacts to abutting uses through careful attention to building design, use, orientation and materials paired with appropriate, abundant landscaping.

D. Provide safe and efficient integrated access and on-site circulation for automobiles and pedestrians through a cohesive cross connection of parking areas, sidewalks, paths, and public areas.

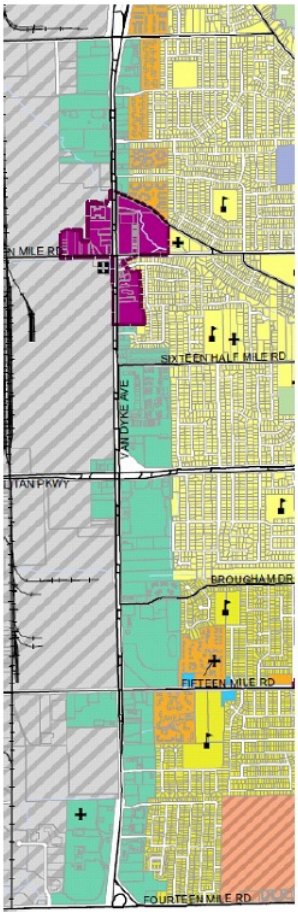
E. Allow a flexibility in the mixture and types of uses, building designs and overall layout, etc. that can be responsive to changes in market demands while still promoting quality through a variety of compatible uses, services and building types throughout the VDMUD.

F. Promote development that meets the goals of the City's 2030 Visioning Plan which include the development of successful, vibrant and attractive commercial centers with unique offerings, well-maintained and desirable neighborhoods, plentiful leisure and recreational opportunities, abundant pedestrian connections, aesthetically pleasing roads and greenspaces, and opportunities for emerging businesses and entrepreneurs.

(Ord. No. 278-DDD, § 1, 11-6-19)

SECTION 14A.01. APPLICABILITY.

The VDMUD shall be an overlay district that is applied to those properties designated within the City of Sterling Heights Master Land Use Plan as Van Dyke Mixed Use Designation that are located along both sides of Van Dyke, generally between 14 Mile Road and 18 Mile Road. The VDMUD shall not apply to any properties planned for Industrial or Traditional Mixed Use Node purposes within the defined corridor.



(Ord. No. 278-DDD, § 1, 11-6-19)

SECTION 14A.02. PROCESS.

The city's standard review processes for site plan, special approval land use, and/or planned unit development approval shall apply to any proposed development or redevelopme nt of sites within the VDMUD, except as modified in this article.

(Ord. No. 278-DDD, § 1, 11-6-19)

SECTION 14A.03. EXISTING USES/DEV ELOPMENT.

Existing commercial buildings/structures within the VDMUD shall not be considered as non- conforming, provided they were lawful at the time of their development and adoption of this article and have not been modified except in conformance with the this article.

(Ord. No. 278-DDD, § 1, 11-6-19)

SECTION 14A.04. PERMISSIBLE USES.

The following uses shall be permitted in accordance with the requirements set forth below in the VDMUD:

A. All permissible uses allowed under the underlying zoning district regulations.

B. Residential dwelling units located above the first floor of a building, provided at least one dedicated parking space is available for each residential dwelling unit.

(Ord. No. 278-DDD, § 1, 11-6-19)

SECTION 14A.05. SPECIAL APPROVAL LAND USES.

The following buildings, structures and other uses similar to those cited in this article may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards imposed for each use:

A. Uses permitted as special approval land uses in the underlying zoning district regulations.

B. Residential dwelling units on the first floor of a building. Residential uses on the first floor of a building shall generally be utilized as a transition between the existing/planned nonresidential development along Van Dyke Avenue and the existing residential uses that may abut the subject site and which are located outside of the VDMUD.

(Ord. No. 278-DDD, § 1, 11-6-19)

SECTION 14A.06. BUILDING/SITE DESIGN.

A. Buildings shall be designed, where feasible, to be located along the front yard setback of Van Dyke, with required off-street parking to be located to the rear of the building to create a more vibrant road frontage.

B. Proposed buildings and the overall site shall be designed with particular attention to their arrangement, quality, and interrelationship of space and the way in which the building and overall site are designed to be useful.

C. Buildings and the overall site design shall have the ability to create a sense of place and have a positive effect on the immediate area.

D. Buildings and the overall site shall be designed and constructed with plaza/park areas to break up large sites and their parking areas, and provide amenities to the mixture of uses envisioned for this area.

E. The parking provided onsite should be the minimum amount of parking needed to adequately service the site and the collection of uses proposed. The collective use of shared parking shall be encouraged and cross access easements provided which are approved by the City Engineer and City Attorney.

(Ord. No. 278-DDD, § 1, 11-6-19)

SECTION 14A.07. PARKING.

Within the VDMUD, the total number of parking spaces provided on site may be reduced administratively by the City Planner, if the applicant can provide verifiable justification for such a reduction. Justification may be in the form of parking studies, regional/national standards, similar developments within the community/abutting communities. A parking reduction agreement shall be signed by the property owner and recorded against the affected property identifying the number of required spaces that have been reduced and acknowledging that the reduction may affect future uses of the overall site depending on the type and scope of uses proposed and the total number of spaces available.

(Ord. No. 278-DDD, § 1, 11-6-19)

SECTION 14A.08. SCREENING.

With the intensification of development anticipated within the VDMUD, additional screening may be necessary when development within the VDMUD abuts any residential development outside of the VDMUD. Screening consisting of a six foot high decorative masonry concrete wall, along with a ten foot wide greenbelt along the entire mutual property line with the abutting residential development, shall be provided. The greenbelt shall be planted with six foot high evergreen trees (spruce, pine or fir) at a rate of one tree for each ten linear feet of greenbelt. The City Planner may approve alternative means of screening when it can be shown the same level of screening will be accomplished.

(Ord. No. 278-DDD, § 1, 11-6-19)

SECTION 14A.09. INCREASED HEIGHT IN C-3 (GENERAL BUSINESS DISTRICT); NO REQUIRED ADDITIONAL SETBACKS.

In an underlying zoning district with C-3 (General Business District), the height of a building may be increased above two stories and 30 feet in height only if the setbacks of the building are increased pursuant to the formula described in section 13.04(C). Within the VDMUD, the height of a building may be increased above two stories and 30 feet in height without providing increased setbacks.

(Ord. No. 278-DDD, § 1, 11-6-19)

SECTION 14A.10. MAXIMUM LOT COVERAGE.

Within the VDMUD, there shall not be any specified maximum lot coverage percentage. Any undeveloped area of the site which is not dedicated to required parking, loading, maneuvering lanes, landscaping, greenbelts, etc. may be developed.

(Ord. No. 278-DDD, § 1, 11-6-19)

SECTION 14A.11. LANDSCAPING.

Unless otherwise modified by this article, all required landscaping shall be installed and maintained in compliance with the standards of the Zoning Ordinance.

(Ord. No. 278-DDD, § 1, 11-6-19)

ARTICLE 14B. TRADITIONAL MIXED USE DEVELOPMENT NODE OVERLAY DISTRICT (TMUDN)

SECTION 14B.00. INTENT.

The Traditional Mixed Use Development Node District ("TMUDN") is intended to:

A. Provide a comprehensive, collaborative planning, zoning and project review process through this overlay district in order to create an environment that is supportive of the development and redevelopment of innovative mixed use developments throughout numerous areas of the city as identified in the city's adopted Master Land Use Plan and as depicted within Appendix A of this section.

B. Allow for uses, development and redevelopment of property in a manner which is transformative and flexible, and allows for the enhancement and redevelopment of existing sites with dynamic uses that are integrated into well-planned, compact, pedestrian oriented nodes that best position these specific areas, the adjoining area, and the city as a whole for continued, long term economic vitality and sustainability.

C. Provide an environment that allows for a higher intensity/density of overall site usage, with residential densities that will be much greater than typically found in the city, and which fosters a critical mass of people, buildings, uses, activities, and an overall more efficient, attractive use of land while still minimizing adverse impacts upon abutting, more conventionally developed and laid out uses through careful attention to building design, use, orientation and materials paired with appropriate, abundant landscaping.

D. Provide safe and efficient integrated access and on-site circulation for automobiles and pedestrians through cohesive cross connection of parking areas, minimization of vehicle/pedestrian conflicts, abundance of sidewalks wider sidewalk connections, paths, and public areas.

E. Allow a flexibility in the mixture and types of uses, building designs and heights and their overall layout, etc. that can be responsive to changes in market demands, while still promoting quality through a variety of compatible uses, services and building types throughout the various TMUDN areas.

F. Promote development that meets the goals of the city's 2030 Visioning Plan, which include the development of successful, vibrant and attractive commercial centers with unique offerings, well-maintained and desirable neighborhoods, plentiful leisure and recreational opportunities, abundant pedestrian connections, aesthetically pleasing roads and greenspaces, and opportunities for emerging businesses and entrepreneurs.

G. Allow for meaningful and balanced transitional development between existing development conditions that include large setbacks and low height buildings, and proposed development that includes a more intense pedestrian development while being sensitive to existing development(s) on the subject site and those abutting the site.

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.01. APPLICABILITY.

The TMUDN is an overlay district that is applied to those properties designated within the City of Sterling Heights Master Land Use Plan as Traditional Mixed Use Development Node Designation (See Appendix A). The geographic size of these nodes is generally a one-quarter mile in each direction from the intersection which represents a walkable area commonly referred to a pedestrian shed. These nodes are generally located at the intersections of:

Schoenherr Road/19 Mile Road

Ryan Road/ 18 Mile Road

Dequindre Road/ 17 Mile Road

Ryan Road/ 17 Mile Road

Ryan Road/ 15 Mile Road

Van Dyke / 17 Mile Road

Schoenherr Road / 17 Mile Road

Dequindre Road / 15 Mile Road

Dodge Park Road / 15 Mile Road

Schoenherr Road / 15 Mile Road

Utica Road / Van Dyke

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.02. PROCESS.

The city's standard review processes for site plan, special approval land use, and/or planned unit development approval shall apply to any proposed development or redevelopment of sites within the TMUDN, except as modified in this article.

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.03. EXISTING USES/DEVELOPMENT.

Existing commercial buildings/structures within the TMUDN shall not be considered as non conforming, provided they were lawful at the time of their development and adoption of this article and have not been modified, except in conformance with the this article.

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.04. PERMISSIBLE USES.

The following uses shall be permitted in accordance with the requirements set forth below in the TMUDN:

A. All permissible uses allowed under the underlying zoning district regulations.

B. Residential dwelling units located above the first floor of a non-residential building, provided at least one dedicated parking space is available for each residential dwelling unit in addition to that required for all other proposed uses.

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.05. SPECIAL APPROVAL LAND USES.

The following buildings, structures and other uses similar to those cited in this article may be permitted by the Planning Commission, subject to the general standards of Section 25.02 and the specific standards imposed for each use:

A. Uses permitted as special approval land uses in the underlying zoning district regulations.

B. Other nonresidential uses within the C-1, C-2 and C-3 Districts, either permitted uses of special approval land uses, regardless of the underlying district.

C. Residential dwelling units on the first floor of a building. Residential uses on the first floor of a building shall generally be utilized as a transition between the existing/planned nonresidential development within each particular Traditional Mixed Use Designation Node and the existing residential uses that may abut the subject site and which are located outside of the TMUDN.

D. Buildings or structures with heights exceeding the maximum permissible height in the underlying zoning district when such buildings or structures abut any residential development.

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.06. BUILDING/SITE DESIGN.

A. Buildings shall be designed, where feasible, to be located along the front yard setback of the abutting major (or other similar) roadway they abut, with required off-street parking to be located to the side or rear of the building to create a more vibrant road frontage.

B. Proposed buildings and the overall site shall be designed with particular attention to their arrangement, quality, and interrelationship of space and the way in which the building and overall site are designed to be useful.

C. Buildings and the overall site design shall have the ability to create a sense of place and have a positive effect on the immediate area.

D. Buildings and the overall site shall be designed and constructed with plaza/park areas to break up large sites and their parking areas, and provide amenities to the mixture of uses envisioned for this area.

E. The parking provided onsite should be the minimum amount of parking needed to adequately service the site and the collection of uses proposed. The collective use of shared parking shall be encouraged and cross access easements provided. Such agreements shall be reviewed and approved by the City Planner, Engineer and City Attorney.

F. The overall node development concept plans for each specific planning area shall provide a guide for overall node development. The City Planner and Planning Commission may approve modifications or deviations from these plans upon a review of proposals that provide additional creativity, innovative site designs or are otherwise deemed to be in the best interest of the city.

G. The City Planning Commission may adopt additional design guidelines for developments within the TMUDN Overlay District.

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.07. PARKING.

Within the TMUDN, the total number of parking spaces provided on site may be reduced administratively by the City Planner (or Planning Commission), if the applicant can provide verifiable justification for such a reduction. Justification may be in the form of parking studies, regional / national standards, similar developments within the community/abutting similar communities, etc. A parking reduction agreement shall be signed by the property owner and recorded against the affected property identifying the number of required spaces that have been reduced and acknowledging that the reduction may affect future uses of the overall site depending on the type and scope of uses proposed and the total number of spaces available.

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.08. SCREENING.

With the intensification of development anticipated within the TMUDN, additional screening may be necessary when development within the TMUDN abuts any residential development that is not within the TMUDN. Screening consisting of a six foot high decorative masonry concrete wall, along with a ten foot wide greenbelt along the entire mutual property line with the abutting residential development, shall be provided. The greenbelt shall be planted with six foot high evergreen trees (spruce, pine or fir) at a rate of one tree for each ten linear feet of greenbelt. The City Planner may approve alternative means of screening when it can be shown the same level of screening will be accomplished.

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.09. INCREASED HEIGHT IN THE TMUDN OVERALL DISTRICT; NO REQUIRED ADDITIONAL SETBACKS.

The height of a building within the TMUDN Overlay District may be increased above the maximum height limitation of the underlying zoning district. Particular attention shall be given to the relationship of the proposed building(s) and the uses/buildings to uses/buildings on abutting properties. Appropriate screening shall be installed to protect less intense uses on abutting properties.

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.10. MAXIMUM LOT COVERAGE.

Within the TMUDN, the maximum lot coverage regulation of the underlying zoning district shall not apply. Any undeveloped area of the site which is not required or intended to be dedicated to required parking, loading, maneuvering lanes, landscaping, greenbelts, etc. may be developed.

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.11. LANDSCAPING.

Unless otherwise modified by this article, all required landscaping shall be installed and maintained in compliance with the standards of the zoning ordinance. Particular attention shall be given to the landscaping along abutting roadways to ensure that the proper number of trees/shrubs/other ornate landscaping is being maintained between the building and the front property line. The city may allow for additional landscaping to be provided within the road right of way upon approval by the City Planner, City Engineer and the City's Department of Public Works (or other applicable governmental agency having jurisdiction) provided there is no significant impact upon clear vision areas, utilities, etc.

(Ord. No. 278-FFF, § 1, 7-21-20)

SECTION 14B.12. PEDESTRIAN AMENITIES.

Within each TMUDN area, additional pedestrian amenities shall be provided. This shall include additional and/or wider sidewalks and pedestrian linkages throughout the area to accommodate larger amount of pedestrian traffic and a de-emphasis on the automobile. Appropriate easements shall be provided where necessary to ensure proper pedestrian access and overall continuity of the non-motorized system is maintained.

(Ord. No. 278-FFF, § 1, 7-21-20)

ARTICLE 15. P-1 VEHICULAR PARKING DISTRICT

SECTION 15.00. INTENT.

The P-1 Vehicular Parking District is intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use incidental to a principal use. This district will generally be established to serve a use district which has developed without adequate off-street parking facilities or on portions of sites where it is intended that building construction will not occur. It also may serve as a buffer between residential and nonresidential uses.

SECTION 15.01. PERMITTED USES.

The following uses shall be permitted, subject to the limitations of this ordinance:

A. Off-street vehicular surface parking lots.

SECTION 15.02. SPECIAL APPROVAL LAND USES.

The following uses, and others similar to those cited in this article, may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards imposed for each use.

A. Parking structures, subject to the requirements of section 23.04.

B. Public utilities, as regulated by section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

(Ord. No. 278-Y, § 22, 5-16-00)

SECTION 15.03. ACCESSORY USES.

Accessory buildings and uses as regulated by section 28.00, accessory uses and structures.

SECTION 15.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. Maximum height of any structure:

1. In stories: 2.
2. In height: 25 feet.

B. Minimum lot size:

1. Area: 12,000 square feet.
2. Width: 80 feet.

C. Minimum building floor area: None.

D. Minimum yard setbacks per lot:

1. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

Distance from centerline:

a. Regional (204' R.O.W.): 137 feet.
b. Regional (150' R.O.W.): 110 feet.
c. Major: 95 feet.
d. Secondary: 78 feet.
e. Collector: 70 feet.
f. Local: 65 feet.
g. Cul-de-sac: 95 foot radius.
h. Freeway: 35 feet.*
i. Private roads: 35 feet.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street plus 35 feet for all classes of roads.

2. Rear and side yards: where the P-1 District is adjacent to a residentially zoned district, screening meeting the requirements for a moderate intensity impact shall be required along the common property line as specified in section 24.01. Parking structures shall maintain side and rear yard setbacks of 20 feet. No such structure shall be located closer than 75 feet to the outer perimeter (property line) of such district when such property line abuts any residential zoning district.

E. Maximum lot coverage: the maximum lot coverage shall be governed by meeting all requirements for yard space, landscaping, off-street parking and screening.

(Ord. No. 278-A, § 32, 4-17-90)

SECTION 15.05. STRUCTURE AND SITE REQUIREMENTS.

A. Parking areas shall be used solely for parking of passenger vehicles, for periods of less than one day.

B. No repair work or service of any kind, or sale or display thereof, shall be conducted in such parking areas.

C. No signs of any kind, other than signs designating the use, entrances, exits and conditions of use, shall be maintained on such parking areas.

D. Development in any P-1, Vehicular Parking District, shall observe all applicable requirements of Article 23.

E. Portions of the site not used for parking, driveway and buildings shall be provided with a lawn or landscaping, as specified in section 24.02, approved by the Planning Department and so maintained in an attractive condition.

ARTICLE 16. FLOODPLAIN AREA

SECTION 16.00. INTENT.

The floodplain provisions are intended to protect the "floodplain area," as defined below, so that the reservoir capacity shall not be reduced, thereby creating a danger to areas previously not so endangered in time of high water or to impede, retard, accelerate or change the direction of the flow of water or carrying capacity of the river valley or to otherwise increase the possibility of flood.

SECTION 16.01. RESTRICTION ON USES.

All lands included in the floodplain area shall be subject to the restrictions imposed herein, in addition to the restrictions imposed by any other zoning district in which said lands are located. Where the regulations of this article are more restrictive, they shall control.

SECTION 16.02. FLOODPLAIN AREA DEFINED.

FLOODPLAIN AREA, as used herein, is deemed to mean that area defined as (a) special flood hazard area in The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled “Macomb County, Michigan and all Jurisdictions” and dated 9/29/06.

(Ord. No. 278-NN, § 6, 1-6-09)

SECTION 16.03. FLOODPLAIN AREA BOUNDARIES.

Floodplain area boundaries shall be those areas designated as special flood hazard areas in The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled “Macomb County, Michigan and all Jurisdictions” and dated 9/29/06.

(Ord. No. 278-P, § 2, 10-3-95; Ord. No. 278-NN, § 7, 1-6-09)

SECTION 16.04. PERMITTED USES.

The following uses shall be permitted in floodplain areas subject to any limitations described herein:

A. Gardening, general farming, horticulture, forestry or any similar agricultural activity;

B. Public and private open recreation areas such as parks, playgrounds, play fields, golf courses and bridle paths;

C. Railroads, roads, bridges, dams, weirs and public utilities, when designed so as not to increase the possibility of flood or be otherwise detrimental to the public health, safety and welfare;

D. Surface parking areas regulated by Article 23 of this ordinance;

E. On parcels immediately above the floodplain area boundary, or partly located within such boundary, uses permitted by the zoning districts otherwise established for the parcel subject to the regulations of such district provided:

1. The elevation of the lowest floor designed or intended for human habitation shall be at least two feet above the elevation of the floodplain area boundary;

2. In the area below the upper limit of the floodplain area boundary, dumping or backfilling with any material in any manner is prohibited, unless through compensating excavation and shaping of the floodplain area its flow and impoundment capacity will be maintained or improved;

3. Any filling on banks adjacent to a floodplain area boundary shall have approved erosion control to prevent soil from being washed into the floodplain. City Council shall adopt erosion control standards to be enforced by the City Engineer;

F. Floodplain areas shall be restricted so as to prohibit any structure wherein human habitation may be provided for either a place of residence or employment.

SECTION 16.05. SPECIAL APPROVAL LAND USES.

The following uses, and others similar to those cited in this section, may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards for each use:

A. Public utilities, as regulated by section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

(Ord. No. 278-Y, § 23, 5-16-00)

SECTION 16.06. APPLICANT TO PROVIDE TECHNICAL DATA.

Where topographic data, engineering studies or other studies are required by any city agency to determine the effects of flooding on a proposed site and/or the effect of a structure on the flow of water, the applicant shall submit such data or studies. All such required data or studies shall be prepared by a registered professional engineer.

(Ord. No. 278-Y, § 23, 5-16-00)

SECTION 16.07. ADOPTION OF FLOODPLAIN AREA MAP.

"The Flood Insurance Study of the City of Sterling Heights," dated May 15, 1986, with the accompanying flood insurance rate map and flood boundary-floodway maps, as amended from time to time, which designated the areas of special flood hazard identified by the federal emergency management agency, is adopted by reference and incorporated as part of this ordinance to more particularly set forth the floodplain areas.

(Ord. No. 278-Y, § 23, 5-16-00)

SECTION 16.08. APPEALS FROM PROVISIONS OF THIS ARTICLE.

Appeals for modification of any of the provisions of this article shall be made to the Zoning Board of Appeals of the City of Sterling Heights.

(Ord. No. 278-Y, § 23, 5-16-00; Ord. No. 278-NN, § 34, 1-6-09)

ARTICLE 17. O-R OFFICE RESEARCH DISTRICT

SECTION 17.00. INTENT.

The O-R Office Research District is designed to primarily accommodate office, scientific, business, technological research operations, related testing operations and other related uses where office, technology and scientific research activities are mutually dependent or developmental in nature; in a spacious, open type environment

devoid of nuisance factors commonly present in nonresidential districts; and to permit uses which support and complement permitted principal uses enumerated in this district or which are vital to such principal uses and required to be located close to them; and the result shall be development planned in a coordinated manner, according to an approved site plan. It is further the intent of this district to continue all activities within an enclosed building with no outdoor activities allowed.

SECTION 17.01. PERMITTED USES.

All uses permitted in this district shall be conducted completely within a building in accordance with the standards of this article and limited to those listed on the approved site plan, and no other uses shall be permitted unless the appropriate plans are amended in accordance with this ordinance.

A. Corporate headquarter offices, administrative, professional and/or business offices of permitted principal uses, legal, engineering, surveying, accounting, architectural and similar professional offices.

B. Research, development and testing facilities for technological, scientific and business establishments, including the development of prototypes.

C. Educational and design facilities whose principal function is the research and development of new products and processes and technical training.

D. Technological, medical and dental clinics; medical, optical, pharmaceutical and dental laboratories.

E. Data processing and computer centers, including incidental service and maintenance of electronic data processing equipment.

F. Similar uses as determined by the Zoning Official.

SECTION 17.02. SPECIAL APPROVAL LAND USES.

The following uses, and others similar to those cited in this article, may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards imposed for each use:

A. Utility and public service facilities and uses needed to service the immediate vicinity but excluding any outside storage;

B. The development of professional, scientific instruments, electrical or electronic prototypes which meet the performance standards specified in section 17.06;

C. Specialized or customized photographic or graphic design services;

D. Limited retail services customarily incidental to the principal uses permitted in sections 17.01 and 17.02, subject to the following:

1. Not more than 10% of the gross floor area, not to exceed a total of 1,500 square feet, may be available as a sales area or for display;

2. The display of available products shall not be visible from outside the building;

3. All such uses shall be located in a building containing the permitted principal uses which will be served;

E. Planned office research parks, subject to the following:

1. All planned office research parks shall have a minimum site size of ten acres;

2. In order to achieve innovative design, the Planning Commission may modify specific height or placement standards in conjunction with an approved development plan for the site. Whenever a specific standard is varied, the extent of the change and the basis for it shall be documented as part of the approval;

F. Trade or technical schools;

G. Printing, publishing, photographic processing or allied industries;

H. Public utilities, as regulated by section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18.

(Ord. No. 278-Y, § 24, 5-16-00)

SECTION 17.03. ACCESSORY USES PERMITTED.

Accessory buildings and uses customarily incidental to the principal permitted uses enumerated in sections 17.01 and 17.02 are permitted. Accessory uses, other than parking and trash receptacles, shall be contained within an enclosed structure.

SECTION 17.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The minimum size of each lot per building:

1. Area: 40,000 square feet.

2. Width: 140 feet.

B. Maximum height of any structure:

1. In stories: 2.

2. In feet: 30.

(Building height may exceed 30 feet, provided that the front, rear and side yard setbacks are increased three feet for each one additional foot of building height.)

For development of more than one building, height limit zones shall be delineated on a site plan. The zones shall be based on considerations of architectural character, natural light, air circulation, views, solar access, relation to neighboring buildings and fire protection and safety. The proposed height of each building shall be shown on the site plan.

C. Minimum building floor area:

1. Area: 5,000 square feet.

D. Minimum yard setback per lot:

1. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

Distance from centerline:

a. Regional (204' R.O.W.): 137 feet.

b. Regional (150' R.O.W.): 110 feet.

c. Major: 95 feet.

d. Secondary: 78 feet.

e. Collector: 70 feet.

f. Local: 65 feet.

g. Cul-de-sac: 95 foot radius.

h. Freeway: 35 feet.*

i. Private roads: 35 feet.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

The required front yard shall be landscaped and maintained thereafter in a neat and orderly condition. Parking shall not be allowed within the required front yard setback. If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street plus 35 feet for all classes of roads.

2. Side: 25 feet one side; 100 feet total. No building shall be located closer than 75 feet to the outer perimeter (property line) of such district when such property line abuts any residential district.

3. Rear: 75 feet. No building shall be located closer than 100 feet to the outer perimeter (property line) of this district when such property line abuts any residential district.

E. Maximum lot coverage: the maximum lot coverage shall be governed by meeting all requirements for yard space, landscaping, screening, off-street parking and loading. The location of buildings and uses and distances between buildings shall be as shown on the site plan. Distances between buildings shall be sufficient to meet fire regulations and to provide for natural light, air circulation and solar access.

(Ord. No. 278-A, § 33, 4-17-90; Ord. No. 278-AA, §§ 5, 6, 3-20-01)

SECTION 17.05. STRUCTURE AND SITE REQUIREMENTS.

A. The exterior of all buildings hereafter erected shall be constructed of brick and/or stone building materials or other similar durable, decorative building materials as may be approved by the Planning Department, subject to any additional requirements set forth in section 26.01, paragraph H. The architecture and exterior finish of any building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior.

B. All portions of the site not used for parking, driveway and buildings shall be provided with a lawn or landscaping (see section 24.02, environmental provisions) approved by the Planning Department and so maintained in an attractive condition. Parking lots shall be landscaped so as to reduce heat and glare, to divide parking lots into smaller units and to buffer adjacent areas, where necessary. All plantings shall be live and shall be properly and regularly maintained. Dead or dying materials shall be replaced in accordance with approved plans.

C. Outdoor storage of vehicles, equipment, supplies or products; outdoor processing, repair or other operations; or outdoor display of goods, materials, products, equipment or processes is prohibited. No display shall be permitted in a window or in any other location visible from a street or an adjacent lot. Trash and other waste materials shall be stored within a principal or accessory building or shall be totally screened from view from a street and adjacent lot and shall not be located in a required yard. Utility meters and control devices shall also be located and screened.

D. Loading and unloading areas, as specified in section 23.05, are not required in the O-R Office Research District. All loading and unloading activities shall be confined to inside the building. Loading areas shall be confined to rear yard areas with all such activities screened from view off-site. Side yard loading areas may be permitted by the Planning Department when such space and loading facilities do not interfere with parking and circulation, either vehicular or pedestrian, and/or where a residential district abuts the rear property line. Loading activities shall be limited in duration to a period of time not to exceed 24 hours.

E. Once a building line has been established by the construction of a principal building upon an approved site, no other principal building or use shall be located between the established building line and the front lot line (or side lot line abutting a side street) without first obtaining approval of the Planning Commission. The Planning Commission shall review the building and/or use proposed to be located in front of the established building to determine whether the building or use is of such location, size and character to be in harmony with the appropriate and orderly development of the balance of the site, is not detrimental to the development of adjacent uses, does not create any vehicular or pedestrian hazards and is aesthetically compatible with the buildings and uses located upon the site. Landscaping plans, site plans (including signs and the location of dumpsters) and elevations of all sides of any building to be constructed shall be submitted to enable the Planning Commission to determine whether the proposed additional building and/or use conforms with the requirements of this section. In reviewing this request, the Planning Commission shall apply the standards contained herein and in section 25.02 and may impose reasonable conditions as authorized by section 25.03(D) to ensure that the standards are satisfied.

F. Roof-mounted appliances and fixtures shall be effectively screened on all sides by an approved architectural detail so as not to be visible from off the site (section 24.04).

(Ord. 278-OO, § 8, 8-5-09)

SECTION 17.06. PERFORMANCE STANDARDS AND REGULATIONS OF USES.

It is the intent of this section to require that each permitted use shall be a good neighbor to adjoining properties by control of noise, odor, glare, vibration, smoke, dust, liquid wastes, radiation, radioactivity and the like. The performance standards set forth in subsection (A) following shall be complied with, and any use which fails to comply with the standards shall be in violation of this ordinance and be subject to penalties as accorded by law. The sum of the effects of concurrent operations on two or more lots measured at any property line shall not be greater or more offensive to the senses than the standards contained herein. Compliance with the provisions of this subsection by single or mutual changes in operational levels, scheduling of operations and other adjustments is permitted. In case of conflict among these standards and federal and state regulations, the most restrictive standard or regulation shall apply.

A. *General regulations and limitations on uses.*

1. *Noise*. Noise shall not exceed 60 decibels (db(A)) equivalent daytime and 55 decibels (db(A)) equivalent nighttime, as measured at any site line which is adjacent to any residential, office or commercial zone. In no case shall the maximum noise level exceed 60 db(A).

2. *Odors*. Odors from any use shall not be discernible at the property line to a greater degree than odors from plants for the manufacture of electronic equipment. The values given in table III (Odor Thresholds) in the latest revision of Chapter 5, "Physiological Effects," in the "Air Pollution Abatement Manual," by the Manufacturing Chemists' Association, Inc., Washington, D.C., copyright 1951, shall be used as standard in case of doubt concerning the character of odors emitted. In such case, the smallest value given in table III shall be the maximum odor permitted. Detailed plans for the prevention of odors crossing property lines may be required before approval of a site plan by the Planning Department.

3. *Glare*. Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.

4. *Exterior lighting.* Any lights used for exterior illumination shall comply with the exterior lighting standards of section 24.06.

Schedule of Maximum Illumination

(in footcandles measured at the surface)

Illumination of	***Intensity***
General	0.5
Driveway	1.0
Parking	1.0
Walks	0.5
Protective	1.0
Building	3.0
Loading areas	1.0

No light measured (at eye level) at the property line between nonresidential and any residential district or use shall be greater than one-quarter footcandle at the side and rear property line, nor greater than one-half footcandle or the intensity of the available street lighting at the front property line, whichever is greater. Lighting shall

be arranged so as to reflect light away from adjacent residential areas.

5. *Vibration*. Vibration shall not be discernible at any property line to the human sense of feeling for three minutes or more duration in any one hour. No discernible vibration should be detectable at all at any residential district boundary. Vibration at any time shall not produce an acceleration of more than 0.1 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of table 7 United States Bureau of Mines Bulletin No. 442, "Seismic Effects of Quarry Blasting" on any structure. The methods and equations of said Bulletin No. 442 shall be used to compute all values for the enforcement of this provision.

6. *Smoke*. Emission of smoke on the site shall be controlled so that a nuisance will not result. Emission of smoke shall not exceed the number 1 standard as established by the Ringelmann Chart.

7. *Dusk dirt and fly ash.* No person, firm or corporation shall operate or cause to be operated, maintain or cause to be maintained any process for any purpose or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating while using said process or furnace or combustion device, recognized and approved equipment, means, methods, device or contrivance to reduce the quantity of gasborne or airborne solids or fumes emitted into the open air, which is operated in conjunction with said process, furnace or combustion device so that the quantity of gasborne or airborne solids shall not exceed 20 hundredths grains per cubic foot of the carrying medium at the temperature of 500°F. For the purpose of determining the adequacy of such device, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50% at full load. The foregoing requirement shall be measured at the A.S.M.E. test code for dust-separating apparatus. All other forms of dust, dirt and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The city may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt and fly ash have been made.

8. *Gases*. Fumes or gases shall not be emitted at any point in concentration or amounts that are noxious, toxic or corrosive. The values given in table I (Industrial Hygiene Standards - Maximum Allowable Concentration for eight-hour day, five days per week), table III (Odor Thresholds), table IV (Concentrations of Substance Causing Pain in the Eyes) and table V (Exposures to Substances Causing Injury to Vegetation) in the latest revision of Chapter 5, "Physiological Effects," that contains such tables, in the "Air Pollution Abatement Manual," by the Manufacturing Chemists' Association, Inc., Washington, D.C., are established as guides for the determination of permissible concentration or amounts. Detailed plans for the elimination of fumes or gases may be required before approval of the site plan.

9. *Hazard*. Operations shall be carried on with reasonable precautions against fire and explosion hazards.

10. *Radiation and radioactivity*. All activities involving radioactive materials shall be conducted according to state and federal rules and regulations adopted for human safety. Operations shall cause no dangerous radiation, as specified by the regulations of the United States Nuclear Regulatory Commission, at any property line.

11. *Electrical radiation*. Electrical radiation shall not adversely affect at any point any operations or any equipment other than those of the creator of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.

12. *Waste*. All sewage and industrial wastes shall be handled, stored, treated and/or disposed of in compliance with all federal, state, county and/or city laws and regulations.

13. *Utilities underground.* All lines for telephone, electric, television and other similar services distributed by wire or cable shall be placed underground entirely throughout the development 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. 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 Michigan Public Service Commission.

14. *Heat*. Operations generating heat shall be contained within a building. In no case shall the generated heat raise the ambient temperature at a property line higher than the prevailing normal temperature at the time of occurrence.

15. *Storage*. Above ground outside storage shall not be permitted. The storage of explosives shall not be permitted. Underground storage of flammable materials shall not be permitted unless it is accessory to the principal use and specifically approved by all applicable local, state and federal review authorities.

(Ord. No. 278GG, § 1, 12-6-05)

ARTICLE 18. TRO TECHNICAL RESEARCH OFFICE DISTRICT

SECTION 18.00. INTENT.

The TRO Technical Research Office District is intended to accommodate research, technical, office and related storage activities which serve the needs of nearby commercial, industrial and educational establishments. The primary characteristic of uses allowed in this district is the pursuit of scientific and technical knowledge and provisions of facilities to serve the needs generated by those endeavors. Uses in this district shall not emit smoke, dust, dirt or odor or gas particles and/or energy radiation in amounts which would be detrimental to the environmental quality. All uses located within this district shall be designed and operated so as to produce no sound, glare or vibration discernible at the property lines in excess of the normal intensity of street or traffic noises or vibration noticeable at such points.

SECTION 18.01. PERMITTED USES.

A. Educational, research and design facilities charged with the principal function of research and development of new products and processes and technical training.

B. Industrial, scientific or commercial research, development and testing laboratories.

C. Executive and administrative offices for concerns whose plants or other facilities are not permitted in the TRO district.

D. Industrial, medical and dental clinics, medical, optical, pharmaceutical and dental laboratories and veterinary hospitals and clinics.

E. Data processing and computer centers, including service and maintenance of electronic data processing equipment.

F. Legal, engineering, surveying, accounting, architectural and similar professional offices.

G. Trade, industrial or technical schools.

H. Radio and television broadcasting stations, excluding towers.

SECTION 18.02. SPECIAL APPROVAL LAND USES.

The following uses, and others similar to those cited in this article, may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards imposed for each use:

A. Utility and public service facilities and uses needed to service the immediate vicinity but excluding any outside storage, subject to applicable regulations of section 3.02(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18;

B. Ambulance service dispatch centers, subject to the following:

1. All ingress and egress from the site shall be directly onto a major thoroughfare having an existing or proposed right-of-way width greater than 120 feet, as indicated on the city's Master Road Plan;

2. All parking for emergency vehicles shall be located in the rear yard and shall be contained within the site;

C. The assembly of professional and scientific instruments, electrical or electronic machinery and appliances and machines, such as phonographs, radios, television sets, office computing and accounting machines and similar equipment;

D. Printing, publishing, photographic processing or allied industries;

E. Warehouse and wholesale establishments used in conjunction with any of the principal uses permitted in sections 18.01 and 18.02, excluding truck terminals;

F. Limited retail sales of products customarily incidental to the principal uses permitted in sections18.01 and 18.02, subject to the following:

1. The total floor area within the structure devoted to sales and display shall not exceed 10% of the floor area of the entire building;

2. The display of products for sale shall not be visible from outside the building.

(Ord. No. 278-Y, § 25, 5-16-00)

SECTION 18.03. ACCESSORY USES PERMITTED.

Accessory buildings and uses, including assembly operations limited to the development of prototypes, which are customarily incidental or specifically related to a principal use enumerated in sections 18.01 and 18.02 are permitted.

SECTION 18.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The minimum size of each lot per building:

1. Area: None.

2. Width: None.

3. Depth: 250 feet.

B. Maximum height of any structure:

1. In stores: 3.

2. In feet: 30.

C. Maximum lot coverage by building: None.

D. Maximum floor area of any building in square feet: None.

E. Minimum yard setback per lot:

1. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

Distance from centerline:

a. Regional (204' R.O.W.): 137 feet.

b. Regional (150' R.O.W.): 110 feet.

c. Major: 5 feet.

d. Secondary: 78 feet.

e. Collector: 70 feet.

f. Local: 65 feet.

g. Cul-de-sac: 95 foot radius.

h. Freeway: 35 feet.*

i. Private roads: 35 feet.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street, plus 35 feet for all classes of roads.

F. Side: 15 feet one side; 30 feet total. No building shall be located closer than 50 feet, and no parking shall be located closer than 20 feet from the outer perimeter (property line) of such district when such property line abuts any residential district.

G. Rear: 50 feet. No building shall be located closer than 50 feet, and no parking shall be located closer than 20 feet from the outer perimeter (property line) of this district when such property line abuts any residential district.

(Ord. No. 278-A, § 34, 4-17-90)

SECTION 18.05. STRUCTURE AND SITE REQUIREMENTS.

A. The exterior of all buildings hereafter erected shall be constructed of brick and/or stone building materials or other similar durable, decorative building materials as may be approved by the Planning Department, subject to any additional requirements set forth in section 26.01, paragraph H. The architecture and exterior finish of any building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior.

B. All storage of equipment or supplies used in any production or assembly shall be within an enclosed building.

C. Front yard loading and unloading docks and truckwells shall be prohibited along major thoroughfares and/or existing or proposed rights-of-way of 120 feet or greater. Along thoroughfares or rights-of-way of less than 120 feet, below grade loading shall be permitted in the required front yard. In no instance shall above grade or elevated loading or standing areas for loading and unloading be permitted in the required front yard.

D. Loading areas shall be screened from view from any adjacent residential property.

(Ord. No. 278-OO, § 9, 8-5-09)

ARTICLE 19. M-1 LIGHT INDUSTRIAL DISTRICT

SECTION 19.00. INTENT.

The M-1 Light Industrial District is intended to accommodate industrial activities whose external effects are minimal and in no way detrimental to surrounding districts, plus wholesale, warehousing and intensive service activities of a nature such as not to justify their inclusion in the commercial use district, but whose external effects also are nondetrimental. All uses in the district are intended to be compatible with one another. It is further the intent to carefully conserve land in the M-1 Zone for manufacturing and related uses, only in special circumstances will certain convenience services needed to serve the basic light industrial and related uses be permitted. All uses located within this district shall be so designed and operated as to observe the performance standards and regulations of use contained herein. The processing of raw material for shipment in bulk form for use in an industrial operation at another location shall not be permitted.

SECTION 19.01. PERMITTED USES.

All uses in this district shall be conducted wholly within a building with a landscaped front yard and with the side or rear yard used for loading and customer and employee parking.

A. Any one or more permitted uses in the O-R district as regulated in section17.01 of this ordinance.

B. Warehousing and wholesale establishments and mini-warehouses.

C. Light manufacturing, compounding, processing, assembly, packing or treatment of articles from previously prepared raw materials which meet the requirements of this district.

D. Printing, publishing, photographic processing or allied industries.

E. Central dry cleaning plants or laundries, provided that such plants shall not deal directly with consumers on a retail basis.

F. Utility and public service facilities and uses needed to service the immediate vicinity but excluding any outside storage.

G. Local union halls and offices.

H. Trade or industrial schools.

I. Commercial ambulance services.

J. Post offices and other public facilities, including DPW yards.

K. Building construction material wholesalers and contractors without outdoor storage.

L. Uses permitted under Article 22, Section22.05 B 1, in accordance with the standards set forth in Section22.05.

M. Similar uses, as determined by the Zoning Official.

(Ord. No. 278-PP, § 1, 12-1-09)

SECTION 19.02. SPECIAL APPROVAL LAND USES.

The following uses, and others similar to those cited in this article, may be permitted by the Planning Commission, subject to the general standards of section25.02 and the specific standards for each use:

A. Building and construction material wholesalers and contractors, including but not limited to storage facilities and storage yards for building materials, sand, gravel, lumber and construction contractor's equipment, subject to the following:

1. Such site shall (except for frontage on a public street) abut only land within an industrial district;

2. All outdoor storage shall be surrounded by an approved obscuring wall or fence of at least eight feet in height; provided, however, those sides abutting any major thoroughfare as described in the Master Road Plan shall be screened by an obscuring wall of at least eight feet in height;

B. Nonautomotive painting and varnishing shops, lumber and planing mills, subject to the following:

1. The site for such use shall, except for frontage on a public street, abut only land within an industrial district;

2. Devices and controls adequate to meet the standards enumerated in section19.06 relative to sound, vibration, smoke, odor or gas shall be installed;

3. Adequate means of sanitary disposal of any waste material shall be provided;

4. All painting and varnishing operations shall be conducted within an enclosed building;

C. New and leased car sales establishments, excluding auto auctions, subject to the following:

1. Devices and controls adequate to meet the standards enumerated in section19.06 relative to sound, vibration, smoke, odor or gases shall be installed;

2. Adequate means of sanitary disposal of any waste material shall be provided;

3. All areas provided for storage of automobiles shall be hard-surfaced and maintained with a permanent durable and dustless surface constructed of asphalt or concrete and shall be so graded and drained as to dispose within the site of all surface water accumulated within the area;

4. Parking of vehicles for the display and sale of new car sales and lease establishments shall be permitted in the front yard setback. Any such display, however, shall observe the setback requirements specified in section 19.04, area, height and bulk requirements, minus 30 feet;

D. Auto service centers and reconditioning establishments, subject to the following:

1. All repair operations shall be conducted within an enclosed building;

2. Devices and controls adequate to meet the standards enumerated in section19.06 relative to sound, vibration, smoke, odor or gases shall be installed;

3. Adequate means of sanitary disposal of any waste materials shall be provided;

4. Storage of vehicles awaiting repair or pickup shall be restricted to parking spaces reflected on the approved site plan. In no case shall vehicles be stored for a period in excess of 15 days;

E. Automobile repair garages, subject to the following:

1. The site for any such use shall (except for frontage on a public street) abut only land within a commercial or industrial district);

2. All overhead service doors servicing the facility shall either face industrially zoned property or the public street if the doors are within 75 feet of a commercial zoned district;

3. All repair operations shall be conducted within an enclosed building;

4. Devices and controls adequate to meet the standards enumerated in section19.06 relative to sound, vibration, smoke, odor or gases shall be installed;

5. Adequate means of sanitary disposal of any waste materials shall be provided;

6. Parked vehicles waiting to be repaired shall be located in designated areas and screened from public view by a decorative masonry wall meeting the requirements of section 24.01;

F. Recreational vehicle storage, subject to the following:

1. Such site shall (except for frontage on a public street) abut only land within an industrial district;

2. All such storage shall be enclosed within a building or shall be surrounded by an approved obscuring wall or fence of at least eight feet in height; provided, however, those sides abutting any major thoroughfare as described in the Master Road Plan shall be screened by an obscuring wall of at least eight feet in height;

3. Holding tank disposal facilities shall be provided which shall meet all state, county and city requirements;

4. No major repair or maintenance of any vehicles shall be performed on the premises;

5. The site or area shall be hard-surfaced and maintained with a permanent durable and dustless surface constructed of asphalt or concrete and shall be so graded and drained as to dispose within the site of all surface water accumulated within the area;

G. Limited retail sales of products customarily incidental to the uses permitted in sections19.01 and 19.02, subject to the following:

1. No more than 10% of the gross floor area, not to exceed a total of 1,500 square feet, may be available as a sales area or for retail display;

2. Retail sales and display shall be limited to the specific item or items manufactured, processed, fabricated or produced and/or the display of the components used in fabrication of the finished product produced;

3. The Planning Department may require additional parking to be provided not to exceed the retail requirements of section 23.02 if the parking for the industrial use is determined by the Planning Department to be insufficient to accommodate both the industrial and retail operations of the site;

4. Signage and lighting shall be compatible with surrounding industrial uses;

5. The display of products for sale shall not be visible from outside the building;

6. All such uses shall either be located in a building containing the permitted principal uses which will be served or in service centers consisting of one or more buildings designed with common drives, parking and loading areas and landscaping;

H. Automobile impound lots, subject to the following:

1. The entire area shall be enclosed on all sides with fencing not less than six feet in height;

2. The site shall (except for frontage on a public street) abut only land within an industrial district;

3. A concrete driveway of at least 15 feet in width shall be installed to provide access to the site from a public thoroughfare;

4. The site or area used as the impound lot shall be hard surfaced or maintained with a durable gravel base which shall be maintained in a dust-free condition and shall be so graded and drained so as to dispose within the site of all surface water accumulated within the area;

5. The impounded lot shall not be located within a planned industrial park;

6. Storage of all materials shall be in conformance with applicable Fire Department codes, rules and regulations;

7. Sufficient off-street parking shall be provided for the parking of vehicles of participants in periodic auctions to be held on the site;

8. All buildings and/or structures shall conform with applicable codes and ordinances;

9. Permanent or portable sanitary facilities shall be provided on site or available for use within 300 feet of the impound lot;

10. Lighting shall be provided to enhance security on the site;

11. The impound lot shall be maintained for the exclusive storage of vehicles and articles impounded, seized or recovered by authorized governmental agencies and shall not be used by the operator of the impound lot or any contractor for the storage of articles or vehicles;

12. The operation of the lot shall be in accordance with all applicable federal and state statutes and regulations and all applicable local codes, ordinances and regulations;

I. Indoor recreation facilities, including the ice arenas, gymnastic facilities and tennis facilities;

J. Truck, utility trailer, industrial and commercial vehicles and equipment, boat, recreation vehicle and mobile home rental facilities, subject to the following conditions:

1. No storage shall be permitted within the front yard setback;

2. All outdoor storage areas shall be paved;

3. The minimum size of the site devoted entirely to such use shall be not less than five acres;

K. Public utilities, as regulated by section 3.02.(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section 28.18;

L. Lighted outdoor commercial sports centers, including baseball, golf driving ranges, miniature golf and other intense activities. Because such centers possess the unique characteristic of often being used late into the night while attracting large numbers of spectators and attendant vehicular traffic in conjunction with ingress and egress to parking areas, these uses shall be permitted only in industrial districts subject to the following conditions:

1. Outdoor commercial sports centers shall be permitted only upon parcels of land zoned M-1 and M-2 which are surrounded by similarly zoned property on all sides, except a side abutting a major thoroughfare of 120 feet of right-of-way or greater. Such uses shall be limited to parcels of property which exceed 20 acres and are not conducive to industrial development by virtue of large floodplain areas, previous landfill use or similar circumstances. The petitioner shall provide the Planning Commission with supporting documentation and data, including but not limited to topographic surveys, soil tests and any other information determined to be necessary for the Planning Commission to determine whether these requirements have been met;

2. Because it is of primary concern to the city to preserve large areas of industrial property for industrial uses, the Planning Commission when considering approval of such a use shall take into account the compatibility of the lighted outdoor commercial sports center with existing and future industrial development and the requirements of sections 25.02 and 25.03;

3. The proposed internal site design of the facility shall meet all standards of the city and other affected governmental agencies, including but not limited to those standards pertaining to proper drainage, lighting, hard-surfacing and other engineering standards;

4. Points of ingress and egress shall be available to the complex only from abutting major thoroughfares of 120 feet of right-of-way or greater. The site shall comply with all standards of the City of Sterling Heights and other affected governmental agencies relative to driveways, acceleration and deceleration lanes and related items;

5. The use and parking area shall be screened from adjacent major thoroughfares with berms and other approved landscaping;

6. All lighting used to illuminate the area shall be installed so as to be confined within and directed upon the site;

7. Devices for the transmission of broadcasting of voices or music shall be so directed as to prevent said sound from being audible beyond the lot lines of the site;

8. Storage buildings, restroom facilities, facilities for the sale and consumption of food, beverages and refreshments and other similar accessory uses shall comply with all standards of the City of Sterling Heights and other affected governmental agencies. Such accessory facilities shall operate only during the hours of operation of the principal use of the property;

M. Firearm and archery ranges, subject to the following:

1. All activities shall take place within an enclosed building;

2. The use shall comply with all applicable federal, state and local laws, rules, regulations and licensing requirements;

N. Kennels, subject to the following:

1. No such use shall be located within 150 feet of any residential zone;

2. All housing of animals shall be done in completely enclosed freestanding buildings or with a corner tenant in such a manner as to produce no offensive odor or audible sound at the lot line or to adjacent tenants;

3. An adequate, enclosed method of refuse storage and disposal shall be maintained so that no public nuisance shall be created at any time;

4. The site shall be located so as to have one property line abutting a major thoroughfare of at least 120 feet of right-of-way, existing or proposed;

5. Outdoor exercise areas shall be secured or fenced and shall not be located within 50 feet of any property line.

(Ord. No. 278-A, § 35, 4-17-90; Ord. No. 278-F, § 7, 8-8-90; Ord. No. 278-P, § 3, 10-3-95; Ord. No. 278-R, § 9, 8-20-96; Ord. No. 278-Y, § 26, 5-16-00; Ord. No. 278-

AA, § 7, 3-20-01)

SECTION 19.03. ACCESSORY USES PERMITTED.

Accessory buildings and uses customarily incidental to the principal permitted uses enumerated in sections19.01 and 19.02 are permitted, including the following:

A. Operations required to maintain or support any use permitted above on the same lot as the permitted use, such as maintenance shops, power facilities, government facilities, public utilities and medical facilities;

B. Sleeping quarters for security and maintenance personnel. Such quarters shall not be constructed as permanent housekeeping facilities or units for family living, except as may be permitted in conjunction with an approved mini-warehouse;

C. Amusement devices, as regulated by section 28.01;

D. Outside storage shall be so limited to currently licensed cars, trucks and vehicles, finished and semifinished manufactured materials produced on the premises and equipment necessary as an accessory to the principal use, provided the following conditions are complied with:

1. All storage shall be located to the rear of the building;

2. A masonry wall, not less than four feet nor more than eight feet high, landscaping with a chain link or pressure-treated obscuring wood fence shall enclose the storage area;

3. It is mutually understood by the property owner and the city that whenever a different material is to be stored than that agreed upon in the original request, a new approval shall be required from the Planning Department;

4. The city shall also find, before granting this approval, it will not tend to further:

a. Impair the adequate supply of light and air to adjacent property;

b. Increase the hazard from fire, flood and other dangers;

c. Diminish the market value of adjacent land and buildings;

d. Increase the congestion on the public street;

e. Otherwise impair the public health, safety, comfort and general welfare;

5. The height of any materials to be stored outside shall observe the following setbacks from the perimeter of the enclosed storage area.

Setback	***Height***
0-25 feet	8 feet
25-50 feet	15 feet
50+ feet	50 feet

SECTION 19.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The minimum size of each lot per building:

1. Width: 100 feet.

2. Depth: 200 feet.

3. Area: 20,000 square feet.

B. Maximum height of any structure:

1. In stories: None.

2. In feet: 35.

Building height may exceed 35 feet, provided that yard setbacks to that point of the building which exceeds 35 feet are increased two feet for each additional foot of building height over 35 feet.

C. Minimum building floor area:

1. Area: 5,000 square feet.

D. Minimum yard setback per lot:

1. A building or any portion of it that does not exceed 30 feet in height may be permitted to extend up to 40 feet into any required 75 foot front yard, or up to 15 feet into any required 50 foot front yard.

2. Side: 5 feet. If walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than 15 feet shall be provided. No building shall be located closer than 50 feet to the outer perimeter (property line) of such district when such property line abuts any residential district.

3. Rear: 50 feet. No building shall be located closer than 50 feet, and no storage shall be located closer than 20 feet from the outer perimeter (property line) of this district when such property line abuts any residential district.

E. Maximum lot coverage: the maximum lot coverage shall be governed by meeting all requirements for yard space, landscaping, screening, off-street parking and loading. The location of buildings and uses and distances between buildings shall be as shown on the site plan.

(Ord. No. 278-A, § 36, 4-17-90; Ord. No. 278-G, §§ 11, 12, 9-18-90; Ord. No. 278-X, § 5, 4-6-99; Ord. No. 278-AA, § 8, 3-20-01; Ord. No. 278-BB, § 4, 12-18-01; Ord. No. 278-CC, § 6, 6-3-03)

SECTION 19.05. STRUCTURE AND SITE REQUIREMENTS.

A. The exterior of all buildings hereafter erected shall be constructed of brick and/or stone building materials or other similar durable, decorative building materials as may be approved by the Planning Department, subject to any additional requirements set forth in section 26.01, paragraph H. The architecture and exterior finish of any building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior.

B. All portions of the site not used for parking, driveway and buildings shall be provided with a lawn or landscaping, as specified in section24.02, approved by the Planning Department and so maintained in an attractive condition.

C. Every use involving the receipt or delivery of materials shall provide space for vehicle standing so loading or unloading will not take place in any public street, alley or right-of-way. Loading and unloading shall be provided in such a manner that backing from a public street with a right-of-way of 86 feet or greater will not be facilitated. Loading and unloading docks and truck wells are prohibited in required front yards along major thoroughfares and/or existing or proposed rights-of-way of 120 feet or greater. Along thoroughfares or rights-of-way of less than 120 feet, below grade loading shall be permitted in the required front yard. In no instance shall above grade or elevated loading be permitted in the required front yard.

D. Once a building line has been established by the construction of a principal building upon an approved site, no other principal building or use shall be located between the established building line and the front lot line (or side lot line abutting a side street) without first obtaining approval of the Planning Commission. The Planning Commission shall review the building and/or use proposed to be located in front of the established building to determine whether the building or use is of

such location, size and character to be in harmony with the appropriate and orderly development of the balance of the site, is not detrimental to the development of adjacent uses, does not create any vehicular or pedestrian hazard and is aesthetically compatible with the buildings and uses located upon the site. Landscaping plans, site plans (including signs and the location of dumpsters) and elevations of all sides of any building to be constructed shall be submitted to enable the Planning Commission to determine whether the proposed additional building and/or use conforms with the requirements of this section. In reviewing this request, the Planning Commission shall apply the standards contained herein and in section 25.02 and may impose reasonable conditions as authorized by section 25.03(D) to ensure the standards are satisfied.

(Ord. No. 278-F, § 8, 8-8-90; Ord. No. 278-OO, § 10, 8-5-09)

SECTION 19.06. PERFORMANCE STANDARDS AND REGULATIONS OF USES.

It is the intent of this section to require that each permitted use shall be a good neighbor to adjoining properties by control of noise, odor, glare, vibration, smoke, dust, liquid wastes, radiation, radioactivity and the like. The performance standards set forth in subsection A, following, shall be complied with. In case of conflict among these standards and federal and state regulations, the most restricted standard or regulation shall apply.

A. *General regulations and limitations on uses.*

1. *Noise*. Noise shall not exceed 65 decibels measured at the front site line and as measured at any site line which is adjacent to an O-R, office, commercial or residential district.

2. *Odors and gases.* No obnoxious odors or gases shall be emitted which may be harmful or irritating to the public health and/or safety.

3. *Glare and heat.* Glare and heat from arc welding, acetylene torch cutting or similar processes shall be shielded in such a manner as to prevent any danger or discomfort to persons outside of any building where such operation is being conducted.

4. *Exterior lighting.* During business hours after sunset, the parking areas shall be adequately lighted for safety of users and security of adjacent property owners. All lighting shall comply with the exterior lighting standards of section 24.06.

5. *Vibration*. Shall not cause a ground displacement exceeding .003 inch as measured at any site line of the premises and not detectable at any residential district boundary.

6. *Smoke*. Emission of smoke shall not exceed the number 2 standard as established by the Ringelmann Chart for periods aggregating four minutes in any 30 minutes.

7. *Dirt, dust and fly ash.* The emission of dirt, dust and fly ash shall not exceed three-tenths grains per cubic foot of flue gas as measured at stack temperatures of 500°F with not to exceed 50% excess air. No haze shall be caused by such emission which would impair visibility.

8. *Radioactive materials.* No radioactive materials shall be emitted in excess of standards established by the U.S. Bureau of Standards for human safety.

9. *Power*. Power utilized in any industrial activity shall be derived only from electrical energy or smokeless fuels containing less than 20% volatile content on a dry basis. Bituminous coal shall be fired only by mechanical equipment.

10. *Electrical radiation.* Electrical radiation shall not adversely affect at any point any operations or any equipment other than those of the creator of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.

11. *Waste*. All sewage and industrial wastes shall be handled, stored, treated and/or disposed of in compliance with all federal, state, county and/or city laws and regulations.

12. *Bulk storage of flammable liquids, liquified petroleum gases and the like.* The bulk storage of such materials, either above ground or underground, shall not be permitted unless permitted by the Fire Marshal.

13. *Fire Code.* Uses and activities in the M-1 district shall observe all applicable provisions of the Sterling Heights Fire Code.

(Ord. No. 278GG, § 2, 12-6-05)

ARTICLE 20. M-2 HEAVY INDUSTRIAL DISTRICT

SECTION 20.00. INTENT.

The M-2 Heavy Industrial District is intended to provide land for the more large-scale and intense manufacturing, fabricating and assembling uses. While such uses may occasionally produce external physical effects noticeable to a limited degree beyond the boundaries of the site, nevertheless, every possible effort shall be made to minimize such effects. All uses located within this district shall be so designed and operated as to observe the performance standards and regulations of use contained herein.

SECTION 20.01. PERMITTED USES.

All uses permitted in this district shall be constructed and conducted wholly in accordance with the standards of this article and limited to one or more of the following uses:

A. Any one or more permitted uses allowed in the M-1 Light Industrial District and any special approval land uses as regulated in the M-1 district;

B. Any manufacturing or other industrial type or related use (including the assembly, alteration, cleaning, fabrication, finishing, machining, processing, production, repair, servicing, storage, testing or treating of materials, goods or products) which is not injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other matter, toxic and noxious materials, odors, fire or explosive hazards or glare or heat, including but not limited to the following:

1. The manufacturing, fabrication and assembly of motor vehicle equipment and parts, farm machinery and equipment, heavy industrial machinery and equipment;

2. Manufacture of major appliances;

3. Brick or building block manufacture;

4. Pressing, stamping or forming of major sheet metal parts;

5. Manufacture of iron, aluminum, bronze and other castings;

C. Certain uses which by their nature would be dangerous in a community with large residential areas are prohibited. This shall include the manufacture of explosives, gasoline and other crude oil by-products;

D. Uses permitted under Article 22, Section 22.05 B 1, in accordance with the standards set forth in Section 22.05.

E. Similar uses, as determined by the Zoning Official.

(Ord. No. 278-NN, § 35, 1-6-09; Ord. No. 278-PP, § 2, 12-1-09)

SECTION 20.02. SPECIAL APPROVAL LAND USES.

The following uses, and others similar to those cited in this article, may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards imposed for each use:

A. Junk yards, subject to the following:

1. The entire site shall be enclosed on all sides by an obscuring masonry wall at least eight feet in height and of sufficient strength to serve as a retaining wall;

2. Such site shall (except for frontage on a public street) abut only land located within an M-2 district, and one property line shall abut a railroad right-of-way;

3. Adequate standing and parking facilities shall be provided on the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site;

4. The outdoor storage of scrap material shall not exceed a height of 20 feet;

B. Refuse and garbage incinerators, subject to the following:

1. Such use shall be located on a site of not less than 20 acres;

2. Such site shall (except for frontage on a public street) abut only land located within an M-2 district, and one property line shall abut a railroad right-of-way;

3. Screening along the perimeter of the site shall be required as determined by the Planning Commission;

4. All roads on the premises shall be paved with concrete or a bituminous hard surface;

5. Adequate standing and parking facilities shall be provided on the site so that no packer or other collection vehicle at any time stands on a public right-of-way awaiting entrance to the site;

6. No part of the structure in which any incinerator furnace is housed shall be located less than 200 feet from any property line on the premises or less than 400 feet from any public street or highway right-of-way;

7. Emission of smoke, dirt, dust and fly ash shall be controlled through the use of electrostatic precipitators or other equipment of equal or better efficiency, which shall meet all applicable federal, state and local air pollution control regulations;

8. Loaded packer or other collection vehicles shall be unloaded and the loads placed in the incinerator within one hour after the vehicles arrival on the premises;

9. The proposed plan of operation shall be approved by the Macomb County Health Department and Michigan Department of Natural Resources prior to issuance of a certificate of compliance;

10. The storage and disposal of ash shall be regulated by the appropriate county, state or federal authorities. No ash shall be stored closer than 100 feet to any property line;

11. No portion of the site shall be located within 1,320 feet from any residential zoning district;

C. Refuse transfer and recycling stations, subject to the following:

1. Such use shall be located on a site of not less than two acres;

2. Such site shall (except for frontage on a public street) abut only land located within an M-2 district and abutting a railroad right-of-way;

3. Screening along the perimeter of the site shall be required as determined by the Planning Commission;

4. All areas adjacent to the transfer point, such as the tipping floor, the turning area and the area supporting the trailer while it is being packed, shall be paved with concrete;

5. Adequate standing and parking facilities shall be provided on the site so that no packers or other collection vehicles at any time stand on a public right-of-way awaiting entrance to the site. The standing and parking facilities shall be paved with concrete;

6. No part of the structure in which any transfer operation is housed shall be located less than 50 feet from any property line on the premises;

7. Emission of smoke, dirt, dust and fly ash shall be controlled through the use of electrostatic precipitators or other equipment of equal or better efficiency, which shall meet all applicable federal, state and local air pollution control regulations;

8. The transfer facility and the adjacent area shall be kept clean and free of litter;

9. Sewage, solid or liquid and other liquids or dangerous substances in quantities considered to be detrimental to the operation of the transfer facility shall be excluded. An exception may be considered when the type of material, the equipment and method of handling have been submitted for approval. This provision in no way precludes the right of the transfer facility operator to exclude any material as a part of his or her operational standards;

10. All salvage and transfer operations shall be conducted wholly within an enclosed building;

11. If refuse is to remain at the transfer facility beyond the working day, such material shall be stored in a leakproof, fly and rodent resistant structure or container;

12. Equipment adequate in size and quantity, and in an operational condition, shall be available at all times. If, for any reason, the transfer facility is rendered inoperable for more than 24 hours, an alternate method, as approved by the city, shall be available;

13. No refuse shall be burned at the transfer facility. Arrangements shall be made for adequate fire protection and extinguishing of accidental fires. Refuse which is burning, or at a temperature which is likely to cause a fire, or is of highly flammable or explosive nature, shall not be acceptable in the transfer facility;

14. The proposed plan of operation shall be approved by the Macomb County Health Department, or other applicable agencies, prior to the issuance of a certificate of compliance;

15. All roads on the premises shall be paved with concrete or a bituminous hard surface;

16. No portion of the site shall be located within 1,320 feet from any residential zoning district;

17. A sufficient number of containers shall be available to preclude excessive refuse storage in the building awaiting transfer. No overflow from containers shall be permitted;

D. Truck terminals and truck storage yards, subject to the following:

1. Adequate ingress and egress shall be provided from a major thoroughfare of at least 120 feet of right-of-way, existing or proposed;

2. Such use shall not occupy an area greater than ten acres;

3. Dispatching and business offices shall be subject to the requirements of the district;

4. Maintenance and repair facilities shall be conducted totally within an enclosed building;

5. There shall be no areas designed or designated on the property for storage of inoperative trailers, vehicles or waste materials other than normal maintenance;

E. Warehouse-showroom retail sales of furniture, furnishings and appliances, subject to the following:

1. Not less than 70% of the total building area is devoted to warehousing, the receiving of merchandise, offices and utility area;

2. On-site railroad service is available and used for the operation of the warehouse showroom;

3. Off-street parking is provided pursuant to the parking ratios set forth in this ordinance for the various uses to be conducted;

4. Minimum site size for such use shall be not less than five acres;

5. The site shall have direct and unobstructed frontage access to a major thoroughfare;

6. The warehouse showroom structure shall have a minimum square footage of 100,000 square feet;

F. Public utilities, as regulated by section 3.02.(I). Wireless communication towers, antennas and related facilities shall be further subject to the provisions of section

28.18;

G. Concrete and asphalt crushing plants, subject to the following:

1. Such use shall be located on a site of not less than five acres;

2. Such site shall (except for frontage on a public street) abut only land located within an M-2 district. No portion of the site shall be located closer than 1,500 feet from any residentially zoned properties. The entire site shall be enclosed on all sides within a decorative skirting masonry wall of at least eight feet in height and of sufficient strength and durability to serve as a retaining wall;

3. All driveways and surface roads on the premises shall be paved with concrete;

4. All materials brought in to be recycled and/or crushed shall be stored on concrete pads at a height not to exceed 15 feet. Sprinklers with automatic timers shall be installed to keep materials awaiting processing moist and free from a generation of fugitive dust;

5. The facility and all of its operations shall comply with all of the performance standards set forth in section 20.06, as well as all applicable federal, state, county and local statutes, regulations, rules, orders and ordinances. Systems shall be employed to contain and process all emitted or discharged materials from the facility in an environmentally sound manner;

6. The crushing plant and associated equipment shall be constructed with materials so as to enclose all equipment (except vehicles) which generate significant levels of noise;

7. No equipment utilized for crushing shall be located less than 200 feet from any property line on the premises;

8. Exterior storage shall be limited to the storage of products that are to be, or have been, crushed and operable vehicles and equipment used at the facility;

H. Concrete and asphalt plants, subject to the following:

1. Such use shall be located on a site of not less than five acres;

2. Such site shall abut only land located within an M-2 district. No portion of the site shall be located closer than 1,320 feet from any residentially zoned property;

3. Screening along the perimeter of the site shall be required as determined by the Planning Commission in order to minimize any adverse effect on adjacent property owners;

4. All driveways and service roads on the premises shall be paved with concrete;

5. All areas of the site, which are not paved for parking, driveways, loading or operation, shall be landscaped and maintained in accordance with section 24.02, environmental provisions;

6. All aggregate and bulk materials shall be stored in concrete bunkers. Such storage shall not exceed 15 feet in height. The bunkers shall be equipped with sprinklers operated by automatic timers to keep materials moist and to control fugitive dust;

7. The plant shall be constructed so as to enclose all equipment except vehicles which generate significant levels of noise;

8. The facility and all of its operations shall strictly comply with all of the performance standards set forth in section 20.06, as well as all applicable federal, state, county and local statutes, regulations, rules, orders and ordinances. Systems shall be employed to contain and process all discharged materials from the facility in an environmentally sound manner;

9. The facility shall be equipped with an approved waste water recycling system to avoid contaminated water or liquids from being discharged to ground water, surface water or storm sewers. This shall include a wash-out, wash-down system to recover and recycle particles of cement and/or asphalt and other by-products processed from trucks used to transfer the product. The drainage system shall be designed and constructed in a way to prevent contaminated water, liquids or sediment from entering the storm or sanitary sewer in an untreated form;

10. The facilities shall be equipped with approved air pollution control system to ensure that no offensive smoke, dirt particles or odors are discharged into the environment that would be a nuisance to neighboring property owners or other residents of the city;

11. No part of the structure which is utilized to manufacture or process the product shall be located less than 100 feet from any property line on the premises;

12. All on-site and off-site utilities and improvements required by the city as a condition of approval of the special land use shall be installed in accordance with applicable city standards prior to operation;

13. Exterior storage shall be limited to the storage of aggregate and bulk material in bunkers, operable vehicles and equipment used to transport the materials for processing at the facility. No inoperable vehicles and equipment shall be stored on the property. This provision shall not prohibit maintenance and repair of vehicles or equipment in an enclosed building;

I. Lighted outdoor commercial sports centers, including baseball, wave pools, water slides, golf driving ranges, miniature golf and other intense activities. Because such centers possess the unique characteristic of often being used late into the night while attracting large numbers of spectators and attendant vehicular traffic in conjunction with ingress and egress to parking areas, these uses shall be permitted only in industrial districts subject to the conditions set forth in section 19.02.

(Ord. No. 278-F, § 9, 8-8-90; Ord. No. 278-Y, § 27, 5-16-00)

SECTION 20.03. ACCESSORY USES PERMITTED.

Accessory buildings and uses customarily incidental to the principal permitted uses enumerated in sections 20.01 and 20.02 are permitted, including the following:

A. Operations required to maintain or support any use permitted above the same lot as the permitted use, such as maintenance shops, power facilities, government facilities, public utilities and medical facilities;

B. Sleeping quarters for security and maintenance personnel. Such quarters shall not be constructed as permanent housekeeping facilities or units for family living, except as may be permitted in conjunction with an approved mini-warehouse;

C. Accessory buildings and uses, including special plants to treat industrial wastes;

D. Amusement devices shall be permitted as regulated in section 28.01.

SECTION 20.04. AREA, HEIGHT AND BULK REQUIREMENTS.

A. The minimum size of each lot per building:

1. Width: 100 feet.

2. Depth: 250 feet.

B. Maximum height of any structure:

1. In stories: None.

2. In feet: 50.

Building height may exceed 50 feet, provided that yard setbacks to that point of the building which exceeds 50 feet are increased two feet for each additional foot of building height over 50 feet.

C. Minimum building floor area:

1. Area: 10,000 square feet.

D. Minimum yard setback per lot:

1. A building or any portion of it that does not exceed 30 feet in height may be permitted to extend up to 40 feet into any required 75 foot front yard, or up to 15 feet into any required 50 foot front yard.

2. Side: 15 feet are required along the interior side lot lines. No building shall be located closer than 50 feet and no storage or parking shall be located closer than 20 feet from the outer perimeter (property line) of such district when such property line abuts any residential district.

3. Rear: 50 feet. No building shall be located closer than 50 feet and no storage or parking shall be located closer than 20 feet from the outer perimeter (property line) of this district when such property line abuts any residential district.

E. Maximum lot coverage. The maximum lot coverage shall be governed by meeting all requirements for yard space, landscaping, screening, off-street parking and loading. The locations of buildings and uses and distances between buildings shall be as shown on the site plan.

(Ord. No. 278-A, § 37, 4-17-90; Ord. No. 278-G, § 13, 9-18-90; Ord. No. 278-X, § 6, 4-6-99; Ord. No. 278-AA, § 9, 3-20-01; Ord. No. 278-BB, § 5, 12-18-01)

SECTION 20.05. STRUCTURE AND SITE REQUIREMENTS.

A. The exterior of all buildings hereafter erected shall be constructed of brick and/or stone building materials or other similar durable, decorative building materials as may be approved by the Planning Department, subject to any additional requirements set forth in section 26.01, paragraph H. The architecture and exterior finish of any building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior.

B. All portions of the site not used for parking, driveway and buildings shall be provided with a lawn or landscaping, as specified in section 24.02, approved by the Planning Department and so maintained in an attractive condition.

C. All storage accessory to the principal use shall be in the rear yard and shall be completely screened with a wall, not less than six feet high or with a chain link type fence and a greenbelt planting strip so as to obscure all view from any adjacent residential or commercial districts or public street.

D. Every use involving the receipt or delivery of materials shall provide space for vehicle standing so loading or unloading will not take place in any public street, alley or right-of-way. Loading and unloading shall be provided in such a manner that backing from a public street with a right-of-way of 86 feet or greater will not be facilitated. Loading and unloading docks and truck wells are prohibited in required front yards along major thoroughfares and/or existing or proposed rights-of-way of 120 feet or greater. Along thoroughfares or rights-of-way of less than 120 feet, below grade loading shall be permitted in the required front yard. In no instance shall above grade or elevated loading be permitted in the required front yard.

E. Once a building line has been established by the construction of a principal building upon an approved site, no other principal building or use shall be located between the established building line and the front lot line (or side lot line abutting a side street) without first obtaining approval of the Planning Commission. The Planning Commission shall review the building and/or use proposed to be located in front of the established building to determine whether the building or use is of such location, size and character to be in harmony with the appropriate and orderly development of the balance of the site, is not detrimental to the development of adjacent uses, does not create any vehicular or pedestrian hazards and is aesthetically compatible with the buildings and uses located upon the site. Landscaping plans, site plans (including signs and the location of dumpsters) and elevations of all sides of any building to be constructed shall be submitted to enable the Planning Commission to determine whether the proposed additional building and/or use conforms with the requirements of this section. In reviewing this request, the Planning Commission shall apply the standards contained herein and in section 25.02 and may impose reasonable conditions as authorized by section 25.03(D) to ensure that the standards are satisfied.

(Ord. No. 278-F, § 10, 8-8-90; Ord. No. 278-OO, § 11, 8-5-09)

SECTION 20.06. PERFORMANCE STANDARDS AND REGULATIONS OF USES.

It is the intent of this section to require that each permitted use shall be a good neighbor to adjoining properties by control of noise, odor, glare, vibration, smoke, dust, liquid wastes, radiation, radioactivity and the like. The performance standards set forth in subsection A, following, shall be complied with. In case of conflict among these standards and federal and state regulations, the most restricted standards or regulations shall apply.

A. *General regulations and limitations on uses.*

1. *Noise*. Noise shall not exceed 70 decibels measured at the front site line and as measured at any site line which is adjacent to any industrial or commercial district or 70 decibels when adjacent to any O-R, office or residential district.

2. *Odors and gases.* No obnoxious odors or gases shall be emitted which may be harmful to public health and/or safety.

3. *Glare and heat.* Glare and heat from arc welding, acetylene torch cutting or similar processes shall be deflected in such a manner as to prevent any danger to persons outside of any building where such operation is being conducted.

4. *Exterior lighting.* During business hours after sunset, the parking areas shall be adequately lighted for safety of users and security of adjacent property owners. All lighting shall comply with the exterior lighting standards of section 24.06.

5. *Vibration*. Shall not cause a ground displacement exceeding .003 inch as measured at any site line of the premises.

6. *Smoke*. Emission of smoke shall not exceed the number 2 standard as established by the Ringelmann Chart for periods aggregating three minutes in any 15 minutes when starting a new fire.

7. *Dirt, dust and fly ash.* The emission of dirt, dust and fly ash shall not exceed three-tenths grains per cubic foot of flue gas as measured at stack temperature of 500°F with not to exceed 50% excess air. No haze shall be caused by such emission which would impair visibility.

8. *Radioactive materials.* No radioactive materials shall be emitted in excess of standards established by the U.S. Bureau of Standards for human safety.

9. *Power*. Power utilized in any industrial activity shall be derived only from electrical energy or smokeless fuels containing less than 20% volatile content on a dry basis. Bituminous coal shall be fired only by mechanical equipment.

10. *Electrical radiation.* Electrical radiation shall not adversely affect at any point any operations or any equipment other than those of the creator of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operation is permitted.

11. *Waste*. All sewage and industrial wastes shall be handled, stored, treated and/or disposed of in compliance with all federal, state, county and/or city laws and regulations.

12. *Bulk storage of flammable liquids, liquified petroleum gases and explosives.* The bulk storage of such materials, either above ground or underground, shall not be permitted unless a special permit is obtained from the Fire Marshal.

13. *Storage.*

a. *Inside and underground storage other than junk.* Such storage is permitted provided compliance is made with all applicable fire and safety and health regulations.

b. *Outside storage other than junk.* No materials, goods and/or supplies used in connection with or part of any industrial use shall be stored, located or deposited in a manner so as to obstruct or interfere with any roadway on the premises which could be used as a means of access for firefighting equipment.

c. *Outside storage of junk and/or industrial waste incident to an industrial use.* Any such storage shall not exceed ten days and shall be completely enclosed within a tight, unpierced masonry, wood or metal fence.

14. *Rodent/vermin control.* All waste products shall be stored in closed containers to control rodents and vermin.

(Ord. No. 278GG, § 3, 12-6-05)

ARTICLE 20A. MOUND ROAD INNOVATION SUPPORT DISTRICT (MRISD)

SECTION 20A.00. INTENT.

The Mound Road Innovation Support District ("MRISD") is intended to:

A. Provide a comprehensive, collaborative planning, zoning and project review process through this overlay district in order to create an environment that is supportive to the city's industrial district, particularly the MRISD, that extends generally from on the west side of Mound Road, generally between 14 Mile Road and 18 Mile Road, more specifically within the east half of Sections 17, 20, 29, and 32 of the City.

B. Allow for uses, development, and redevelopment of property in a manner which is transformative, flexible, and supportive of those in the area, while increasing the overall design aesthetics and pedestrian amenities.

C. Provide an environment that allows for an overall more efficient, attractive use of land which recognizes the unique lot size and configuration of most properties, while minimizing impacts to abutting uses through careful attention to building design, use, orientation and materials paired with appropriate, abundant landscaping.

D. Provide safe and efficient integrated access and on-site circulation for automobiles and pedestrians through a cohesive cross connection of parking areas, sidewalks and paths.

E. Allow a flexibility in the mixture and types of uses, building designs and overall layout, etc. that can be responsive to changes in industrial, technological, office, and some retail market demands while still promoting quality through a variety of compatible uses, services and building types throughout the MRISD.

F. Promote development that meets the goals of the City's 2030 Visioning Plan which include the development of successful, vibrant and attractive commercial and industrial centers with unique offerings, well-maintained and desirable neighborhoods, plentiful leisure and recreational opportunities, abundant pedestrian connections, aesthetically pleasing roads and greenspaces, and opportunities for emerging businesses and entrepreneurs.

G. Limiting retail uses to the intersections of Mound Road and the major Mile roads within the District, in order to encourage the development of undeveloped land and the redevelopment of existing developed properties with office and technical research uses within the District.

(Ord. No. 278-EEE, § 1, 11-6-19)

SECTION 20A.01. APPLICABILITY.

The MRISD shall be an overlay district that is applied to those properties designated in the City of Sterling Heights Master Land Use Plan as "Innovation Support Designation", which are located along the west side of Mound Road, generally from 14 Mile Road, extending northward to approximately one half mile north of 17 Mile Road (i.e. parcels along the west side of Mound Road generally in Sections 17, 20, 29, and 32 of the City), as depict ed on the graphic below.

(Ord. No. 278- EEE, § 1, 11-6- 19)

SECTION 20A.02. PROCESS.

The city's standard review processes for site plan, special approval land use, and/or planned unit development approval shall apply to any proposed development or redevelopment of sites within the MRISD, except as modified in this article.

(Ord. No. 278-EEE, § 1, 11-6-19)

SECTION 20A.03. EXISTING USES/DEVELOPMENT.

Existing commercial buildings/structures within the MRISD shall not be considered non-conforming, provided they were lawful at the time of their development and adoption of this article and have not been modified except in conformance with this article.

(Ord. No. 278-EEE, § 1, 11-6-19)

SECTION 20A.04. PERMISSIBLE USES.

The following uses shall be permitted in accordance with the requirements set forth below:

A. All permissible uses within the O-R (Office Research District).

B. Existing retail uses, consistent with their current nature and scale and the regulations of the existing underlying business zoning district. (Expansion or

modification of existing retail properties must comply with the requirements of this article).

C. Existing industrial uses, consistent with their current nature and scale and the regulations of the existing underlying industrial zoning district. Expansion or modification of existing industrial uses must comply with the requirements of this article.

(Ord. No. 278-EEE, § 1, 11-6-19)

SECTION 20A.05. SPECIAL APPROVAL LAND USES.

The following buildings, structures and other uses similar to those cited in this article may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards imposed for each use:

A. Uses permitted as special approval land uses in the underlying zoning district.

B. Outdoor storage, regardless of whether outdoor storage is allowed under the underlying zoning district as a permitted use or accessory use. Outdoor storage shall not be a principal use of the site (either by itself or as a principal use on a site with multiple principal uses).

(Ord. No. 278-EEE, § 1, 11-6-19)

SECTION 20A.06. BUILDING/SITE DESIGN.

A. Buildings proposed to be constructed and the overall site shall be designed with particular attention to their arrangement, quality, and interrelationship of space and the way in which the building and overall site are designed to be useful.

B. Buildings and the overall site shall be designed and constructed in a way to create a sense of place, so that the development or redevelopment will have a positive effect on the immediate area, while adequately protecting any abutting residential uses from potential nuisances.

C. The off-street parking provided shall be the minimum amount of parking needed to adequately service the site and its uses. The collective use of shared parking shall be encouraged with cross access easements provided which are approved by the City Engineer and City Attorney.

D. Truck docks shall be prohibited, unless approved by the Planning Commission based upon the criteria for special land use approval set forth in article 25, section 25.02. In reviewing requests for truck docks, the Planning Commission shall give particular consideration to truck maneuvering onsite and truck dock maneuvering/orientation as related to abutting residential uses.

(Ord. No. 278-EEE, § 1, 11-6-19)

SECTION 20A.07. PARKING.

Within the MRISD, the total number of parking spaces provided on site may be reduced administratively by the City Planner, if the applicant can provide verifiable justification for such a reduction. Justification may be in the form of parking studies, regional / national standards, and similar developments within the community/abutting communities. A parking reduction agreement shall be signed by the property owner and recorded against the affected property identifying the number of required spaces that have been reduced and acknowledging that the reduction may affect future uses of the overall site depending on the type and scope of uses proposed and the total number of available parking spaces.

(Ord. No. 278-EEE, § 1, 11-6-19)

SECTION 20A.08. SCREENING.

With the intensification of development anticipated within the MRISD and the comparatively shallow parcel depths of properties along the west side of Mound Road, additional screening shall be necessary when development within the MRISD abuts any residential development outside of the MRSID. Screening consisting of a six foot high decorative masonry concrete wall, along with a ten foot wide greenbelt along the entire mutual property line with the abutting residential development, shall be provided and maintained by the MRISD property. The greenbelt shall be planted with eight foot high evergreen trees (spruce, pine or fir) at a rate of one tree for each ten linear feet of greenbelt. The City Planner may approve alternative means of screening when it can be shown the same level of screening will be accomplished.

(Ord. No. 278-EEE, § 1, 11-6-19)

SECTION 20A.09. SETBACK REDUCTION.

The required rear yard setback within each underlying zoning district may be reduced, provided intensified screening approved by the Planning Commission is provided and maintained to offset the reduction in the overall setback distance. The appropriateness of any reduction of rear yard setback shall be reviewed by the Planning Commission as a part of site plan/special approval land use review. The Planning Commission shall review the method of screening, type of use, and building/site orientation in determining whether the rear yard setback shall be reduced.

(Ord. No. 278-EEE, § 1, 11-6-19)

SECTION 20A.10. LANDSCAPING.

Unless otherwise modified by this article, all required landscaping shall be installed and maintained in compliance with the standards of the Zoning Ordinance.

(Ord. No. 278-EEE, § 1, 11-6-19)

ARTICLE 21. PCD PLANNED CENTER DISTRICT

SECTION 21.00. INTENT.

The Planned Center District is intended to provide, through comprehensive planning, zoning and project review for the development of high intensity, multipurpose centers in planned locations which will serve as focal points within the total urban design of the city, while providing stability and longevity for the economic development of the City of Sterling Heights.

The importance and impact of said centers require that their location be limited and that the plans for their development be given extensive review as to the effect on the total community.

This district is designed as an optional form of development to encourage innovation and variety in the design and arrangement of highly concentrated, integrated and diversified functions within a given development area, while ensuring through a comprehensive development plan and review process, an integrated compatibility between its own elements and compatibility with adjacent forms of development.

Due to the magnitude and arrangement of development in a planned center district, it is anticipated that division of the property may become necessary. In order to facilitate this division, compliance with the subdivision regulations of the City of Sterling Heights and the Subdivision Control Act of 1967, as amended, is encouraged at the preliminary planning stages.

The development of a Planned Center District shall be permitted only upon property which was zoned O-3, C-2, M-1 or M-2 immediately preceding its reclassification to planned center district or upon property which can be so developed consistent with the goals and objectives of the Master Land Use Plan. Such development shall be permitted only upon terms acceptable to the city and the developer.

(Ord. No. 278-M, § 1, 6-21-94)

SECTION 21.01. GENERAL REQUIREMENTS.

Planned Center District developments may be permitted only after extensive review is performed and public hearings on the development plan are held by the Planning Commission and the City Council in accordance with the procedure set forth herein and subject to the following conditions.

A. *Basic land conditions.*

1. The minimum site area shall be 100 acres.

2. The site area for computing all requirements shall consist of contiguous land under single ownership or control.

3. A Planned Center District development shall be permitted to be located only upon property which has a minimum of 500 feet of frontage on each of a minimum of two roads with an existing or proposed right-of-way of 120 feet or greater, as indicated on the Master Road Plan.

4. The proposed development(s) must be in basic accord with the intent of the Planned Center Development District.

B. *Uses permitted.*

1. All uses permitted as principal uses permitted, special land uses permitted subject to special conditions and Planning Commission approval and accessory uses permitted in the following districts, except as otherwise provided in this section: RM-1, RM-2 and RM-3, O-1, O-2 and O-3, C-2 and C-3. Rehabilitation centers, new and secondhand automobile, recreational vehicle, boat and mobile home dealers, rentals and leasing, mortuaries, equipment and tool rentals, fuel oil dealers, adult bookstores, adult video stores, adult motion picture theaters, cabarets, massage parlors, full and self service gasoline stations and self storage facilities shall be excluded.

2. In multiple family districts, only multiple family dwelling units of the uses permitted in said district, in combination with permitted uses as desired in the other named districts, shall be permitted.

3. All uses permitted as principal uses in the M-1 district shall be permitted, provided such use is identified and incorporated as part of the Comprehensive Development Plan on land which was zoned for M-1 or M-2 use immediately preceding its rezoning to Planned Center District.

4. Additional uses upon review by the Planning Commission and approval by the City Council after a determination that one or more of the following conditions exist:

a. That the use is related and reasonably necessary or convenient for the satisfactory and efficient operation of a complete and integrated planned center development;

b. That the use is similar in character to one or more of the above permitted uses.

5. Any uses which are permitted only as special land uses shall be permitted in the Planned Center District only after review and approval of the Planning Commission under Article 25 of this ordinance.

6. Freestanding buildings and uses, apart from major building complex or elements, may be permitted after review of the Planning Commission and approval by the City Council following the finding that the form and location of the subject freestanding building or buildings and the land uses contained therein are reasonably necessary for the proper functioning of the planned center development.

7. Once a planned center development is approved, any changes in the land use designated for particular areas of the PCD development upon which the approval was based must be submitted and reviewed by the Planning Commission and approved by the City Council.

8. In order to provide consistency and compatibility with the city Master Land Use Plan at least 55% of all land area (excluding public rights-of-way) contained in the planned center development shall be developed with primary uses, and upon completion of the development, at least 55% of the ground floor square footage of the development shall be developed with primary uses. For purposes of this section, ***PRIMARY USES*** shall mean uses permitted under the zoning classification of the property immediately prior to rezoning to the Planned Center District classification and uses compatible with existing developments surrounding the property.

(Ord. No. 278-M, § 1, 6-21-94; Ord. No. 278-NN, § 8, 1-6-09)

SECTION 21.02. LOCATION AND SITE STANDARDS.

A. Due to the magnitude of development permitted, both in scale and intensity, and the attendant impact upon vehicular circulation facilities and public utilities, the Planned Center District shall be considered only for those properties indicated on the Master Land Use Plan for intense development (i.e., industrial, high-rise office, planned business). Further, as the Planned Center District is intended to provide for an optional form of development, rezoning and/or development of a planned center development can only be carried out if the terms and nature of development are acceptable to both the city and the developer.

B. An owner or developer controlling a minimum of 100 acres, contemplating the development of a high intensity multi-purpose complex on property zoned PCD or within the area designated for intense development, may apply for rezoning to the Planned Center District on the basis of a development plan which conforms to the standards contained herein. This plan shall be presented as a part of the application for rezoning along with any other information or materials required hereunder.

(Ord. No. 278-M, § 1, 6-21-94)

SECTION 21.03. DEVELOPMENT STANDARDS.

In order to achieve the intent of this district, the following shall serve as a guide and minimum standards for the development of plans.

A. *Vertical relationship of uses.*

1. Commercial uses (including hotels) may include at-grade, below-grade and above-grade parking and pedestrian areas. Further, restaurants and other similar uses may be permitted above office areas where such uses are compatible with, and reasonably necessary for, the proper functioning of the total planned center development.

2. Office uses may include at-grade, below-grade and above-grade parking and pedestrian areas. In addition, office uses may be located above or below commercial uses or any combination of the above uses.

3. Multiple family developments may include at-grade, below-grade and above-grade parking and pedestrian areas, commercial uses, office uses or a combination thereof; however, in no case shall multiple family dwelling units be permitted to be located below the above-described uses within a single vertical structure.

B. *Horizontal relationship of uses.*

1. *Transitional use areas.* There shall be required within the boundary of the proposed project, or upon immediately adjacent property under the developer's control, development of transitional use areas whenever the proposed project abuts property planned to be developed for residential use. The Planning Commission shall review and make a recommendation to the City Council and the City Council shall determine transitional use areas in the proposed project in order to assure maximum compatibility with the existing and/or future development of abutting property.

2. *Perimeter yards.* All structures within the proposed project, excluding surface off-street parking, shall conform to the standards set forth in the O-3, Office Commercial Service District, in determining the required perimeter yards. For the purpose of this section, perimeter yards shall refer to those adjacent to the total project boundaries.

3. *Internal building relationship.* Multiple family dwelling units shall be set back from any adjacent structure a distance not less than that derived from the formula set forth in section 6.04(D) of this ordinance. Further, buildings containing residential elements in addition to other uses shall be positioned such that the angle of vision is not less than 45 degrees between any residential building face having exterior views and any adjacent building or building element of similar height.

4. *Accessory uses.* Except as otherwise provided, accessory uses within a planned center development building complex shall be included within the principal use structure or attached to such structure by means of a fully enclosed structural attachment.

C. *Off-street parking.*

1. The requirements for off-street parking shall conform to the schedule provided in Article 23 and shall be applied cumulatively for all uses within the project.

2. In recognition of the potential multi-purpose use of a portion of the off-street parking facilities, the Planning Commission may recommend to the City Council

the sharing of up to 10% of the total required parking spaces when the Planning Commission determines that such sharing and consequent reduction in off-street parking will not impair the functioning of the planned center development or have an adverse effect on traffic circulation within or adjacent to the site.

3. The number of parking spaces required under section 23.02 for such use may be decreased by 10% of the total required parking, provided the Planning Commission and the City Council determine that such sharing and consequent reduction of off-street parking will not impair the functioning of the planned center development or have an adverse effect on traffic circulation within or adjacent to the site. In such case, the landscaping which is installed must be arranged such that parking may be installed in its place at a later date if such a demand arises. If the developer requests the option of landscaping in lieu of additional parking, parking must be installed at the request of the City of Sterling Heights in the event such a need arises. The landscaped area authorized by this provision shall be in addition to those required by other sections of this ordinance.

4. Provisions identified in subparagraphs 2 and 3 above are intended to provide greater flexibility in the design of parking areas. It is the intent of these provisions to assist in the elimination of large, open, uninterrupted parking areas. Developers are encouraged to vary parking area elevations from at-grade to below-grade and introduce landscape treatment into the parking area.

5. There shall be limited access from a planned center development to abutting major roads and all access to parking shall be from an internal collector roadway system.

D. *Land use buffers and landscaping.* The need for and type of screening required between the Planned Center District and adjoining zoning districts shall be determined by the city and developer as part of the development plan approval process. In addition, the following requirements shall apply:

1. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as specified in the following schedule:

Distance from centerline:

a. Regional (204' R.O.W.): 177 feet.

b. Regional (150' R.O.W.): 150 feet.

c. Major: 135 feet.

d. Secondary: 93 feet.

e. Collector: 85 feet.

f. Local:

Industrial 80 feet.

All others 65 feet.

g. Cul-de-sac:

Industrial 105 foot radius.

All others 90 foot radius.

h. Freeway: 75 feet.*

i. Private roads: 75 feet.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot. There shall be no setback requirement from private driveways.

The required front yard shall be landscaped and maintained thereafter in a neat and orderly condition. If the existing right-of-way is greater than that shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street plus 75 feet for major and regional roads, one-half of the actual right-of-way plus 50 feet for secondary, collector and industrial local roads and one-half of the actual right-of-way plus 35 feet for all other local roads. The landscaping shall contain berms and plantings in accordance with the requirements of section 24.02.

2. A minimum of 10% of the net site area (after excluding the paved portion of thoroughfares and preserved woodlands and wetlands) shall be developed and maintained as landscaped areas. The landscaping required under subparagraph 1, above, may be used to satisfy this requirement.

3. A Planned Center District development containing any residential uses shall provide an open space for such uses at a rate of no less than 450 square feet per dwelling unit. This open space area shall be in addition to any open spaces required by any other sections of this article. Such open space shall be fully accessible to all residents of the residential development. To assure the permanence of the open space and its continued maintenance, the developer shall provide a proposed open space agreement for review and approval by the City Attorney. The open space agreement must be in a form satisfactory to the city and shall include the following:

a. The proposed manner of holding title to the open space;

b. The proposed manner of payment of taxes;

c. The proposed method of regulating the use of open space;

d. The proposed method of maintenance of the open space and the means of paying for such maintenance;

e. Provision for maintenance of the open space by the city if it is not satisfactorily maintained and a method of cost recovery for such expenses;

f. Any other facts relating to the legal or practical problems of ownership and maintenance of the open space.

4. In order to provide an orderly transition of density, where the proposed Planned Center District project immediately abuts an R-100, R-90, R-80, R-70 or R-60 district (not including districts separated by a major thoroughfare), the city may require that the area immediately abutting and within 300 feet of any R-100, R-90, R-80, R-70 or R-60 district shall be developed with one family residential lots or shall be developed as open recreation space. In such case, an open space agreement satisfying the requirements of subparagraph 3 above shall be provided.

E. *Major thoroughfares in Planned Center Districts.*

1. Where a planned or proposed major thoroughfare, secondary thoroughfare or collector road is included partially or wholly within the project area of a Planned Center District development, the portion of such roadway shall be provided as a public right-of-way meeting the width standards as stated in the Master Road Plan for such right-of-way. The alignment of the roadway shall be in general conformance to the proposed alignment as shown on the Master Road Plan.

2. Direct access to major roadways shall be limited to locations specifically approved by the City Council after review and consideration by the Planning Commission.

(Ord. No. 278-M, § 1, 6-21-94; Ord. No. 278-NN, § 9, 1-6-09)

SECTION 21.04. REZONING SUBMISSION PROCEDURES AND CONDITIONS.

A. *Procedure for application.* Application for rezoning to the Planned Center District classification shall be made to the city. The applicant shall be required to submit the following material for review and recommendation by the Planning Commission:

1. A property survey of the exact acreage requested for rezoning, done by a registered land surveyor or civil engineer (Scale: 1" = 50');

2. A preliminary development plan of the entire area carried out in sufficient detail as to show the topography, land uses proposed, the densities and scale of development, the system of pedestrian and vehicular circulation, including off-street parking areas, and the relationship to adjacent properties and uses (Scale: 1" = 50');

3. A written statement containing the following supporting documentation:

a. The intent of nonresidential development, type and gross and net square feet (including the area designated to be developed with primary uses);

b. The number and type of residential units contemplated and calculations of the resultant population and school population by school type;

c. Calculation of the off-street parking required and provided for each element of the development;

d. Calculation of the landscaped open space area required and provided;

e. Additional information, including but not limited to soil, wetlands and woodlands surveys, market studies and intended scheduling of development.

B. *Review by Planning Commission and City Council.* The preliminary development plan and supporting information and request for PCD rezoning shall be reviewed by the Planning Commission and a recommendation shall be made to the City Council relative to the plan's conformance to the intent of the Master Land Use Plan and the provisions of this article.

C. *Public hearing.* Where a request has been made to rezone property in order to develop a Planned Center District project, approval of the preliminary development plan shall be granted in conjunction with the rezoning approval only after a public hearing has been held by the Planning Commission and a recommendation made to the City Council.

D. *Final development plan required.* Approval of the preliminary development plan by the City Council shall not constitute approval of the final development plan but shall be deemed as approval of the land use proposal and shall serve as a guide in the preparation of the final development plan. No development shall occur until a final development plan of the planned center project site has been prepared by the developer which after review and comment is approved by the city in accordance with the procedures set forth in section 21.05. Approval under this section is based on the preliminary development plan submitted and the plan is, therefore, an integral part of the rezoning.

E. *Duration of approval.* Approval of the preliminary development plan by the City Council shall be effective for a period of five years. Extensions of this approval period may be granted by the City Council after review and recommendation by the Planning Commission.

F. *Other possible developments.* In presenting and considering rezoning and development proposals under this article, it is understood by the City Council and the petitioner that reasonable development could occur under the application of other zoning classifications to the subject property and, thus, the application of the Planned Center District classification is fully at the discretion of the City Council.

(Ord. No. 278-M, § 1, 6-21-94; Ord. No. 278-NN, § 10, 1-6-09)

SECTION 21.05. FINAL DEVELOPMENT PLAN AND APPROVAL PROCEDURES.

A. On parcels zoned Planned Center District or upon the rezoning of land to the Planned Center District by the City Council, the developer may submit a final development plan for consideration and approval by the City Council after review and recommendation by the Planning Commission, including the following:

1. The final development plan for the entire area under the Planned Center District classification shall be of sufficient detail to indicate specific land uses, general building locations, off-street parking areas, open spaces, greenbelts and the vehicular and pedestrian circulation system for the development in accordance with the requirements set forth in section 21.04,A,4;

2. A list of intended exterior building facade materials from which the buildings within the Planned Center District will be constructed;

a. Acceptable exterior building facade materials shall include but not be limited to:

i. Brick veneers;

ii. Architectural masonry units;

iii. Stone veneers and granite;

iv. Architectural pre-cast concrete panels.

If colors and elevations for buildings to be constructed are available for particular buildings, they shall be submitted. Evaluation of the appearance of a project shall be based on the quality of its design, relationship to surroundings, sensitive integration of form, textures and colors with the particular landscape and setting. A building facade design must be considered in its entirety. The intent is to promote integration and mixture of materials where more than one material is used on a building. If only one material is used, architectural detailing and articulation, massing, texture and form must be introduced into the building's facade design.

b. Unacceptable exterior building facade materials shall include but not be limited to:

i. Plywood or plywood base products;

ii. Corrugated or fluted metal siding;

iii. Vinyl or aluminum siding;

iv. Concrete utility block or other nonarchitectural masonry units;

v. Prefabricated aggregate building panels.

3. An overall landscape plan for the development, indicating intended landscaped areas. Details of specific plantings shall not be required at the final development plan stage;

4. Any restrictions or requirements intended to be imposed by the developer upon owners or tenants within the Planned Center District development to ensure that the development is completed as an integrated, aesthetically pleasing development;

5. The proposed densities of the development, to determine compliance with section21.07 below;

6. A statement as to what impact the Planned Center District will have on existing resources and utilities and what actions the developer intends to take to alleviate any burdening of such resources.

B. Approval of the final development plan shall be effective for a period of three years. One year extensions may be granted by the City Council. Such approval shall not be granted until the following conditions are met:

1. Review and recommendation by the City Planning Commission for consistency with the City Master Development Plan, the previously approved planned center development plan and development in the area;

2. Provisions satisfactory to the City Council have been made to assure the financing and/or installation of all streets and necessary utilities related to the proposed development;

3. All dedications of public rights-of-way or planned public open spaces have been made or otherwise assured in a manner acceptable to the City Council;

4. The City Council determines that there exists a reasonably harmonious relationship between the general location of buildings on the site relative to buildings on lands in the surrounding area; that there is a reasonable architectural and functional compatibility between structures on the site and structures within the surrounding area to assure proper relationships between:

a. The topography of the adjoining lands as well as that of the site itself, including any significant natural or manmade features;

b. The relationship of the general locations of buildings within the planned center district development to those developed on adjacent land (i.e., entrances, service areas and mechanical appurtenances);

c. The rooftops of buildings that may lie below street levels or from the windows of higher buildings located upon adjacent property;

d. Landscape plantings, off-street parking areas and service drives on adjacent lands;

e. Compliance with street, road and public utility layouts approved for the area;

f. The architecture of the proposed building(s), including overall design and facade materials used. Architectural design and facade materials for proposed buildings are to be complimentary with buildings located in the surrounding area. It is not intended that contrasts in architectural design and use of facade materials are to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade area within the surrounding areas so as to create an adverse effect on the stability and value of the surrounding properties. If the architectural design and elevations for particular proposed buildings are available, they shall be submitted.

C. Upon final approval by the City Council of the final development plan for any proposed planned center project, the final development plan and other documentation shall be kept on file by the City Clerk. All construction and development must be done in accordance with the final development plan, unless it is amended by the developer and the City Council.

D. When the Planned Center District project is to be developed in stages, an overall development plan shall be submitted to aid in consideration of the more detailed site plan for that area within which construction is to proceed. Each subsequent submittal shall include an overall development plan that reflects the construction activity that has occurred and that portion that remains conceptual. Adequate yard areas shall be reserved where the subject development phase abuts land proposed for future phases of the development.

1. There shall be a reasonably harmonious relationship between the location of individual buildings on the site to others within the site and the surrounding area and architectural and functional capability between structures within the site and structures within the surrounding area to assure proper relationships between:

a. The topography of the adjoining lands as well as that of the site itself, including any significant natural or manmade features;

b. The relationship of one building to another, whether on site or on adjacent land (i.e., entrances, service areas and mechanical appurtenances);

c. The rooftops of buildings that may lie below the street levels or from the windows of higher adjacent buildings;

d. Landscape plantings, off-street parking areas and service drives on adjacent lands;

e. Compliance with street, road and public utility layouts approved for the development;

f. The architecture of the proposed building(s) upon the site, including overall design and facade materials used. Architectural design and facade materials are to be complimentary with existing or proposed buildings within the site and upon adjacent properties. It is not intended that contrast in architectural design and use of facade materials are to be discouraged, but care should be taken so that any such contrast will not be so out of character with existing building designs and facade materials both on and off the site so as to create an adverse effect on the stability and value of other properties within the site or on adjacent properties. The City Planner may require changes to the site plans if the proposed buildings do not meet these requirements.

E. In order to ensure that development within this district will occur in accordance with this ordinance, no final development plan for the Planned Center District project, or any portion thereof, may be approved which allows those uses designated as secondary to exceed the primary uses, either existing or proposed to exist upon completion of that phase, in size, scale or magnitude.

(Ord. No. 278-M, § 1, 6-21-94; Ord. No. 278-NN, § 11, 1-6-09)

SECTION 21.06. DENSITY AND INTENSITY CONTROL.

Those provisions of a proposed development plan presented under this article which contemplate residential development shall conform to the following in establishing the permitted density:

A. Low rise residential development which may be required by the Planning Commission and City Council as transition to residential lands abutting the subject property shall conform to the density standards of the related conventional zoning districts;

B. High rise residential development proposed as an integral part of the development plan for a Planned Center District project shall be subject to the development standards of the RM-3 district. The land area used in the computation of density shall be no more than 20% of the net nonresidential project area.

Residential building elements of a height greater than that permitted by the RM-1 and RM-2 districts may be permitted after review by the Planning Commission and approval by the City Council following a finding that the form and location of the subject building elements are proper and reasonable in conjunction with the form of the total planned center project and compatible with development in the adjacent area. Such a potential increase in permitted structure heights shall include no attendant increase in dwelling unit density over that permitted if developed in compliance with all conventional regulations.

On those sites indicated by the Master Land Use Plan for high rise nonresidential development, the development of any element of a development proposed for high density residential use shall be subject to the development standards of the RM-3 district.

(Ord. No. 278-M, § 1, 6-21-94)

SECTION 21.07. SITE PLAN APPROVAL.

Upon approval by the City Council of the final development plan, Planned Center District projects shall comply with the site plan review procedures and requirements of Article 26, in addition to any requirements contained herein.

A. *Area and bulk requirements.* Except as otherwise provided herein, all uses within the Planned Center District shall comply with the area, bulk, height and replacement of building requirements of the use district in which the proposed use is first permitted as a principal use. Requests for variances to the area and bulk requirements shall be considered by the Zoning Board of Appeals. There shall be no variances to any requirements of the Planned Center District, except as to the area and bulk requirements.

B. *Structure and site requirements.*

1. Each building constructed within the Planned Center District shall be constructed of aesthetically pleasing brick and/or stone building materials or other similar durable building materials which were approved as part of the final development plan and approved by the Office of Planning, subject to the review procedures set forth in this article and in section 26.01, paragraph H. The Office of Planning shall not disapprove building materials which were approved as part of the final development plan unless they are not compatible with existing buildings or proposed buildings for which approval has already been granted. Evaluation of the appearance of a project shall be based on the quality of its design, relationship to surroundings, sensitive integration of form, textures and colors with the particular landscape and setting. A building façade design must be considered in its entirety. The intent is to promote integration and mixture of materials where more than one material is used on a building. If only one material is used, architectural detailing and articulation, massing, texture and form must be introduced into the building's façade design.

2. Portions of the site not used for parking, driveways and buildings or plazas shall be provided with landscaping approved by the Office of Planning in accordance with section 24.02;

3. Roof-mounted appliances and fixtures shall be effectively screened on all sides by the roof line so as not to be visible from off the site (section 24.04);

4. Loading shall be provided only in rear yards. Side yard loading may be permitted by the Office of Planning when such space and loading facilities do not interfere with parking and circulation, either vehicular or pedestrian.

(Ord. No. 278-M, § 1, 6-21-94; Ord. No. 278-NN, § 34, 1-6-09; Ord. No. 278-OO, § 12, 8-5-09)

ARTICLE 22. SPECIAL DEVELOPMENT OPTIONS

SECTION 22.00. SITE CONDOMINIUMS.

A. *Intent.* The intent of these requirements is to ensure that all condominium subdivisions are developed in compliance with accepted planning and engineering standards applicable to similar forms of development as reflected in the ordinances and requirements of the City of Sterling Heights. Single family detached condominiums may be allowed as a permitted use in the one family residential zoning districts.

B. *Submission requirements.* All condominium subdivision plans shall be submitted for site plan review as required by section 26.02 of this ordinance and section 66 of the State of Michigan Condominium Act (Public Act 59 of 1978) and include the following additional information:

1. A survey of the condominium subdivision site;

2. A plan delineating all natural features on the site, including but not limited to ponds, streams, lakes, drains, floodplains, wetlands and woodland areas;

3. The location size, shape, area and width of all condominium units and common areas and the location of all proposed streets;

4. A copy of the master deed and all restrictive covenants to be applied to any residential detached site condominium project shall be furnished to the city for review prior to the granting of final site plan approval;

5. A utility plan showing a sanitary sewer, water and storm drainage improvements, plus all easements granted to the city for installation, repair and maintenance of all utilities;

6. A street construction, paving and maintenance plan for all streets within the proposed condominium subdivision plan;

7. A storm drainage and stormwater management plan, including all line, swales, drains, basins and other facilities.

C. *Review.* Pursuant to authority conferred by section 141 of the Condominium Act, Public Act 59 of 1978, as amended, all condominium subdivision plans shall require approval by the Planning Department before units may be sold or site improvement initiated. The review process shall consist of the following two steps.

1. *Preliminary plan review.* In the preliminary review phase, the Planning Department shall review the overall plan for the site, including basic road and unit configurations and the consistency of the plans with all applicable provisions of this zoning ordinance. Plans submitted for preliminary review shall include information specified in items (1) through (3) of the submission requirements.

2. *Final plan review.* Upon receipt of preliminary plan approval, the applicant should prepare the appropriate engineering plans and apply for final review by the Planning Department. Final plans shall include information as required by items (1) through (7) of section 22.00(B). Such plans shall be reviewed by the City Attorney and the City Engineering Department. Further, such plans shall be submitted for review and comment to all applicable local, county and state agencies as may be appropriate. Final approval shall not be granted until such time as all applicable review agencies have had an opportunity to comment on said plans.

D. *District requirements.* The development of all condominium subdivisions shall observe the applicable yard setback and minimum floor area requirements of the district within which the project is located. The dwelling unit density of the project shall be no greater and spacing no less than would be permitted if the parcel were subdivided for that specific zoning district, pursuant to the Subdivision Control Act, Public Act 288 of 1967, as amended.

E. *Design standards.* All development in a site condominium subdivision shall conform to the engineering and planning design standards of the subdivision ordinance. All streets shall be constructed in accordance with applicable city codes, ordinances and engineering standards. Public street connections shall be required, where necessary, to provide continuity to the public road system.

F. *Utility easements.* The condominium subdivision plan shall include all necessary public utility easements granted to the City of Sterling Heights to enable the installation, repair and maintenance of all necessary public utilities to be installed. Appropriate dedications for sanitary sewers, lines and storm drainage improvements shall be provided.

G. *Final acceptance.* The city shall also require all the appropriate inspections. After construction of the condominium subdivision, an as-built reproducible mylar of the completed site is to be submitted to the city for review by the Engineering Department. A final certificate of occupancy and any building bonds will not be released to the developer/owner until said as-built mylar has been reviewed and accepted by the city.

(Ord. No. 278-I, § 1, 2-5-91; Ord. No. 278-Y, § 28, 5-16-00; Ord. No. 278-NN, § 12, 1-6-09)

SECTION 22.01. ONE FAMILY CLUSTER OPTION.

A. A one family cluster development shall be permitted at the developer's option, provided that the Planning Commission determines after review of documentation submitted in compliance with paragraph E and after a public hearing, that the parcel meets the qualification requirements of paragraph B, and that the proposed one family cluster development meets the site design requirements of paragraph C. The overall density permitted under this option remains substantially the same as is permitted in a conventional subdivision development (see section 22.01 D, permitted densities).

B. *Qualification of parcel.* In order to qualify a parcel for development under this section, the Planning Commission shall determine that the parcel has at least one of the following characteristics identified in paragraphs one through six, supported by documented evidence as required below, prepared by a registered architect, professional community planner, landscape architect, engineer or similar professional in environmental design:

1. The parcel contains natural assets which would be preserved through the use of cluster development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, wetlands and bodies of water (i.e., streams, rivers, or other natural assets) which should be preserved. Requests for qualification under these conditions must be supported by documented evidence;

2. The parcel contains substantial portions of floodplain and wetlands worthy of preserving. A floodplain and wetlands map, certifiable by the appropriate federal, state or county agency, indicating the extent of the wetlands and floodplain area, shall be submitted to the Planning Commission in order to support the proposal for the parcel’s qualification for cluster development;

3. The parcel is either too small or unusually shaped to be reasonably platted as a conventional subdivision development. This characteristic shall not be considered present if there is adjoining property that can be reasonably combined with the parcel to enable development of a conventional subdivision;

4. A parcel fronting on a major or secondary thoroughfare (as designated on the Master Road Plan) of no more than 360 feet of depth measured from the front lot line abutting such thoroughfare, which, if platted as a conventional subdivision, would result in a substantial portion of the lots abutting such thoroughfare;

5. The adjoining or adjacent land uses warrant a creative development alternative to facilitate a smooth transition between conventional single family residential areas and uses which are or are likely to be incompatible;

6. A substantial portion of the parcel is characterized by poor soil conditions resulting from landfill activities. A detailed map of the parcel identifying that area where poor soil conditions exist shall be presented along with soil borings documenting the same;

7. In the absence of any of the above criteria, a parcel may be considered for qualification under this option if it expands or integrates existing common areas from adjoining developments of a similar nature, creates amenities in the form of woodlands, lakes, open spaces and common recreational areas and facilities or creates some other unique feature which will enhance the lifestyle and single family character of the area;

6. A request for the one family cluster option shall not be approved when:

a. The request would be contrary to the purpose of the option, which is to create better residential developments for the community by preserving open space, wetlands, woodlands and other natural assets and compatible use patterns;

b. The proposal would be contrary to the health, safety and general welfare of the developed and established residential areas in the immediate vicinity;

c. The proposal does not provide the privacy and character of single family living; or

d. The request does not provide for a sound physical development.

C. *Site design requirements.* All cluster developments shall conform to the following restrictions.

1. Within the cluster development, a minimum of 20% of the total parcel shall be in preservation areas. Road rights-of-way, bodies of water, utility easements, regulated wetlands, floodways, required yard areas and limited common areas not available for use by all of the residents within the development, while included in the total parcel area, shall be excluded from the preservation area calculations.

2. On parcels which contain wetlands, floodplains and/or landfill areas, the following shall apply:

a. When the wetland, floodplain and/or landfill area does not comprise 50% of the parcel, 25% of this land will be included in acreage for computation of density;

b. When the wetland, floodplain and/or landfill comprises 50% or more of the parcel, a 25% density increase will be permitted on land other than wetland, floodplain and/or landfill;

c. No density credit will be allowed for any bodies of water on the parcel, even if the entire shoreline is within the parcel to be developed; however, an area to be improved into a lake or pond, when approved by the city, shall not be excluded from the 25% density credit.

3. Buildings within a cluster development shall maintain the following minimum setbacks from a shoreline:

Number of Living Units per Building	***Minimum Setback from Shoreline***
1 (single detached)	35 feet
2 attached	40 feet
3 or 4 attached	50 feet

4. The placement of housing units and other improvements shall be designed in such a way as to preserve wooded areas contained on the site. A tree preservation plan is required to be submitted to confirm the location of all wooded areas to be preserved.

5. There shall be no dwelling units or development other than streets, utility pathways, parking and recreation areas allowed within a defined floodplain.

6. There shall be no development or modification of any kind within a designated wetlands or floodplain area without there first being issued a use permit by the Department of Natural Resources (DNR) and/or the Zoning Board of Appeals, as required. However, a DNR permit does not guarantee approval by the city. Developers are encouraged to include the Local Planning Department in the negotiation process with the DNR.

7. In order to provide an orderly transition where the project proposed for use as a cluster development abuts a one family residential district, the abutting one family district shall be effectively buffered by providing one of the following forms of transition within the cluster development as determined to be appropriate by the Planning Department:

a. Detached single family dwellings subject to the standards of the applicable standards of section28.08;

b. Natural stand of trees;

c. Effective landscape buffering (as specified in section24.01).

8. Attaching of single family dwelling units may be permitted when said dwelling units are attached by means of an approved architectural wall detail or through a common wall in only the garage portion of adjoining structures. The maximum number of units which may be attached in the above described manner shall be four. Variety in the design of individual units shall be provided by the use of design details which do not appear to be continuous or repetitious, such as private entranceways or private outdoor courtyards. A building pattern which is repetitious throughout a project should not be used.

9. Utilization of cluster housing provides greater flexibility in grouping dwelling units and achieving more optimum development of problem site areas. However, it is also necessary to provide some variation between dwelling units and provide some visual and functional open space adjacent to each of the dwelling units. It is, therefore, required that each dwelling unit shall:

a. Have no more than 75% of the length of any exterior wall of a living unit in common with a garage or any portion of an adjacent dwelling unit;

b. Not have common walls with a garage or any portion of an adjacent dwelling unit on more than two exterior walls of any one dwelling unit;

c. Provide at least a six foot variation in building setback between two adjoining dwellings along any common building facade. This variation in setback may be provided between a dwelling unit and its attached garage when the attachment of dwellings occurs through the attachment of garages sharing a common facade line or through a variation in setback of attached garages;

d. For detached units, a variety of elevations with different architectural details shall be provided in order to ensure that the development is visually pleasing.

10. Except as provided herein, the area, height and bulk requirements of the applicable residential zoning district shall apply.

11. Yard requirements shall be provided as follows:

a. Minimum spacing between ends of buildings shall be determined by the number of living units that are arranged in any building group, as shown in the following table:

Number of Living Units per Building	***Minimum Distance (feet) Between Buildings***
1 (single detached - 1 story)	10
1 (single detached - 2 story)	15
2 attached	20
3 or 4 attached	30

b. Between ends of two buildings having a different number of attached living units, the minimum distance (feet) will be as follows:

Between a:	
1-unit and 2-unit building	15
1-unit and 3-unit building	20
1-unit and 4-unit building	25
2-unit and 3-unit building	25
2-unit and 4-unit building	30
3-unit and 4-unit building	30

c. All buildings shall be set back the following minimum distances from the centerline:

Type of Abutting Street	***Minimum Setback (feet) from Centerline of Public Street***	***Minimum Setback (feet) from Paving of Private Street***
Public:		
Major	100 feet	
Secondary	83 feet	

Collector	65 feet (living area) 55 feet (nonliving area)	
Cul-de-sac	70 feet (living area) 60 feet (nonliving area)	
Local	45 feet (living area) 35 feet (nonliving area)	
Private:		
General Circulation	30 feet (living area) 20 feet (nonliving area)	
Limited Circulation		20 feet (living and nonliving areas)

d. All parking areas shall be set back a minimum of 35 feet from adjoining single family residential. In addition to the parking area required for each cluster unit under section 23.02, separate off-street hard surfaced parking areas shall be established evenly throughout the development to facilitate vehicular traffic circulation where private streets of less than 28 feet in width are used. There shall be at least one-half additional parking space provided for each cluster unit.

12. Cluster housing is designed to appeal principally to smaller households (e.g., childless couples, single adults and retirees). This market group wants housing which provides for both the basic needs and amenities found in conventional single family developments but without such owner and maintenance responsibilities associated with it or the larger unit size requirements of low density zoned properties.

Each dwelling unit constructed in the one family cluster development shall have as a minimum, a two car attached garage, full basement, two bedrooms, two full bathrooms and adjoining open space for patio or deck. No less than 75% of the exterior of the first story (excluding doors and windows) of all buildings, including all chimneys, hereafter erected shall be constructed of brick or stone building materials.

The minimum floor area per dwelling unit requirements may be adjusted in accordance with the following schedule:

Zoning District	***Minimum Dwelling Unit Size for One Unit Building (square feet)***	***Minimum Dwelling Unit Size for Multiple Unit Buildings (square feet)***	***Average Dwelling Unit Size for Multiple Unit Buildings (square feet)***
R-100	1,500	1,350	1,500
R-90	1,500	1,350	1,500
R-80	1,400	1,250	1,400
R-70	1,250	1,100	1,250
R-60	No adjustment allowed		

13. At least two deciduous or evergreen trees per dwelling unit (at least a two and one-half inch caliper measured one foot above the ground for deciduous trees and five feet in height for evergreen trees) shall be planted in the project area, in addition to existing vegetation. Location of such trees, as well as existing trees, shall be indicated on the site plan in accordance with the environmental provisions.

14. An undulating landscaped berm, at least five feet high, meeting the requirements of section24.01(B)(2), or equivalent natural buffer, shall be provided along the entire property abutting a major or secondary thoroughfare. Slopes of said berm shall be gentle enough so as not to erode when planted with grass; berm locations shall be designed so that the view of oncoming traffic is not obscured at the intersection, as per the requirements of section 28.03. The Engineering Department shall review the proposed berm to determine that adequate drainage is provided.

15. A detailed landscape plan shall be submitted prior to final site plan approval.

16. Sidewalks are required to be installed along all major, secondary and collector roads. The developer shall have the option of installing sidewalks adjacent to local streets, or in lieu thereof may install a pedestrian circulation system within the common areas to the rear of the unit. The developer must obtain approval from the city of the pedestrian circulation system or the plan showing the location of the sidewalks to be installed as part of the site plan approval. If the developer elects to install sidewalks adjacent to any local street, the garage, driveway approach and sidewalks shall be designed and constructed so that vehicles parking on the driveway of the unit will not obstruct pedestrian circulation on the sidewalk.

17. The applicant shall provide satisfactory assurance that the amenities and those areas shown on the plan for use by the public or occupants of the development will be, or have been, irrevocably committed for that purpose. The city may require that conveyances or other documents be placed in escrow to accomplish this purpose and that a performance guarantee, as prescribed in section 29.04, be provided.

18. Fencing shall not be permitted on the interior of the development, except as approved by the Planning Department in accordance with the following:

a. All fencing shall be uniform in character and design;

b. All fencing shall be in scale with the development.

19. The developer shall deposit with the City Clerk a cash deposit, certified check or irrevocable letter of credit acceptable to the city covering the estimated cost of common area improvements associated with the project (as verified by the city) for which special land use approval is sought. The performance guarantees shall be deposited at the time of the issuance of the permit authorizing the activity or project. As improvements have been completed, the city shall release a proportionate share of any cash deposits made on the required improvements as the work has progressed.

20. All yard improvements to the project area shall be in conformance with the site improvements identified and accepted as part of the approved site plan.

21. Open space requirements shall be provided as follows:

a. All areas which are reserved for open space, including active recreation areas and those left in a natural state (such as stands of trees and woodlands, wetlands and similar assets) shall be designed and laid out in such a manner so that the benefits may accrue directly to the residents of the development;

b. Access to the open space areas shall be provided by streets or pedestrian accessways for those units comprising the development that to not directly abut the common area;

c. No active recreation areas shall be located at or along the outer perimeter of the development unless such areas can be connected to similar recreation areas in an adjacent residential development. Open space areas designed for passive recreational use or are retained as natural areas may extend to or along the outer perimeter of the development;

d. The common area shall be designed and laid out in such a manner that all land reserved for common use shall maintain proper drainage. The entire common area may, however, be located in a floodplain;

e. In reviewing the common areas of the concept plan, the following shall govern:

(1) The location, size and overall shape of the proposed common area shall be suitable for the purpose for which it is intended;

(2) Those portions of the total common area intended for active recreational purposes shall be of adequate size and shape to permit active recreational use. The active recreation area shall not be established within any woodland, wetland or other natural area that was used to satisfy the qualification criteria under section 22.01 or within any other woodland, wetland or natural area designated by the city to be preserved;

(3) The location, size and shape of the proposed access points, open spaces, recreational areas and proposed accessory structures shall be clearly designated on the plan along with general use patterns and the pedestrian circulation plan to determine that the open space is reasonably located in relation to the

units in the development.

22. All streets within the development shall be constructed in accordance with the city engineering standards and all other applicable codes, ordinances and regulations.

D. *Permitted densities.* In all parcels which have been qualified for cluster development, a total unit count, up to but not exceeding the following limits, may be permitted, the following density per acre is consistent with conventional platted development and offers no density bonus.

R-60 - 4.55 dwelling units per acre*	60 x 120 = 7,200
R-70 - 4.0 dwelling units per acre*	70 x 120 = 8,400
R-80 - 3.5 dwelling units per acre*	80 x 125 =10,000
R-90 - 3.0 dwelling units per acre*	90 x 130 =11,700
R-100 - 2.55 dwelling units per acre*	100 x 140 =14,000

* Density computation includes all roads but excludes that land ineligible for computation under section22.01(C) (site design requirements). Within any area of the site developed for housing, development shall not exceed eight units per acre.

E. *Submittal procedures.* Two distinct steps are required to develop a parcel of land under the one family cluster option: qualification of parcel and site plan approval.

1. *Qualification of parcel.*

a. All applications for qualification of a parcel for one family cluster development shall include the petitioner's name, address and interest in the property (which supporting documentation of the interest in the property), as well as the name, address and interest of each person having a legal or equitable interest in the property covered by this application. In addition, the petitioner shall include documentation substantiating one or more of the characteristics outlined in paragraph B, qualification of parcel, section 22.01 and shall provide the most recent available (not older than six years) aerial photograph depicting the entire site and provide a concept plan (drawn to scale) showing how the petitioner intends to develop the site. The concept plan shall include the following:

(1) Outline of the property showing the relationship of abutting properties and/or structures;

(2) Placement and basic configuration of buildings;

(3) Circulation pattern;

(4) Preservation/open space areas;

(5) Density calculations and number of units proposed;

(6) Buffering/screening techniques to be used.

This concept plan shall become the basis for the site plan approval process. Substantial departures from the concept plan shall not be approved.

b. Upon receipt of the completed application, the request shall be given to the Planning Commission for scheduling of a public hearing. The Planning Commission shall not act on the request until notice by mail or personal delivery has been sent to the owner of each property for which qualification is being considered and to all persons to whom real property is assessed within 300 feet of the boundaries of the property in question. Said notice shall include the time and place of the public hearing and shall be sent not less than five days before the scheduled public hearing. In addition, not less than 15 days notice of the time and place of such public hearing shall be published in the official newspaper of the city.

c. The Planning Commission shall approve or deny the application based upon the criteria set forth in this section. The Planning Commission must be satisfied with the concept plan submitted in order for the parcel to qualify for development under the one family cluster option. The Planning Commission may impose reasonable conditions upon any approval to ensure that the spirit and intent of this section is upheld. The Planning Commission shall not, however, be required to approve a request even though it satisfies one or more of the criteria outlined in this section if the request does not fulfill the spirit and intent of this development option.

d. Approval of the concept plan by the Planning Commission shall not constitute final site plan approval by the Planning Department but shall be deemed approval of qualification of the site. Approval of the concept plan shall serve as a guide in the preparation and review of the final site plan.

e. Approval of the qualification of the parcel shall remain valid for a period of one year from the date of approval, during which time application for site plan approval must be filed. Extensions of this approval may be granted by the Planning Commission after review.

2. Site plan approval:

a. Site plans shall provide the following:

(1) Structural outline (building envelope) of all structures proposed on the site;

(2) Architectural renderings of building facade elevations, typical floor plans and topography shall be drawn at a two foot contour interval. Elevation drawing shall be drawn to scale and need only be a sample of development throughout the site. Where more than one type of structure or design is intended, the sample elevation and corresponding floor plans of each type shall be submitted;

(3) A plan identifying the areas to be dedicated as open space and recreational use showing access, location and any improvements. To assure the permanence of the open space and its continued maintenance, the developer shall provide a proposed open space agreement for review and approval by the City Attorney. The open space agreement must be in a form satisfactory to the city and shall include the following:

(a) The proposed manner of holding title to the open space;

(b) The proposed manner of payment of taxes;

(c) The proposed method of regulating the use of open space;

(d) The proposed method of maintenance of the property and the financing thereof;

(e) Any other facts relating to the legal or practical problems of ownership and maintenance of the open space;

(4) The location of access drives, streets, off-street parking areas, sidewalks and the like;

(5) A landscape plan showing location, extent and type of plantings, screening and the like in accordance with the environmental provisions of Article 24.

b. Approval of a site plan under this section shall be effective for a period of one year from date of approval. If development is not started in this period, the site plan approval shall expire unless an extension is requested, in writing, by the applicant and approved by the city. Any change that represents a significant change from the concept plan approved by the Planning Commission shall be resubmitted to the Planning Commission for review and approval.

(Ord. No. 278-H, § 1, 12-18-90; Ord. No. 278-I, §§ 2-11, 2-5-91; Ord. No. 278-N, §§ 14-18; Ord. No. 278-R, § 10, 8-20-96; Ord. No. 278-X, §§ 7, 8, 4-6-99; Ord. No. 278-Y, §§ 29, 30, 5-16-00; Ord. No. 278-CC, §§ 7, 8, 9, 6-3-03; Ord. No. 278-NN, § 34, 1-6-09)

SECTION 22.02. PLANNED SUBDIVISION OPTION.

A. *Intent.* The intent of this section is to permit single family residential development which, through design innovation, will encourage creative development alternatives which will benefit the total community by preserving desirable open space in the form of wetlands, woodlands and other natural assets, in conjunction with the development of detached single family residential dwellings and provide additional detached unit design alternatives to conventional subdivision development for unusual sites. The planned subdivision option shall be at the discretion of the city after review and recommendation by the Planning Commission and approval by the City Council.

1. This option may be utilized by modification of the R-80, R-90 and R-100 single family residential, district standards outlined in this article, subject to the conditions herein imposed. The overall density permitted in these single family residential districts remains substantially the same as is permitted in a conventional subdivision development.

2. Planned subdivision developments may be permitted only after a public hearing on qualification has been held by the Planning Commission, a recommendation has been made to the City Council by the Planning Commission and the City Council has approved the request in accordance with the criteria set forth herein.

B. *Qualification of parcel.* In order to qualify a parcel for development under this section, the Planning Commission shall determine that the parcel has at least one of the following characteristics, supported by documented evidence as required below, prepared by a registered architect, professional community planner, landscape architect, engineer or similar professional in environmental design:

1. The parcel contains natural assets which would be preserved through the use of the planned subdivision option. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, wetlands and bodies of water (i.e., streams, rivers or other natural assets) which should be preserved. Requests for qualification under these conditions must be supported by documented evidence;

2. The parcel contains substantial portions of floodplain and wetlands worthy of preserving. A floodplain and wetlands map, certifiable by the appropriate federal, state or county agency, indicating the extent of the wetlands and floodplain area, shall be submitted to the Planning Commission in order to support the proposal for the parcel's qualification for use of the planned subdivision option;

3. The parcel is either too small or unusually shaped to be reasonably platted as a conventional subdivision development. This characteristic shall not be considered present if there are adjoining properties that can be reasonably combined with the parcel to enable conventional development to occur;

4. Where the adjoining or adjacent zoning or land uses warrant a creative development alternative to facilitate a smooth transition between uses;

5. In the absence of any of the above criteria, a parcel may be considered for qualification under this option if it creates amenities in the form of woodlands, lakes, open spaces and common recreational areas and facilities expands or integrates existing common areas from adjoining developments of a similar nature or creates some other unique feature which will enhance the lifestyle and single family character of the area;

6. A request for the planned subdivision option shall not be approved if:

a. The request would be contrary to the purpose of the option, which is to create better residential developments for the community by preserving open space, wetlands, woodlands and other natural assets and compatible use patterns;

b. The proposal would be contrary to the health, safety and general welfare of the developed and established residential areas in the immediate vicinity;

c. The proposal does not provide the privacy and character of single family living;

d. The request does not provide for a sound physical development.

C. *Subdivision design requirements.* All planned subdivision option developments shall conform to the following restrictions:

1. Within the planned subdivision, a minimum of 20% of the total parcel shall be in preservation areas. Road rights-of-way, bodies of water, utility easements, regulated wetlands, floodways, required yard areas and limited common areas not available for use by all of the residents within the development, while included in the total parcel area, shall be excluded from the preservation area calculations;

2. On parcels which contain wetlands or floodplains, or both, the following shall apply:

a. When the wetland or floodplain, or both, does not comprise 50% of the parcel, 25% of this land will be included in acreage for computation of density;

b. When the wetland or floodplain, or both, comprise 50% or more of the parcel, a 25% density increase will be permitted on land other than wetland or floodplain;

c. No density credit will be allowed for any bodies of water on the parcel, even if the entire shoreline is within the parcel to be developed; however, an area to be improved into a lake or pond, when approved by the city, shall not be excluded from the 25% density credit.

3. Design standards:

a. The minimum lot and area requirements permitted under this option shall be as follows:

Zoning District	***Minimum Lot Width***	***Minimum Lot Area/Lot Depth (where lots to rear to common areas)***	***Minimum Lot Area/Lot Depth (where lots rear rear or rear to side)***
R-100	90	11,700/130	12,150/135
R-90	80	10,000/125	10,400/130
R-80	70	8,750/125	8,750/125

b. Side yard areas shall be in accordance with the following schedule, provided the requirements set forth herein are satisfied:

Zoning District	***Least Side Yard***	***Total of Both Side Yards***
R-100	10	20
R-90	8	20
R-80	5	15

c. Where side entry garages are provided, the side yard requirements for the R-90 and R-100 districts shall be:

	Least Side Yard	***Total of Both Side Yards***
R-100	5	20
R-90	5	15

However, in no case shall the distance between the side lot line and the front entrance of the side entry garage be less than 22 feet.

d. The placement of housing units and other improvements shall be designed in such a way as to preserve wooded areas contained on the site. A tree preservation plan is required to be submitted to confirm the location of all wooded areas to be preserved.

e. There shall be no dwelling units or development other than street, utilities, pathways, parking and recreation areas allowed within a defined floodplain and shall be subject to approval by the Zoning Board of Appeals, as required.

f. There shall be no development or modification of any kind within a designated wetland or floodplain area without there first being issued a wetlands use permit by the Department of Natural Resources (DNR) and/or the Zoning Board of Appeals, as required. However, a DNR permit does not guarantee approval by the city. Developers are encouraged to include the local planning staff in the negotiation process with the DNR.

g. At least two deciduous or evergreen trees per lot (at least a two and one-half inch caliper measured one foot above the ground for deciduous trees and five

feet in height for evergreen trees) shall be planted in the front yard of each lot, in addition to existing vegetation. The trees shall be planted by the builder prior to issuance of a certificate of occupancy. All trees shall meet the requirements of section 24.02.

4. Open space requirements:

a. All areas which are reserved for open space, including active recreation areas and those left in a natural state (such as stands of trees and woodlands, wetlands and similar assets) shall be designed and laid out in such a manner so that the benefits may accrue directly to the residents of the development;

b. Access to the open space areas shall be provided by streets or pedestrian accessways for those units comprising the development that do not directly abut the common area;

c. No active recreation areas shall be located at or along the outer perimeter of the development, unless such areas can be connected to similar recreation areas in an adjacent residential development. Open space areas designed for passive recreational use or are retained as natural areas may extend to or along the outer perimeter of the development;

d. The common area shall be designed and laid out in such a manner that all land reserved for common use shall maintain proper drainage. The entire common area may, however, be located in a floodplain;

e. In reviewing the common areas of the plan, the following shall govern:

(1) The location, size and overall shape of the proposed common area shall be suitable for the purpose for which it is intended;

(2) Those portions of the total common area intended for active recreational purposes shall be of adequate size and shape to permit active recreational use. The active recreation area shall not be established within any woodland, wetland or other natural area that was used to satisfy the qualification criteria under section 22.02 or within any other woodland, wetland or natural area designated by the city to be preserved;

(3) The location, size and shape of proposed access points, open spaces, recreational areas and proposed accessory structures are clearly shown on the plan and identified and shall be clearly designated on the plan along with general use patterns and the pedestrian circulation plan to determine that the open space is reasonably located in relation to the units in the development.

f. To assure the permanence of the open space and its continued maintenance, the developer shall provide a proposed open space agreement for review and approval by the City Attorney.

D. *Permitted densities.* In all parcels which have been qualified for development under the planned subdivision option, a total lot count up to, but not exceeding, the following limits, may be permitted by the Planning Commission. The following density factors are consistent with conventional platted development and offer no density bonus.

1. R-80 districts: 3.5 dwelling units per acre;*

2. R-90 districts: 3.0 dwelling units per acre;*

3. R-100 districts: 2.55 dwelling units per acre.*

* Density computation includes all roads but excludes that land ineligible for computation under section22.02C (subdivision design requirements).

E. *Submittal procedures.* Two distinct steps are required to develop a parcel of land under the planned subdivision option: qualification of parcel and plat approval.

1. *Qualification of parcel.*

a. All applications requesting qualification of a parcel for a planned subdivision development shall include the petitioner's name, address and interest in the property with supporting documentation of the interest in the property along with the name, address and interest of each person having a legal or equitable interest in the property covered by this application. In addition, the petitioner shall include documentation substantiating one or more of the characteristics outlined in paragraph B, qualification of parcel, section 22.02 and shall provide the most recent available (not older than six years) aerial photograph depicting the entire site.

b. Upon receipt of the completed application, the request shall be given to the Planning Commission for placement on an agenda. Each Planning Commissioner shall review the proposed request and should make a preliminary inspection of the site if deemed necessary.

c. Upon receipt of the completed application, the request shall be given to the Planning Commission for scheduling of a public hearing. The Planning Commission shall not act on the request until notice by mail or personal delivery has been sent to the owner of each property for which qualification is being considered and to all persons to whom real property is assessed within 300 feet of the boundaries of the property in question. Said notices shall include the time and place of the public hearing and shall be sent not less than five days before the scheduled public hearing. In addition, not less than 15 days notice of the time and place of such public hearing shall be published in the official newspaper of the city.

d. The application shall include a minimum of three copies of the plat superimposed on the most recent available (not more than six years old) aerial photograph so that the subdivision can be related to the additional natural conditions on the site and to adjacent development.

e. If the Planning Commission is satisfied that the request meets the criteria specified for approval under this article, it shall forward a recommendation to City Council with any conditions upon which such approval should be based. If the Planning Commission determines that the request does not meet the criteria or finds that the approval of the proposal would be detrimental to existing development in the general area and should not be approved, it shall recommend denial to the City Council and shall record reasons thereof in the minutes of the Planning Commission meeting. The Planning Commission recommendation, together with copies of the request, including all layouts and other relevant information shall be forwarded to the City Clerk for consideration by the City Council. The Clerk shall place the matter on the agenda of City Council. The City Council shall approve or deny the request for qualification based upon the criteria set forth in this section.

f. Approval of qualification of a parcel for development under this option by the City Council shall not constitute final plat approval. Approval under this section is based upon the plan submitted. Approval of the qualification of the parcel shall remain valid for a period of one year from the date of approval, during which time application for subdivision plat approval must be filed. Extensions of this approval may be granted by the City Council after review.

2. *Plat approval.*

a. Application for approval of a plat under this planned subdivision option shall conform to the requirements of the State of Michigan Subdivision Control Act and the subdivision regulations of the City of Sterling Heights, as modified by this ordinance;

b. Upon tentative approval of the preliminary plat, the developer shall provide a proposed open space agreement for review and approval by the City Council. The agreement shall set forth the manner of the dedication and title of the open land or common areas, manner of ownership, the applicable restrictive covenants, the rights and duties of owners with respect to maintenance and repairs of common areas, the method for payment of assessments and a mechanism for city oversight of such maintenance and use of common areas, if required.

(Ord. No. 278-N, §§ 19-22, 8-1-95; Ord. No. 278-R, § 11, 8-20-96; Ord. No. 278-T, § 10, 6-3-97; Ord. No. 278-U, § 9, 1-6-98; Ord. No. 278-X, § 9, 4-6-99; Ord. No. 278-CC, §§ 10,11, 6-3-03; Ord. No. 278-NN, §§ 13, 34, 1-6-09)

SECTION 22.03. PLANNED UNIT DEVELOPMENT.

A. *Intent.*

1. The intent of this section is to encourage innovation and to allow more efficient use of land through the use of regulatory flexibility in the consideration of proposed land uses within the city consistent with the requirements of the city's Master Land Use Plan. It is the further intent to replace the usual approval process involving rigid use and bulk specifications by the regulations contained in this Section and by the utilization of an approved development plan.

2. The planned unit development (PUD) permitted under this section shall be considered as an option to the development permitted in all zoning districts and shall be mutually agreeable to the developer and the city. Development under this section shall be in accordance with a comprehensive physical development plan establishing functional use areas, density patterns, and vehicular and pedestrian circulation systems. The development is to be in keeping with the physical character of the city and the area surrounding the proposed development, preserving as much natural vegetation and terrain as possible.

B. *General Requirements for PUD.* PUDs may be permitted after review and recommendation of the conceptual development plan by the Planning Commission and approval of the City Council in accordance with the procedures set forth herein and after public hearings on the concept plan have been held by the Planning Commission and the City Council, subject to the following conditions:

1. Basic land conditions.

a. PUDs may be permitted in all zoning districts.

b. The site area used for computing density shall consist of contiguous land under single ownership or control.

c. The proposed development must be in basic accord with the intent of the PUDs.

d. The city may also qualify sites where an innovative, unified, planned approach to developing the site would result in a significantly higher quality of development, the mitigation of potentially negative impacts of development, or more efficient development than conventional zoning would allow.

2. Uses permitted.

a. All uses permitted as principal uses permitted, or special approval land uses and accessory uses permitted in all zoning districts. Multiple uses contained in a PUD must be complementary in nature. If a PUD includes residential uses, the housing types may be clustered to preserve common open space, in a design not feasible under the underlying zoning district regulations. The PUD must provide a complementary variety of housing types and/or a complementary mixed-use plan of residential and/or non-residential uses that is harmonious with adjacent development.

3. Residential density.

a. The maximum permitted densities within a PUD shall be governed by the zoning district in which it is located. The overall dwelling density for single or multiple family residential districts cannot exceed the maximum dwelling unit density computed for the entire gross site area based on the allowable density of the underlying zoning district.

b. At the discretion of the City Council, after review and recommendation by the Planning Commission, the maximum density permitted may be increased, by up to 25% of the permitted zoning density within that district, provided that the development meets the intent and all other standards of the PUD provisions and all other city ordinances.

c. A majority of the proposed residential units within all residential districts must be developed as either single family, two-family, or multiple family as determined by the underlying zoning.

4. Mixed use and commercial PUDs.

a. A PUD may include residential and non-residential uses as determined by the City Council after review and recommendation of the Planning Commission. The use of creative development concepts including mixed uses should be used to create commercial nodes and gateways and facilitate renovation of existing retail centers as opposed to creating strip commercial centers along major thoroughfares.

b. Setback and other dimensional requirements of the underlying zoning district(s) shall be used as guidelines for reviewing a proposed mixed-use or commercial PUD, which requirements may be modified by the City Council to achieve the intent of the PUD after review and recommendation of the Planning Commission.

c. Permitted commercial uses shall be limited to those determined by the City Council after review and recommendation of the Planning Commission, to be suitable for the site and compatible with the surrounding area. Any uses listed as special approval land uses shall be required to comply with specific conditions relating to such uses, although no additional review process is needed, other than the PUD approval process.

d. Attached residential units may be permitted as a transitional use between commercial uses and lower density residential in a mixed-use PUD where the underlying zoning is commercial.

e. Elderly housing may be permitted in a mixed-use or commercial PUD. The permitted dwelling unit density of the elderly housing component shall be evaluated based upon the type of elderly housing proposed (i.e. independent, assisted, etc.), the conditions of the site, anticipated traffic impacts, and character of surrounding uses and the neighborhood.

5. Design and layout conditions. The Planning Commission and City Council shall use any applicable standards for approval contained in city ordinances related to land use and any adopted development guidelines.

a. Where a planned or proposed major, secondary, or collector thoroughfare is included partially or wholly within the project area of a PUD, such portion of the roadway shall be provided as a public right-of-way with the width standards as stated in the master road plan for the right-of-way. The alignment of the roadway shall be in general conformance to the proposed alignment as shown on the master plan.

b. In order to provide an orderly transition of density, where the project being proposed for use as a PUD immediately abuts a residential district, (not including districts separated by a major thoroughfare), the City may require that the area immediately abutting the district shall be developed with a like development or landscaped open space.

c. Site design standards should include frontage beautification, buffering devices, landscaping, walkway linkages, controlled vehicular access, and attractive signage.

6. Area, height and bulk conditions.

a. All yards, height, bulk, minimum floor area, lot coverage, lot area, and lot width requirements for single-family development shall be in conformance with the requirements of the applicable zoning districts, including special development options, unless otherwise modified by the approved development plan.

b. All yards, height, bulk, minimum floor area, and lot coverage requirements for multiple-family and attached development shall meet the requirements of RM-1, and RM-2 Districts, as applicable, unless otherwise modified by the approved development plan.

c. All other uses permitted within the applicable districts shall be subject to the requirements of the respective districts unless otherwise modified by the approved development plan.

C. *Submittal procedures and conditions.* Two distinct steps are required to develop a parcel of land as a PUD development: approval of the concept plan and site plan approval. Any person owning or controlling land may make application to the City Council for consideration of a PUD. In order to adequately review the site plan, the applicant shall be required to submit the following materials to the city:

1. Submittal of proposed PUD concept plan. The proposed PUD concept plan shall contain at least the following:

a. A boundary survey of the exact acreage being requested done by a registered land surveyor or civil engineer (Scale: 1 inch = 200 feet).

b. A current aerial photograph of the area shall be provided (Scale: 1 inch = 200 feet).

c. Application form and required fee.

d. A narrative indicating the period of time within which it is contemplated the project will be completed.

e. A site plan with four-sided elevations showing a layout of the uses and structures in the PUD and their locations including:

(1) Layout of proposed land use, acreage allotted to each use, residential density overall and by underlying zoning district, and generalized building footprints;

(2) Roads, parking areas, drives, driveways, and pedestrian paths;

(3) Building setbacks and spacing;

(4) General location and type of landscaping proposed;

(5) Any significant woodlands that will be preserved;

(6) A preliminary layout of the stormwater drainage plan, including detention or retention pond locations;

(7) Locations of public or private utilities; and

(8) Identification of each phase, if a multi-phase development is proposed.

f. Any additional graphics or written materials reasonably requested by the Planning Commission or City Council to assist in determining the impacts of the proposed site plan, including, but not limited to, economic or market studies; impact on public primary and secondary schools and utilities; traffic impacts; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; and estimated construction costs.

2. Planning Commission review of proposed PUD plan: Upon receipt of an application by the city, such request shall be referred to the Planning Commission for its review and recommendation. In its review, the Planning Commission shall consider the following:

a. That all applicable provisions of this section have been met. Insofar as any provision of this section shall be in conflict with the provisions of any other section of this code, the provisions of this section shall apply to the lands embraced within a PUD area.

b. That adequate areas have been provided for all utilities, walkways, recreational areas, parking areas and other open spaces, and areas to be used by the public or by residents of the community.

c. The plan provides for an efficient, aesthetic, and desirable use of the open areas and the plan is in keeping with the physical character of the city and the area surrounding the development.

d. The Planning Commission shall hold a public hearing to hear and consider comments relating to the PUD proposal.

e. Upon finding that the conditions outlined above have been satisfactorily met, and following the public hearing, the Planning Commission will within a reasonable time forward its report and recommendation to the City Council.

3. Approval of PUD Concept Plan: Upon receipt of the report and recommendation from the Planning Commission, the City Council shall consider whether or not all conditions have been satisfactorily met and thereafter shall hold a public hearing to hear and consider comments to the PUD proposal.

a. The City Council shall review the conceptual plan, together with the findings of the Planning Commission, and shall approve, approve with conditions, or deny the conceptual plan.

b. Once an area has been included within a plan for a PUD that has been approved by the City Council, no development may take place in such area nor may any use thereof be made except in accordance with a City Council approved amendment thereto.

c. The owner must receive final site plan approval for the proposed development within 12 months of approval of the conceptual plan, obtain a building permit within 18 months of conceptual plan approval, and complete development of the PUD within 30 months of conceptual plan approval. This time limitation may be extended by the City Council in response to a request from the owner.

d. Approval of the concept plan by the City Council shall not constitute final site plan approval. Approval of the conceptual plan shall serve as a guide in the preparation and review of the final site plan.

D. *Site plan review.* Upon approval of the PUD conceptual plan by the City Council, a site plan review is required in accordance with Article 26 Site Plan Review Requirements and Procedures prior to the issuance of building or zoning compliance permits. Site plans shall also provide the following:

1. Structural outline (building envelope) of all structures proposed on the site;

2. Architectural renderings of building facade elevations, typical floor plans and topography shall be drawn at a two-foot contour interval. Elevation drawing shall be drawn to scale. Where more than one type of structure or design is intended, the sample elevation and corresponding floor plans of each type shall be submitted;

3. A plan identifying the areas to be dedicated as open space and recreational use showing access, location and any improvements. To assure the permanence of the open space and its continued maintenance, the developer shall provide a proposed open space agreement for review and approval by the City Attorney. The open space agreement must be in a form satisfactory to the city and shall include the following:

a. The proposed manner of holding title to the open space;

b. The proposed manner of payment of taxes;

c. The proposed method of regulating the use of open space;

d. The proposed method of maintenance of the open space area and the financing thereof;

e. Any other facts relating to the legal or practical problems of ownership and maintenance of the open space;

4. The location of access drives, streets, off-street parking areas, and sidewalks;

5. A landscape plan showing location, extent and type of plantings and screening in accordance with the environmental provisions of Article 24.

E. *Regulatory flexibility.* The City Council may increase, decrease, waive, or otherwise modify the current standards within the Zoning Ordinance including, but not limited to: use, density, intensity, setbacks, building heights, parking, design standards, project design standards, and landscape standards provided the modification is found to improve the quality of development above and beyond what could be developed under the underlying zoning, or results in a higher level of public benefit, and to achieve the purpose of this article. The Zoning Board of Appeals shall have no variance authority for PUD projects.

(Ord. No. 278-FF, § 1, 5-3-05; Ord. No. 278-NN, § 34, 1-6-09)

SECTION 22.04. CORRIDOR IMPROVEMENT AUTHORITY/DEVELOPMENT AREAS.

A. *Intent.* Pursuant to section 5 of Act 280 of the Public Acts of 2005, as amended, ("Corridor Improvement Authority Act"), the City Council has created the Corridor Improvement Authority of Sterling Heights to encourage redevelopment of certain commercial areas and promote economic growth within the city. The City Council has adopted a Development Plan setting forth guidelines for improvements within the areas of the city which have been designated as a "Development Area". Improvements made within the designated Development Area must comply with the guidelines and standards of the applicable Development Plan, as amended from time to time. The Development Plan is intended to enhance public spaces, utilize a consistent theme/style along rights-of-way, provide a unified building style for development and redevelopment, and to promote economic growth and enhanced property values within the Development Area.

B. *Definitions.* The definitions below shall apply to the words and phrases used in this section22.04. Words and phrases not defined in this section 22.04, paragraph B but defined in article 31 shall be given the meanings set forth in article 31. All other words shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

CORRIDOR IMPROVEMENT AUTHORITY (AUTHORITY). The Corridor Improvement Authority of Sterling Heights created by the City Council pursuant to section 5 of the Corridor Improvement Authority Act.

CORRIDOR IMPROVEMENT DEVELOPMENT AREA (DEVELOPMENT AREA). A geographic area designated by the city council pursuant to the Corridor Improvement Authority Act where certain improvements may be eligible for financing available under the Corridor Improvement Authority Act to facilitate redevelopment and promote economic growth.

CORRIDOR IMPROVEMENT DEVELOPMENT PLAN (DEVELOPMENT PLAN). A development plan adopted by the city council pursuant to the Corridor Improvement Authority Act to facilitate redevelopment and to promote economic growth within the Development Area.

CORRIDOR IMPROVEMENT AUTHORITY PLAN REVIEW COMMITTEE (PLAN REVIEW COMMITTEE). The review committee designated by the City Council to perform a preliminary review of a site plan for a site within a Development Area to determine compliance with the goals and design objectives of the Development Plan.

C. *Corridor Improvement Authority Plan Review Committee; Review of Site Plan by Plan Review Committee.* A Plan Review Committee comprised of the City Development Director, City Planner, Economic Development Manager, and Public Services Manager is created to review site plans for any proposed development within a Development Area for compliance with the goals and design guidelines and standards of the applicable Development Plan. Upon completion of this review by the plan review committee, a summary and recommendation shall be forwarded to the office of planning for further site plan review and/or approval by the reviewing authority (Office of Planning, Planning Commission, or City Council, as the case may be) under the procedures set forth in article 26. As part of the review, the plan review committee shall encourage construction that adheres to the principles of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System developed by the U.S. Green Building Council (USGBC) that promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health: sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality.

D. *Redevelopment.* Recognizing that changes to a previously approved land use designation within a Development Area will occur due to functional obsolescence or changing market conditions, the guidelines and standards set forth in the applicable Development Plan as amended from time to time to meet the objectives of the Corridor Improvement Authority shall constitute the minimum standards for redevelopment of sites within the Development Area.

E. *Site Landscaping, Improvements and Lighting.* In addition to the general site landscaping requirements of article 24, the applicable guidelines and standards set forth in the Development Plan relating to the planting of street trees, ornamental trees, shrubs and perennials and the installation of integrated paving improvements and street lighting shall apply to development or redevelopment of sites within the Development Area.

F. *Administrative Modification of Guidelines and Standards.* The plan review committee shall have authority to modify the guidelines and standards set forth in the Development Plan where due to unusual or unique conditions of the property, literal compliance with the provisions of the Development Plan as to a particular site within a Development Area would be impossible, or would involve practical difficulties or unnecessary hardships. The plan review committee shall recommend approval of such a modification only if the need for the modification is beyond the control of the site owner/applicant and is not self-created. (Examples: Improvements required by the Development Plan cannot be made because of physical conditions of the property such as floodplain, wetlands, or other topographical conditions, or as a result of laws or regulations applied to the site by other governmental agencies, such as the Michigan Department of Transportation, Michigan Department of Environmental Quality, Road Commission of Macomb County, or Macomb County Public Works Department.) In approving such a modification, the plan review committee may impose reasonable conditions to ensure that the improvements constructed in compliance with the modified guidelines and standards will be in harmony with the objectives of the Corridor Improvement Authority, public safety and welfare secured, and substantial justice done.

(Ord. No. 278-II, § 1, 3-19-07)

Section 22.05. MAJOR INDUSTRIAL FACILITY REDEVELOPMENT OPTION (IFR).

A. Intent.

1. The intent of the Major Industrial Facility Redevelopment Option is to provide optional flexible design standards for distressed and/or obsolete major industrial facilities and properties, zoned M-1 Light Industrial or M-2 Heavy Industrial consistent with the city Master Land Use Plan, while providing stability and longevity for the economic development of the city.

2. The Major Industrial Facility Redevelopment Option is intended to provide for the development of high intensity, multi-purpose centers upon major industrial facility sites of 12 acre minimum in size, with not less than 150,000 square feet of existing buildings on the existing site through comprehensive planning, zoning, and project review. The regulations under this development option are designed to encourage innovation and variety in the design and placement of highly concentrated, integrated and diversified functions, while ensuring compatibility between uses and adjacent forms of developments, through the review process. Unless specifically modified by the IFR Option regulations, redevelopment must comply with standards of the underlying zoning designation. In the event of a conflict between the standards of the underlying zoning and those of the IFR Option, the standards of the IFR Option shall control.

B. General Requirements.

1. Uses Permitted.

a. All uses permitted as principal uses and special approval land uses subject to applicable special conditions permitted in the TRO, O-R, M-1 and M-2 districts, except for the following uses:

Ambulance service dispatch centers, new/used vehicle sales and leasing, auto service centers and reconditioning establishments, automobile repair garages, recreational vehicle storage, automobile impound lots, firearm and archery ranges, kennels, veterinary clinics, junk yards, refuse and garbage incinerators, refuse transfer and recycling stations, concrete and asphalt plants and crushing operations shall be excluded.

b. Hotels (two or more stories)

c. Restaurants (excluding fast food restaurants), subject to the following:

(1) The use shall not have drive-in, drive-through, or in-car service. Carry-out service may be permitted provided it is a minor part of the restaurant service (40% or less of total sales)

(2) The building shall be designed to be an integral part of, or as a compatible accessory use to, an existing or proposed IFR Option area. The layout of the proposed use shall be designed to encourage pedestrian traffic from the nearby uses.

(3) No freestanding restaurant shall be located within 500 feet of another freestanding restaurant, except if such uses are separated by a public thoroughfare of not less than 120 feet of right-of-way.

d. Accessory buildings and uses customarily incidental to principal permitted uses enumerated above.

2. Redevelopment Standards.

a. Freestanding buildings and uses, apart from major building complex or elements, may be permitted following the finding that the form and location of the subject freestanding building or buildings and the land uses contained in them are reasonably necessary for the proper functioning of the IFR area.

b. The exterior of all newly erected buildings shall be constructed of brick and/or stone building materials or other similar durable, decorative building materials as may be approved by the Planning Department, subject to any additional requirements set forth in Section 26.01, paragraph H. Additions and renovations to existing buildings and structures shall be consistent with these requirements or the architecture and materials used on the existing buildings and structures that are to remain on the parcel. The architecture and exterior finish of any newly erected building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior.

C. Location and Site Standards.

1. Area and Bulk Requirements of Redeveloped Parcel under IFR Option.

a. Minimum parcel size:

Restaurant use: 1 acre

Hotel, TRO, or O-R use: 3 acres

M-1 or M-2 use: 10 acres

b. Maximum height of any structure: None. When the building height exceeds 50 feet, yard setbacks to any points of the building which exceed 50 feet shall be increased one foot for each additional foot of building height over 50 feet.

c. Minimum building floor area: None

d. Minimum yard setback per lot:

(1) Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's Master Road Plan, as follows:

Distance from centerline:

(a) Regional (204' R.O.W.): 137 feet.

(b) Regional (150' R.O.W.): 110 feet.

(c) Major: 95 feet.

(d) Secondary: 78 feet.

(e) Collector: 70 feet.

(f) Local: 65 feet.

(g) Cul-de-sac: 95-foot radius.

(h) Freeway: 35 feet.*

(i) Private roads: 35 feet.**

* Freeways shall be measured from the established right-of-way line.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

The required front yard shall be landscaped and maintained thereafter in a neat and orderly condition. Driveway approaches, but not driveways, shall be permitted in the required front yard.

If the existing right-of-way is greater than shown on the Master Road Plan, the front yard setback (or street-side setback) as measured from the centerline of the right-of-way shall be equal to one-half of the actual right-of-way of the street, plus 35 feet for all classes of roads.

(2) Side: 15 feet are required along the interior side lot lines. No building shall be located closer than 50 feet and no storage or parking shall be located closer than 20 feet from the outer perimeter (property line) of such district when such property line abuts any residential district.

(3) Rear: 35 feet. No building shall be located closer than 50 feet and no storage or parking shall be located closer than 20 feet from the outer perimeter (property line) of this district when such property line abuts any residential district.

e. Maximum lot coverage. The maximum lot coverage shall be governed by meeting all of the requirements for yard space, landscaping, screening, off-street parking and loading. The locations of buildings and uses and distances between buildings shall be as shown on the approved site plan.

2. Parking.

a. The Planning Department may permit a reduction of the parking requirement for the development of IFR area parcels by an amount not to exceed 10%, subject to the following:

(1) A landscaped reserve area capable of accommodating the required number of parking spaces shall be specified on the site plan that could accommodate an expansion of the existing parking facilities in the future if required. The developer shall execute an agreement, in a form satisfactory to the city, that will obligate the property owners to install additional parking at the city's request if the need arises;

(2) Any such provisions for installation of additional parking shall be set forth in a recordable instrument recorded at the office of the Macomb County Register of Deeds, describing the area affected by the agreement;

b. Where the owners of two buildings desire to utilize common off-street parking facilities, the Planning Department may permit such dual function, provided that the following conditions have been met:

(1) The normal business hours of the two buildings or uses generally do not overlap.

(2) The common parking lot meets the off-street parking requirements of the larger building or more intensive use, plus 15%.

(3) In the event that there is a change of uses to uses which do not meet the criteria established for shared parking, the property owner shall install the required number of spaces prior to issuance of a certificate of occupancy for the approved uses.

(4) A landscaped reserve area capable of accommodating the required number of parking spaces shall be specified on the site plan that could accommodate an expansion of the existing parking facilities, in the future if required. The developer shall execute an agreement, in a form satisfactory to the city that will obligate the property owners to install additional parking at the city's request if the need arises.

(5) Any such provisions for parking shall be set forth in a recordable instrument recorded at the office of the Macomb County Register of Deeds, describing the area affected by the agreement.

D. Procedures for Development of Parcel Under IFR Option. There are two distinct steps to obtaining approval to develop a parcel of property under the IFR Option: (1) qualification of the parcel and concept plan, and (2) site plan approval. An applicant desiring to develop a parcel of property under the IFR Option must first obtain approval of qualification of the parcel and concept plan before proceeding with submitting an application for site plan approval.

1. Qualification of parcel. An applicant requesting qualification to develop a parcel under the IFR Option shall comply with the following procedures:

a. An application for qualification that includes the following information shall be submitted for consideration by the Planning Commission, accompanied by the applicable application fee established by a resolution or the annual appropriations ordinance approved by the City Council:

(1) The applicant's name, address, and contact information, and interest in the property to be redeveloped, including any adjacent parcels to be included in the redevelopment (with written evidence of authority to act on behalf of the property owner(s) if applicant does not own the property), along with the applicant's signature evidencing the accuracy and completeness of the application

(2) The name, address, and contact information of the legal owner of the property, if different than the applicant (with supporting documentation of the interest in the property), along with the owner's signature evidencing the accuracy and completeness of the application;

(3) The name, address, and contact information of each person having a legal or equitable interest in the property covered by the application, along with a description of the interest and the person's signature evidencing consent to the request;

(4) The total acreage of the existing parcel (minimum acreage for qualification--12 acres) that is to be redeveloped under the IFR Option, plus the acreage of any adjacent parcels to be combined with existing parcel for redevelopment;

(5) The total lot coverage of existing buildings and structures (minimum lot coverage for qualification--150,000 square feet) developed on the parcel to be redeveloped under the IFR Option, plus lot coverage of buildings and structures on any adjacent parcels to be combined with existing parcel for redevelopment;

(6) The current use of any building or structures on the parcel, or if vacant, the use of land;

(7) If any building or structure upon the parcel is vacant, the most recent use of the building or structure prior to it becoming vacant and the date the building or structure became vacant;

(8) If any building or structure upon the parcel is anticipated to become vacant, a description of the building or structure anticipated to become vacant, the date of anticipated vacancy, and the current use of the building or structures anticipated to become vacant;

(9) If the parcel proposed to be redeveloped is vacant due to the demolition of buildings or structures, a description of the buildings or structures that have been demolished and the approximate date of the demolition;

(10) A description of the proposed redevelopment (including the use and location of the buildings, structures, or property as proposed to be redeveloped (if known), and their proximity to adjacent buildings, structures, and uses that will continue on the parcel or adjacent parcels;

b. The applicant shall submit a concept plan (drawn to scale) showing how the buildings, structures, or parcel are proposed to be redeveloped under the IFR Option. The concept plan shall include the following (to the extent known):

(1) An outline of the parcel for which qualification is requested, showing the relationship of abutting properties and/or structures that are not proposed to be redeveloped;

(2) An outline of any abutting properties for which qualification is requested, if the application includes adjacent parcels proposed to be combined with the parcel currently owned and developed;

(3) The proposed placement and the basic configuration of buildings and structures;

(4) The elevations and materials of any proposed buildings or structures proposed to be constructed;

(5) The proposed circulation pattern for the parcel;

(6) Any proposed redevelopment, relocation, or improvement of on-site or off-site infrastructure or site improvements (roads, drives, parking areas, utilities, retention areas, open space areas, landscaping, etc.);

(7) The location of any proposed preservation or open space areas to be designated;

(8) Buffering/screening techniques to be used;

(9) Legal descriptions of all parcels included in the request (including those of adjacent parcels requested to be redeveloped under the IFR Option); and

(10) A depiction of the location of the parcel on a location map.

c. Upon receipt of the completed application and the required application fee, a public hearing shall be scheduled before the Planning Commission and notice given in accordance with the notice requirements set forth in Section 28.20.

d. After completion of the public hearing, the Planning Commission shall approve or deny the application for qualification of the parcel based upon the criteria set forth in this section, or postpone action if the Planning Commission determines that additional information or time is needed to properly consider the request. In order to approve a request for parcel qualification, the Planning Commission must be satisfied that the parcel meets the minimum acreage and building lot coverage requirements, and that the concept plan provides a reasonable basis for redevelopment of the buildings, structures, and land contained on the parcel proposed for redevelopment under the IFR Option.

e. The Planning Commission may modify the minimum qualification standards relating to parcel size or minimum lot coverage of existing buildings where the Planning Commission determines that such modification will enable the parcel and/or existing buildings to be more expeditiously redeveloped consistent with the spirit and intent of the IFR Option.

f. The Planning Commission shall not be required to approve a requested parcel qualification if the Planning Commission determines that the parcel does not meet the parcel qualification criteria, or that the concept plan does not fulfill the spirit and intent of the IFR Option. If the Planning Commission is not satisfied that the proposal satisfies all of the criteria for approval, it may deny qualification of the parcel for redevelopment under the IFR Option, or require the applicant to make revisions to the proposal and concept plan in order to meet the requirements, spirit, and intent of this section.

g. The Planning Commission may impose reasonable conditions upon any approval or modification of standard to ensure that the spirit and intent of this section is upheld.

h. Approval of qualification of the parcel and the concept plan by the Planning Commission shall not constitute final site plan approval of the redevelopment under the IFR Option but shall be deemed approval to proceed with site plan submittal and review to determine whether the site plan for the proposed redevelopment conforms with the parcel qualification, the concept plan, and all applicable codes and ordinances of the City. Approval of qualification of the parcel and the concept plan shall serve as guides in the preparation and review of the final site plan. Site plan approval must be obtained from the Planning Department prior to proceeding with any construction or development of the parcel under the IFR Option.

i. Approval of qualification of the parcel and the concept plan shall remain valid for a period of one year from the date of approval, during which time application for site plan approval must be filed. Extensions of this approval may be granted by the Planning Commission after review.

j. If an applicant does not obtain site plan approval for a proposed redevelopment under the IFR Option within 1 year after approval of parcel qualification and the concept plan, the approval of parcel qualification and concept plan shall expire unless an extension, in writing, has been requested prior to expiration of the approval period and subsequently obtained from the Planning Commission.

2. Site Plan Review. In addition to obtaining approval of qualification of the parcel and the concept plan for redevelopment under the IFR Option, administrative site plan review is required for any proposed development or redevelopment of a site in accordance with Article 26 Site Plan Review Requirements and Procedures prior to the issuance of building or zoning compliance permits. Site plans for development under the IFR Option shall also provide the following information in addition to that required under Article 24:

a. Structural outline (building envelope) of all structures proposed on the site.

b. Architectural renderings of building façade elevations and typical floor plans. Elevation drawings shall be drawn to scale. Where more than one type of structure or design is intended, the sample elevation and corresponding floor plans of each type shall be submitted.

c. The location of access drives, streets, off-street parking areas, and sidewalks.

d. A landscape plan showing location, extent and type of plantings and screening in accordance with the environmental provisions of Article 24.

The approval procedures set forth in Article 26 shall apply to site plans for development under the IFR Option.

3. Nothing contained in this section shall be construed to prevent the owner of land in an IFR area from dividing a parcel into two or more lots provided the resultant parcels meet the standards set forth in Section 22.05 and the land division regulations of the city code. A project development or redevelopment plan may include any adjoining parcels that are intended to become an integral part of the IFR area and overall development concept.

(Ord. No. 278-PP, § 3, 12-1-09)

SECTION 22.06 COMMERCIAL REDEVELOPMENT PLANNED UNIT DEVELOPMENT OPTION.

A. *Intent.*

1. The intent of the Commercial Redevelopment Planned Unit Development Option ("CRPUD Option") is to provide a renovation/redevelopment option for eligible commercial establishments and shopping centers in C-1 Local Convenience Business, C-2 Planned Comparison, or C-3 General Business Districts that will provide more flexible, streamlined standards and procedures to encourage upgrading, beautification and revitalization of the commercial establishment or shopping centers.

2. The CRPUD Option is intended to provide opportunities for renovation, enhancement, beautification, reoccupancy and revitalization of vacant, underdeveloped, or underutilized commercial establishments or shopping centers which were developed many years ago when the needs, land uses, and applicable regulations were substantially different than they are presently. Land use regulations applicable to such uses have changed in order to reflect changing needs and economic realities.

3. The Planning Commission and City Council of the City of Sterling Heights are desirous of having such commercial establishments or shopping centers be renovated, redeveloped, and reoccupied with vibrant uses which provide economic vitality to the commercial establishment or shopping center, other tenants, City residents, and the community at large.

4. Therefore, in the interest of promoting productive use of such properties, as contemplated in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, MCL 125.3201 et seq., this section is intended to authorize renovation, redevelopment, beautification, reoccupancy and revitalization of commercial establishments or shopping centers which qualify under the qualification standards of this section.

B. *Recommendation of Plan Review Committee of Eligibility for Redevelopment or Enhancement of Commercial Establishment or Shopping Center Under the*

Commercial Redevelopment Planned Unit Development Option.

1. In order for a commercial establishment or shopping center to be considered for approval to redevelop or enhance a commercial establishment or shopping center under the CRPUD Option, the owner or developer of the commercial establishment or shopping center must informally meet with a Plan Review Committee comprised of the City Development Director, City Planner, City Engineer, Economic Development Manager, any other City Manager designee and Business Development Manager to discuss the applicant's intentions with respect to renovating, enhancing, beautifying, reoccupying the building or tenant spaces, and otherwise revitalizing the commercial establishment or shopping center. There shall be no fee for this initial preliminary conference. The owner or developer shall furnish the Plan Review Committee with pre-preliminary conceptual site plan which shows the intended redevelopment and reoccupancy changes intended to be made under the CRPUD Option. In determining whether the proposed redevelopment or reoccupancy of the commercial establishment or shopping center will be recommended to the Planning Commission for proceeding under the CRPUD Option, the applicant and the Plan Review Committee shall consider the following criteria:

a. The size of the commercial establishment or shopping center parcel shall be 25 acres or less and the age and general condition of the shopping center (priority given to shopping centers over 20 years of age).

b. The current zoning of the commercial establishment or shopping center and the extent to which it complies with current standards of the Zoning Ordinance, City Code, and other regulatory provisions relating to exterior design, ingress and egress, pedestrian accessibility, signage and landscaping.

c. The current occupancy level, tenant mix, and economic viability of the commercial establishment or shopping center.

d. Any physical site characteristics or other restrictions limiting the ability of the commercial establishment or shopping center to comply with the current standards of the Zoning Ordinance, City Code, and other regulatory provisions.

e. The proposed improvements and renovations and new uses proposed to be added to the commercial establishment or shopping center under the CRPUD Option and the extent, if any, that the proposed renovations and changes in occupancy in the commercial establishment or shopping center will bring the commercial establishment or shopping center into greater conformance with the Master Land Use Plan, Zoning Ordinance and benefit the city at large.

f. The extent, if any, to which the enhancement and redevelopment of the commercial establishment or shopping center incorporates unique uses and design elements which will promote the long-term viability of the commercial establishment or shopping center, using either the special land use or other discretionary land use approval provisions of Article 25, the planned unit development options of Section 22.03 which shall be available, or the CRPUD provisions of Section22.05.

g. The extent to which the design elements from the Simplified Traditional architectural style as set forth in Article 26 and Section31.01 will be incorporated into the enhancement or redevelopment of the commercial establishment or shopping center.

h. The overall benefit of the proposed renovations and changes in occupancy in the commercial establishment or shopping center upon the public healthy, safety and welfare of the community.

2. After the owner or developer meets with the Plan Review Committee, the Plan Review Committee shall review the pre-preliminary conceptual site plan, correspondence, narratives, sketches, or other materials submitted to determine the extent that it meets the criteria and intent of the CRPUD Option based upon the criteria set forth in section B.1. above. If the Plan Review Committee determines that the shopping center should be eligible for redevelopment and/or reoccupancy under the CRPUD Option based upon such criteria, the Plan Review Committee shall notify the applicant and the Office of Planning in writing of its recommendation.

3. If the Plan Review Committee determines that the commercial establishment or shopping center should not be eligible for redevelopment and/or reoccupancy based upon the CRPUD Option criteria above, the Plan Review Committee shall advise the applicant in writing as to the reasons for such recommendation. An adverse recommendation from the Plan Review Committee shall not preclude the owner or developer from requesting qualification from the Planning Commission to redevelop the commercial establishment or shopping center under the CRPUD Option.

4. An owner or developer of a commercial establishment or shopping center which intends to enhance or redevelop the commercial establishment or shopping center, or reoccupy the commercial establishment or shopping center with new uses under the CRPUD Option shall comply with the recommendations of the Plan Review Committee with respect to improvements.

C. *General Requirements for CRPUD Option; Approving Authority; Qualification Under CRPUD Options.*

1. The Planning Commission shall be the approving authority with respect to (a) qualification under the CRPUD Option and (b) approval of a preliminary site plan for redevelopment or reoccupancy of a commercial establishment or shopping center under the CRPUD Option.

2. After the owner or developer of a commercial establishment or shopping center meets with the Plan Review Committee and obtains a recommendation regarding redevelopment and/or reoccupancy under the CRPUD Option, the owner or developer shall proceed with obtaining review and qualification by the Planning Commission of the commercial establishment or shopping center under the CRPUD Option and approval of a preliminary site plan. The Planning Commission may approve the CRPUD in accordance with the procedures set forth in this section after a public hearing held by the Planning Commission subject to the following:

a. The Planning Commission shall not approve qualification of a commercial establishment or shopping center for redevelopment or reoccupancy under the CRPUD Option unless it finds that the following have been satisfied (unless inapplicable) by a simple majority of the members of the Planning Commission.

b. That all applicable provisions of this section have been met or modified by the Planning Commission. Insofar as any provision of this section shall be in conflict with the provisions of any other section of this code, the provisions of this section shall apply to the lands embraced within a CRPUD area.

c. That adequate areas have been provided for all utilities, walkways, recreational areas, parking areas and other open spaces, and areas to be used by the public or by residents of the community.

3. The plan provides for an efficient, aesthetic, and desirable use of the open areas and the plan is in keeping with the physical character of the city and the area surrounding the development.

4. The Planning Commission shall hold a public hearing to hear and consider comments relating to the CRPUD proposal.

5. Upon finding that the conditions outlined above have been satisfactorily met, and following the public hearing, the Planning Commission shall approve the CRPUD with any reasonable conditions.

6. Once an area has been included within a plan for a CRPUD that has been approved by the Planning Commission, no development may take place in such area nor may any use thereof be made except in accordance with a Planning Commission approved amendment.

D. *Specific CRPUD Qualification.*

1. CRPUDs may be permitted in the C-1 Local Business District, C-2 Planned Comparison and C-3 General Business Districts only.

2. The commercial establishment or shopping center proposed to be redeveloped or reoccupied under the CRPUD shall consist of contiguous land.

3. The proposed development must be in basic accord with the intent of the CRPUD Option.

4. All uses permitted as principal uses permitted, or special approval land uses and accessory uses permitted in the C-1, C-2 and C-3 Districts, mixed uses as provided in subparagraph 5. below and other discretionary land uses as authorized by section 25.04 of the Zoning Ordinances.

5. A CRPUD may include complementary multiple family residential uses allowed in the RM-1 and RM-2 Multiple Family Residential Districts as determined by the Planning Commission.

a. The use of creative development concepts including mixed uses should be used to create commercial nodes and gateways and facilitate renovation of existing retail centers as opposed to creating strip commercial centers along major thoroughfares.

b. If a CRPUD includes multiple family residential uses, the housing types may be clustered to preserve common open space, in a design not feasible under the underlying zoning district regulations. The CRPUD may provide a complementary variety of housing types and/or a complementary mixed-use plan of residential and/or non-residential uses that is harmonious with adjacent development.

c. Setback and other dimensional requirements of uses proposed to be developed shall be used as guidelines for reviewing a proposed mixed-use CRPUD.

6. Any uses listed as special approval land uses shall be required to comply with specific conditions relating to such uses, unless modified by the Planning Commission.

7. Elderly housing may be permitted in a mixed-use or CRPUD. The permitted dwelling unit density of the elderly housing component shall be evaluated based upon the type of elderly housing proposed (i.e. independent, assisted, etc.), the conditions of the site, anticipated traffic impacts, and character of surrounding uses and the neighborhood.

E. *Design and layout conditions.* The Planning Commission shall apply all applicable standards for approval contained in city ordinances related to land use and any adopted development guidelines and the design standards set forth below.

1. Where a planned or proposed major, secondary, or collector thoroughfare is included partially or wholly within the project area of a CRPUD, such portion of the roadway shall be provided as a public right-of-way with the width standards as stated in the master road plan for the right-of-way. The alignment of the roadway shall be in general conformance to the proposed alignment as shown on the master plan.

2. In order to provide an orderly transition of density, where the project being proposed for use as a CRPUD immediately abuts a residential district, (not including districts separated by a major thoroughfare), the City may require that the area immediately abutting the district shall be developed with a like development or landscaped open space.

3. Site design standards should include frontage beautification, buffering devices, landscaping, walkway linkages, controlled vehicular access, and attractive signage.

4. All yards, height, bulk, minimum floor area, and lot coverage requirements for the uses proposed shall apply unless otherwise modified by the Planning Commission as part of the approved development plan.

F. Submittal procedures and conditions. Three distinct steps are required to develop a parcel of land or site under the CRPUD Option: (i) meeting with the Plan Review Committee, (ii) obtaining approval of the CRPUD Qualification and preliminary site plan from the Planning Commission and (iii) obtaining final site plan from the Office of Planning. Any person owning or controlling land may make application to the Planning Commission for consideration of a CRPUD. In order to adequately review the preliminary site plan, the applicant shall be required to submit the following materials to the Planning Commission. The proposed CRPUD preliminary site plan concept plan shall contain at least the following:

1. Application form and required fee.

2. A narrative indicating the period of time within which it is contemplated the project will be completed.

3. A site plan with four-sided elevations showing a layout of the uses and structures in the CRPUD and their locations including:

a. Zoning of the property, and of the boundaries of each area if there is more than one zoning.

b. Layout of proposed land uses, acreage allotted to each use, density of multiple family residential areas, and by underlying zoning district, and generalized building footprints;

c. Roads, parking areas, drives, driveways, and pedestrian paths;

d. Building setbacks and spacing;

e. General location and type of landscaping proposed;

f. Any significant woodlands that will be preserved;

g. Identification of each phase, if a multi-phase development is proposed.

4. Any additional graphics or written materials reasonably requested by the Planning Commission to assist in determining the impacts of the proposed site plan, including, but not limited to, economic or market studies; impact on public primary and secondary schools and utilities; traffic impacts; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; and estimated construction costs.

G. *Site plan review.* Upon approval of the CRPUD preliminary site plan by the Planning Commission, final site plan review and approval are required in accordance with Article 26 Site Plan Review Requirements and Procedures prior to the issuance of building or zoning compliance permits. Site plans submitted for final site plan approval shall also contain the following:

1. Structural outline (building envelope) of all structures proposed on the site;

2. Architectural renderings of building facade elevations, typical floor plans and topography shall be drawn at a two-foot contour interval. Elevation drawing shall be drawn to scale. Where more than one type of structure or design is intended, the sample elevation and corresponding floor plans of each type shall be submitted;

3. A plan identifying the areas to be dedicated as open space and recreational use showing access, location and any improvements. To assure the permanence of the open space and its continued maintenance, the developer shall provide a proposed open space agreement for review and approval by the City Attorney. The open space agreement must be in a form satisfactory to the city and shall include the following:

a. The proposed manner of holding title to any preserved open space;

b. The proposed manner of payment of taxes;

c. The proposed method of regulating the use of open space;

d. The proposed method of maintenance of the open space area and the financing thereof;

e. Any other facts relating to the legal or practical problems of ownership and maintenance of the open space;

4. The location of access drives, streets, off-street parking areas, and sidewalks;

5. A landscape plan showing location, extent and type of plantings and screening in accordance with the environmental provisions of Article 24.

The owner or developer must receive final site plan approval for the proposed development within 12 months of approval of the preliminary site plan, obtain a building permit within 18 months of preliminary site plan approval, and complete development of the CRPUD within 30 months of preliminary site plan approval. This time limitation may be extended by the Planning Commission in response to a request from the owner.

H. *Regulatory flexibility.*

1. The Planning Commission may modify by a simple majority of the members of the Planning Commission present the current standards within the Zoning Ordinance for CRPUD including, but not limited to use, density, intensity, setbacks, building heights, parking, design standards, and landscape standards provided the modification is found to improve the quality of the development above and beyond what could be developed under the conventional zoning above, or results in a higher level of public benefit, and to achieve the purpose of this article.

2. The use of creative development concepts including mixed uses should be used to create commercial nodes and gateways and facilitate renovation of existing commercial establishments and retail centers as opposed to creating strip commercial centers along major thoroughfares.

3. The Zoning Board of Appeals shall have no authority with respect to CRPUD Option developments.

4. The Plan Review Committee and Planning Commission shall use any applicable standards for approval contained in city ordinances related to land use and any adopted development guidelines.

(Ord. No. 278-SS, § 1, 7-17-12)

ARTICLE 23. OFF-STREET PARKING AND LOADING REQUIREMENTS

SECTION 23.00. INTENT.

The off-street parking and loading requirements of this ordinance are established to prevent congestion on public streets by providing clearly defined parking areas that are separated from roadways; to remove the hazard to pedestrians of emerging between parked vehicles onto a public street; to facilitate proper stormwater runoff; to prevent the generation of dust into the area; and to make clear the availability and arrangement of spaces to all users.

SECTION 23.01. GENERAL PARKING REQUIREMENTS.

It shall be the duty of both the owner and occupant of any premises to provide off-street parking spaces as required in this article. Such off-street parking areas shall be laid out, constructed and maintained in accordance with the following standards and regulations.

A. Whenever a use or an activity requiring off street parking is created, enlarged or increased in activity or intensity, off-street parking spaces shall be provided on site and maintained as required by this ordinance.

B. The amount of required off-street parking for new uses of buildings, additions to existing buildings, new uses of land and accessory buildings shall be determined in accordance with the regulations in effect at the time the new use or addition was proposed, and the space so required shall be shown on the site plan and shall be irrevocably reserved for such use. No such designated parking area shall be changed to any other use unless and until equal facilities are provided elsewhere on the site.

C. Off-street parking existing at the effective date of this ordinance in conjunction with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

D. Nothing in this section shall be construed to prevent the collective provisions of off-street parking facilities for two or more buildings or uses on separate sites, provided that, collectively, such parking shall not be less than the sum of requirements for the various uses computed separately. The provisions for shared parking shall not be construed to allow for development without parking located reasonably proximate to the development it is intended to serve. Parking shall be reasonably distributed to fulfill the parking needs of each use being served.

E. The Planning Department may permit a reduction of the requirement for shared parking for developments in the O-3 or C-4 districts mixed-use which exceed 50,000 square feet of floor area by an amount not to exceed 10%, subject to the following conditions and findings:

1. A study performed by a recognized traffic engineer shall be provided in support of the request;

2. The Planning Department may reduce the required parking under this section only if the site or sites contain two or more separate and distinct uses which, by their nature, can use shared parking without having an adverse impact on traffic circulation or without impairing the overall functioning of the site or sites. In the event that there is a change of uses that no longer meets the criteria established for shared parking, the required number of spaces as provided below shall be installed;

3. An overflow or reserve area capable of accommodating the required number of parking spaces shall be specified on the site plan that could accommodate an expansion of the existing parking facilities, should that be required. The developer shall execute an agreement, in a form satisfactory to the city, that will obligate the property owners to install additional parking at the city's request if the need arises;

4. Any such provisions for collective parking for two or more buildings or uses on the same site or on separate sites shall be set forth in a recordable instrument recorded at the office of the Macomb County Register of Deeds, describing the lands affected by this agreement.

F. Where the owners of two buildings, whose operating hours do not overlap, desire to utilize common off-street parking facilities, the Planning Department may permit such dual function, provided that the following conditions have been met:

1. The normal business hours of the two buildings or uses in no way overlap, except for custodial personnel. In the event that there is a change of uses that no longer meets the criteria established for shared parking, the required number of spaces as provided below shall be installed;

2. The common parking lot meets the off-street parking requirements of the larger building or more intensive use, plus 15%;

3. The common parking lot meets all of the locational requirements of this ordinance with respect to each building or use;

4. The site plan shall indicate a reserve area that is capable of accommodating the required number of parking spaces, if necessary. The developer shall execute an agreement, in a form satisfactory to the city, that will obligate the property owners to install additional parking at the city's request if the need arises.

G. Off-street parking facilities required herein shall be located within 300 feet of the permitted use it is intended to serve, such distance to be measured along lines of public access to the property between the nearest point of the parking facility and the building to be served, provided that the said off-street parking facility shall not be separated from the building to be served by any major or secondary thoroughfare so designed by the City of Sterling Heights Master Road Plan, drain or physical barrier or public improvement.

H. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which is most similar in type as determined by the Zoning Official.

I. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction shall require one parking space.

J. Residential off street parking spaces for single and two family uses shall consist of a parking strip, driveway, garage or combination thereof and shall be located on the premises they are designated to serve. Parking shall be restricted to paved areas and shall exclude lawn, patio and patio block areas. Paved parking areas shall not be permitted in any front yard unless a part of a side entrance garage, driveway, a horseshoe driveway or a driveway providing access to a detached garage.

K. For the purpose of determining off-street parking requirements for all uses, floor area shall mean 90% of the gross floor area used or intended to be used for services to the public as customers, patrons, clients, patients, employees or tenants, including areas occupied for storage and fixtures and equipment used for the display or sale of merchandise, unless otherwise specified. For those buildings which feature unique interior natural features, such as atriums and landscaped areas, the floor area occupied by such areas may be deducted from the gross floor area used to calculate parking requirements.

L. Whenever drive-through or vehicle stacking lanes are provided, such lanes shall be so located so as not to impede pedestrian or vehicular circulation on the site or on abutting sites, nor shall any drive-through lane cross a vehicle maneuvering lane or aisle. Drive-through lanes shall be a minimum of eight feet wide.

M. Parking shall not be permitted within any required front yard setback, except as otherwise permitted.

N. Reserved Parking Areas.

1. A developer or owner may request that a certain number of parking spaces be reserved for possible future installation if required. The proposed reserved parking spaces must be shown and labeled on the proposed site plan. The Planning Department (or the Planning Commission if preliminary site plan review is required under the Zoning Ordinance to be performed by the Planning Commission) may approve one or more areas of reserved parking spaces where (a) the developer or owner shows that the specific proposed use requires a fewer number of parking spaces than typically required by ordinance based on (a) a smaller total usable floor area, (b) a substantially smaller total number of employees than typically anticipated for such uses, (c) the existence of a combination of uses which share parking facilities, or (d) the proposed use has peak hours of operation which vary from typical business hours making the required parking excessive, provided the proposed reserve parking for the development can be serviced safely and will not result in undue stacking of vehicles, and traffic flow throughout the parking lot can be maintained in a safe manner.

2. If the Planning Department (or the Planning Commission if preliminary site plan review is required under the Zoning Ordinance to be performed by the Planning Commission) determines that the development cannot be serviced safely, that excessive stacking is likely to occur, or that traffic flow cannot likely be maintained in a safe manner if reserved parking is permitted, the Planning Department (or Planning Commission as the case may be) shall not approve the developer or owner's request for reserved parking.

3. If the Planning Department (or the Planning Commission as the case may be) approves the request of the developer or owner for reserved parking, the site plan shall depict (i) the location and number of parking spaces required to be installed currently, (ii) the location and number of all of reserved parking spaces which may be required to be installed in the future identified as "Reserved Future Parking Area", and (iii) the total number of parking spaces which may be required if the reserved parking spaces are required to be installed in the future. The site plan shall contain a notation in each Reserved Future Parking Area that states "No

buildings, structures or improvements shall be constructed in the Reserved Future Parking Area".

4. The owner of the site with one or more approved Reserved Future Parking Areas shall execute and deliver to the city a reserved parking agreement satisfactory to the City Planner and City Attorney in recordable form which makes the reserved future parking area arrangement a matter of record so that future owners of the property will be on notice of the reserved parking arrangement and restriction on future development in the Reserved Future Parking Area, and the possible requirement for future installation of additional parking spaces as may be required by the city.

5. If the Planning Department (or the Planning Commission as the case may be) determines that traffic patterns, a change in use or an increase in intensity of the use on the property, either as a result of an increase in the number of employees or hours of operation, a decrease in approved storage area, etc. or any other factor requires the installation of some or all of the reserved parking spaces, the Planning Department may require additional parking spaces, as determined by the Planning Department, to be constructed in the Reserved Future Parking Area(s) shown on the site plan within six months of notice of such additional parking being required.

(Ord. No. 278-9, §§ 1, 2, 10-3-95; Ord. No. 278-R, § 12, 8-20-96; Ord. No. 278-X, § 10, 4-6-99; Ord. No. 278-YY, § 1, 10-4-16)

SECTION 23.02. MINIMUM NUMBER OF OFF-STREET PARKING SPACES.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule.

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Use	***Required Parking Spaces***
A. Residential:	
1. One and two family units	Two for each dwelling unit.
2. Multiple family	Two for each one bedroom dwelling unit. For each additional bedroom, one-half additional parking space shall be provided.
3. Housing for the elderly	Two for each three units, plus one space per employee. Should the elderly units convert to general occupancy, then two spaces per unit shall be provided and shown on the site plan to accommodate such a requirement.
4. Mobile homes	Two spaces per unit, plus one space for every three mobile home sites for visitor parking.
5. Boarding houses	One and one-half per bedroom
B. Institutional:	
1. Churches or temples	One for each three seats or six feet of pew in the main worship area, plus spaces for any residential uses as determined in accordance with the parking requirement established for residential uses. Additional spaces for ancillary facilities, such as social halls, schools, etc., may be required by the Planning Department.
2. Hospitals	One per bed; plus one space per employee and doctor on peak employment shift. Additional spaces shall be required for ancillary medical office buildings based on their individual requirements. Parking for emergency facilities shall be provided on the basis of one space per 100 square feet of floor area of the emergency room waiting area and patient treatment areas.
3. Full assisted housing	One space for each three members allowed within the maximum occupancy load, as determined by the Fire Marshal or his or her official designate, plus one per employee.
4. Private clubs and lodges	One space for each three members allowed within the maximum occupancy load, as determined by the Fire Marshal or his or her official designate, plus one per employee.
5. Elementary and junior high schools	Ten, plus one for each employee (including teachers and administrators) in addition to the requirements of the auditorium. Additional spaces for ancillary facilities and activities may be required by the Planning Department.
6. Senior high schools and colleges	One for each employee (including teachers and administrators), plus one for each three students, plus the requirements of the auditorium. Additional spaces for ancillary facilities and activities may be required by the Planning Department.
7. Auditoriums (incidental to churches, schools and hospitals)	One for each three seats.
8. Nursery schools, day nurseries or child care facilities	One space for each employee, plus one space for each ten students on the premises at one time. Adequate, but not fewer than five stacking spaces shall be provided for pickup and dropoff.
C. Recreational:	
1. Private golf, swimming or tennis clubs and similar uses	One for each two member families, plus one per employee. If club houses are provided, one additional space shall be provided for each three persons allowed within the maximum occupancy load as determined by the Fire Marshal or his or her official designate.
2. Public golf courses (not including miniature golf, driving ranges or par 3 courses)	Six for each golf hole, plus one per employee, plus spaces required for any ancillary use such as restaurant or bar as determined in accordance with the requirements of this section.
3. Stadiums and sports arenas or similar places of assembly	One space for each three seats or six feet of benches.

4. Racquet/tennis and exercise clubs	One space for each three persons allowed within the maximum occupancy as determined by the Fire Marshal or his or her official designate, plus spaces required for any ancillary uses as determined in accordance with the requirements of this section.
5. Riding stables	One space per horse that could be kept at the stable when occupied at maximum capacity.
6. Miniature golf, par 3 courses and driving ranges	Three spaces for each miniature golf or par 3 golf hole, one space for each driving range tee, plus one space per employee, plus spaces required for any ancillary uses as determined in accordance with the requirements of this section.
7. Dance halls, roller rinks, amusement device centers, ice amusement device centers, ice skating rinks, indoor shooting ranges, archery ranges and exhibition halls	One per three persons allowed at maximum occupancy determined by the Fire Marshal or his or her official designate
8. Bowling alleys	Five per lane, plus parking required for ancillary uses such as restaurants or lounges, as determined in accordance with the requirements of this section.
D. Offices:	
1. Banks	One for each 150 square feet of floor area. Banks with drive-through facilities shall also provide vehicle stacking spaces based on the following scale: Drive-through tellers - 5 spaces for each drive-through lane Automated Teller Machine - 4 spaces for each drive-through ATM lane
2. Business or professional offices, except as indicated below	One for each 200 square feet of floor area.
3. Professional offices of doctors, dentists or similar professions	One for each 100 square feet of floor area.
4. Medical clinics	One for each employee, plus one for each 75 square feet of floor area.
E. Commercial:	
1. Auto wash, hand- or coin-operated	Four exterior waiting spaces at entry, plus two exterior drying spaces at exit shall be for each bay, plus one space for each employee.
2. Enclosed self-service two-door	Where all washing, drying and vacuuming operations are time-charge car wash designed to take place within the building, four waiting spaces shall be provided for each bay, plus one space for each employee. A properly drained 50 foot long drying lane shall also be provided at the exit of each washing lane or stall in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.
3. Auto wash, high-speed commercial at entry.	One space for each employee, plus 20 exterior waiting spaces A properly drained 50 foot long drying lane shall also be provided at the exit of each washing lane or stall in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.
4. Auto service stations (gasoline and repair) and auto repair services, excluding heavy and major repair	Four spaces per bay for the first four bays, and two spaces for each additional and bay over four, plus one per employee on the peak shift, plus one per 200 square feet of retail floor area.
5. Heavy and major auto repairs	Three spaces for each service bay, plus one per employee on the peak shift.
6. Self-service gasoline stations (gasoline and convenience retail-no repair)	One space for each 200 square feet of floor, plus one per employee at the peak shift.
7. Quick oil change	Two per bay, plus one per employee at the peak shift; one per 200 square feet of floor area used for retail sales.
8. New vehicle sales establishments	One for each 300 square feet of sales area, one for each 200 square feet of office area and three for each service bay, subject to the requirements of section 23.03(L).
9. Beauty parlors, barber shops and beauty schools	One per 100 square feet of floor area.
10. Furniture, appliance and carpet sales	One space for each 200 square feet of showroom floor area. (For that floor area being used in processing or storage, one space shall be provided for each 1,000 square feet.)
11. Showrooms for plumbers, cabinet makers, electricians and similar professions	One space for each 300 square feet of showroom area. (For that area being used in processing or storage, one additional space shall be provided for each 1,000 square feet.)
12. Laundromats and coin-operated dry cleaners	One space for each two machines.
13. Dry cleaners	One for each one employee, with a minimum of five spaces.

14. Mortuaries	One space for each 25 square feet of assembly room floor space, parlors and slumber rooms.
15. Motels/hotels/inns	One for each unit, plus one for each employee. Spaces required for ancillary uses such as lounges, restaurants or conference areas shall be determined on the basis of the individual requirements in accordance with the requirements of this section.
16. Open-air business or portions of businesses	One for each 300 square feet of lot area used for retail sales area and uses.
17. Motion picture theaters	One for each three seats, plus one per each employee at the maximum shift.
18. Theaters with live entertainment	One per each three seats, plus one per each employee at the maximum shift.
19. Retail stores, except as otherwise provided herein	With floor area of less than 75,000 square feet of floor area, one per 200 square feet of area. With floor area of between 75,000 and 200,000 square feet, one per 225 square feet of area. With floor area over 200,000 square feet, one per 250 square feet of area.
20. Restaurants (excluding drive-through)	One per 90 square feet of floor area.
21. Fast food restaurants	One per 75 square feet of floor area. Stacking spaces for ten cars shall be provided for each drive-through lane or window.
22. Carry-out restaurants	One per 200 square feet of floor area. Stacking spaces for ten cars shall be provided for each drive-through lane or window.
23. Banquet and/or catering halls	One per 45 square feet of floor area for meeting or assembly rooms, one per 200 square feet of floor area for offices and one per employee at the peak shift.
F. Industrial:	
1. Manufacturing establishments	One per each 500 square feet of manufacturing floor area. Those portions of buildings used for administrative offices shall have their parking requirements based on the standard specified in section 23.02(D)(2).
2. Wholesale or warehouse establishments	One per 1,500 square feet of floor area. Those portions of the building used for administrative offices shall have their parking requirements based on the standard specified in section 23.02(D)(2).
3. Office research	One per 200 square feet of floor area.
4. Mini-warehouses or self-storage units	Two for the residential caretaker's unit, plus one per 200 square feet of floor area used for office purposes.
5. Lighted commercial sports centers	75 for each of the first four baseball diamonds, plus 50 for each additional baseball diamond. Parking for other uses on the site shall be determined on the basis of the individual requirements of each use.

(Ord. No. 278-A, §§ 38-41, 4-17-90; Ord. No. 278-F, § 11, 8-8-90; Ord. No. 278-Q, §§ 3, 4, 10-3-95; Ord. No. 278-T, § 11, 6-3-97; Ord. No. 278-X, §§ 11, 12, 4-6-99; Ord. No. 278-Y, §§ 31-33, 5-16-00; Ord. No. 278-DD, §§ 3, 4, 5, 7-6-04; Ord. No. 278-JJ, § 6, 3-4-08)

SECTION 23.03. OFF-STREET PARKING SPACE LAYOUT STANDARDS, CONSTRUCTION AND MAINTENANCE.

Wherever the off-street parking requirements in section23.02 above requires the construction of an off-street parking facility, such off-street parking lot shall be laid out, constructed and maintained in accordance with the following standards and regulations.

A. No parking lot shall be constructed unless and until a permit therefor is issued by the Building Department. Applications for a permit shall be submitted as per the requirements of site plan review (section 26.02).

B. Plans for the layout of an off-street parking lot shall have dimensions consistent with the following standards.

1. *Ninety degree pattern.* Parking spaces and maneuvering lanes shall be provided based on one of the following alternatives:

Space Width	***Space Length***	***Maneuvering Width***	***Two Tier of Parking and One Maneuvering Lane***
9.0 and 9.5 feet	20 feet	22 feet	62 feet
10 feet	20 feet	20 feet	60 feet

2. *Sixty degree pattern.* 58 feet for two tiers of spaces and one aisle/maneuvering lane with minimum aisle width being 20 feet in width.

3. *Forty five degree pattern.* 56 feet with two tiers of parking spaces, plus one aisle/maneuvering lane of at least 20 feet in width.

4. *Drive or maneuvering lanes.* A drive or maneuvering lane shall not be less than 20 feet wide to permit two-way traffic.

5. *Stalls.* All parking lot stalls shall be striped and maintained.

C. Handicapped spaces shall be furnished as required by state law.

D. Parallel parking shall not be permitted.

E. All parking spaces shall be provided with adequate access by means of maneuvering lanes. Spaces shall not be designed to permit backing directly into a street.

F. The entire parking area, including parking spaces, maneuvering lanes and drives required under this section, shall be provided with asphaltic or concrete surfacing in accordance with specifications of the Engineering Department of the City of Sterling Heights. Contractor storage yards in the M-1 (Light Industrial) or M-2 (Heavy Industrial) need not be paved but must meet all applicable standards of the office of engineering. Unless a waiver is granted by the Zoning Board of Appeals for a specified period of time, the parking area shall be surfaced prior to the issuance of the certificate of occupancy for the building or buildings which it serves or a cash deposit or irrevocable letter of credit acceptable to the City of Sterling Heights shall be made in an amount equal to 110% of the estimated cost of the improvement. Any improvements for which a letter of credit or cash deposit has been posted shall be installed by the end of the construction season following the posting.

G. Off-street parking areas shall be drained to dispose of all surface water accumulated in the parking area in such a way as to prevent drainage of water onto adjacent property or toward buildings and drainage plans shall meet the specifications of the Engineering Department.

H. In any area where front-end parking abuts a curbed landscaped area at least five feet in width, or a raised sidewalk having a minimum width of at least seven feet, the minimum parking stall depth of 20 feet (as otherwise specified herein) may be decreased by up to two feet in depth in order to allow for a vehicle to overhang such landscaped area or such sidewalk. In no case shall the parking stall depth be decreased to allow a vehicle to overhang into a required front yard setback.

I. Ingress and egress to a parking lot for nonresidential purposes shall not be provided across land zoned for single family or two family residential purposes. All such entrances and exits shall also be located at least 25 feet from any property zoned for one family residential use.

J. Parking lot lighting shall meet the requirements of section24.06.

K. The surface of the parking lot area shall be maintained and kept free from weeds, rubbish, refuse and debris.

L. All parking serving other than one or two family dwellings shall be side-by-side. Tandem parking shall be prohibited. Tandem parking to a depth of three cars may be permitted in vehicle storage and inventory areas, provided such areas are under the control of employees and are not accessible by the general public. Any parking or vehicle circulation areas accessible to the public shall meet the size standards specified in section 23.03.

M. Except as otherwise provided in this article, required off-street parking spaces shall be for the use of occupants, employees, visitors, customers, clients and patrons. Off-street parking shall not be used for other than parking purposes or allowed to become unusable except for temporary repairs. The storage of vehicles or merchandise, except as permitted in conjunction with the principal or accessory use and sale of motor vehicles in any off street parking space is prohibited.

N. The Planning Department may require an access easement to provide for vehicular access to existing or contemplated adjacent parking lots to minimize the need for driveways to each facility and thereby decreasing hazards to vehicular traffic.

O. Adequate ingress and egress to the parking lot by means of clearly limited and defined paved drives shall be provided for all vehicles. All parking areas shall be provided with an entrance and exit from the abutting public thoroughfare. Such entrance and exit shall conform to Engineering Department design standards and follow the most direct route through the front yard setback. The number, size and location of driveways permitted for each site shall be determined by the Planning Department as part of site plan review.

In making this determination, consideration shall be given to the following factors: the location of driveways on adjacent sites and across the street, turning movements, traffic volumes, landscaping, signage, etc. The location of each such entrance and exit shall be submitted for approval of the Macomb County Road Commission or the Michigan Department of Transportation, as the case may be, and the City of Sterling Heights. Tapers and bypass lanes shall be required as determined by the appropriate agency.

P. Curbs, meeting the construction standards of the Engineering Department, shall be required. The use of bumper blocks is prohibited.

(Ord. No. 278-G, § 14, 9-18-90; Ord. No. 278-Y, § 34, 5-16-00; Ord. No. 278-NN, § 34, 1-6-09)

SECTION 23.04. PARKING STRUCTURE DEVELOPMENT STANDARDS.

It is intended that the provision of parking within structures or buildings shall serve to increase the value and convenience of related development and to enhance rather than detract from the appearance of the overall development. It is further intended that the provisions of such facilities shall not negatively impact the safety and security of the public. The following standards, referenced standards or modifications of standards contained elsewhere in this section shall thus apply to parking structures or garages and developments including such facilities:

A. Parking structures shall be physically integrated into the overall design and functioning of the site. The exterior treatment of the parking structure element of a building complex shall be substantially the same in appearance to that of the main building element and shall further be designed so that all architectural and vehicular lighting is shielded or screened from view from adjacent properties;

B. The development of parking structures shall be in accordance with safety and security requirements established by the city.

SECTION 23.05. OFF-STREET LOADING AND UNLOADING.

The number, size and location of off-street loading and unloading area shall be provided whenever it is determined by the Planning Department that the nature of the building or use is such that loading areas would be necessary.

A. All loading or unloading areas shall provide a minimum height clearance of 14 feet.

B. Every use involving the receipt or delivery of materials shall provide space for vehicle standing, so loading or unloading will not take place in any public street, alley or right-of-way. Loading and unloading shall be provided in such a manner that backing from a public street with a right-of-way of 86 feet or greater will not be facilitated. Loading and unloading docks and truck wells are prohibited in required front yards along major thoroughfares and/or existing or proposed rights-of-way of 120 feet or greater. Along thoroughfares or rights-of-way of less than 120 feet, below grade loading shall be permitted in the required front yard. In no instance shall above grade or elevated loading be permitted in the required front yard.

C. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities, except as specifically authorized by this ordinance.

D. Unless otherwise specified, loading and unloading areas shall be provided only in rear yards. Side yard loading may be permitted by the Planning Department when it is determined that such space and loading facilities would not interfere with parking and circulation, either vehicular or pedestrian, or with abutting uses.

E. All loading and unloading areas shall be surfaced, drained and otherwise developed in accordance with the provisions applicable to off-street parking areas (section 23.03).

(Ord. No. 278-F, § 2, 8-8-90)

ARTICLE 24. ENVIRONMENTAL PROVISIONS

SECTION 24.00. INTENT.

The intent of the requirements included in this article is to improve the quality of the city's environment by regulating man-made development and by preserving the city's natural resources. These requirements seek to improve the environment resulting from development by requiring or limiting certain constructed features. The requirement also strives to preserve and enhance the environment by requiring the replacement of destroyed or altered natural features and preserving those already in place.

The landscaping requirements included herein are intended to accomplish the following:

Maintain and enhance the visual character of the city;

Screen and buffer objectional views and uses within and between uses;

Define exterior site functions and areas;

Reduce glare into and from the site;

Reduce dust and other pollutants suspended in the air;

Control noise and provide acoustical modification into and from the site;

Contain odors and minimize their passage into and from the site;

Control the direction and velocity of surface water runoff and minimize soil erosion;

Moderate interior and exterior temperatures by controlling solar radiation on buildings and paved surfaces; and

Maintain aesthetic quality of property and enhance its value.

SECTION 24.01. SCREENING REQUIREMENTS.

Screening shall be required between different zoning districts and classifications of uses according to the requirements of this section. The type of screening needed between uses is related to the classification of use and the location of different functional site development areas relative to adjoining uses and districts.

For the purpose of determining the type of screening required in various situations, the following four levels of impact have been identified:

No impact (identified by "blank space" on the preceding Table of Screening Requirements)

Minor impact (identified by "1" on the preceding Table of Screening Requirements)

Moderate impact (identified by "2" on the preceding Table of Screening Requirements)

Major impact (identified by "3" on the preceding Table of Screening Requirements)

For each level of impact, a different type of screening (or authorized alternative screening) is required, as set forth in section 24.01A.

Where screening is required, only one of the adjoining uses shall be responsible for installing the screening. This use shall be referred to as the "use providing screening." The other use shall be the "protected" use. To determine those instances where screening is required, locate the specific adjoining uses on the following table. The level of screening between various site functions is indicated in that space on the table where both uses intersect.

Please click to view a PDF of this table

TABLE OF SCREENING REQUIREMENTS															
Use Providing Screening		***Protected Use***													
Zoning District	***Development Features***	***All R***	***RM/ MHP***	***O-1***	***O-2***	***O-3***	***C-1***	***C-2***	***C-3***	***C-4***	***P-1***	***O-R***	***M-1***	***M-2***	***PCD***
TABLE OF SCREENING REQUIREMENTS															
Use Providing Screening		***Protected Use***													
Zoning District	***Development Features***	***All R***	***RM/ MHP***	***O-1***	***O-2***	***O-3***	***C-1***	***C-2***	***C-3***	***C-4***	***P-1***	***O-R***	***M-1***	***M-2***	***PCD***
R-60, 70, 80, 90, 100	Building														
RM-1, RM-2, RM-3/ MHP	Building	3													
	Circulation/ parking	3													
O-1	Building	3	2												
	Circulation/ parking	3	2												
O-2	Building	3	2												
	Circulation/ parking	3	2												
O-3	Building	3	2												
	Circulation/ parking	3	2												
	Loading	3	3												
C-1	Building	3	2												
	Circulation/ parking	3	2												
	Loading	3	3	2											
C-2	Building	3	2												
	Circulation/ parking	3	2												
	Loading/ outdoor activities	3	3	2	2										
C-3	Building	3	3	1											
	Circulation/ parking	3	3	1	1										
	Loading/ storing	3	3	2	2	2									
C-4	All site features	See District Requirements													
P-1	Circulation/ parking	2	2	1											
O-R/ TRO	Building	3	3												
	Circulation/ parking	3	3												
M-1	Building	3	3	1	1	1									
	Circulation/ parking	3	3	1	1	1				2		2			2
	Loading/ storage	3	3	2	2	2				2		2			2
M-2	Building	3	3	2	2	2				2		2			2
	Circulation/ parking	3	3	2	2	2				2		2			2
	Loading/ storage	3	3	2	2	2				2		2			2
PCD	All site features	See District Requirements													
LEGEND: (Blank) = None1 = Minor2 = Moderate 3 = Major															

A. *Screening alternatives for each intensity/impact classification.* Screening based upon the anticipated impact as designated in the Table of Screening Requirements above shall be provided and maintained in accordance with the following requirements by the use providing the screening to reduce the effect of the more intense use upon the protected use:

1. *No impact.* Where there is no anticipated impact on the protected use, no screening or buffering is required between adjoining uses.

2. *Minor impact.* Where there is a minor impact, there is a need to soften the impact of one land use on another, which can be accomplished with a broken screen, which creates an impression of space separation without necessarily eliminating visual contact. Screening intended to satisfy these objectives shall conform to the following standards:

a. Ten foot wide greenbelt;

b. Six foot high evergreens and/or three inch caliper deciduous trees shall be planted at average intervals not exceeding 20 feet on center;

c. Shrubs and ground cover or mulches so as to cover the ground upon planting. All such plantings shall meet the height and spacing requirements specified herein.

3. *Moderate impact.* Where there is a moderate impact, there is a need to provide a better separation and buffering of land uses and to minimize the impact of the more intense use on the protected use. Screening provided in these instances shall conform to the following standards:

a. 15 foot wide greenbelt. Six foot high evergreens or three inch caliper deciduous trees shall be planted at average intervals not exceeding ten feet on center. Not more than 50% of planting shall consist of deciduous trees. Shrubs, a minimum of 18 inches in height, and other ground cover or mulches shall be planted to cover the ground upon planting.

b. A four foot high decorative masonry wall. The wall shall be placed on the property line and shall not extend into any required front yard setback. Where a

four foot high wall abuts a six foot trash receptacle screening wall, the four foot wall shall be increased to six feet to provide a continuous uniform wall profile along the property line.

c. A four foot high landscaped earthen berm. A berm may be constructed in place of either the wall or greenbelt. Said berm shall meet the requirements of this section.

d. Whenever the layout of the site places vehicular parking areas adjacent to a residential district, a four foot high decorative masonry wall shall be required in place of the greenbelt requirement. The wall shall be placed on the property line and shall not extend into any required front yard setback.

4. *Majorimpact*. Where there is an anticipated major impact, there is a need to block the view of obtrusive or undesirable visual elements and exclude all contact between such uses by creating a strong impression of special separation. Screening in these situations shall conform to the following standards:

a. Six foot high decorative masonry wall. The wall shall be placed on the property line with a ten foot wide landscaped greenbelt provided between the wall and the building, parking lot or loading area and shall not extend into any required front yard setback. One 3-inch caliper deciduous tree shall be planted on the greenbelt for each 30 feet of wall length, with one additional 3-inch caliper deciduous tree required if the length of the wall is between 30 foot multiples. The remainder of the greenbelt shall be planted with grass, ground cover or other acceptable landscape materials as determined to be appropriate by the Planning Office. The ten foot wide landscape greenbelt is not required for O-1 and O-2 zoned properties.

b. A six foot high landscaped earthen berm. In lieu of the wall, the Planning Department may allow the development of a six foot high landscaped earthen berm meeting the requirements of this section or a 20 foot wide greenbelt with a three foot high landscaped earthen berm planted with two staggered rows of six foot high evergreens planted at intervals not exceeding ten feet on center. Shrubs, a minimum of 30 inches in height, or other ground cover and mulches so as to cover the ground upon planting shall be required.

c. In order to increase compatibility with previously developed adjacent property, the Planning Department may reduce the minimum wall height to conform to a previously established wall profile pattern on adjacent properties. The Planning Department in such instances may require additional screening in order to provide the appropriate buffer between the adjoining uses.

B. *Other screening specifications.*

1. *Walls*. Whenever a wall is used in conjunction with, or in lieu of, the previously mentioned screening requirements, it shall be constructed according to the following specifications:

a. Walls shall be constructed of protective face brick, decorative poured concrete, precast panels, fluted block (both sides) or similar decorative building material determined to be acceptable by the Planning and Building Departments. The color of brick or facing shall be compatible with brick used on the site and shall be durable, weather-resistant, rustproof and easy to maintain;

b. Walls shall be placed on the lot line and shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this ordinance and except such openings, and the arrangement of such, as may be approved by the Planning Department for the purposes of public safety. Where walls are pierced, the openings shall not reduce the minimum height requirement;

c. The foundation of any wall shall be constructed as per the requirements of the Building Department;

d. No such wall shall be constructed of exposed concrete block, cinder block or wood products. Painted walls shall be prohibited, except this prohibition shall not prevent required maintenance of a wall previously allowed under a prior zoning ordinance;

e. Unless otherwise expressly directed by the provisions of this ordinance, all protective walls or greenbelts shall be provided when required along, and immediately joining, the zoning district boundary line and shall be installed so as to lie wholly on the land of the applicant seeking site plan approval;

f. All walls or greenbelts required by this ordinance shall be completely installed prior to the issuance of an occupancy permit for the use of the premises, except as provided hereinafter;

g. In any case where the development of the land and/or buildings has been fully completed and an occupancy permit would otherwise be issued, and the completed installation of the wall, greenbelt and/or landscaping required is prevented by inclement weather or acts of nature beyond the control of the owner, the owner may receive an extension of no more than six months, subject to the requirements of section 29.03 and 29.04 of this ordinance;

h. Maintenance wall, or any other substituted screening device, shall be the responsibility of the property owner on whose property the wall is located;

i. Wall height shall be measured from the grade at the property line of the property required to provide the wall.

2. *Berms*.

a. Berms shall be designed to be consistent with architectural character of the building(s) to be located on the site and shall consist of landscaped earth mounds possessing a maximum slope ratio of three feet horizontal to one foot vertical, except where retaining walls are used. Said slopes shall be designed and planted with sod or hydro-seeded to prevent erosion.

b. In those instances where a berm is included as part of a greenbelt, a detailed drawing and cross-section of the proposed berm shall be provided as part of the landscape plan.

3. *Special requirements; uses abutting nonresidential use in residential district.* If a development abuts a nonresidential type use located in an R district (such as a church, school or public institutional facility) the screening required by the table may be modified by the City Planner to a minor intensity impact, unless more protective screening is required by the specific standards for the particular abutting uses.

4. *One family development masonry walls.* A decorative masonry wall located along the outside perimeter of a one family residential development (including masonry wall screening integrated with other berms and landscaping) which screens the development from major or secondary thoroughfares may be constructed with a maximum height of six feet (except for columns, corner posts and other decorative architectural features which may have a maximum height of ten feet). Columns, corner posts and other decorative architectural features exceeding six feet in height shall be in scale with the adjoining landscape treatment and shall be spaced so that the wall height is predominantly six feet or less. The Planning Commission may permit walls of different materials or of different heights as a special land use, provided the requirements of Article 25 are met. No wall permitted under this paragraph shall be constructed of exposed concrete block, precast concrete panels or poured concrete. All such structures shall comply with all applicable ordinances of the city, including corner clearance requirements. Signage meeting the requirements of section 28.13 paragraph E.14. may be included as part of any wall located at the entrance to the development.

(Ord. No. 278-A, §§ 42, 43, 4-17-90; Ord. No. 278-B, § 1, 5-15-90; Ord. No. 278-C, § 1, 5-15-90; Ord. No. 278-E, § 10, 7-3-90; Ord. No. 278-L, § 1, 6-2-92; Ord. No. 278-Q, §§ 5-7, 10-3-95; Ord. No. 278-U, §§ 11, 12, 1-6-98; Ord. No. 278-X, §§ 13, 14, 4-6-99; Ord. No. 278-Y, § 35, 5-16-00; Ord. No. 278-DD, § 7, 7-6-04)

SECTION 24.02. SITE LANDSCAPING REQUIREMENTS.

A. *General requirements.*

1. Whenever any yard (front, side or rear) and road right-of-way areas are not designated or used for building, off-street parking, loading and unloading, storage, vehicular traffic or other purpose within the terms and requirements of a given zoning district, it shall be sodded, irrigated and landscaped with either approved natural materials or living plant materials which shall be maintained in an aesthetically pleasing condition.

2. Whenever, in this ordinance, a landscape treatment is required, it shall be in accordance with the specific use as mentioned in this section. All landscaping shall consist of approved natural materials or living plant materials. Such landscaping shall hereafter be maintained in a presentable condition and shall be kept free from refuse and debris; provided, further, that all plant materials shall be continuously maintained in a sound, weed-free, healthy and vigorous growing condition and shall be kept free of plant diseases and insect pests. All landscaping shall have an irrigation (water sprinkler) system installed and maintained in good operating condition to ensure the maintenance of all landscaping in a healthy, thriving condition. The Planning Department may modify or waive the irrigation system requirements for natural vegetation areas of the site, where an alternative method of irrigation is provided, or where installation of an irrigation system is impractical or unfeasible due to the unavailability of a proximate water supply or other existing site conditions.

3. A detailed landscape plan for all yard areas shall be submitted to the Planning Department showing the names (common and botanical), location, spacing,

starting size and planting and stalking details of all plantings to be installed and the location and types of all natural materials proposed to be included in the landscape treatment of the yard areas. This provision shall apply to all landscape yards, including those expanded beyond the minimum setback requirements of this ordinance. This landscape plan shall be reviewed and approved by the Planning Department which must approve the plan prior to granting final site plan approval. In the case of commercial developments exceeding 75,000 square feet, the landscape plan shall be reviewed and approved by the Planning Commission prior to final site plan approval.

4. Existing significant trees, tree stands, natural vegetation and wildlife habitat shall be integrated into the site landscape plan to the maximum extent possible.

5. Undeveloped portions and subsequent phases of the site shall be seeded, mowed and maintained.

6. The Planning Department may approve other materials such as masonry walls or brick, stone and cobblestone pavement upon a showing by the applicant that general plantings will not prosper at the intended location.

B. *Design objectives.*

1. The following general design objectives and criteria shall be considered in the evaluation of landscape plans:

a. Ample variety and quantity of ornamental plants, trees and shrubs should be provided. A few dominant types are usually chosen with subordinate types interspersed for accent. Repeating some types creates unity, but no types should be overused. Variety should be achieved with respect to seasonable changes, species selected, texture, color and size at maturity;

b. Landscaping should be encouraged that will serve the functions of enhancing the visual environment, ensuring public safety, moderating the microclimate and minimizing nuisances;

c. Landscaping should serve to integrate the project with the site, with a particular sensitivity to the natural topography and existing native vegetation. It should enhance the architecture of surrounding structures, when possible, by being of similar scale;

d. Preservation of the existing landscape materials and landforms is usually desirable, particularly where mature trees are a part of the site;

e. Visual variety should be the aim of landscaping treatment. Landscaping should be used to break up large expanses of pavement;

f. Local soil, water and other climatic conditions should be considered when choosing landscape materials to create optimum conditions for their survival and to ensure that they will thrive with a minimum amount of maintenance;

g. Landscaping should be protected from vehicular and pedestrian encroachment. Raised planting surfaces and the use of curbs are ways of achieving this objective;

h. Species that are a public nuisance or that cause litter should be avoided. When landscaping is to be installed in areas that children will frequent, trees and bushes with sharp needles shall be prohibited;

i. The aesthetic and functional aspects of the proposed landscaping, both at installation and at maturity, should be considered.

2. In addition to the site landscaping requirements of this section 24.02, sites located within a Development Areas shall comply with the requirements of article 22, section 22.04.

C. *Plants and materials.*

1. All plant materials used shall be placed in fertile soil with good surface drainage and shall be given reasonable maintenance necessary to ensure their healthy existence and survival. All natural materials shall be maintained, refurbished or replaced as necessary to ensure a positive aesthetic quality.

2. All proposed landscaped plantings shall meet the minimum size requirements specified in the following table. Minimum tree height is measured from the established grade.

D. *Prohibitions*. Where a landscape plan is required, the following plant materials are specifically prohibited:

1. Boxelder;

2. Soft maple (red silver);

3. Elm;

4. Poplar;

5. Willow;

6. Horse chestnut (nut bearing);

7. Tree of heaven;

8. Catalpa;

9. Fruit-bearing trees;

10. All thorned trees and shrubs;

11. Ribes (gooseberry);

12. Cottonwood.

Please click to view a PDF of this table

PLANT MATERIAL SIZE									
	Minimum Size Allowable								
PLANT MATERIAL SIZE									
	Minimum Size Allowable								
	6'	***Height***		***18"-2'***	***Caliper***		***18"-2' Spread***	***2" Peat Pot***	***2 Gal. Container***
		3'-4'	***2'-3'***		***2½"***	***3***			
Evergreens:									
Fir	x								
Spruce	x								
Pine	x								
Hemlock	x								
Douglas fir	x								

Narrow Evergreen Trees:									
Red cedar	x								
Arborvitae	x								
Juniper (selected varieties)	x								
Large Deciduous Trees:									
Oak						x			
Maple						x			
Beech						x			
Linden						x			
Ash						x			
Ginko (male only)						x			
Honeylocust (seedless, thornless)						x			
Birch									
Sycamore						x			
						x			
Small Deciduous Trees (Ornamental):									
Flowering dogwood (disease resistant)					x				
Flowering cherry, plum, pear									
Hawthorn (thornless)					x				
Redbud					x				
Magnolia					x				
Flowering crabapple					x				
Mountain ash					x				
Hornbeam					x				
Russian olive					x				
					x				
Large Evergreen Shrubs:									
Irish yew									
Hicks yew									
Upright yew			x						
Spreading yew			x				x		
Pfitzer juniper			x				x		
Savin juniper							x		
Mugho pine							x		
							x		
Small Evergreen Shrubs:									
Brown's Wards' sebion yews							x		
Dwarf spreading juniper							x		
Dwarf mugho pine							x		
Euonymous varieties							x		

Large Deciduous Shrubs:			x						
Honeysuckle									
Lilac									
Border privet (hedge plantings)									
Sumac		x							
Buckthorn		x	x						
Pyrancantha									
Weigela		x							
Flowering quince		x							
Barberry		x			x	x			
Cotoneaster (Peking and spreading)		x							
Sargent crablapple									
Dogwood (Red osier and grey)		x							
Euonymous varieties		x							
Viburnum varieties		x							
Tail hedge (hedge planting)		x							
			x						
Small Deciduous Shrubs:									
Dwarf winged				x					
Red privet				x					
Fragrant sumac				x					
Japanese quince				x					
Cotoneaster (rockspray, cranberry)				x					
Ground Cover:									
Periwinkle								x	
Baltic ivy								x	
Euonymous varieties								x	
Hall honeysuckle								x	
Pachysandra								x	
Vines:									
Euonymous varieties									x
Virginia creeper									x
Baltic ivy								x	
Wisteria									x

(Ord. No. 278-F, § 13, 8-8-90; Ord. No. 278-X, § 15, 4-6-99; Ord. No. 278-Y, § 36, 5-16-00; Ord. No. 278-DD, § 8, 7-6-04; Ord. No. 278-JJ, § 7, 3-4-08; Ord. No. 278-II, § 2, 3-19-08; Ord. No. 278-YY, § 2, 10-4-16)

SECTION 24.03. PARKING LOT LANDSCAPING REQUIREMENTS.

The intent of these requirements is to enhance the visual environment of the city; to promote public safety; to moderate heat, wind and other local climatic effects produced by parking lots; and to minimize nuisances, particularly noise and glare.

A. *Interior parking lot landscaping.*

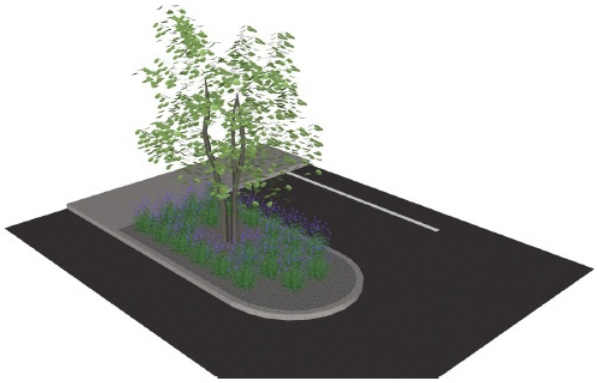
1. All off-street surface parking areas required under the Zoning Ordinance shall incorporate and provide curbed landscaped islands at the end of each parking row. The Planning Department or Planning Commission (as the case may be) may modify the requirement for curbed landscape islands in instances where the installation of curbed landscaped islands would impair the use of the site or otherwise be impractical, based upon the size, configuration or anticipated traffic generation on the site.

a. Curbed landscaped islands shall be a minimum of 150 square feet in area.

b. The curbed landscaped islands shall be planted with shrubs or other flowering plants that provide coverage of at least 50% of the area of the island.

c. Interior parking lot trees shall be provided at a rate of one tree for each five parking spaces and shall be planted in curbed landscaped islands or adjacent to an off-street parking area. (See illustration below)

Curbed Landscaped Area at End of Parking Row



d. The minimum size of all parking lot trees shall be three inch caliper at the time of planting. The following types of trees or similar types are considered to be suitable for off-street parking areas:

i. White fir;

ii. Norway maple;

iii. Tulip tree (magnolia);

iv. Austrian and red pine;

v. Moraine, skyline, majestic and sunburst locusts.

e. All trees, shrubs and other landscaping planted in or adjacent to an off-street parking lot shall be installed in a location and pruned and maintained in a manner to maintain clear vision for vehicles, bicyclists and pedestrians in the vicinity of the trees, shrubs, or other landscaping.

B. *Frontage landscaping.*

1. A minimum of one frontage tree shall be provided for each 750 square feet of frontage greenbelt. Frontage trees shall include trees such as Honey Locust, River Birch, Spruce, Chanticleer Pear, Cleveland Select Pear, Basswood, Hackberry, Linden, Oak, Ginkgo, Maple, etc. Frontage trees shall be a minimum of three inches in caliper at the time of planting.

2. In addition to the frontage trees required above, one plant/shrub shall be provided for each 300 square feet of frontage greenbelt. Frontage plants/shrubs shall include but are not limited to: Knock Out roses, nearly wild roses, dwarf lilacs, hydrangeas, maiden grasses, large hostas, sedums, densi yews, Carpet roses, Russian sage, etc. Plants or shrubs shall be a minimum size of two gallon size at planting.

3. In addition to the plantings above, supplemental perennial grasses and flowers shall also be provided. Perennial grasses and flowers may include black-eyed Susans, fescue grass, oat grass, day lilies, Indian grass, dropseed, blue stem, etc.

4. Wherever a parking lot or vehicle parking space is located within 50 feet of a public street, right-of-way or private street, the perimeter landscaping shall also include a landscape hedge of deciduous or upright evergreen shrubs. The number of required shrubs shall be equivalent to one shrub for each 30 inches of parking or maneuvering lane along the roadway or right-of-way, unless appropriate planting practices otherwise dictate. Plantings may be planted in either a formal hedge or in natural groupings. The Planning Department may approve other plant materials or configurations that the Planning Department determines provide the equivalent of the required frontage landscape.

5. The types of trees and shrubs planted as a result of this section shall be diverse in nature. No one specific species of tree shall account for more than 50% of the total number of trees or shrubs.

6. All plantings shall conform to the required corner clearance requirements of Section 28.03.

7. Properties that have frontage on Van Dyke Road between 14 Mile Road and 18 Mile Road shall incorporate landscape materials and plant types listed in the 2016 LDFA/Smart Zone Enhancement Report. A mixture of shade trees, ornamental trees, perennials and grasses shall be utilized from the list and planted in a manner consistent with the overall conceptual rendering for the corridor.

8. The proposed plantings shall provide a continuous landscaping scheme across the entire road frontage and meet the minimum planting requirements of Section 24.03.

9. Frontage landscaping may be installed in accordance with any of the following illustrations:

Permitted Frontage Landscaping on Corner Lots or Corner Parcels

Permitted Landscaping on Interior Lots or Interior Parcels

C. *Vision clearance.*

1. To ensure that landscape materials do not constitute a driving hazard, clear vision site triangles shall be established at all street intersections and at the intersection of site driveways and streets. No fence, wall, shrubbery, sign or other obstruction to vision above a height of 30 inches 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 of 25 feet from their point of intersection. In addition, no fence, wall, shrubbery, sign or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within ten feet from any sidewalk. Internal parking lot landscaping improvements should be located to avoid blocking the vision of drivers within the parking lot.

(Ord. No. 278-D, § 1, 5-15-90; Ord. No. 278-R, § 13, 8-20-96; Ord. No. 278-DD, § 9, 7-6-04; Ord. No. 278-YY, § 3, 4, 10-4-16)

SECTION 24.04. SCREENING OF ROOF-MOUNTED APPLIANCES.

In all zoning districts, except M-1 and M-2, roof-mounted appliances, including but not limited to air conditioners, heating apparatus, dust collectors, filters, transformers and any other such appliance or apparatus, shall be enclosed on all sides by opaque walls so as not to be visible from off the site. The design of the screening device shall be compatible with the architectural design of the building upon which it is located.

SECTION 24.05. LOCATION AND SCREENING OF TRASH RECEPTACLES.

A. The location of trash receptacles and trash compactors shall be indicated on a site plan. All such trash receptacles or trash compactors shall be located on the site so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, site traffic circulations patterns or any public right-of-way.

B. All trash receptacles shall be screened on three sides by decorative masonry walls which are similar to or compatible with the exterior construction materials used elsewhere on the site. Chain link fencing with view-obscuring slats or wooden privacy fencing shall be prohibited. A door or gate of an enclosure screening trash receptacles or dumpsters shall be constructed of steel materials with a decorative wood or other decorative durable face material. All trash receptacles shall be placed on a concrete pad of not less than ten feet by ten feet in size with a minimum of six inch thick concrete. Concrete or metal bollards shall be placed between the trash receptacle or dumpster and the rear wall of the enclosure.

1. For sites that utilize a trash compactor, the trash compactor shall be appropriately screened with a decorative wall, matching the heights of the trash compactor and that matches the architecture of the building. Other suitable screening mechanisms may be approved by the Planning Department (or the Planning Commission as the case may be), provided the screening is equivalent to the required wall.

C. Any screen around a trash receptacle shall be six feet in height. The walls shall be maintained so as to remain structurally sound and neat and clean in appearance. Trash shall not be allowed to overflow from the receptacle. Trash receptacles shall be so located and arranged to minimize their visibility from adjacent streets and uses. No trash receptacle in a multiple family or commercial zoning district shall be placed any closer than 40 feet to any residential zoning district. All trash receptacles shall be located on the site so as to be as accessible as possible without interfering with vehicular traffic patterns.

D. If usage patterns determine that the number of trash receptacles provided on site are insufficient to handle the volume of refuse, additional receptacles may be required by the Department of Public Works. Any additional trash receptacles so provided shall be located and constructed according to the standards contained in this section. Site plan review is also required.

E. Trash compactors shall be placed on a minimum six inch thick concrete pad of at least ten feet in width and of sufficient length to accommodate all equipment and an approach to allow for service pickups. All compactors shall be screened with either a six foot masonry wall or with sight-obscuring landscaping of sufficient height to substantially screen the compactors from view from a public thoroughfare or any residential district. The masonry wall shall be constructed of materials similar to or compatible with the exterior construction materials used elsewhere on the site.

F. Recycling bins must be located on a ten foot by ten foot by six foot concrete pad and enclosed with a six foot high chain link fence. A six foot masonry wall is required if bins are visible from a public thoroughfare or any residential district. All bins must have locking lids and be located and constructed according to the standards of this section.

(Ord. No. 278-F, § F, § 14, 8-8-90; Ord. No. 278-Q, § 8, 10-3-95; Ord. No. 278-T, § 12, 6-3-97; Ord. No. 278-YY, § 5, 10-4-16)

SECTION 24.06. EXTERIOR LIGHTING REQUIREMENTS.

A. *Intent.* The regulations in this section are intended to:

1. Require sufficient lighting for parking areas, walkways, driveways, building entrances, loading areas, outdoor task areas, and common areas to ensure the security of property and safety of persons.

2. Prevent the adverse effects of inappropriate lighting, including glare, light trespass onto adjoining properties, light pollution and sky glow, and energy waste.

3. Permit and encourage the use of lighting that complements and enhances the aesthetics of the city in general while providing the above-mentioned benefits.

B. *Definitions.* The definitions below shall apply to the words and phrases used in this section24.06. Words and phrases not defined in this section24.06 paragraph B but defined in article 31 shall be given the meanings set forth in article 31. All other words shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

BULB (OR LAMP). The source of electric light (to be distinguished from the whole assembly, which is called the luminaire).

DISABILITY GLARE. An intense light that results in reduced visual performance and visibility, and is often accompanied by discomfort.

FILTERED FIXTURE. Light fixtures having glass, acrylic, or translucent enclosures to filter the light.

FIXTURE. The assembly that holds the lamp in a lighting system. The fixture includes the elements designed to give light output control, such as a reflector (mirror), refractor (lens), the ballast, housing, and the attachment parts.

FOOTCANDLE. Illuminance produced on a surface when a lumen is distributed into an area of one square foot.

FULLY SHIELDED AND DOWNWARD DIRECTED FIXTURE.

a. An outdoor lighting fixture that is shielded or constructed so that (i) no light is projected above the horizontal plane of the fixture and (ii) all light emitted is projected onto the site and away from adjoining properties. The light-emitting surface in a fully shielded and downward directed fixture is not visible from adjoining properties, and does not cause glare or light trespass that interferes with the vision of motorists.

b. *Note: If the lamp, any reflective surface, or lens cover (clear or prismatic) is visible when viewed from above or directly from the side, from any angle around the fixture, the fixture is not fully shielded.

c. Lamps in fixtures that are shielded from direct view when viewed from the side or above but contain or have reflective surfaces within a fixture or the lens cover that is directly visible from the side are not fully shielded.

HIGH PRESSURE SODIUM (HPS) LAMP. High-intensity discharge lamp where radiation is produced from sodium vapor at relatively high partial pressures (100 torr).

INCANDESCENT LAMP. A lamp that produces light by a filament heated to a high temperature by electric current.

LASER SOURCE LIGHT. An intense beam of light, in which all photons share the same wavelength.

LIGHT TRESPASS. Light falling where it is not wanted or needed (also called spill light).

LOW PRESSURE SODIUM (LPS) LAMP. A discharge lamp where the light is produced by radiation from sodium vapor at a relatively low partial pressure (about 0.001 torr). A LPS lamp produces monochromatic light.

LUMEN. Unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela. One footcandle is one lumen per square foot. One lux is one lumen per square meter.

MERCURY VAPOR LAMP. A high-intensity discharge lamp where the light is produced by radiation from mercury vapor.

METAL HALIDE LAMP. A high-intensity discharge mercury lamp where the light is produced by radiation from metal-halide vapors.

NON-ESSENTIAL LIGHTING. Outdoor lighting which is not required for safety or security purposes.

RECESSED CANOPY FIXTURE. An outdoor lighting fixture recessed into the canopy ceiling so that the bottom of the fixture is flush with the ceiling.

C. *General Requirements.* All lighting shall comply with the following general requirements:

1. In order to prevent sky-glow, exterior lighting (including wall-pack fixtures) shall be fully shielded and downward directed. No light that is emitted from the fixture shall project above a 90-degree horizontal plane running through the bottom of the lowest part of the fixture. Exterior mounted incandescent light bulbs 100 watts or less, and exterior lighting directly illuminating a United States flag in a manner that does not create disability glare or light trespass to an adjacent residential area or public/private roadway are exempt from the shielding requirement.

2. In order to prevent disability glare, no light-emitting surface within a light fixture (e.g. a bulb, lamp, refractor, etc.) shall be visible from any residential area or public/private roadway, walkway, trail, or other public way when viewed at ground level.

3. Lenses on light fixtures must be flat. "Sag" or protruding lens types are prohibited.

4. Any canopy structure used at a business location (such as a gas station pump canopy) must have recessed canopy fixtures with diffusers that do not extend below the ceiling surface of the canopy.

5. The Planning Commission shall review and shall subsequently approve decorative light fixtures as an alternative to shielded and downward directed fixtures if the applicant demonstrates to the satisfaction of the Planning Commission that there will be no off-site glare or light trespass, and that the proposed decorative fixtures will improve the appearance of the site.

6. Non-essential lighting shall be turned off after business hours, leaving on only lighting which is essential for site security, provided, however, that motion detectors or other automatic switching systems shall be used for security lighting wherever practicable.

D. *Permitted light intensity.* Maximum average lighting intensity on any particular part of the site shall not exceed the standards set forth below:

Site Area Proposed to be Illuminated	***Maximum Average Lighting Intensity (measured or calculated in initial footcandles)***
Site Area Proposed to be Illuminated	***Maximum Average Lighting Intensity (measured or calculated in initial footcandles)***
General	3
Driveways	3
Walkways	5
Building Entrances	10
Parking Lots	5
Security/Protective Areas	2
Loading Areas	5
Display Areas of Vehicle Dealerships	25
Pump Canopy Areas of Gasoline Stations	25
Building Facades	10
Drive-Through Areas	15
Lighting intensities established above are initial footcandles. Lighting intensity calculated as part of the site lighting plan submittal shall be in initial footcandles. Luminaire depreciation and lamp lumen depreciation shall be calculated at 1.0 to determine initial footcandle values. Field measurements may be taken to verify installation and submitted calculations will be initial footcandles. All values are in horizontal footcandles.	

E. *Light trespass standard.* Light trespass shall not exceed 0.1 footcandles measured or calculated at the ground level of any property line within or adjacent to all residentially zoned (R-60, R-70, R-80, R-90, R-100, R-2, MHP, RM-1, RM-2 and RM-3) or residentially used property based upon the initial footcandle measurement or calculation, or 2 footcandles measured or calculated at the ground level of any property line separating one commercial use from a different commercial use (O-1, O-2, O-3, C-1, C-2, C-3, C-4, P-1, O-R), one industrial from a different industrial use (TRO, M-1, M-2 and PCD), or a commercial use from an industrial use as defined in this section. In addition, house shields shall be provided on all fixtures located within 75 feet of residentially zoned (R-60, R-70, R-80, R-90, R-100, R-2, MHP, RM-1, RM-2 and RM-3) or residentially used property to reduce light trespass.

F. *Maximum light fixture height.* Light fixtures, whether mounted on a building, a wall or fixture, shall not exceed the height limitations set forth below, measured from the ground immediately below the fixture to the top of the fixture:

Zoning District	***Maximum Fixture Height***

Zoning District	*Maximum Fixture Height*
R-60, R-70, R-80, R-90 and R-100 One Family Residential Districts	15 feet
R-2 Two Family Residential District	15 feet
MHP Mobile Home Park District	15 feet
RM-1 and RM-2 Multiple Family Low Rise Districts	15 feet
RM-3 Multiple Family Mid and High Rise Districts	22 feet
O-1 Business and Professional Office District	22 feet
O-2 Planned Office District	22 feet
O-3 High Rise Office Commercial Service District	30 feet
C-1 Local Convenience Business District	22 feet
C-2 Planned Comparison District	30 feet
C-3 General Business District	
Sites of = to 50 acres	30 feet
Sites of < 50 acres	22 feet
C-4 Multi Use District	30 feet
P-1 Vehicular Parking District	22 feet
O-R Office Research District	22 feet
TRO Technical Research Office District	22 feet
M-1 Light Industrial District	30 feet
M-2 Heavy Industrial District	30 feet
PCD Planned Center District	
Sites of = 50 acres	30 feet
Sites of < 50 acres	22 feet
Fixtures in Other Districts	22 feet

The Zoning Board of Appeals may modify the light/fixture height standards for a commercially zoned (O-1, O-2, O-3, O-4, C-1, C-2, C-3, C-4, P-1, and O-R) property or an industrially zoned (TRO, M-1, M-2, and PCD) property based upon of the following criteria:

1. The height and position of buildings;
2. Other structures and trees on the site;
3. Potential off-site impact of the lighting;
4. The character of the proposed use;
5. The character of the surrounding land uses.

G. *Permitted lighting sources.* Due to their high energy efficiency, long life, and special characteristics, color indexed, metal halide lamps are encouraged, but not required. High pressure sodium lamps are permitted.

H. *Prohibited lighting.* The following exterior lighting shall be specifically prohibited:

1. Unshielded illumination of the exterior of a building or landscaping, except for incandescent fixtures having lamps of 100 watts or less;
2. Mercury vapor light fixtures;
3. Moving, flashing, or intermittent lighting, except as authorized in section28.13 regulating signs;
4. Laser source light or any similar high intensity light for outdoor advertising or entertainment that projects above the horizontal plane of the fixture;
5. Searchlights for advertising purposes between the hours of 11:00 p.m. and sunrise of the following morning;
6. Luminaires with swivel mounting hardware.

I. *Exceptions.* The following sources of light are exempt from the requirements of this section:

1. Fossil fuel light produced directly or indirectly from the combustion of natural gas or other utility-type fossil fuels (e.g. gas lamps);
2. Lighting for permitted temporary civic, circus, fair, or carnival uses;
3. Lighting necessary for construction operations, or emergencies, provided such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency;
4. Any lighting required by the FAA for air traffic control, navigation, or warning purposes;
5. Additional exceptions permitted upon a determination by the Zoning Board of Appeals finding that unique or special conditions on the site warrant the exception;
6. Lighting of public or private outdoor recreational facilities during a permitted recreational or sporting event that continues no later than 11:00 p.m. (Lighting for outdoor recreational fields are exempt from the light intensity limitations of this section).

J. *Exterior Lighting in Corridor Improvement Development Areas.* In addition to the exterior lighting requirements of this section, sites located within a Development Area shall comply with the requirements of article 22, section 22.04.

K. *Site plan submittal requirements.* A lighting plan shall be submitted when exterior lighting is added or provided. Partial site lighting plans will be permitted when exterior lighting is being added to existing facilities and all of the new illumination falls within the partial plan submitted. The lighting site plan or partial lighting site plan shall include the following:

1. The location of all proposed freestanding, building-mounted, and canopy light fixtures on the site;
2. Photometric grid overlaid on the proposed site plan indicating the proposed light intensity in footcandles measured at ground level, with footcandles based upon initial footcandles;
3. The maximum, average, and minimum illumination levels proposed in applicable areas on the site, based upon initial footcandle;
4. The light trespass level on any boundary line, including residential and non-residential;
5. The zoning classification and current land use of the site and of any adjacent site;
6. The proposed manufacturer and model number of proposed light fixtures with manufacturer's catalog cut sheets for the proposed fixtures;
7. A statement of the proposed operating hours of luminaires including notations as to whether photocells, time clocks, motion detectors, or other automatic

switching systems will be used;

8. A "to scale" drawing of the site at a scale of 60 to 1 or larger, with footcandle values shown at 20 foot maximum intervals.

L. *Application for a permit.* A person applying for a building, electrical, or sign permit to install outdoor lighting fixtures shall submit a lighting site plan or partial site lighting plan for review and approval to insure that the proposed exterior lighting and work comply with the requirements of this section.

(Ord. No. 278-GG § 4, 12-6-05; Ord. No. 278-II, §§ 3, 4, 3-19-08; Ord. No. 278-NN, § 34, 1-6-09)

SECTION 24.07. DECORATIVE FENCING FOR NONRESIDENTIAL PROPERTIES AND USES.

A. All fences located on nonresidential properties or properties developed with nonresidential uses which abut a local collector, major, or regional roadway or a highway or expressway that are visible from such roadway, highway, or expressway shall be constructed of durable, decorative fencing material such as decorative wrought iron, PVC, etc. The use of standard chain link fencing shall be prohibited except in instances where the Planning Department (or the Planning Commission as the case may be) determines that the fence will not be visible from an abutting roadway, highway or expressway.

B. Fencing on a nonresidential property or for a nonresidential use shall only be permitted when necessary and in conjunction with a permitted principally permitted, approved special approval land use, or permitted applicable accessory use within the specific district in which it is located.

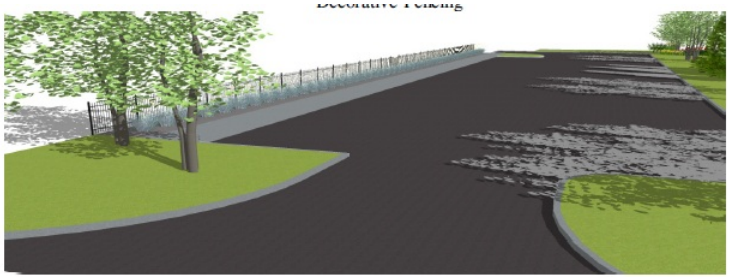
C. Fencing shall not be permitted within the required front yard. Fencing shall only be permitted within the non-required front yard. For those fences located in the non-required front yard, additional landscaping between the fence and the street right of way may be required by the Planning Department (or the Planning Commission as the case may be). Fencing may be permitted within the required side yard setback and within the required rear yard setback.

D. The use of slats or other strips of wood, metal, plastic or other materials inserted into a fence to provide screening or privacy shall be prohibited.

E. The provisions of this Section 24.07 shall not apply in instances where this ordinance specifically requires fencing within the front yard or other area of the site.

F. Decorative fencing shall be installed similar to the illustration below:

Decorative Fencing



(Ord. No. 278-YY, § 6, 10-4-16)

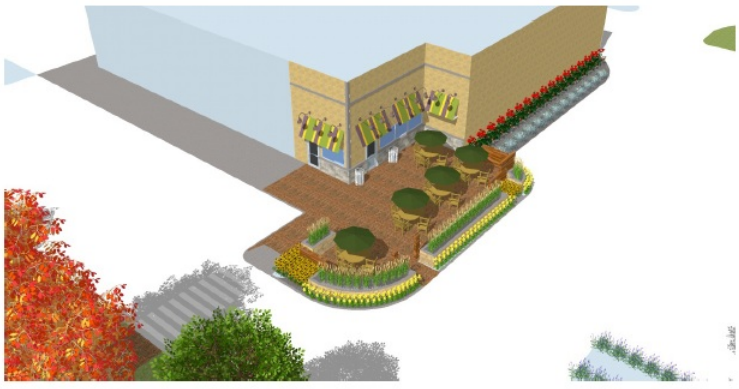
SECTION 24.08. FOUNDATION PLANTINGS.

A. Foundation plantings shall be installed along a minimum of 50% of the linear footage of each side of an office or commercial building that is visible from a public thoroughfare. Buildings located on an outlot of a shopping center or otherwise built in front of the established front building line shall be landscaped with foundation plantings on those sides of the building that are clearly visible to the general public from the parking lot of the overall shopping center or site. For industrial sites, the landscaping requirement shall apply to that area of the industrial building dedicated to office and administrative use.

B. The foundation planting area shall be at least three feet deep and may include in-ground landscaping, raised landscape beds, decorative container planters, or a combination of these. The Planning Department may approve other alternative landscaping schemes, such as green walls, increased landscaped island space, etc., consistent with the intent of this section.

C. The required landscaping shall be planted within 12 feet of the exterior building walls. When a use contains an outdoor dining area or similar outdoor plaza area along the building frontage, the foundation planting area may be permitted to extend beyond the 12 foot area to up to 25 feet from the building or to a distance necessary to provide a landscaped treatment and/or screening along the perimeter sides of the outdoor dining area or outdoor plaza area which are furthest from the building, whichever is greater. (See illustration below).

Foundation Plantings Surrounding Outdoor Dining or Outdoor Plaza Area



(Ord. No. 278-YY, § 7, 10-4-16)

SECTION 24.09. TRANSFORMER AND OTHER GROUND-MOUNTED APPLIANCE SCREENING.

The location of any and all ground-mounted transformers, generators, air conditioning units or other similar appliances or equipment shall be shown on the site plan. Screening of the transformer or appliances shall be provided by the use of appropriate architectural features or landscaping which consists of plant materials of sufficient size and nature to provide a year round screen.

(Ord. 278-YY, § 8, 10-4-16)

SECTION 24.10. PEDESTRIAN CONNECTIONS.

A pedestrian connection shall be provided between the sidewalk along the frontage roadway and the entrance to the building. The pedestrian connection shall utilize parking islands, landscape areas, etc. to provide pedestrian protection to the greatest extent possible. The pedestrian connections shall be a minimum of five feet in width and shall comply with all necessary accessibility requirements. Further, the pedestrian connection shall be integrated into the landscaping design for the entire site providing landscape materials to provide greater separation between the pedestrian connection area and any abutting vehicular maneuvering lanes or parking areas. (See illustration below).

Pedestrian Connections

(Ord. No. 278-YY, § 9, 10-4-16)

SECTION 24.11. BICYCLE RACKS.

A minimum of one bicycle rack with spaces to park at least three bicycles shall be installed at each commercial building or shopping center building that contains 5,000 square feet or more of useable space. The bicycle rack(s) shall be placed in one or more conspicuous location(s) within 50 feet of a building entrance so that pedestrian access to the entrance or pedestrian movement on the site is not impeded.

(Ord. No. 278-YY, § 10, 10-4-16)

SECTION 24.12. ENHANCED LANDSCAPING TREATMENTS.

In order to create a cohesively designed physical land use environment that portrays a sense of community specific to the City of Sterling Heights and a dynamic, flexible, and sustainable presence insuring long term value for both the community and the region, all nonresidential developments within the city shall provide at least two outdoor enhanced landscaping treatments, at least one of which shall serve the general public.

An enhanced landscaping treatment shall include at least two of the following site elements or amenities listed in the following table, provided that such spaces are open, inviting, and accessible and total a minimum of 5% of the gross floor area of all buildings. Two of the same types of elements may be selected, provided that they are located in two distinct locations of the site and meet the requirements of this section. All enhanced landscaping treatments shall be maintained in good condition on a year-round basis.

Enhanced Landscaping Treatment	***Required Element***	***Proximity and Accessibility Requirement***
Outdoor dining areas	The outdoor dining area shall be an integral element in the overall building and site design. If the use of the area ceases for dining purposes, the area shall be repurposed and maintained appropriately as a plaza area unless otherwise redeveloped.	Outdoor dining shall be provided in a location that is accessible to patrons or users as well as accessible for maintenance and upkeep. Outdoor dining areas shall also be afforded protection/separation from any abutting vehicular maneuvering lanes or parking areas.
Pedestrian Pass Through	All pedestrian pass through areas shall be at least 18 feet wide. This requirement may be modified by the Planning Department if it is demonstrated that the pedestrian pass through is designed with architectural elements that reinforce an appropriate pedestrian scale. Pedestrian pass through areas shall include appropriate architectural and landscape elements which are in character with the remainder of the building and site. When uncovered, the pedestrian pass through shall include enhanced pavement that distinguishes the pedestrian pass through from adjacent sidewalks. Whether uncovered or enclosed, a pass through shall also include elements such as seating areas, trash receptacles, and pedestrian scaled lighting. A bike rack shall be within the pedestrian pass through or located within 30 feet of the pedestrian pass through entrance.	A pedestrian pass through area shall serve as a passageway through a building connecting place of interest or other significant site elements.
Plaza	A plaza shall be designed to attract the general public. It shall include move-able seating, at least one trash receptacle and one or more of the following additional items: a garden, landscape containers/planters, and/or water features such as fountains, reflecting pool, ponds, or waterfalls.	A plaza is separated from parking areas by a buffer, or landscape plantings at least three feet in height.

Alternatives. Alternatives will only be permitted if the Planning Department finds the proposed alternative(s) is/are in keeping with the spirit of this section. Any alternatives shall result in engaging, interesting, attractive, safe, context sensitive, and comfortable places.

(Ord. No. 278-YY, § 11, 10-4-16)

ARTICLE 25. SPECIAL LAND USE AND OTHER DISCRETIONARY LAND USE APPROVALS

SECTION 25.00. INTENT.

The formulation and enactment of this ordinance is based upon the division of the city into districts, in each of which are permitted specified uses which are mutually compatible. In addition to such permitted compatible uses, however, there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts; but because of their actual or potential impacts on neighboring uses or public facilities, there is a need to carefully regulate them with respect to their location for the protection of the community. These uses, due to their peculiar locational need or the nature of the service offered may have to be established in a district where they cannot be reasonably allowed as a permitted use.

SECTION 25.01. AUTHORITY.

A. The City of Sterling Heights Planning Commission shall have the power to approve or disapprove all special approval land uses, except that the City Council shall be the approving authority with respect to special approval land uses which have been approved by the City Council:

1. As part of a Planned Center District project under Article 21;

2. As part of a Planned Unit Development project under Article 22, Section 22.03;

3. As a development pursuant to a conditional rezoning approved by the City Council under Section 32.00 C. 4. and H.; or

4. As a development pursuant to a consent judgment approved by the City Council.

5. A discretionary land use in the C-1 (Local Convenience Business), C-2 (Planned Comparison Business), or C-3 (General Business) District in accordance with the provisions of Section 25.04 as authorized by Section 504(1) the Michigan Zoning Enabling Act, MCL 125.3504(1).

B. In consideration of all applications for special approval land use except those reviewed and approved by the City Council as provided in the preceding sentence, the Planning Commission shall review each case individually as to its appropriateness and consider the following standards as it relates to the proposed land use. Such uses shall be subject to conditions, restrictions and safeguards deemed necessary to the interest of public health, safety and welfare.

C. When the City Council is the reviewing authority with respect to a special approval land use, it shall have the same reviewing authority and shall consider the same standards as the Planning Commission under the special approval land use criteria applicable to such use in the particular zoning district and Article 25.

(Ord. No. 278-Y, § 37, 5-16-00; Ord. No. 278-EE, § 7, 10-5-04; Ord. No. 278-FF § 2, 5-3-05; Ord. No. 278-NN, § 14, 1-6-09; Ord. No. 278-SS, § 3, 7-17-12)

SECTION 25.02. GENERAL STANDARDS.

A. The proposed special approval land use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district (including but not limited to any applicable performance standards) in which it is to be located.

B. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relations to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle interfacing.

C. The proposed use shall be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.

D. The proposed use shall be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

E. The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development and need for particular services and facilities in specific areas of the city.

F. The proposed use is so designed, located, planned and to be operated that the public health, safety and welfare will be protected.

G. The proposed use shall not be detrimental or injurious to the neighborhood within which it is to be located, nor shall such use operate as a deterrent to future land uses permitted within said zoning district and shall be in harmony with the general purpose and intent of the zoning ordinance.

(Ord. No. 2Z8-Y, § 38, 5-16-00; Ord. No. 278-EE, § 7, 10-5-04; Ord. No. 278-NN, § 15, 1-6-09)

SECTION 25.03. PROCEDURES.

An application for the approval of a special approval land use shall be made by an owner, lessee or other person with a legal interest in the property who has the owner's consent to file the application. Such application shall be accompanied by the necessary fees.

A. *Public hearing.*

1. The Planning Commission shall investigate the circumstances of each case and hold a public hearing on each application for special approval land use in accordance with the requirements as set forth in Section 28.20 and as established by state law except in cases where City Council is the reviewing authority under the provisions of this ordinance. An application for approval of a special approval land use shall not be processed or placed on an agenda for a public hearing, if a public hearing is required for approval under the Zoning Ordinance, if the site and/or building which is the subject of the application is subject to any outstanding, unresolved Property Maintenance Code violation. Any outstanding Property Maintenance Code violation must be first resolved by correcting the violation or by having the applicant/property owner sign a written code compliance agreement with the City setting forth a written commitment by the applicant/property owner to bring the site and/or building into full compliance with all provisions of the Property Maintenance Code within a specific time period acceptable to the City Development Director.

2. If the City Council is the reviewing authority for a special approval land use under consideration that is proposed:

a. As part of a Planned Center District project under Article 21,

b. As part of a Planned Unit Development project under Article 22, Section 22.03;

c. Within a development proposed to be developed pursuant to a conditional rezoning approved by the City Council under Section 32.00 C.4. and Section 32.04 H.; or

d. Within or as part of a development proposed to be developed pursuant to a consent judgment (or amendment) approved by City Council, the City Council shall investigate the circumstances of the case prior to approving or denying the request.

3. The City Council shall hold a public hearing on the request in accordance with the requirements as set forth in Section 28.20 and as established by state law unless:

a. The Planning Commission has previously held a public hearing on the request and the applicable provisions of the Zoning Ordinance do not require a separate public hearing to be held by the City Council; or

b. The special approval land use proposed to be approved is within a development proposed to be developed pursuant to a consent judgment that is approved by the City Council to resolve pending litigation with the city.

B. *Approval.* The following shall apply to approval of a special approval land use by the Planning Commission, or City Council in instances where it is the reviewing authority:

1. If the particular special approval land use(s) is in compliance with the standards set forth in Section 25.02, the requirements specific to the particular zoning district in which the special approval land use is proposed, the conditions imposed under Section 25.03(D), other applicable ordinances, and state and federal statutes, it shall be approved. The decision shall be incorporated in a statement of findings and conclusions which specifies the basis for the decision and any conditions imposed. Upon approval of a special approval land use, the applicant shall submit a site plan to the Planning Department for administrative review as per the requirements of Section 26.02 (site plan review) unless this ordinance provides for review and approval of the site plan by the Planning Commission or City Council. Subsequent amendments to an approved site plan for a special approval land use shall not require Planning Commission approval (or City Council if City Council was

the approving authority) unless: (a) the amendments significantly impact factors considered by the Planning Commission or City Council in approving the special approval land use, as determined by the Office of the City Planner, or (b) the prior approval required such subsequent approval by the reviewing authority. Thereafter, the enforcing officer may issue a building permit in conformity with the particular special approval land use so approved. If the Planning Commission approves a special approval land use, the special approval land use shall remain in effect only so long as the facts and circumstances as presented to the Planning Commission and upon which the approval was based continue to exist and the conditions attached to the approval are satisfied and maintained.

2. The special approval land use shall lapse unless application for a building permit, site plan approval, zoning compliance or other required permits utilizing the approved special approval land use is made and received by the city not later than one year of the date written notice of the Planning Commission's decision is sent to or delivered to the applicant, or the date the minutes of the Commission are approved relating to the Planning Commission's final decision on the special approval land use request, whichever occurs first, unless the Planning Commission establishes a different time period, or unless an extension is obtained as authorized in this paragraph. If a written request for a time extension based upon good cause is received prior to the expiration of the specified time period, the City Planner may grant one extension under such terms and conditions and for such period of time not exceeding six months as it shall determine to be necessary and appropriate.

3. If the special approval land use has lapsed and the applicant desires to proceed with establishing the special approval land use on the property, the applicant must reapply for the special approval land use and demonstrate that all of the requirements for approval of the special approval land use have been met, based upon the facts and circumstances in existence at the time the new request is submitted. The Planning Commission shall have the right to deny a special approval land use if the facts and circumstances pertaining to the request have changed, if the applicant is not willing to satisfy the conditions attached to the original approval, or if the applicant has not affirmatively demonstrated that all of the substantive requirements for the approval of the special approval land use have been satisfied as of the time the new application for special approval land use is considered. No special approval land use shall be effective until a notice of such approval, including all applicable conditions, are filed with the Macomb County Register of Deeds. Any subsequent changes to a special land use shall also be filed with the Macomb County Register of Deeds.

4. The concurring vote of five members of the Planning Commission shall be necessary to approve any special approval land use stated in Article 25.

C. *Denial; Reapplication.*

1. If the Planning Commission (or City Council if it is the reviewing authority) shall determine that the particular special approval land use(s) requested does not meet the standards of this ordinance or otherwise will tend to be injurious to the public health, safety, welfare or orderly development of the city, it shall deny the application in writing and incorporate in a statement of findings and conclusions which are the basis for the decision.

2. If a petition for a Special Approval Land Use on a particular parcel has been denied by a vote of the Planning Commission (or City Council if it is the reviewing authority), no new petition for a Special Approval Land Use on that parcel shall be accepted for a period of one year after such denial unless:

a. Changed conditions in the surrounding neighborhood and/or vicinity are clearly evident;

b. The provisions of the zoning ordinance relating to the matter previously decided by City Council have been amended; or

c. The new application is filed by a new property owner or party with an interest in the property.

D. *Conditions.* The Planning Commission, before approving a special approval land use, must determine that the conditions set for the special approval land use have been satisfied unless a variance for such conditions has been granted by the Zoning Board of Appeals. The Planning Commission may impose such conditions or limitations in granting approval as may be permitted by state law and this ordinance which it deems necessary to fulfill the spirit and/or purpose of this ordinance. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

1. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole;

2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity;

3. Be necessary to meet the intent and purpose of the zoning regulations, be related to the standards established in this ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.

The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The Planning Commission shall maintain a record of changes granted in conditions. Any changes in the conditions shall be filed with the Register of Deeds as provided herein. Any failure to satisfy a condition of approval imposed by the Planning Commission shall constitute a separate violation of the Zoning Ordinance.

E. *Enforcement of Conditions of Approval.* The following procedural remedies shall be available to enforce conditions of approval imposed by the Planning Commission relating to a special approval land use:

1. If the City Manager or his/her designate reasonably believes, based upon available information, that the applicant, property owner, or occupant for whom a special approval land use has been approved, has failed to satisfy the conditions of approval imposed by the Planning Commission, the city may, through the authorized official designated below, take any of the following actions in order to obtain compliance with the conditions:

a. The Building Official, Code Enforcement Officer, Fire Marshal, Police Officer, or other city employee authorized to issue appearance tickets or civil infractions may issue an ordinance complaint or civil infraction to be prosecuted in the District Court based upon his/her observations or investigation, or may ask the city attorney to request issuance of a warrant for an ordinance complaint based upon the information or evidence presented to him/her that there has been a violation of the City Code or Zoning Ordinance.

b. The City Manager or his/her designate based upon available information may request the Planning Commission to conduct a hearing in accordance with the procedures set forth in paragraph 2 below to determine whether the conditions of approval have been satisfied, and if not, whether or not the special approval land use conditions should be enforced, or the approval revoked for failing to satisfy the conditions.

c. After City Council authorization, the city attorney may commence litigation in the Circuit Court to require the responsible party to satisfy the conditions or abate violation of the City Code or Zoning Ordinance as authorized by law, or request revocation of the approval.

d. The city through the appropriate authorized official may take any other enforcement or remedial action authorized by law.

2. If the Planning Commission receives a request from the City Manager or his/her designate supported by credible information that the applicant, property owner, or occupant for whom a special approval land use has been approved has failed to continuously satisfy the conditions of approval, the Planning Commission may conduct a hearing in accordance with the following procedure to review whether the applicant, property owner, or occupant has satisfied the conditions of approval:

a. The applicant, property owner, or occupant granted the special approval land use and other persons entitled to notice of the original special approval land use hearing shall be advised in writing by the city administration of the date of the meeting at which the Planning Commission intends to review whether the conditions of approval have been continuously satisfied, which notice shall be not less than 30 days before the scheduled meeting, except in cases where the public health, safety or welfare is imminently threatened or endangered, in which case a hearing shall be held no earlier than five days after written notice of the meeting date has been given.

b. The written notice shall specify the condition(s) of the special approval land use with which the applicant, property owner, or occupant is alleged to have failed to continuously satisfy.

c. At the hearing, the city administration and other interested parties (or their authorized representatives) shall be given an opportunity to present evidence or information showing that the conditions of approval have not been continuously satisfied.

d. At the hearing, the applicant, property owner, or occupant and other interested parties (or their authorized representatives) shall be given an opportunity to present evidence or information showing whether the conditions of approval have been continuously satisfied.

e. After the Planning Commission concludes the hearing, the Planning Commission may make its determination as to whether the applicant, property owner, or

occupant has continuously satisfied the conditions of approval, or whether the applicant, owner or occupant should be given additional time to satisfy the conditions of approval. Any conditions of approval originally imposed may be changed only with the concurrence of the applicant, property owner or occupant. The Planning Commission may determine that the applicant, property owner, or occupant has satisfied the conditions of approval, has failed to continuously satisfy the conditions, or if it deems appropriate, grant an additional time period for compliance with the concurrence of the applicant property owner or occupant. In addition, the Planning Commission may revoke the special approval land use or recommend that the City Council commence an action in Circuit Court to enforce the conditions of approval or to revoke the special approval land use if the Planning Commission determines by majority vote of those Commissioners present that the applicant, property owner, or occupant has not continuously satisfied one or more of the conditions of approval. The reasons for the Commission's action shall be recorded into the record, with a written copy furnished to the applicant, property owner, or occupant after certification of the minutes of the meeting at which such action was taken.

F. Appeal of Special Approval Land Use Decision. A person who is aggrieved by a final decision of the Planning Commission or City Council (if it is the approving authority), including revocation of a special approval land use, may appeal the decision of the Planning Commission or City Council to the Circuit Court within 30 days after the body making a final decision issues its written decision signed by the chairperson, or signed by the members of the body if there is no chairperson, or within 21 days after approval by the body of the minutes of such final decision if the body's chairperson (or body's members where there is no chairperson) do not issue a written decision. A recommendation of Circuit Court action shall not constitute a final decision.

G. *Recovery of Costs.* If the city prevails in any litigation to enforce the conditions of approval or to revoke the special approval land use, or if the Planning Commission revokes the special approval land use as a result of the applicant, property owner, or occupant failing to continuously satisfy the conditions of approval, the applicant, property owner, or occupant shall be required to reimburse the city for any costs incurred in taking such action, including attorney fees, experts fees, court costs, and other expenses incurred. The city may impose a lien against any interest the applicant, property owner, or occupant has in the property to secure payment of such reimbursement.

H. *Effective Date of Administrative Procedure Relating to Enforcement of Conditions.* The procedures set forth in section25.03E1b relating to special approval land uses shall apply only to the approvals granted by the Planning Commission after the effective date of this amendment to the Zoning Ordinance.

I. *Rules and Regulations.* The City Manager may promulgate administrative rules and regulations necessary to implement and administer the enforcement and hearing procedures set forth in section 25.03 of this ordinance. All rules and regulations shall be effective 30 days after promulgation. Copies of the rules and regulations shall be filed with the City Clerk as of their effective date and shall be subject to public inspection or copying during the city's normal business hours.

(Ord. No. 278-G, § 15, 9-18-90; Ord. No. 278-Y, § 39, 5-16-00; Ord. No. 278-DD, § 10, 7-6-04; Ord. No. 278-EE, §§ 1, 7, 8, 10-5-04; Ord. No. 278-NN, §§ 16 - 19, 34, 1-6-09; Ord. No. 278-RR, § 1, 10-18-11)

SECTION 25.04 OTHER DISCRETIONARY USE APPROVALS BY THE PLANNING COMMISSION.

A. The Planning Commission may approve any lawful use of land or building offering retail goods or services not otherwise specifically permitted as a permitted use or special approval land use or specifically prohibited under the Zoning Ordinance which is of a nature or on a scale which could possibly create a nuisance or have an adverse impact on adjacent uses, other uses in the vicinity, or the community-at-large if located in the C-1 (Local Convenience Business), C-2 (Planned Comparison Business), or C-3 (General Business) District provided the Planning Commission determines that (1) the proposed use of land or building otherwise complies with the regulations of the applicable zoning district, and (2) that the general discretionary standards of section 25.02 have been met.

B. The standards and procedures applicable to Special Approval Land Uses as set forth in section25.02 and section 25.03 of the Zoning Ordinance shall apply to consideration and approval of a discretionary land use authorized by Section 25.04. Paragraph A.

(Ord. No. 278-SS, § 4, 7-17-12)

ARTICLE 26. SITE PLAN REVIEW REQUIREMENTS AND PROCEDURES

SECTION 26.00. INTENT.

The purpose of this article is to provide the city with the opportunity to review the proposed use of a site in relation to surrounding uses, accessibility, pedestrian and vehicular circulation, spatial relationships, off-street parking, public utilities, general drainage, environmental characteristics, site vegetation, screening and buffering, developmental characteristics and other site elements which may have an effect upon the public health, safety and general welfare and its relationship and harmony with adopted city ordinance and plans. Site improvements and development shall conform exactly to the approved site plans and supplemental drawings as approved by the city.

SECTION 26.01. SITE PLANNING STANDARDS.

A. The site plan shall present the proposed use of a site in relation to surrounding uses, accessibility, pedestrian and vehicular circulation, spatial relationships, off-street parking, public utilities, general drainage, environmental characteristics, site vegetation, screening and buffering, developmental characteristics and other site elements which may have an effect upon the public health, safety and general welfare and its relationship and harmony with adopted city ordinances and plans.

B. All the development features, including the principal building or buildings and any accessory buildings or uses, open space and any service roads, driveways and parking areas, shall be so located and related as 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 or parking or service areas, the accumulation of litter, production of noise, light, smoke, fumes or the piling of plowed snow. Building groupings and circulation routes of traffic shall be located so as not to interfere with police or fire equipment access. Public streets adjacent or through the proposed development shall be required when it is essential to promoting and protecting public health, safety and general welfare and to provide continuity to the public road system.

C. Recreation areas and facilities, such as playgrounds, swimming pools and community buildings, shall be provided to the extent necessary to meet the anticipated needs of the residents of the project it is designed to serve. Provision of separate adult and tot-lot recreation areas adequately landscaped is encouraged. Recreation facilities generally should be provided in a central location and should be convenient to the project community center. In larger development, however, recreation facilities can be decentralized.

D. The site plan shall locate proposed buildings, parking areas, driveways, landscaping and other physical improvements of the site in relation to existing on-site natural features and vegetation such as trees, wooded areas and natural groves.

E. The Planning Department or Planning Commission may further require landscaping, fences, walls and berms in pursuance of the objectives of this ordinance and such improvements shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant.

F. In those instances wherein the Planning Department or Planning Commission finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, the Planning Department or Planning Commission may recommend a reduction in the number of access drives. For a narrow frontage which will require a single outlet, the Planning Department or Planning Commission may recommend that money in escrow be placed with the city so as to provide for a marginal service drive equal in length to the frontage of the property involved. Occupancy permits shall not be issued until the marginal service drive is physically provided or monies have been deposited with the city.

G. During development, building, renovating or razing operations, the developer shall erect and maintain suitable protective barriers around all trees specified to be maintained so as to prevent damage to said trees and shall not allow storage of equipment, materials, debris or fill to be placed in this area except as may be necessary for no more than 30 days, if no other storage space is elsewhere available. It is suggested that no developed site have less than ten trees per acre.

H. The Planning Department or Planning Commission shall review and approve exterior elevations. The exterior of all buildings shall be constructed of aesthetically pleasing brick and/or stone building materials or other similar durable decorative building materials approved by the Planning Department or Planning Commission. At least 50% of the exterior elevation(s) fronting on a public street and 50% of the total area of all other exterior elevations of the building shall be constructed of brick. Approval shall be based on the quality of its design, relationship to surroundings, sensitive integration of form, textures and colors with the particular landscape and setting, including but not limited to the following:

1. Commercial buildings, including franchise and chain stores, shall use design elements from the Simplified Traditional architectural style as defined and depicted in Section 31.01. The Planning Department or Planning Commission may modify the application of the design elements in the following situations:

a. Where the building is part of a newly proposed comparison shopping center, planned unit development, or planned commercial district development which incorporates an attractive architectural style other than Simplified Traditional which will be required to be used throughout the commercial development pursuant to recorded development restrictions.

b. Where the building is part of a development district, corridor, zone, or improvement area established or designated by the city pursuant to Michigan law or the City Code to encourage redevelopment or revitalization of businesses using an attractive architectural style other than Simplified Traditional approved by the city which will be required to be used throughout the development district, corridor, zone, or area.

c. Where the area in which the building proposed to be constructed is a commercially thriving area that is developed with attractive, well-maintained buildings containing design elements that are not predominantly those included in the Simplified Traditional architectural style.

d. Where the building is part of a commercially thriving, attractive, well-maintained comparison shopping center, regional shopping center, planned unit development, or planned commercial district development which does not incorporate design elements which are part of the Simplified Traditional architectural style.

e. Where the Zoning Board of Appeals has granted a variance or other administrative relief from the requirement that commercial buildings must be constructed with the design elements of the Simplified Traditional architectural style.

2. Buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall;

3. Roof types should be appropriate to the building's architecture. Roof line offsets or other architectural features shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single long roof. Asphalt shingles, standing metal seamed material or other compatible materials shall be required on pitched roofs. Other roof materials may be appropriate on flat roofs that are not visible to the public;

4. Buildings with more than one façade facing a public street shall be required to provide similar front façade treatments on each street. All sides of a building shall be architecturally designed to be consistent with regard to style, materials, colors and details. Elevations visible from public view shall not use blank walls or other monotonous façades;

5. The brick façade requirements set forth in this paragraph H may be modified by the Planning Department on buildings that are designed with less brick, stone or other durable materials in order to qualify for LEED certification in the design review stage, or when incorporated into a building with an attractive, alternative architectural style that predominantly uses materials or a method of construction other than brick, stone or other durable materials and traditional brick or stone masonry construction but which meet the spirit and intent of this section. Such alternative materials and methods of construction may be approved if the Planning Department finds that the proposed building materials and/or method of construction are aesthetically compatible with other neighboring buildings put to similar use, and are equivalent with respect to quality, strength, effectiveness, fire resistance, durability and safety to that required by this section and the Michigan Building Code.

H. The Planning Department or Planning Commission shall review and approve exterior elevations. The exterior of all buildings shall be constructed of aesthetically pleasing brick and/or stone building materials or other similar durable decorative building materials approved by the Planning Department or Planning Commission. Approval shall be based on the quality of its design, relationship to surroundings, sensitive integration of form, textures and colors with the particular landscape and setting, including but not limited to the following: The Planning Department or Planning Commission shall review and approve exterior elevations. The exterior of all buildings shall be constructed of aesthetically pleasing brick and/or stone building materials or other similar durable decorative building materials approved by the Planning Department or Planning Commission. At least 50% of the exterior elevation(s) fronting on a public street and 50% of the total area of all other exterior elevations of the building shall be constructed of brick. Approval shall be based on the quality of its design, relationship to surroundings, sensitive integration of form, textures and colors with the particular landscape and setting, including but not limited to the following:

1. Buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall;

2. Roof types should be appropriate to the building's architecture. Roof line offsets or other architectural features shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single long roof. Asphalt shingles, standing metal seamed material or other compatible materials shall be required on pitched roofs. Other roof materials may be appropriate on flat roofs that are not visible to the public;

3. Buildings with more than one facade facing a public street shall be required to provide similar front facade treatments on each street. All sides of a building shall be architecturally designed to be consistent with regard to style, materials, colors and details. Elevations visible from public view shall not use blank walls or other monotonous facades.

(Ord. No. 278-P, § 5, 10-3-95; Ord. No. 278-Y, § 40, 5-16-00; Ord. No. 278-FF, § 3, 5-3-05; Ord. No. 278-JJ, § 8, 3-4-08; Ord. No. 278-KK, § 1, 4-15-08; Ord. No. 278-OO, § 13, 8-5-09)

SECTION 26.02. SUBMISSION REQUIREMENTS.

A. A site plan shall be submitted and approved whenever a building permit is required for the erection or structural alteration of a building (other than single family dwellings or buildings accessory thereto) or when there is a change in proposed use of the land and/or any of the structures located thereon. In addition, whenever a parking or storage area is to be used or constructed, a site plan shall be required and approved in the same manner before construction may begin, or if no construction is to be undertaken, used for such purpose. A required site plan shall consist of the following and shall include the entire site proposed for improvement under the particular ownership with no unplanned areas on the particular site.

1. The site plan shall be prepared by and carry the seal of the registered architect, landscape architect, professional community planner, land surveyor or professional engineer who prepared it and shall consist of the site plan review application and one or more sheets necessary to provide the required data.

2. The site plan shall contain the legal description, proposed address and zoning of the particular site which is proposed for structural alterations, development or whatever may be the required purpose.

3. The site plan shall include the locations of the existing and proposed structures and improvements, including yards, drives, screening areas, walls, parking areas, hard-surfaced areas, signs, utilities, park areas and dimensions of all such items and areas, including the site so that the requirements of the zoning ordinance as to such items will be apparent. The site plan shall show the locations and dimensions of individual sites for proposed structures, including parking sites for mobile homes and other vehicles.

4. The site plan shall be drawn to a minimum scale of one inch equals 50 feet and shall contain scale, north point and size in acres. A general location map at a scale of four inches equals one mile giving site location is also required on the site plan. The site plan shall show the proposed and existing right-of-way of county and state highways which adjoin the site, together with the proposed zoning, existing buildings or improvements on all land adjacent to the site within 200 feet shall be shown. Front, side and rear elevations and typical floor plan(s) or proposed buildings and dimensions shall accompany the site plan for determination of compliance with the requirements of this ordinance.

5. Existing and proposed topography, drawn to at least two-foot contour intervals, shall be shown on the site plan. Benchmarks for the elevations shown on the drawing shall be properly indicated. Indication of where trees and shrubs exist, or where such vegetation will be planted prior to occupancy, shall be shown. All groups of trees and shrubs shall be labeled as to size and whether existing or proposed. Whenever a group of trees of three-inch caliper or greater is to be removed as part of the planned improvements their location shall be shown on the site plan in dotted outline and noted "to be removed."

6. Statistical data shall be furnished, including number of dwelling units, size of dwelling units (i.e. one bedroom, two bedroom and three bedroom), if any, and the total gross acreage involved. In the case of mobile home parks, the size and location of each mobile home site shall be shown. In cases where any exterior large equipment or machinery is to be installed as part of the development, the location, type, horsepower, fuel, dimensions and other data of all such equipment and/or machinery shall be indicated.

7. In addition to the above requirements, all site plans shall contain the following information, if applicable:

a. Gross and net acreage figures;

b. Designation of units by type of buildings;

c. Interior sidewalks and sidewalks within rights-of-way;

d. Typical floor plans;

e. Building elevations (front, side and rear views);

f. Hydrant locations;

g. Exterior lighting locations, intensity, type and method of shielding;

h. Trash receptacle location and method of screening;

i. Transformer pad location and method of screening;

j. Front, side and rear yard dimensions;

k. Building length dimensions;

l. Parking spaces, including handicapped parking requirements;

m. Greenbelt, obscuring wall or berm locations and cross-sections, where appropriate;

n. Landscape plan;

o. Dedicated road or service drive lengths;

p. For residential uses (multiple family, mobile home parks and cluster developments), indicate the following additional information:

(1) Density calculations;

(2) Carport locations and details;

(3) Community building details and method of fencing and swimming pool, if applicable, and phasing of improvements;

q. In the case of nonresidential uses (i.e. commercial, industrial, special land use, floodplain and office development), the following additional information shall be required:

(1) Loading and unloading area;

(2) Total and usable floor area;

(3) Designation of fire lanes;

(4) Where large shipment or machinery is to be installed as part of the development, the location, type, horsepower, fuel, dimension and other data of all such equipment and/or machinery shall be indicated;

r. Location of storage, use and disposal areas, if any, for hazardous substances;

s. List of hazardous substances used, stored or generated at the proposed facility, in accordance with the procedures approved by the City of Sterling Heights;

t. Existing easements.

8. Separate drawings of the proposed sign(s) to be erected on the site may be submitted at the time of site plan review or at a later date. However, the location of all signs shall be shown on the site plan. Sign permits shall be required.

B. The Planning Commission shall be responsible for the preliminary site plan review and approval for all multiple family projects, all industrial, commercial and office developments when such property abuts any one family residential district, and all CRPUD Option projects unless the proposed project or development has been previously reviewed and approved by the Planning Commission as a special approval land use.

1. The Planning Commission shall not grant preliminary site plan approval, unless the following requirements have been satisfied:

a. All requirements of the zoning ordinance and any other applicable city ordinances, standards, specifications and regulations shall have been met;

b. The location and design of driveways providing vehicular ingress to and egress from the site are found to promote safety and convenience of both vehicular and pedestrian traffic both within the site and to access streets;

c. The traffic circulation within the site and the location of automobile parking areas are designed to avoid common traffic problems and promote public safety;

d. A harmonious relationship exists between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods;

e. The proposed development does not have any unreasonably detrimental, nor an injurious effect upon the natural characteristics and features of the parcel being developed and the larger area of which the parcel is a part;

2. The Planning Commission may require the applicant to provide such additional information as it deems necessary to determine whether these requirements are satisfied.

3. An application for approval of a site plan shall not be processed or placed on an agenda for a public hearing, if a public hearing is required for approval under the Zoning Ordinance, if the site and/or building which is the subject of the application is subject to any outstanding, unresolved Property Maintenance Code violation. Any outstanding Property Maintenance Code violation must be first resolved by correcting the violation or by having the applicant/property owner sign a written code compliance agreement with the City setting forth a written commitment by the applicant/property owner to bring the site and/or building into full compliance with all provisions of the Property Maintenance Code within a specific time period acceptable to the City Development Director.

(Ord. No. 278-P, § 6, 10-3-95; Ord. No. 278-U, § 13, 1-6-98; Ord. No. 278-FF § 3, 5-3-05; Ord. No. 278-RR, § 2, 10-18-11; Ord. No. 278-SS, § 5, 7-17-12)

SECTION 26.03. PROCESSING REQUIREMENTS.

A. An applicant may request (but shall not be required to obtain) a pre-preliminary review of the site plan. Applicants are encouraged to obtain such review to be apprized of any significant problem areas and specific revisions or actions necessary to bring the site plan into general compliance. Four copies of the proposed pre-preliminary site plan shall be submitted to the Planning Department.

B. If preliminary site plan review and approval by the Planning Commission is required by this ordinance, then the applicant shall submit 12 copies along with 12 copies of the application for site plan approval and the appropriate review fee. The site plan shall be presented to the Planning Commission for their review and approval. Once the Planning Commission grants preliminary site plan approval, the applicant shall proceed with the site plan review procedures set forth in paragraph C of this section.

C. If the preliminary site plan review and approval by the Planning Commission is not required by this ordinance, the applicant shall submit to the Planning Department 16 copies of the proposed plan, together with two copies of the application for site plan review along with the appropriate fees. The Planning Department shall review the site plans to determine compliance with the ordinances. The Planning Department shall distribute copies to the Assessing, Building, Fire, Police, Public Works and Engineering Departments and the zoning division of the Building Department.

D. Preliminary site plan approval by the Planning Commission under paragraph B or by the Planning Department under paragraph C shall be effective for a period of one year. If final site plan approval is not obtained within that period of time, preliminary site plan approval shall lapse. However, the Planning Department may grant one six month extension if good cause for the delay is demonstrated.

E. After preliminary site plan approval has been granted by either the Planning Commission or the Planning Department, the Engineering Department shall determine whether or not all current engineering standards have been met. The Engineering Department shall also forward the site plan to all agencies having jurisdiction over requirements relating to the proposed development for their review.

F. Upon determination that the Engineering Department standards have been met, along with the requirements of the Assessing, Building, Fire, Police and Public Works Departments and the Zoning Division, the site plan shall be returned to the Planning Department for final site plan review and approval.

G. No final site plan approval shall be granted until all of the requirements of the Zoning Ordinance, engineering standards, other applicable ordinances, and state and federal statutes have been satisfied.

H. Final site plan approval is effective for a period of one year. If a building permit is not secured within that period of time or if construction is not commenced within six months after the issuance of the building permit, the site plan approval shall lapse. If a building permit is not required, then a zoning compliance certificate for the land use which has been given site plan approval must be issued within that one year period of time or the site plan approval shall lapse.

I. No building permit shall be issued until final site plan approval is obtained.

J. Any proposed change, determined by the Planning Department to be a material change to that site plan following final site plan approval, must be resubmitted by the applicant for review and approval by the various city departments. Any changes made to an approved site plan by the Planning Commission involving alterations, modifications, improvements and additions to existing structures or developments shall not require Planning Commission review and approval unless, as determined by the Planning Department, such change significantly impacts any of the factors considered by the Planning Commission in approving the site plan.

(Ord. No. 278-P, § 7, 10-3-95; Ord. No. 278-NN, § 20, 1-6-09)

SECTION 26.04. SITE PLAN REVIEW FEES.

The City Council may establish, by resolution, a schedule of fees for site plan review which may be amended as deemed necessary by the Council and which must be paid at the time the application for site plan approval is filed.

ARTICLE 27. NONCONFORMING USES, BUILDINGS AND STRUCTURES

SECTION 27.00. INTENT.

Within the districts established by this ordinance there may exist lots, uses of land and structures and characteristics of uses which were lawful before this ordinance was adopted or amended, but which would be prohibited or regulated under the term of this ordinance or future amendments. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. With the knowledge that some nonconforming uses, buildings or structures will not disappear, it is necessary and desirable in pursuit of the public interest to distinguish between nonconforming uses, buildings or structures which should be eliminated as rapidly as possible and nonconforming uses, buildings or structures which ought to be given separate treatment.

In recognition of this fact, the Zoning Board of Appeals shall have the authority to permit some expansion or changes to lawfully existing nonconforming uses based upon the standards set forth in this article.

Those alleged nonconforming uses or structures, or uses and structures in combination, which cannot be proved conclusively to have been lawfully existing prior to the enactment or amendment of this ordinance shall be declared illegal uses and shall be discontinued.

(Ord. No. 278-NN, § 34, 1-6-09)

SECTION 27.01. NONCONFORMING USES OF LAND.

Where, at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;

C. If such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

SECTION 27.02. NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, type of structure or other restrictions of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in any way which increases its nonconformity;

B. Should such structure or nonconforming portion of the structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance;

C. Should such structure be removed for any reason or moved any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is removed or relocated.

D. For purposes of determining whether the nonconformity of a nonconforming structure is increased under this section, an enlargement of a nonconforming structure into a required side or rear yard area shall be permitted without obtaining approval from the Zoning Board of Appeals under section 27.05 if the proposed enlargement of the structure will not reduce the side or rear yard setback between the structure and the lot line in the area where the setback is nonconforming, and the enlargement of the structure complies with all other applicable provisions of this ordinance.

(Ord. No. 278-Q, § 9, 10-3-95; Ord. No. 278-CC, § 12, 6-3-03; Ord. No. 278-NN, § 34, 1-6-09)

SECTION 27.03. 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 ordinance that would not be allowed in the district under the terms of this ordinance, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located;

B. Any nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use and which existed at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building;

C. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded in whole or in part by a permitted use shall thereafter conform to all regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed;

D. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for one year or for 12 months during any three year period or otherwise sooner abandoned, 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 occupied by seasonal uses shall be excepted from this provision.

E. 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.

SECTION 27.04. CHANGE OF USE.

A. Any nonconforming use of a building, structure or land may be changed to another nonconforming use upon written findings of the Zoning Board of Appeals that

the proposed use meets the following standards:

1. There is no increase in the intensity of the use of the land, building or structure involved;

2. Such change in use will have an equal or less detrimental effect or negative impact on neighboring property than the existing nonconforming use it is replacing; and

3. The proposed use is more appropriate to the zoning district than the existing nonconforming use and is desirable and useful in the pursuit of the public interest.

B. In permitting such a change in use, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this ordinance, including the upgrading of the premises to comply as nearly as is practicable with requirements of this ordinance. Notice of approval of the change in nonconforming use (including any conditions) shall be recorded with the Macomb County Register of Deeds prior to the issuance of any permit or certificate of occupancy.

(Ord. No. 278-NN, § 34, 1-6-09)

SECTION 27.05. EXPANSION OF NONCONFORMING USES OR STRUCTURES.

A. The Zoning Board of Appeals may permit the expansion of a nonconforming use or structure upon written findings that the following standards have been met:

1. Continuance thereof would not be contrary to the public health, safety or welfare or the spirit and intent of this ordinance;

2. That the use, building or structure does not, and is not likely to, significantly depress the value of nearby properties;

3. That the use, building or structure was lawful at the time of its inception;

4. That no useful purpose would be served by strict application of the provisions or requirements of this ordinance with which the use, building or structure does not conform; and

5. Expansion will not have an adverse impact on adjoining property.

B. In permitting such an expansion of a nonconforming building or use, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this ordinance, including upgrading the premises to comply as nearly as is practicable with requirements of this ordinance. Notice of approval, including any conditions attached, shall be recorded with the Macomb County Register of Deeds prior to the issuance of any permit or certificate of occupancy. Any failure to satisfy a condition of approval shall constitute a separate violation of the Zoning Ordinance.

C. The following procedural remedies shall be available to enforce conditions of approval imposed by the Zoning Board of Appeals relating to an approval of an expansion of a non-conforming use:

1. If the City Manager or his/her designate reasonably believes, based upon available information, that the applicant, property owner, or occupant for whom an expansion of a non-conforming use has been approved has failed to satisfy the conditions of approval, the city may, through the authorized official designated below, take any of the following actions in order to obtain compliance:

a. The Building Official, Code Enforcement Officer, Fire Marshal, Police Officer, or other city employee authorized to issue appearance tickets or civil infractions may issue an ordinance complaint or civil infraction to be prosecuted in the District Court based upon his/her observations or investigation, or may ask the city attorney to request issuance of a warrant for an ordinance complaint based upon the information or evidence presented to him/her that there has been a violation of the City Code or Zoning Ordinance.

b. The City Manager or his/her designate based upon available information or evidence may request the Zoning Board of Appeals to conduct a hearing in accordance with the procedure set forth in paragraph 2 below to determine whether the conditions of approval have been satisfied, and if not, whether the conditions imposed upon the expansion of a non-conforming use should be enforced, or the approval revoked for failing to satisfy the conditions.

c. After City Council authorization, the city attorney may commence litigation in the Circuit Court to require the responsible party to satisfy the conditions, abate violation of the City Code or Zoning Ordinance as authorized by law, or request revocation of the approval.

d. The City through the appropriate authorized official may take any other enforcement or remedial action authorized by law.

2. If the Zoning Board of Appeals receives a request from the City Manager or his/her designate supported by credible information that the applicant, property owner, or occupant for whom an approval of expansion of a non-conforming use has been granted has failed to continuously satisfy the conditions of approval, the Zoning Board of Appeals may conduct a hearing in accordance with the following procedure to review whether the conditions of approval have been continuously satisfied:

a. The applicant, property owner, or occupant granted approval of the expansion of a non-conforming use and other persons entitled to notice of the original hearing on the non-conforming use expansion request, shall be advised in writing by the city administration of the date of the meeting at which the Zoning Board of Appeals intends to review whether the conditions of approval have been continuously satisfied, which notice shall be not less than 30 days before the scheduled meeting, except in cases where the public health, safety or welfare is imminently threatened or endangered, in which case a hearing shall be held no earlier than five days after written notice of the meeting date has been given.

b. The written notice shall specify the condition(s) of approval relating to the expansion of a non-conforming use with which the applicant, property owner, or occupant is alleged to have failed to continuously satisfy.

c. At the hearing, the city administration and other interested parties (or their authorized representatives) shall be given an opportunity to present evidence or information showing that the conditions of approval have not been continuously satisfied.

d. At the Zoning Board of Appeals hearing, the applicant, property owner, or occupant and other interested parties (or their authorized representatives) shall be given an opportunity to present evidence or information showing whether the conditions of approval have been continuously satisfied.

e. After the Zoning Board of Appeals concludes the hearing, the Board may make its determination as to whether the applicant, property owner, or occupant has continuously satisfied the conditions of approval, whether the applicant, owner or occupant should be given additional time to satisfy the conditions of approval, or whether the conditions of approval should be changed. The Zoning Board of Appeals may determine that the applicant has satisfied the conditions, has failed to satisfy the conditions, or if it deems appropriate, grant an additional time period for compliance or change the conditions of approval. In addition, the Zoning Board of Appeals may revoke the approval of expansion of a non-conforming use or recommend that the City Council commence an action in Circuit Court to enforce the conditions, of approval or to revoke the approval of the expansion of the non-conforming use if the Zoning Board of Appeals determines by majority vote of those members present that the applicant, property owner, or occupant has failed to satisfy one or more of the conditions of approval. The reasons for the Board's action shall be recorded into the record, with a written copy furnished to the applicant, property owner, or occupant after approval certification of the minutes of the meeting at which such action was taken.

f. The applicant, property owner, or occupant, or any person who has an interest affected by the Zoning Ordinance who is aggrieved by a final decision of the Zoning Board of Appeals relating to expansion of a non-conforming use, including revocation of an approval, may appeal the decision to the Circuit Court within the time period prescribed by law. A recommendation of Circuit Court action shall not constitute a final decision. The appeal period shall commence on the date the minutes of the Zoning Board of Appeals are certified relating to the Board's decision.

g. If the city prevails in any litigation to enforce the conditions of approval relating to expansion of a non-conforming use or to revoke the approval of the expansion, or if the Zoning Board of Appeals revokes approval of the expansion of a non-conforming use as a result of the applicant, property owner, or occupant failing to satisfy the conditions of approval, the applicant, property owner, or occupant shall be required to reimburse the city for any costs incurred in taking such action, including attorney fees, experts fees, court costs, and other expenses incurred. The city may impose a lien against any interest the applicant, property owner, or occupant has in the property to secure payment of such reimbursement.

3. The procedures set forth in Section27.05C1b relating to approvals of expansion of non-conforming uses shall apply only to approvals granted by the Zoning Board of Appeals after the effective date of this amendment to the Zoning Ordinance.

4. The City Manager may promulgate administrative rules and regulations necessary to implement and administer the enforcement and hearing procedures set

forth in section 27.05 of this ordinance. All rules and regulations shall be effective 30 days after promulgation. Copies of the rules and regulations shall be filed with the City Clerk as of their effective date and shall be subject to public inspection or copying during the city's normal business hours.

(Ord. No. 278-CC, § 13, 6-3-03; Ord. No. 278-EE, §§ 2, 3, 10-5-04; Ord. No. 278-NN, § 34, 1-6-09)

SECTION 27.06. REPAIRS AND MAINTENANCE.

This section applies to all nonconforming structures and uses, except those which have been granted the right to expand by the Zoning Board of Appeals, as noted in the above section 27.05.

On any structure or building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50% of the assessed value of the building, provided that the cubic content of the building or structure or area of the use or other improvements as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or structure or nonconforming use or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Whenever the owner of property upon which a nonconforming use or structure exists desires to modify or alter the site without increasing the nonconformity of the use or structure, the site shall be brought into compliance with the ordinance to the maximum extent possible.

(Ord. No. 278-NN, § 34, 1-6-09)

SECTION 27.07. 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 there is no change in the nature or character of such nonconforming uses, except to bring the use into greater conformity.

SECTION 27.08. USES SUBJECT TO SPECIAL LAND USE APPROVAL NOT NONCONFORMING USES.

Any use for which a special land use approval is required is permitted as provided in this ordinance and shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in the district. Such use shall remain subject to all of the provisions of the special land use section of this ordinance for use, enlargement, change or addition of activities.

SECTION 27.09. NONCONFORMING LOTS OF RECORD.

A. In any district in which single family dwellings are permitted, 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 ordinance; provided that yard setback dimensions and all other requirements not involving area or width, or both, shall conform to the regulations for the district in which such lot is located. Variance to yard requirements may be obtained through approval of the Zoning Board of Appeals.

B. If two or more lots or combinations of lots and portions of lots with a continuous frontage and single ownership are of record at the time of passage or amendment of this ordinance or any time thereafter, and if all or part of the lots do not meet the requirements for lot width or area as established by this ordinance, the lands involved shall be considered an undivided parcel for the purpose of this ordinance, and no portion of said parcels shall be used or occupied which does not meet lot width and area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirement stated in this ordinance.

(Ord. No. 278-NN, § 34, 1-6-09)

[Click here to view Nonconforming Uses image.]

ARTICLE 28. GENERAL PROVISIONS

SECTION 28.00. ACCESSORY BUILDINGS AND STRUCTURES.

Accessory buildings and structures, except as otherwise permitted in this ordinance, shall be subject to the following regulations:

A. Where the accessory building is structurally attached to a principal building, except as provided in section 28.10, it shall conform to all regulations of this ordinance applicable to the principal building.

B. A detached accessory building or structure shall not be located in the front or the required side yards except as provided in this division. No detached accessory building (excluding pools) shall be located closer than ten feet to any principal building or deck. Detached accessory buildings are permitted to be located in the required rear yard provided they are not closer than three feet to any lot line. In the case of a through lot, a detached accessory building or structure shall not be located in any required rear yard that abuts the front yard of an adjacent lot. In the case of a corner lot, accessory buildings (excluding swimming pools and sheds) shall not be located in either required front yard. Swimming pools, and sheds not exceeding 200 square feet, when located on a corner lot, may extend ten feet into the side street front yard setback, provided there is no paved access to the property line or curb cut. Sheds not exceeding 200 square feet, when located on a corner lot which has a six feet sight-obscuring privacy fence or six feet high sight-obscuring landscaping along the front setback line of the side street front yard, may extend 27 feet into the side street front yard setback of the corner lot, or 37 feet into the side street front yard setback of a corner lot if on a major thoroughfare, provided there is no paved access to the property line or curb cut. If a shed is installed at a location which is more than 10 feet into the front yard setback of the side street front yard of the corner lot as a result of the existence of a 6' sight-obscuring privacy fence or six feet high sight-obscuring landscaping, a six feet sight-obscuring privacy fence or six feet high sight-obscuring landscaping shall be maintained at all times. A notice of this condition shall be recorded against the property at the time the permit is issued for the shed encroaching into the front yard setback whenever the sight-obscuring fence or landscaping is required due to the placement of the shed within the required yard. In no instance shall an accessory structure be located within a dedicated easement.

C. Accessory buildings and structures shall not exceed one story, or 15 feet in height, in any residential or commercial zoning district. Accessory buildings with a floor area over 50 square feet shall be installed upon a concrete slab floor that is at least 3½ inches thick and in compliance with all applicable requirements of the Michigan Building Code or Michigan Residential Building Code. Sheds shall not exceed ten feet in height on a lot of one-fourth acre or less located in any residential zoning district. Sheds shall not have openings or doors exceeding six feet in width.

D. No accessory building shall be constructed prior to the construction of the principal building, unless specifically approved by the Zoning Board of Appeals.

E. The following requirements shall apply to accessory buildings located on one family zoned parcels of one quarter an acre or less:

1. One garage, either attached or detached, is permitted;
2. For parcels with an attached garage, one shed, not exceeding 200 square feet in area, shall be permitted;
3. The total square footage of a detached accessory building shall not exceed 700 square feet.

F. The following requirements shall apply to accessory buildings located on one family zoned parcels of more than one-quarter acre and less than one-half acre:

1. Freestanding accessory buildings including but not more than two garages may be permitted;
2. For parcels with an attached garage, one accessory building is permitted;
3. The total square footage of all detached accessory buildings shall not exceed 1,000 square feet;
4. The minimum rear and side yard setbacks of accessory buildings exceeding 900 square feet in size shall be 20 feet.

G. The following requirements shall apply to accessory buildings located on one family zoned parcels that exceed one-half acre in total area:

1. For each additional one-quarter acre or portion thereof over one-half acre, an additional 200 square feet of accessory buildings shall be permitted. The total

square footage of all detached accessory buildings shall not exceed 2,000 square feet;

2. The minimum rear and side yard setbacks of accessory buildings exceeding 900 square feet in size shall be 20 feet.

H. Satellite dish antennas and other television and radio antennas/receivers may be permitted as accessory structures in any zoning district, subject to the following provisions:

1. A satellite dish antenna that is designed to receive direct satellite service, including direct-to-home satellite service, that is one meter or less in diameter shall be permitted without a zoning compliance permit, unless it is attached to a mast of greater than 12 feet in height. If the mast to which it is attached exceeds 12 feet in height, then special approval land use by the Planning Commission under Article 25 shall be required;

2. A satellite dish antenna that is designed to receive video programming services via multi- point distribution services, including multichannel multi-point distribution services, instruction television fixed services and local multipoint services and that is one meter or less in diameter or diagonal measurement shall be permitted without a zoning compliance permit, unless it is attached to a mast of greater than 12 feet in height. If the mast to which it is attached exceeds 12 feet in height, then special approval land use by the Planning Commission under Article 25 shall be required;

3. A conforming commercial earth station shall be permitted without a zoning compliance permit;

4. An antenna that is designed to receive private radio or television broadcast signals which is less than 12 feet in height when installed shall be permitted without a zoning compliance permit. If the antenna exceeds 12 feet in height, then special approval land use by the Planning Commission under Article 25 shall be required. Such a structure shall not, however, be erected so as to injure the roof covering, and when removed from the roof, the roof covering shall be repaired to maintain weather and water tightness. The installation of any antenna structure mounted on the roof of a building shall not be erected nearer to the lot line than the total height of the antenna structure above the roof, nor shall such antenna structure be erected near electric power lines or encroach upon any street or other public space;

5. Satellite earth stations more than one meter in diameter located in a residential district shall require special land use approval by the Planning Commission under Article 25;

6. Satellite earth stations more than two meters in diameter located in an area where commercial or industrial uses are generally permitted shall require special approval land use by the Planning Commission under Article 25;

7. An antenna that is designed to receive private radio or television broadcast signals shall require a special approval land use by the Planning Commission under Article 25 if the height exceeds 12 feet;

8. An antenna of any type or size which is to be erected on a structure that is located in a district that is listed or eligible to be listed in the National Register of Historic Places shall require special approval land use by the Planning Commission under Article 25;

9. Any approved structure shall be subject to compliance with all applicable regulations, including but not limited to the requirements under the BOCA Building Code;

10. The Zoning Board of Appeals may modify the requirements of this section as authorized in section30.02C5.

The application for a special approval land use or variance shall include construction drawings showing the proposed method of installation, including details on foundations and anchoring, and a site plan or plot plan showing the proposed location. Any structure covered by this section shall not be located in any front or required side yard setback.

I. In nonresidential zoning districts, accessory buildings may occupy any of the ground area which the principal building is permitted to cover. Accessory buildings in nonresidential zoning districts that abut nonresidential zoned properties shall be regulated according to the provisions of section 28.00, A-G. Minor accessory buildings, such as buildings for guard shelters and gate houses, may be located in the front or side yard in nonresidential districts, upon site plan approval. All such buildings or structures shall be architecturally and aesthetically compatible with the principal building. All such devices shall be located and landscaped to reduce the visual impact from surrounding properties and from public streets.

(Ord. No. 278-G, §§ 16-19, 9-18-90; Ord. No. 278-Q, § 10, 10-3-95; Ord. No. 278-R, § 14, 8-20-96; Ord. No. 278-U, § 14, 1-6-98; Ord. No. 278-X, §§ 16-19, 4-6-99; Ord. No. 278-AA, § 10, 3-20-01; Ord. No. 278-DD, § 11, 7-6-04; Ord. No. 278-EE, § 7, 8, 10-5-04; Ord. No. 278-MM, § 4, 10-21-08; Ord. No. 278-NN, § 34, 1-6-09; Ord. No. 278-RR, § 7, 10-18-11)

SECTION 28.01. AMUSEMENT DEVICES AS AN ACCESSORY USE.

Amusement devices are permitted as accessory uses in all zoning districts, subject to the following:

A. An amusement device license must first be received from the City Clerk's office in accordance with the requirements set forth in the City Code. Amusement devices are not permitted as an accessory use without an amusement device license.

B. The maintenance and use of amusement devices as an accessory use shall be in accordance with all applicable regulatory provisions in the City Code.

(Ord. No. 278-X, § 20, 4-6-99; Ord. No. 278-Y, § 41, 5-16-00; Ord. No. 278-AA, § 1, 5-3-17)

SECTION 28.02. CANOPIES.

Canopies over driveways shall be a minimum of 14 feet in height, or such canopies shall be located in such manner that a driveway of no less than 20 feet in width unobstructed by such a canopy shall be provided to assure emergency vehicle access. A canopy in any district less than 14 feet in height shall have the height permanently and conspicuously posted on both sides of the canopy.

SECTION 28.03. CORNER CLEARANCE.

No fence, wall, shrubbery, sign or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines or private driveways by a straight line drawn between said right-of-way lines or private streets or driveways at a distance along each line of 25 feet from their point of intersection.

(Ord. No. 278-Q, § 11, 10-3-95)

SECTION 28.04. ESSENTIAL SERVICES.

Essential services, as defined by this ordinance, shall be permitted as authorized under any franchise or other applicable laws, it being the intention, hereof, to exempt such essential services from the application of this ordinance. Other public or private utilities or services shall be regulated according to the provisions of section 3.02I.

SECTION 28.05. HEIGHT LIMITATIONS AND EXCEPTIONS.

The height limitations of this ordinance may be modified by the Zoning Board of Appeals in their application to church spires, chimneys, flagpoles, belfries, cupolas, domes, water towers, power transmission lines and towers, radio and television towers, masts and aerials, smokestacks, ventilators, satellite dishes, derricks, cooling towers and other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses of the zoning districts in which they are located.

(Ord. No. 278-NN, § 34, 1-6-09)

SECTION 28.06. LOCATION OF STRUCTURES AND BUILDINGS IN A PUBLIC EASEMENT.

No structure or building other than a fence or wall may be erected in a public easement.

SECTION 28.07. LOT LIMITATIONS.

On all lands used for single family and two family residences, only one principal building shall be placed on a parcel or a lot of record. This regulation shall not apply to condominiums approved pursuant to the Condominiums Act, Public Act 59 of 1978, as amended. No building shall be erected on lands divided in violation of the

Subdivision Control Act, Public Act 288 of 1967, as amended, or in violation of any city ordinance.

SECTION 28.08. ONE AND TWO FAMILY DWELLING STANDARDS.

A. A building permit issued by the City of Sterling Heights shall be required before any dwelling unit is constructed, relocated or moved into the city. All dwelling units and additions thereto shall meet or exceed the applicable construction standards of the city.

Plans for modulars, prefabricated units and similarly constructed units shall be approved by the State of Michigan Construction Code Commission as meeting the State Construction Code (Public Act 230 of 1972 and Public Act 371 of 1980) prior to the issuance of a building or occupancy permit. Mobile homes or trailers shall meet or exceed the requirements imposed by the United States Department of Housing and Urban Development Mobile Home Construction and Safety Standards (24 CFR 3280, and as, from time to time, such standards may be amended). The Building Official shall be furnished a certificate stating that such dwelling meets the minimum Building Code requirements applicable to such structure. Any addition to such mobile home must be designed and constructed by the manufacturer of such mobile home, or must be based upon an architectural plan deemed compatible with the overall design of the mobile home and approved by the Building Official.

B. All construction shall meet the minimum lot size, yard spaces, setbacks, parking and all other minimum site requirements applicable to residential dwellings within the zoning district in which the use will be located.

C. All dwelling units shall meet the minimum living area standards for one family residential dwellings of the zoning district in which said home is to be located.

D. All one family dwelling units shall have a minimum width across any front, side or rear elevation of 24 feet.

E. All dwelling units shall be attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of the same perimeter dimensions of the dwelling and additions thereto and constructed of such materials and type as required in the Building Code. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall also be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a continuous perimeter wall as required above.

F. Single family dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors, with the second one being in either the rear or side of the dwelling; and contain steps connected to said exterior doors areas or to porches connected to said door areas where a difference in elevation requires the same. In making such determination of compatibility, the City Building Official, prior to issuance of a building permit, may consider the following factors: total square footage; length to depth proportions; value and quality of construction; exterior building materials; architectural style and design and roof line; as well as the character, design and appearance of a majority of the residential dwellings (excluding mobile home parks) within 2,000 feet of the subject dwelling. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour or relief from the common or standard design home.

G. Each dwelling shall be connected to a public sewer and water supply or to private facilities approved by the local health department.

H. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by state or federal law or otherwise specifically required in the zoning ordinance of the city pertaining to such parks.

(Ord. No. 278-Q, § 12, 10-3-95)

SECTION 28.09. PERMITTED USES.

No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than that permitted in that zoning district, except as otherwise provided herein.

SECTION 28.10. PERMITTED PROJECTIONS INTO REQUIRED OPEN SPACE.

A. Certain architectural features, such as cornices, eaves and gutters, bay windows and chimneys may project three feet into the required front yard or open space, five feet into the required rear yard or open space and two feet into the required side yard or open space, except for bay windows. Wing walls, archways or extensions of the front facade of a single family dwelling unit shall be permitted under the following conditions:

1. The maximum height of wing walls or extensions of the front facade without an archway for clearance shall be six feet. If an archway is provided with minimum clearance of seven feet, the maximum height shall be eight feet;

2. On interior lots, wing walls or archways may extend along the front building line to any interior side lot line;

3. On corner lots, wing walls or archways may extend to the interior side lot line and six feet into the required front yard, which would be a side yard if it were an interior lot;

4. In all cases where a wing wall, archway or extension of the front facade is installed, access to the rear yard for pedestrians shall be provided.

B. An unenclosed balcony, porch, terrace or an awning may project into the required front yard or open space for a distance not to exceed ten feet or into the required rear yard or open space for a distance not to exceed 15 feet. Seasonal enclosures, such as glass enclosed or screened-in porches, patios, terraces or decks, not exceeding one story, or fifteen feet in height, may project into the required rear yard or open space for a distance not to exceed ten feet. No more than 25% of each elevation of the seasonal enclosure (as measured from the finished floor) shall be constructed of wood, aluminum, vinyl, brick, stone or other opaque building material. The remaining area shall be screen, glass or other approved transparent materials.

C. A decorative deck shall be permitted to project not more than 15 feet into the required rear yard or open space, provided the following conditions are met:

1. The deck does not encroach into any easement;

2. The deck conforms with applicable side yard setback requirements;

3. The deck is located not less than ten feet from any detached accessory building; (This separation shall not apply to any accessory structure.)

4. Any additional structure attached to the deck, such as a gazebo or sauna, shall be located at least ten feet from the principal residential structure;

5. The deck and all other appurtenant facilities shall conform with any applicable codes and ordinances.

D. A building or structure that has been constructed which does not exceed the square footage of the building or structure as shown on the approved plot plan or site plan may project not more than six inches into the required yard area without obtaining a variance to the minimum setback. The preceding sentence shall not apply if a variance has been approved to allow a reduced setback in the area of the projection of the building or structure, or if the building or structure as actually constructed exceeds the square footage of the building or structure shown on the approved plot plan or site plan. In all instances where (i) a variance to the required setback standard in the area of the projection has previously been approved, (ii) the projection into the setback area exceeds six inches, or (iii) the square footage of the building or structure as actually constructed exceeds that shown on the approved plot plan or site plan, a variance must be secured from the Zoning Board of Appeals in order to permit the building or structure to remain in the required minimum setback area.

(Ord. No. 278-F, § 15, 8-8-90; Ord. No. 278-R, § 15, 8-20-96; Ord. No. 278-AA, §§ 11, 12, 3-20-01; Ord. No. 278-CC, § 14, 6-3-03; Ord. No. 278-NN, § 34, 1-6-09)

SECTION 28.11. PUBLIC UTILITY ELECTRONIC EQUIPMENT ENCLOSURES.

A. There shall be no more than one structure for each zoning lot, which shall be freestanding with a maximum floor area of 264 square feet devoted to such use.

B. The structure shall be located in the rear yard in accordance with the standards applicable to accessory structures where a principal building or use already exists on the property. Where such facility is the only principal use upon the site, the facility shall meet the setback requirements applicable to principal structures.

C. On sites already developed with a single family residence, such a facility shall be permitted only if the lot exceeds one-third acre or 14,520 square feet.

D. The maximum height of the structure shall be 15 feet.

E. Outdoor storage shall be prohibited.

F. No monopole, lattice or similarly designed freestanding tower or antenna shall be permitted.

G. All driveways or maneuvering areas servicing the facility shall be hard surfaced, installed and maintained by the public utility in accordance with all applicable city standards.

H. The parking of vehicles pertaining to said use shall be limited to the use of such vehicles in the performance of ongoing service work or repairs to the facility for the period of time necessary to complete such service or repairs.

I. The structure shall be maintained against deterioration and/or damage from the elements or from any other cause by prompt and appropriate repairs, painting and other protective measures.

(Ord. No. 278-T, § 13, 6-3-97)

SECTION 28.12. RESIDENTIAL ENTRANCEWAY.

A decorative masonry entranceway structure (including signage meeting the requirements of section28.13 paragraph E.14.) shall be permitted to be located either within a boulevard of a street leading into the residential development or upon a private easement granted to a subdivision association (or similar perpetual entity) pertaining to property near the entrance to the development. The subdivision association (or similar entity) shall have the responsibility for maintaining the entranceway structure. Such structure shall comply with applicable corner clearance requirements and, if located within a boulevard, shall be set back at least 12 feet measured from the extended right-of-way line of the street perpendicular to the boulevard and shall not exceed six feet in height without approval of the Planning Commission as a special approval land use meeting the requirements of Article 25. Columns, corner posts and other architectural details of an entranceway structure shall not exceed ten feet in height without approval of the Planning Commission as a special land use. An agreement providing for the maintenance of the structure in recordable form satisfactory to the city shall be furnished to the city prior to erection of the structure.

(Ord. No. 278-L, § 2, 6-9-92; Ord. No. 278-EE, § 7, 10-5-04)

SECTION 28.13. SIGNS.

A. *Findings.* The City Council finds:

1. Signs are a separate and distinct use of the property upon which they are located and affect the uses and users of adjacent streets, sidewalks, and other areas open to the public.

2. Signs are also an important means of communication for businesses, organizations, individuals, and government.

3. Depending on their size, numbers, and character, signs may attract or repel visitors, affect the visual quality enjoyed daily by residents, affect the safety of vehicular travel and pedestrians, and define the character of the community.

4. Aesthetic considerations impact economic values as well as public health, safety, and welfare.

5. Signs also take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation.

6. The unregulated installation and display of signs constitutes a public nuisance detrimental to the public health, safety, convenience, and general welfare.

7. Therefore, the purpose of this section is to establish reasonable regulations pertaining to the time, place, and manner in which outdoor signs and window signs may be installed and maintained in order to achieve the following purposes:

a. Promotion of the general health, safety, and welfare, including the creation of an attractive and harmonious environment;

b. Maintenance and enhancement of the visual quality (aesthetics) of the community;

c. Improvement of pedestrian and motorist safety by avoiding saturation and confusion in the field of vision, by directing and controlling pedestrian and vehicular traffic, and by minimizing distractions and obstacles to clear views of the road and of directional or warning signs;

d. Protection and enhancement of economic viability by assuring that the City of Sterling Heights will be a visually pleasant place to visit or live;

e. Protection of property values and private/public investments in property;

f. Protection of views of the natural landscape and sky;

g. Protection of the public investment in the creation, maintenance, safety, and appearance of the city's streets, highways, and other areas open to the public;

h. Protection and enhancement of the city's attractiveness as a place for economic development and growth;

i. Avoidance of personal injury and property damage from structurally unsafe signs;

j. Provision of effective and efficient opportunities for business identification by reducing competing demands for visual attention;

k. Allow for expression by signage subject to reasonable regulation.

B. *Intent.* The intent of this section is to regulate signage within the City of Sterling Heights in order to preserve the city's tradition and reputation as a community with a rich mix of land uses that blend into a landscape of high aesthetic quality. The regulation of signage is further intended to enhance the physical appearance of the city so that it remains an appealing and desirable place to live, work, and visit. The provisions of this section are the minimum amount of regulation necessary to achieve the purposes set forth herein and to preserve the scenic and natural beauty of designated areas, make the city a more enjoyable and pleasing community, and create a more attractive economic and business climate, while at the same time reducing signage distractions, eliminating hazards caused by signs, and minimizing confusion caused by conflicting adjacent and/or clustered signs.

C. *Scope.* The City Council further finds that many of the signs allowed in this section are situational, and the likelihood of multiple simultaneous situations arising on a lot at any particular time is remote. Therefore, the number of signs allowed on a lot is reasonable and allows alternative channels of communication as situations arise without adversely impacting the purposes of this section.

D. *Definitions.* In addition to the general definitions set forth in this zoning ordinance, the following definitions shall apply to the regulations set forth in this section.

ADMINISTRATIVE REVIEW BOARD. A board comprised of the Building Official, City Engineer, and City Development Director to hear requests for administrative modification or administrative appeals permitted by this section.

AGRICULTURAL SALES SIGN. An accessory sign relating to the land use function of selling agricultural, dairy, livestock, or poultry products raised or produced at the location where the sign is installed.

DIRECTIONAL SIGN. A sign directing vehicular or pedestrian traffic to parking areas, loading areas, or to portions of a building or site.

ELECTRONIC MESSAGE BOARD. A freestanding sign that uses light emitting diodes (LED) to electronically change the image or message displayed on the message board.

FESTOON SIGN. Light bulbs, ribbons, streamers, or pinwheels, or light strips, banners, pennants, balloons, search lights, or similar objects and features, which are not an integral physical part of the building or structure they are intended to serve and which are hung or strung for the purpose of drawing attention.

FLASHING, ANIMATED, OR MOVING SIGN. A sign that intermittently reflects lights from either an artificial source or from the sun; a sign which has movement of any illumination such as intermittent, flashing, or varying intensity or a sign that has any visible portions in motion, either constantly or at intervals, which motion may be caused either by artificial or natural sources. An electronic message board that otherwise meets the requirements of this section is not a flashing, animated, or moving sign.

FREESTANDING SIGN. A sign located in or upon the ground or attached to something requiring location on the ground, such as a freestanding frame, mast, or pole, which is not attached to any principal or accessory structure.

IDENTIFICATION SIGN OR NAMEPLATE. A wall sign stating the name of a person or firm, or stating the name or description of the permitted use of the premises.

MAXIMUM SIZE (OF A SIGN). The total area of a sign included within the rectangle, triangle, or circle caused by encompassing the outermost portions of the sign or around the outermost edges of a sign formed of letters or symbols only. On signs with more than one side, this measurement shall be determined with reference to the area contained on one side of the sign, including all openings.

MONUMENT SIGN. A freestanding sign attached to a permanent foundation with decorative base located on the ground with no exposed poles or other supporting devices.

OFF-PREMISES SIGN. A sign that communicates messages relating to any activity or use not related to the permitted use of the premises upon which the sign is installed.

PORTABLE SIGN. A sign without a permanent foundation and not permanently attached to a fixed location which can be carried, towed, hauled, or driven and is primarily designed or installed to be mobile rather than be limited to a fixed location regardless of modifications that limit its mobility, such as, but not limited to, vehicles, trailers, "A" frame, "T"-shaped, or inverted "T"-shaped sign structures.

PROJECTING SIGN. A sign which is affixed to or supported by any building or structure, or part thereof, which extends beyond the plane of the building wall, or part thereof, or structure, by more than 12 inches.

PUBLIC SIGN. A sign installed or required by any governmental entity to provide information to the public.

REAL ESTATE DEVELOPMENT SIGN. A temporary sign permitted for real estate development projects that have received site plan approval and are placed on the premises of a real estate development to indicate a proposed start date or to provide information regarding available properties or tenant spaces within the development.

RESIDENTIAL SUBDIVISION IDENTIFICATION SIGN. A permanent sign installed to exhibit the name of the residential development within which it is installed.

ROOF SIGN. A sign located on or above the roof of any building and which projects above or beyond the eave, roof, or parapet, or which is attached to a mansard type roof.

SIGN. The use of any words, numerals, figures, devices, inflatable moving advertising products, designs, logos, or trademarks which direct attention to a product, place, activity, person, institution, message, or business, or by which anything is made known to the general public, and which is visible and discernible off the lot or from any public right-of-way.

SIGN AREA. Unless otherwise noted, the total area within any circle, triangle, rectangle, or other geometric shape or envelope enclosing the extreme limits of writing, representation, emblem, or any similar figure or element of the sign. The area of a double-faced sign shall be computed using only one face of the sign, provided that the outline and dimensions of both faces are identical and that the faces are back-to-back so that only one face is visible at any location. The sign area shall not include any supporting framework, bracing, or decorative fence or wall when such feature otherwise complies with the requirements of this section and is clearly incidental to the sign itself. References in this section to the square footage of signs are references to the measurement of the sign area unless otherwise specified.

SIGN HEIGHT. Measured as the vertical distance from the normal grade directly below the sign to the highest point of the sign or sign structure, whichever is higher, and shall include the sign base. References to maximum height and height limitations in this section are references to this definition unless otherwise specified.

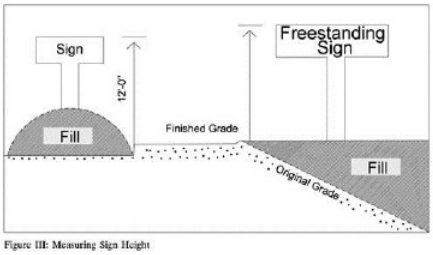
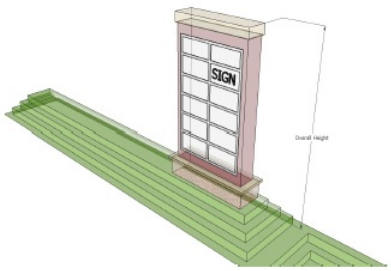


Figure III: Measuring Sign Height



SUPER REGIONAL MALL. A shopping mall with over 800,000 square feet of gross leasable area which serves as the dominant shopping venue for the region in which it is located.

SUPER REGIONAL MALL BOULEVARD ENTRANCE SIGN. A sign identifying a super regional mall that is located upon the median of each boulevard leading directly into a super regional mall development.

SUPER REGIONAL MALL DIRECTIONAL SIGN. A sign directing vehicular and pedestrian traffic to particular businesses within a super regional mall that is located upon a private easement of a lot or parcel adjacent to the ring road of the super regional mall or the boulevard leading directly into the super regional mall development from a major thoroughfare as identified on the Master Road Plan.

SUPER REGIONAL MALL FESTOON SIGN. A banner style sign attached to a parking lot light pole located upon a lot or parcel abutting a ring road of a super regional mall development. Such signs must be double-sided pole pocket style.

SUPER REGIONAL MALL PRIMARY ENTRANCE SIGN. A sign identifying a super regional mall and its major tenants, and promoting events and activities taking place at the super regional mall that is located upon a private easement of a lot or parcel adjoining a major thoroughfare as set forth on the Master Road Plan.

TEMPORARY SIGN. A sign not permanently attached to the ground, a structure, or a building and not supported by a permanent frame.

a. A long-term temporary sign is a temporary sign constructed of durable, weather-resistant, wind-resistant materials equivalent or substantially as durable as vinyl, fabric, wind mesh, acrylic, polycarbonate, treated wood, aluminum, and aluminum composite, and affixed to a durable, weather-resistant, wind-resistant frame.

b. A short-term temporary sign is a temporary sign constructed of less durable non-rigid or semi-rigid materials, such as paper, cardboard, polystyrene, foam PVC, foam board, and untreated wood, and affixed to a frame not designed for long-term outdoor sustainability, such as thin wire frames, hollow or lightweight plastic frames, and frames consisting of non-rigid or semi-rigid materials.

c. A flag is a short-term temporary sign made of cloth, fabric, bunting, nylon, or similar flexible material.

WALL SIGN. A sign attached to, placed flat against, or otherwise inscribed on an exterior wall or surface of any building, confined within the limits thereof, and no portion of which projects more than 12 inches beyond the wall, but which may or may not project above the roof or parapet.

WARNING SIGN. A sign that provides a warning or a notice to persons on, or entering upon, the premises on which the sign is located including, but not limited to, signs that guide vehicular or pedestrian traffic within, but not at the entrance of, a development, identify hazards and possibly dangerous conditions, ensure public safety, or are required by law to be installed.

WINDOW SIGN. A sign consisting of words, numerals, or trademarks displayed in, attached to, or painted on a window.

E. *General conditions.* Except as otherwise provided herein, the following regulations shall apply to all signs installed or located in any use district:

1. All signs shall conform to all ordinances and regulations of the City of Sterling Heights, including, but not limited to, other sections of this zoning ordinance, the City's Code of Ordinances, and any other codes or regulations governing signage.

2. Signs shall not be placed in, project into, or overhang any public right-of-way or dedicated public easement, existing or proposed, unless placed or approved for placement by the city or applicable governmental entity or agency.

3. Signs shall not be placed on city property unless placed or approved for placement by the city.

4. Signs shall not be placed on utility poles, utility boxes, traffic control devices, telecommunications towers, sidewalks, lamp posts, hydrants, bridges, public property, public ways, easements, or trees unless placed or approved for placement by a governmental entity as public signs or warning signs.

5. Permanent signs shall not be placed in a required side yard setback or within 12 feet of a public right-of-way.

6. Signs shall not be placed in a manner that obstructs or diminishes sight lines for vehicular travel, obstructs driver vision, or creates potential hazards to pedestrian safety. All signs shall comply with the corner clearance requirements set forth in Section 28.03.

7. Signs must have a minimum clearance of eight feet six inches above a non-public sidewalk and provide appropriate emergency vehicle clearance above driveways and maneuvering lanes.

8. Applications for approval of a sign permit will not be processed or placed on an agenda for any public hearing, nor will a sign permit be issued, on properties with outstanding and unresolved code violations, including but not limited to violations of the International Property Maintenance Code as adopted and locally amended by the city, unless the property owners and occupants have executed a code compliance agreement with the city setting forth a written commitment by, and contractual obligation of, the applicant and property owner to bring the site and/or building into full compliance with all provisions of the applicable code within a specific time period acceptable to the City Development Director.

9. Signs shall not have more than two sides.

10. No sign shall be painted directly onto the wall of a building.

11. Signs shall not be equipped with audio capabilities and sound shall not be projected from any sign, except that menu boards approved as part of a drive through facility or signage designed for purposes of complying with laws enacted for the protection of persons with disabilities shall not be restricted by this provision.

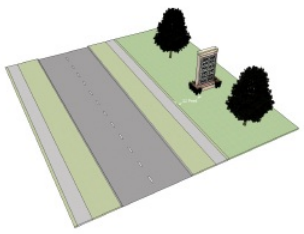
12. Signs may not project images beyond the face of the sign and may not emit any odors or visible matter such as smoke or steam.

13. No person, entity, owner, business, or tenant shall allow an obsolete sign to be maintained on property for more than 30 days after same has become obsolete because of discontinuance of the business, service, or activity which the sign advertises, relocation to another site, or for any other reason. The fact that the obsolete sign is nonconforming shall not be construed as modifying any of the requirements of this section.

14. Every sign, including the sign structure, shall be maintained in a safe structural condition and in a neat, clean, secure, and attractive condition, with upright, secure supports. All sign materials shall be kept free of defective or missing parts, peeling, corrosion, or other surface or support deterioration, and in compliance with the current provisions of the International Property Maintenance Code, with local amendments as adopted by the city. All sign copy shall be maintained intact, free of defacement, and free of missing characters. If the sign is illuminated, all lighting fixtures and sources of illumination shall be maintained in a manner that renders them safe and in proper working order.

a. Violation of these provisions shall subject the responsible party to the remedial and enforcement provisions set forth elsewhere in this section and in Section 11-141 of the City Code.

15. For all signs other than a sign within a public right-of-way, the sign setback shall be measured from the property line or, in the case of an access easement, from the edge of the easement, to the closest point of the sign.



F. *Signs authorized in every zoning district.*

1. Public signs.

2. Traffic control devices on private or public property, installed and maintained to comply with the Michigan Manual on Uniform Traffic Control Devices and, if not covered, with the Manual on Uniform Traffic Control Devices adopted by the Federal Highway Administration.

3. Numerals that identify the address of the property in accordance with applicable laws, codes, and regulations, so that public safety responders can easily identify the address from the public street.

a. Unless an alternative requirement is adopted in the City Code or as part of a technical code adopted by the city, address numbers for all commercial buildings shall be displayed on the facade of the building adjacent to a public entrance to the building and each tenant space with its own address, and on a freestanding sign at the front of the site. For multiple tenant buildings, the freestanding sign shall include the address range of all addresses contained within the building. Further, numerals shall also be displayed at the rear entrance of the building/tenant space if there is access to a hard-surfaced area upon which vehicular traffic may maneuver. All address numbers shall be at least 4 inches in height. The color of the required numbers shall starkly contrast the background to which they are affixed. Because the required numbers are for emergency responders, they shall be excluded from any calculations of the property's total permitted signage.

4. Required government signs that warn of a danger or prohibit access to the property either generally or specifically.

5. Signs installed by MISS DIG, utility companies, lawn treatment companies, and similar signs intended to warn of a danger or alert the reader to a potentially dangerous condition or the existence of utility pipes or lines on the property.

6. In addition to one United States flag and one official flag of the State of Michigan displayed on a permitted flag pole or on a flag staff affixed to the house on a single-family residential property, up to two additional flags may be displayed on a permitted flag pole or on a staff affixed to the house without being counted against the individual sign limitations or the total square footage allowed under this section for temporary signage.

G. *Prohibited signs.*

1. Signs that violate any federal, state, or local law, code, or regulation.

2. Signs that violate zoning regulations governing home occupations as an accessory use.

3. Festoon signs.

4. Projecting signs.

5. Signs whose construction, design, location, or other physical characteristics are determined by any code official or law enforcement official to create a safety hazard or to be anathema to the general welfare, including but not limited to:

a. Signs of a size, location, movement, coloring, or manner of illumination which may be confused with or construed as, or which may conflict with, a traffic control device, or which hide from view any traffic or street sign or signal.

b. Signs consisting of moored balloons or other type of tethered floating signs unless approved by the City Planner in conjunction with an approved temporary use and if tethered to the ground.

c. Banners, posters, pennants, ribbons, streamers, LED lights, strings of light bulbs, spinners, or other similarly moving devices or signs which may move or swing as a result of wind pressure or other power source, unless approved by the City Planner in conjunction with approval of a temporary use for a special event of limited duration, permitted as holiday decorations, or otherwise permitted elsewhere in this section.

d. Signs which have blinking, flashing, or fluttering lights or other illuminating devices which exhibit movement.

e. Roof signs.

f. Signs that consist of or include a searchlight, beacon, strobe light, or similar form of illumination.

g. Signs that contain or consist of strings of light bulbs.

h. Portable signs kept in a stationary location and visible from a public way.

1. Exception: Operable vehicles that are properly licensed and plated and which are adorned or embedded with permanent graphics, information, and/or messages that are visible to passersby shall only be parked on a property owned or operated by the vehicle owner or pertaining to an activity underway on the property where it is parked and shall be kept in a lawful vehicular parking or storage location a minimum of 30 feet from any public right-of-way.

H. *Illumination.*

1. No sign shall include or use flashing or intermittent illumination.

2. Flashing, animated, and/or moving signs are prohibited.

3. Illumination of signs shall be directed or shaded so as not to interfere with the vision of persons on the adjacent roadway or with adjacent property owners.

4. No illuminated sign shall be installed if it creates a distracting or hazardous condition to a motorist, pedestrian, or the general public, or which adversely impacts neighboring or nearby properties or uses.

5. No exposed reflective type bulb, par spot, or incandescent lamp which exceeds 25 watts shall be exposed to direct view from a public street or highway, but may be used for indirect light illumination of the display surface of a sign.

6. Electronic message boards:

a. Studies show that there is a correlation between electronic changeable copy signage and the distraction of drivers, who may be distracted not only by a changing message, but also by knowing that the sign has a changing message and waiting for the next change to occur. Despite these public safety concerns, however, there is also merit in allowing new technologies to easily update signage messages, to minimize the proliferation of signage by allowing multiple messages on a single sign, and to facilitate expression with messages that are easily discernible, so long as restrictions are in place to minimize the potential for driver distraction and to minimize negative impact to residential districts where signs can adversely impact the residential character of the area. Therefore, the following regulations shall apply to electronic message board signage:

(1) Display only static messages and/or images that remain constant in illumination intensity and do not have movement or the appearance or optical illusion of movement;

(2) The image or message of the sign does not flash or scroll (vertically or horizontally);

(3) Not operate at an intensity level of more than 0.3 foot-candles over ambient light as measured at a distance of 150 feet;

(4) Be equipped with a fully operational light sensor that automatically adjusts the intensity of the electronic message board according to the amount of ambient light;

(5) Change from one message to another message no more frequently than once every ten seconds and the actual change process is accomplished instantly with no effects;

(6) Electronic message boards may operate only when the nonresidential use to which they belong is open or between the hours of 6:00 a.m. and 10:00 p.m., whichever time period is shorter, if installed on a property located adjacent to a residential property use, except that noncommercial uses may also operate an approved electronic message board until and during an event that is open to the public and held after 10:00 p.m.;

(7) Be designed to either display a full black screen or turn off in the event of a malfunction;

(8) Not be authorized until the Building Official is provided evidence that best industry practices for eliminating or reducing uplight and light trespass were considered and built into the electronic message board; and

(9) The area of an electronic message board may not exceed 1/3 of the entire area of the freestanding sign.

b. The owner of an electronic message board shall allow the city to use the electronic message board to communicate emergency public service information approved by the City Community Relations Director. The operational restrictions on electronic message boards set forth in this subsection shall not apply during any time that the electronic message board is used to communicate authorized emergency public service information for the city.

c. The owner agrees to (i) update with an approved emergency public service information communication, or (ii) discontinue the emergency public service message as soon as possible after receiving a request from the City Community Relations Director. The owner shall file and keep current at all times with the Office of Community Relations the name, email address, phone number, cell phone number, pager and other available emergency contact information of the employee(s) or representative(s) of the owner who has been authorized and designated by the owner to communicate the approved emergency public service message using the electronic message board.

7. Internally illuminated signs are not permitted on properties utilized for residential purposes, with the exception of internal illumination for the address of the property if the address is affixed to a home, garage, or mailbox on the property.

I. *Enforcement.*

1. The city may remove any non-temporary sign which violates any provisions of this section if the owner upon whose property the sign is located fails to make the sign conform to the provisions of this section within 48 hours of issuance of written notice of the violation.

2. With respect to temporary or portable signs, in the absence of prior permission having been granted by the property owner for the immediate removal of signs in violation, the city may remove any such sign which violates any provisions of this section if the owner upon whose property the sign is located fails to make the sign conform to the provisions of this ordinance within four hours of personal notice as defined below, or within 48 hours of issuance of notice as defined below. City officials may mark offending signs in a manner reasonably required for future identification. In the event that a marked sign is moved to another location, and such move does not cure the violation, the city shall not be required to give any additional notice before impounding the sign as a nuisance pursuant to the terms of this article.

3. In the case of any sign which is located in, projects into, or overhangs a public right-of-way or public easement in violation of this section, the city may remove said sign without notice.

4. Signs impounded under this subsection will be logged and stored by the city for retrieval by its owner. Before any removed sign is returned to its owner, a fee as determined by the city shall be paid for the removal, storage, and reclamation. Any sign which is removed in accordance with this section shall be deemed abandoned if its owner or the person responsible for the sign does not reclaim it within ten days of the date of its removal, after which the city may dispose of the sign without any further notice.

5. For purposes of this subsection, "issuance of notice" is defined to include any of the following:

a. Facsimile, electronic mail, or first class mail transmission of notice of a violation to either a person or committee mentioned on the sign or to the person responsible for placing the sign or to the property owner;

b. Posting of notice of a violation on or reasonably near the sign which is in violation, so long as the posting is conspicuous from the distance at which the sign in generally readable;

c. Posting of notice of a violation on or reasonably near one or more entrances of a habitable building on the same property as the sign, so long as the posting is conspicuous;

d. Transmission of a telephonic message which indicates that a violation exists, and which offers a brief explanation of the nature of the violation, recorded on an answering system of either a person or committee mentioned on the sign or to the person responsible for placing the sign or to the property owner.

6. For purposes of this subsection, "personal notice" means personal contact by a Code Enforcement Officer, or other duly authorized agent of the city, with either a person mentioned on the sign, the person responsible for placing the sign, the property owner, or the property owner's authorized representative or resident agent. "Personal contact" means that the officer or agent initiated a person-to-person conversation, or some other real-time communication via electronic means, whereby the officer or agent communicated the existence of the violation and a brief explanation of its nature.

7. For purposes of this subsection, the phrase "person responsible" for a temporary sign is the person who places the sign, unless the person first notifies the City Clerk's office in writing of another person who is responsible. Persons responsible for political campaign signs also include the candidate for the political office advertised on the sign, unless the candidate first notifies the City Clerk's office in writing of another person who is responsible and the property owner. In a campaign regarding a ballot measure, the president or chair of the committee supporting or opposing the ballot measure, as well as the property owner, shall be deemed the responsible person, unless the City Clerk's office is notified in writing of another person who is responsible. The person who places the sign, the candidate or the president as applicable must provide the name, address, telephone number and signed consent of the other responsible person. Persons residing or located outside of Michigan may not be designated as responsible persons. The person placing the sign, or in the case of political campaign signs, the candidate, or in the case of a ballot measure, the committee president or chair, or in each of these cases the other responsible person if so designated, shall be liable to pay any fees or costs incurred for the removal and storage of illegal signs upon retrieval. This subsection shall not be construed to place responsibility upon responsible persons for civil infraction or misdemeanor violations of the City Code.

8. Any company or individual which files a false affidavit or application for any reason relating to signage under this section shall be guilty of a misdemeanor punishable in accordance with the penalties applicable to misdemeanors set forth in Section 1-9 of the City Code.

9. Owners, lessors, and lessees may all be held equally responsible for violations of this section.

J. *Nonconformity and modification.*

1. Notwithstanding the provisions of Article 27, signs lawfully in existence on the date the provisions of the ordinance enacting this section were first advertised, which do not conform to the provisions of this section, but which were in compliance with the applicable regulations at the time they were constructed, erected, installed, affixed, or maintained, shall be regarded as nonconforming. However, a sign installed during the period of time following the day on which the United States Supreme Court released its opinion in *Reed v Town of Gilbert* (June 18, 2015) and the date the provisions of this section were first advertised for adoption shall not be considered a nonconforming sign unless it conformed to the regulations in effect on the day immediately preceding the release of the decision in *Reed v Town of Gilbert*.

2. A nonconforming sign shall not be enlarged or extended.

3. A nonconforming sign shall not be moved to another location on the same lot or to any other lot.

4. A nonconforming sign that is destroyed or damaged as a result of factors beyond the control of the owner of the sign and the owner of the premises on which the sign is located, to an extent the destruction or damage exceeds 50% of its appraised value, shall not be replaced or restored unless it complies with this section.

5. A nonconforming sign that is destroyed or damaged as a result of factors beyond the control of the owner of the sign and the owner of the premises on which the sign is located, to an extent the destruction or damage is 50% or less of the appraised value, may be replaced or restored provided that the replacement or restoration is completed within six months after the date of the destruction or damage, and the sign is not enlarged or extended. The time for replacement or restoration may be extended for one additional six month period if the Building Department verifies that the replacement and/or restoration process is underway, is being pursued in good faith, and delays in the process are reasonably related to insurance or other financing delays beyond the control of the owner of the sign.

6. A nonconforming sign declared to be unsafe by a code official because of the physical condition of the sign, including an unsafe physical condition arising from the failure of the sign to be maintained, shall be removed.

7. The owner of any premises on which there is installed a nonconforming sign shall, upon notice from the City Planner, submit verification within 60 days that the sign was lawfully in existence at the time of adoption of these sign regulations. The City Planner shall maintain a registry of such nonconforming signs.

K. *Additional requirements.* In addition to the provisions set forth above, the following requirements shall apply to various types of signs, based on construction, design, or function, located in various use districts as set forth in the following Sign Regulation Table. However, the Table is only intended as an easy reference chart, and the regulations set forth following the Table are controlling if applicable to any particular sign or situation, regardless of whether the Table omits a reference to the regulation in any cell, row, or column.

SIGN REGULATION TABLE						
Type of sign	***Use Districts***					
	One and two family residential	***Multiple family & mobile home***	***Commercial***	***Office including office research***	***Industrial***	***Parking district***

SIGN REGULATION TABLE	
	Use Districts

Type of sign	*One and two family residential*	*Multiple family & mobile home*	*Commercial*	*Office including office research*	*Industrial*	*Parking district*
Agricultural Sales Sign	A, D, L	A, D, L	A, D	A, D	A, D	None
Billboard	B	B	B	B	B	None
Directional Sign	C	C	C	C	C	C
Freestanding Signs	D, L	D, L	D	D	D	D
Identification and Name Plate Signage	None	None	E	E	E	None
Real Estate Development Identification	F	F	F	F	F	None
Residential Subdivision Identification	G	None	None	None	None	None
Super Regional Mall Signs	None	None	H, I, J, K	None	None	None
Temporary Signs	L	L	L	L	L	L
Wall Signs	M, N	M, N	N	N	N	None
Window Signs	None	None	O	O	O	None

Sign Table References:

A. Temporary agricultural sales signs shall be permitted only on parcels at which the City Planner has verified the existence of lawful agricultural sales activity. Permanent agricultural signs are only permitted in nonresidential zones, except that permanent agricultural signs will be permitted in nonresidential zones for properties that do not have a residential use as their principal use if the City Planner has verified the principal use of the property as agricultural.

B. Billboards:

1. Billboards are freestanding off-premises signs.

2. The City Council has determined that signs and billboards located on premises to which they do not specifically relate, and which are designed to capture the attention of motorists and others utilizing public ways, create a danger to public safety by distracting the attention of drivers from the roadway, who in some instances may focus on the message being conveyed, the anticipated message to follow, and/or other function of a billboard visible while operating a motor vehicle. A number of national and international studies during the period 2013 to 2016 have observed that "driving irrelevant" material may make it difficult to extract information that is necessary for safe driving; advertising signs affect driver attention to the extent that road safety is compromised; clear evidence of impaired driving performance became evident as drivers passed billboards at higher speeds; and drivers glance more at the time of a switch to a new message display than when a billboard is simply visible and stable.

3. Further, the United States Supreme Court has recognized that it is not speculative to recognize that billboards, by their very nature, wherever located and however constructed, can be perceived as an aesthetic harm. An unmarred landscape promotes tourism and levels the playing field between local businesses and national chains.

4. Several states have completely banned billboards, and at least two other states have banned the construction of any new billboards.

5. Therefore, because billboards are only one form of expression for messages that can be communicated in many other reasonable and alternative ways, billboards are not permitted in the City of Sterling Heights, except as may be permitted by any governmental entity not subject to city regulation or control, in which instances all city regulations not otherwise preempted shall still apply, and if not preempted such billboards shall not exceed 25 feet in height or 150 square feet in area and shall be subject to the city's sign permitting process.

6. Nonconforming billboards in existence on the date this subsection was adopted may be maintained and repaired so as to continue the useful life of the sign. However, no features or characteristics of nonconforming billboards may be expanded, enlarged, or extended, and all of the regulations in this section and in other sections of the City Code and applicable technical codes shall apply to nonconforming and exempt billboards in order to minimize their negative secondary effects, preserve the character and repose of adjacent areas, protect property values, and reduce traffic and similar hazards caused by undue distractions.

C. Directional sign regulations and distinctions were recognized by *Reed v Gilbert* (2015) as protecting vehicular and pedestrian safety, and therefore they serve a compelling governmental interest.

1. Directional signs shall be considered incidental, shall be limited to one sign at each entrance, and shall not exceed four square feet and four feet in height. Directional signs set at an entrance point may be located within a required yard subject to the sight line and clearance distance restrictions set forth in this section.

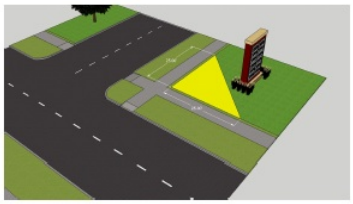
2. Directional, informational, and traffic control signs placed by government entities are permitted in all zoning districts and shall be installed, to the extent applicable, in accordance with the Manual on Uniform Traffic Control Devices.

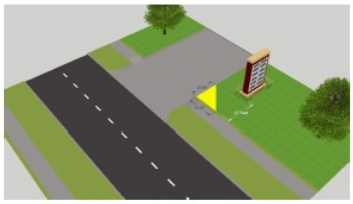
D. Freestanding signs:

1. In all developments that require site plan approval pursuant to Article 26, one permanent freestanding sign shall be permitted, except as otherwise provided herein.

2. Permanent freestanding signs shall not exceed 15 feet in height as measured from the approved grade.

3. No sign shall be installed within the required corner clearance area established in Section 28.03 nor within the corner clearance area created by the two lines of the existing or proposed (whichever is greater) right-of-way lines of exterior streets and the curb line of a nonresidential entranceway, and the straight line connecting them at points ten feet distant from where the right-of-way lines intersect.





a. Exception: The sight distance triangle may be extended by the city to conform to minimum Michigan Department of Transportation sight distance standards or in situations when the City Planner determines that an extension is required for public safety due to topography, road alignment, or other physical conditions of the area.

4. Freestanding signs shall be designed to be compatible with the architecture and approved masonry materials used on the principal building. All permanent freestanding signs shall be monument style with a brick and/or decorative stone base with no exposed poles which is a minimum of two feet or 20% of the total height of the sign and base, whichever is greater. The height of the base for permanent freestanding signs shall not exceed 1½ times the width of the sign.

5. Up to 1/3 of a permitted freestanding sign may consist of an electronic message board or changeable copy area.

6. For developments having more than one frontage on a major or secondary thoroughfare having a right-of-way of at least 86 feet or greater, one freestanding sign shall be permitted to be located on each frontage, provided the distance between the two signs is not less than 500 feet measured along the abutting right-of-way line.

7. Permanent freestanding signs are not permitted on single-family residential properties, with the exception of residential subdivision identification signs as permitted in this section.

8. Off-premises signs are prohibited. Freestanding signs on nonresidential properties must relate to the business, activity, or service conducted on the premises upon which the sign is placed.

Exception:

a. Freestanding off-premises signs for business tenants, if part of a unified development where separate parcels exist, so long as no other freestanding sign already exists on the parcel where the freestanding off-premises sign is proposed.

b. Public signs, warning signs, and permitted directional signs.

9. The maximum size of a freestanding monument sign may be increased by 20% up to a maximum of 16 square feet provided the owner of the property agrees in a recorded document to irrevocably dedicate that additional dedicated square footage of the monument sign to solely advertise that space is available for rent, lease, occupancy, or sale.

10. Permanent freestanding signs may be located in the required front yard if they are at least 12 feet from the existing or planned public right-of-way (whichever is greater) as shown in the Master Road Plan or at least five feet back from the curb or pavement of any private street. Permanent freestanding signs shall not be located in a required side yard or required rear yard. Temporary freestanding signs may be located in the required front yard if they are at least five feet from the public right-of-way as shown on the Master Road Plan or at least five feet back from the curb or pavement of any private street.

11. A permanent freestanding sign shall not be closer than 100 feet from any adjacent single or two family zoning district or 50 feet from any off-site sign.

12. The maximum size of a freestanding sign in C-1, C-2, C-3, C-4, O-1, O-2, O-3, OR, TRO, PCD, M-1, and M-2 Districts (and on properties used for purposes that are only permitted in those districts) shall not exceed one square foot for each two linear feet of street frontage to which that sign is oriented. In no instance shall the frontage of two or more streets be combined in computing the maximum size permitted. The maximum size of any freestanding sign shall be 150 square feet. A freestanding sign may include an electronic message board provided the requirements set forth in this section for electronic message boards are met.

E. An identification (nameplate) sign shall be considered incidental, and one sign, not exceeding six square feet, may be installed by each tenant. In addition to the identification signs for occupants, the rental and/or management office of the development may have one identification sign not to exceed four square feet in size.

F. Real estate development signage is permitted as follows:

1. One two-sided sign or two one-sided signs shall be permitted to be located at each entrance to the development which is located on a major or secondary thoroughfare as identified upon the Master Road Plan. In addition, one two-sided sign shall be permitted to be located upon a boulevard median of a collector, local, or private street leading directly into the development.

2. Signs permitted under this subsection may not exceed a maximum size of 25 square feet.

3. All other provisions of Section 28.13 not in conflict with this subsection shall apply.

G. Residential subdivision identification signs:

1. Shall not exceed a maximum size of 25 square feet per sign.

2. Shall be permitted to be located either upon masonry walls along the perimeter of the development meeting the requirements of Section 24.01 or upon a masonry entranceway structure meeting the requirements of Section 28.12.

3. One two-sided sign or two one-sided signs shall be permitted to be located at each entrance to the development which is located on a major or secondary thoroughfare as identified upon the Master Road Plan. In addition, one two-sided sign shall be permitted to be located upon a boulevard median of a collector, local, or private street leading directly into the development.

4. The residential subdivision identification sign structure shall be in scale with any adjoining landscape treatment.

5. No entranceway sign structure permitted under this subsection shall be constructed of exposed concrete block, cinder block, precast concrete panels, or poured concrete.

6. Any permitted residential subdivision identification sign shall be located in either a common area of the development or upon property for which a private easement has been granted to a subdivision association (or similar entity) which shall have the responsibility for maintaining the sign and any appurtenant structures. An agreement providing for the maintenance of the sign(s) or structure(s) in recordable form satisfactory to the city shall be furnished to the city prior to installation of the sign(s) or structure(s).

7. To the extent that any of the provisions of this section are in conflict, mobile home park identification signage shall instead meet the applicable requirements of Section 5.01.

H. One super regional mall boulevard entrance sign shall be permitted to be located upon each boulevard leading from a major thoroughfare to a super regional mall. A super regional mall boulevard entrance sign shall not exceed 48 square feet in area and six feet in height.

I. One super regional mall directional sign shall be permitted to be located adjacent to the intersection of each entrance road and the ring road of a super regional mall development upon either the property of the super regional mall provided a satisfactory easement has been granted, or within the city right of way of the boulevard leading from a major thoroughfare to the super regional mall. A super regional mall directional sign shall not exceed 32 square feet in area and eight feet in height.

J. One banner style Super regional mall festoon sign shall be permitted to be attached to each parking lot pole located on a lot or parcel abutting the interior roadway (or similar access system) of the super regional mall shopping center development. Such signs shall not exceed 54 inches in height and 30 inches in width and shall be hung vertically. Such signs shall be made of durable double sewn reinforced fabric of 16 ounce weight or more. Such signs shall contain the approved design logo of the super regional mall district which shall comprise not less than 25% of the area of the signs.

K. One super regional mall primary entrance sign shall be permitted to be located adjacent to a major thoroughfare under the Master Road Plan which abuts a super regional mall. The super regional mall primary entrance sign shall not exceed 300 square feet in area and 25 feet in height.

L. Temporary signs:

1. Shall be maintained free of rust, corrosion, peeling, breakage, graffiti, obfuscation, and all other damage or defacement.

2. All temporary signs shall be aesthetically pleasing and designed and constructed of durable materials installed in conformance with the current provisions of the Michigan Building Code, as amended, and maintained in accordance with the provisions of the International Property Maintenance Code, with local amendments, as adopted by the city.

3. Shall not be installed in such a manner that it interferes with, or might reasonably be expected to interfere with, vehicular or pedestrian traffic.

4. Shall not be installed within any dedicated right-of-way.

5. Shall only be located on property with the approval of the person or entity with authority to approve it.

6. Must be placed a minimum of five feet from any side property line.

7. All temporary signs shall be removed within seven days after they are no longer necessary for, or capable of, fulfilling their intended purpose.

8. For long-term temporary signs, all ground-mounted support posts shall be constructed of four-inch by four-inch pressure-treated posts with decorative post caps. All support posts and decorative post caps, and other supporting framework, shall be painted a uniform color.

9. A temporary sign that is not permanently affixed to the ground or to a permanent structure, or a sign that is mobile and can be moved to another location, shall be stabilized so as not to pose a danger to public safety. Prior to the sign being installed, the Building Department shall approve the method of stabilization.

10. On properties utilized as single-family residential:

a. Short-term temporary signs shall not exceed three square feet.

b. Long-term temporary signs shall not exceed six square feet.

c. Total square footage for all temporary signage shall not exceed nine square feet.

d. The length shall not exceed the width of the sign by more than a three-to-one ratio.

e. The height shall not exceed five feet from top to ground.

11. On properties that are not utilized as single-family residential:

a. Because non-residential uses are afforded a variety of unique options for expression of commercial and site-usage messages based on the inherent distinctions between residential and non-residential property uses, including but not limited to freestanding signage, wall signage, window signage, and identification signage, the city deems the societal interests in limiting the proliferation of blight and reducing driver distraction and vision obstructions to be paramount over the ability to communicate additional commercial messages through signage. Therefore, temporary signs relating to the commercial use of the property are not permitted unless approved as an integral but incidental part of a temporary use permit, the process for which is set forth elsewhere in the city's zoning ordinance. The term "commercial use of the property" means any activity on the site that is related to, or which promotes, the use(s) for which a certificate of occupancy has been granted by the city, or for which any use variance or special approval land use has been approved.

b. For all temporary signage not relating to the commercial use of the property:

(1) Short-term temporary signs shall not exceed 12 square feet.

(2) Long-term temporary signs shall not exceed 16 square feet.

(3) Total square footage for all temporary signage shall not exceed 40 square feet.

(4) The length shall not exceed the width of the sign by more than a six-to-one ratio.

(5) The height shall not exceed five feet from top to ground.

(6) No temporary signs are permitted until unused space on any building or monument sign is filled, unless an administrative modification is granted by the Administrative Review Board, or a variance is approved by the Zoning Board of Appeals. If a temporary sign is placed and thereafter 16 or more square feet of unused space on the existing monument sign becomes available, the temporary sign shall be removed within 60 days.

(7) Standards for an administrative modification from the Administrative Review Board:

(a) The property owner has less than 16 square feet of unused space on the existing monument sign available; or

(b) The property owner has less than 16 square feet of usable contiguous space on the existing monument sign available, even if there is more than 16 square feet of unused space on the existing monument sign.

(8) Standards for a variance requested from the Zoning Board of Appeals:

(a) The property owner demonstrates an unfair or undue hardship or practical difficulty in complying with one or more of the provisions of this subsection relating to temporary signs.

(b) The Zoning Board of Appeals may consider the additional factors set forth elsewhere in the zoning ordinance for granting a variance, but may relax or waive those considerations due to the temporary nature of the variance, which shall expire as proscribed by the Zoning Board of Appeals.

(c) The Zoning Board of Appeals may impose conditions deemed reasonable under the circumstances underlying the variance request in order to protect the character of the surrounding area, honor the spirit and intent of the zoning ordinance and the regulations governing signage, and do substantial justice to the applicant and nearby property owners.

(9) A property owner aggrieved by a decision of the Administrative Review Board may appeal that decision to the Zoning Board of Appeals, which shall determine whether there is competent, substantial, and material evidence to support the decision of the Administrative Review Board. The Zoning Board of Appeals may affirm, modify, or reverse the decision of the Administrative Review Board. The Zoning Board of Appeals may impose new conditions if it modifies the decision of the Administrative Review Board or grants approval of the property owner's request for relief.

12. A cold air balloon may be permitted in conjunction with a temporary use permit for a period not exceeding five days in any calendar year, provided that it is safely secured to the ground as determined by the Building Department.

13. Registration requirements. Every temporary sign in a non-residential zoning district or installed on any vacant parcel within the city shall be registered prior to installation. A permit is not required.

a. Any sign still installed after the expiration of its registration shall be subject to removal by the city.

b. Registration may be submitted through an online portal on the city's website or by using a form provided by the City Clerk.

c. The registration shall include the following information in order for the registration to be deemed effective:

(1) The address of the location for the temporary sign.

(2) A description of the sign (or image) with the sign's dimensions;

(3) The first and last name of the registrant;

(4) Whether the sign is a short-term or long-term temporary sign;

(5) If the registrant is not the owner or a person with authority over the use of the location, the name, telephone number or e-mail address for the individual who provided permission for installation of the sign;

(6) A mailing address, telephone number, and e-mail address for the registrant to which the City Clerk will provide confirmation of the registration or any deficiencies in the registration information; and

(7) A certification that the registrant has permission or authority from the property owner or person with authority over the property for installation of the sign.

d. If the registrant does not specify a start date for the sign to be displayed, registration of the sign shall be effective upon written confirmation by the city that all

information required by this subsection has been accurately provided.

e. No fee shall be charged for registering any temporary signs.

f. Registration of a short-term temporary sign is valid for 90 days. Registration of any long-term temporary sign is valid for one year. One renewal for an additional 90 days for short-term temporary signs and for an additional one year for long-term temporary signs shall be granted administratively upon written request so long as the sign remains in compliance with all other requirements of this section. No additional registrations for the same location shall be accepted by the city during any 12-month period, and if the sign pertains to an event, occurrence, or activity, no registration shall be accepted by the city more than 90 calendar days prior to said event, occurrence, or activity.

g. Any sign still installed after the expiration of its registration shall be subject to removal by the city.

h. When such signs exceed the quantity or size limitations on any parcel, those with a registration that became effective first in time shall have priority to remain in place.

i. A property owner may revoke, in writing, any sign registration for the owner's property at any time. Revocation shall be effective immediately upon verification by the city of the veracity of the written revocation. The city may immediately remove any signs for which revocation of a registration has become effective under this subsection.

j. These registration requirements do not apply to temporary signs authorized by the city in conjunction with a temporary use permit.

k. Registration of a temporary sign that is not otherwise permitted does not validate the installation of the sign and will not be deemed a defense to any removal or enforcement by the city.

14. Temporary signage not exceeding 100 square feet to be used in conjunction with a municipality-sponsored event shall not require review, registration, or permit.

15. All temporary signs shall be subject to removal by the city if the signs are placed within any right-of-way or have become dilapidated, damaged, dangerous, faded, or an attractive nuisance.

16. Signs removed by the city shall be held for ten days before disposal, and may be retrieved during that time by the owner or individual responsible for the sign upon payment of any administrative processing fee established by the city's annual appropriations ordinance.

a. Alternatively, the owner or individual responsible for the sign may appeal the city's determination regarding the improper condition of the sign to the Administrative Review Board. In such instance, the city shall retain the sign until the appeal is concluded, but need not retain the sign for any future appeal efforts if the appeal is denied by the Administrative Review Board. If the Administrative Review Board grants the appeal and deems the sign to be satisfactory, the administrative processing fee shall be waived and the sign shall be returned to the applicant within one business day, and may not be removed by the city again for a minimum of 14 days or for such other period of time deemed appropriate by the Administrative Review Board.

M. For uses other than residential in residential zoning districts (i.e. farming, agricultural, schools, churches, cemeteries, nursing homes, private clubs, fraternal organizations), there shall be allowed one wall sign with a maximum area of 32 square feet or one freestanding sign with a maximum area of 32 square feet and not exceeding seven feet in height.

N. The maximum size of wall signage in C-1, C-2, C-3, C-4, O-1, O-2, O-3, OR, TRO, PCD, M-1, and M-2 Districts (and on properties used for purposes that are only permitted in those districts) for buildings and for individual tenant spaces shall not exceed 10% of the total area of the structure frontage, including the area of all fenestration, and in no instance shall the sign area of all wall signage exceed 200 square feet. A wall sign may be located on the front, rear, or side facade of the building. Wall signs shall not extend above the top of a parapet wall or an eve line at the wall, whichever is higher.

1. A wall sign shall be installed only on the wall of the tenant space to which the sign pertains and shall be aesthetically and thematically compatible with the building, other wall signs, the overall development of the parcel, and nearby properties.

2. The structure frontage for calculating the permitted wall signage is the overall horizontal length of the outside structure wall of the establishment that fronts a public or private roadway and is then multiplied by the overall height of the walls of such structure. If the structure has more than one wall plane which runs parallel to the frontage road, the sum of all such wall planes may be calculated in determining overall structure frontage.

3. An identification sign shall be considered incidental, and one sign, not exceeding six square feet, may be installed by each tenant.

4. One additional wall sign relating to the commercial use of the property is permitted on those facades of a building that are not visible from a public way, subject to a maximum size limitation of 10% of the tenant space facade for each tenant, or 10% of the building facade, on which the wall sign is located.

O. Window signage is permitted but the maximum size of a window sign shall not exceed 25% of the total glass area of the facade it is located on, and in no instance shall a window sign exceed 150 square feet in area.

(Ord. No. 278-G, § 20, 9-18-90; Ord. No. 278-L, §§ 3-5, 6-2-92; Ord. No. 278-Q, § 13, 10-3-95; Ord. No. 278-R, §§ 16-19, 8-20-96; Ord. No. 278-T, §§ 14, 15, 6-3-97; Ord. No. 287-U, §§ 15-17; Ord. No. 278-X, §§ 21, 22, 4-6-99; Ord. No. 278-Y, § 42, 5-16-00; Ord. No. 278-Z, § 1, 11-8-00; Ord. No. 278-CC, §§ 15, 16, 17, 6-3-03; Ord. No. 278-HH, § 1, 2, 12-20-05; Ord. No. 278-JJ, §§ 9-12, 3-4-08; Ord. No. 278-LL, §§ 1-2, 7-1-08; Ord. No. 278-QQ, § 2, 2-16-10; Ord. No. 278-OO, § 14, 8-5-09; Ord. No. 278-RR, §§ 3, 8, 10-18-11; Ord. No. 278-TT, § 1, 4-16-13; Ord. No. 278-UU, § 1, 2, 4-16-13; Ord. No. 278-VV, §§ 1-13, 4-1-14; Ord. No. 278-xx, § 1, 7-19-16)

SECTION 28.14. TEMPORARY USES.

Temporary uses may be permitted to accommodate (i) businesses with a property interest in the site that request approval to promote a seasonal sale or special event on the site, or to allow non-profit, service, or charitable organizations to conduct a special activity on the business' site; (ii) non-profit, service, and charitable organizations conducting fundraising or promotional events and activities; and (iii) city and governmental agencies conducting fundraising or promotional events and activities. By way of example and not limitation, such events and activities might include tent sales, sidewalk sales, carnivals and fairs, Christmas tree sales, pumpkin sales, seasonal flower and plant sales, seasonal accessory agricultural sales (subject to Section 3.03 C), outdoor fundraising activities, blood drives, and other temporary uses designed to promote the principal business or to raise funds for a non-profit organization, or for the benefit of the city or governmental agency or the public.

A. A properly completed application shall be filed on a form specified by the city accompanied by a plot plan drawn to scale showing the proposed layout of the site along with the fee established by the City Council in the annual Appropriations Ordinance. The property owner shall provide a list of the temporary uses (and their duration) which have been approved or operated upon the site during the calendar year in which the use is proposed and any other temporary uses for which the applicant will seek approval during the remainder of such year.An application for approval of a temporary use shall not be processed or placed on an agenda for a public hearing, if a public hearing is required for approval under the Zoning Ordinance, if the site and/or building where the temporary use is proposed to be located is subject to any outstanding, unresolved Property Maintenance Code violation. Any outstanding Property Maintenance Code violation must be first resolved by correcting the violation or by having the applicant/property owner sign a written code compliance agreement with the City setting forth a written commitment by the applicant/property owner to bring the site and/or building into full compliance with all provisions of the Property Maintenance Code within a specific time period acceptable to the City Development Director.

B. The applicant must provide written verification of its property interest in the site, which at a minimum shall be a leasehold interest, land contract, or deed. If the applicant is not the owner of the site, the owner of the site shall be a co-applicant and shall also provide written verification of ownership. The application shall be signed by both the owner and the applicant. The applicant and the property owner shall be jointly responsible for conducting the temporary use or holding the event in compliance with the city's Zoning Ordinance, the City Code, all laws, rules, codes, and regulations deemed applicable by the city, and all conditions imposed as part of the approval.

C. The proposed use shall be compatible with and shall not conflict with principal activities conducted on the site or upon any adjacent site. No activity shall be conducted within the public right-of-way.

D. There shall be adequate parking provided (hard-surfaced if deemed appropriate by the City Manager) on the site consistent with the scope of the proposed use.

E. The proposed site shall be laid out so as to ensure safe vehicular and pedestrian circulation.

F. The hours of operation shall be limited to specified hours which are consistent with the nature of the use and compatible with other activities on the site and adjacent parcels.

G. The period of operation of the proposed temporary use shall be limited to dates specified in the application which shall not exceed six months and shall not exceed the time period determined by the City Planner to be reasonable considering the nature of the use. The City Planner shall use the time periods for similar uses approved by the Planning Commission as a guide for determining what time period is reasonable. The duration of all temporary uses approved and operated upon a site shall not exceed six months in a calendar year.

H. All sanitary service, electrical lines and all other operations shall comply with all applicable city codes, ordinances and regulations and any other applicable statutes, rules or regulations of any governmental body having jurisdiction over the activity and any permits required shall be obtained by the applicant. The proposed temporary use shall comply with any other applicable written standards established and promulgated by the city. The City Planner shall forward the application to various city departments, as deemed necessary, to determine compliance with the applicable city codes, regulations and standards. The public hearing before the Planning Commission shall not be completed until the Planning Commission has received reports and recommendations from the city departments enforcing such applicable codes, ordinances, regulations, and standards.

I. Any temporary structures shall be erected in a safe manner in accordance with applicable city codes, ordinances or standards. All tents used in conjunction with an approved temporary use shall be white.

J. The property shall be maintained in a neat and orderly condition and cleaned immediately after the close of each business day.

K. Final cleanup of the site shall be the joint responsibility of the applicant and the property owner and shall be assured by the posting of a cash deposit or irrevocable letter of credit in an amount determined by the City Planner to ensure performance of cleanup within 48 hours of termination of the temporary use.

L. Applicant shall provide proof of liability insurance in the amount set forth in written standards established by the city, appropriate for such use, with the city as an additional insured, along with a hold harmless agreement in favor of the City of Sterling Heights in a form satisfactory to the city.

M. Temporary signs may not be approved as a temporary use. Temporary signs may be permitted in conjunction with a temporary use approved by the Planning Commission or City Planner. Signage for the temporary use shall be limited to 32 square feet and shall be set back not less than 12 feet from the right-of-way and shall comply with the requirements of Section 28.13. The temporary signs shall be removed when approval for the temporary use has expired.

N. An application for a temporary use shall not be approved administratively if (i) there is any existing violation of the city's Zoning Ordinance, the City Code, or any laws, rules, codes, and regulations deemed applicable by the city on the proposed site, or (ii) there has been any past complaint for violation of any codes, conditions or restrictions with respect to the same temporary use most recently conducted upon the site which was not corrected prior to issuance of a citation.

O. The temporary use shall not be of such a scope, nature or size or shall not have any unusual or peculiar characteristics that necessitate special safety considerations, or sanitary considerations, require special crowd control measures or involve any hazardous or dangerous materials. Any temporary uses with such characteristics must be reviewed by the Planning Commission in accordance with the standards of section 25.03.

P. If the proposed use or any aspect thereof cannot meet all of the conditions determined to be applicable to the satisfaction of the City Planner, the use shall not receive administrative approval and shall be reviewed and considered for approval only by the Planning Commission in accordance with the following:

1. The Planning Commission shall determine that the proposed use is compatible with and does not conflict with the other activities conducted on the site and upon adjacent sites and is not detrimental to the health, safety and welfare of the city or its inhabitants;

2. All criteria and conditions set forth in Section28.14, Paragraphs A through O determined by the Planning Commission to be applicable to the proposed temporary use shall be satisfied prior to approval. The Planning Commission may modify the conditions imposed by this section, with the exception of compliance with all applicable laws, rules, codes, and regulations deemed applicable by the city where the authority to grant variances to such requirements lies within the jurisdiction of another board or commission. The Planning Commission shall impose reasonable conditions designed to ensure that the objectives of the Zoning Ordinance are satisfied before approving any temporary use;

In order to ensure that all of the conditions set forth in this Section are satisfied and that the objectives of Section28.14 are achieved, the Planning Commission may, in all cases, impose reasonable conditions related to the placement of buildings, structures and uses, parking, lighting, signage, regulation of noise, provision of sanitary facilities and security, hours of operation and any other matter which promotes the health, safety and welfare of the community as affected by such use. The conditions imposed shall meet standards set forth in Section 1.02 of the Zoning Ordinance.

(Ord. No. 278-T, §§ 16, 17, 6-3-97; Ord. No. 278-JJ, § 13, 3-4-08; Ord. No. 278-QQ, §§ 2-14, 2-16-10; Ord. No. 278-RR, § 4, 10-18-11; Ord. No. 278-YY, § 13, 10-4-16)

SECTION 28.15. VOTING PLACE.

The provisions of this ordinance 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.

SECTION 28.16. ACCESS ACROSS RESIDENTIAL PROPERTY.

Ingress and egress to a parking lot, loading area or to a use other than residential shall not be permitted across or upon land zoned as residential.

SECTION 28.17. PUBLIC PARK-AND-RIDE AREAS.

Public park-and-ride areas may be permitted by the Planning Commission, subject to the general standards of section25.02 and the following standards.

A. A sufficient number of parking spaces in excess of the required number for any principal use shall be provided in order to accommodate the vehicles of the users of public transportation or car/van pooling. In making the determination of the number of spaces necessary to accommodate the park-and-ride use, the Planning Commission may take into consideration the hours of operation of the principal use and the park-and-ride users.

B. The park-and-ride area shall be hard-surfaced and shall be maintained in good usable condition.

C. The park-and-ride area shall be identified by appropriate signage.

D. Park-and-ride areas shall be approved only if they will facilitate use of public transportation, car/van pooling, are conveniently and appropriately located and will not cause undue traffic congestion to the adjacent areas.

E. Ingress/egress is from a public thoroughfare with a right-of-way of 120 feet or greater.

F. Minor screening provisions are required where park-and-ride abuts residential.

G. All parking lot lighting must be directed to the site only and not to exceed 15 feet in height within 75 feet of any residential area.

(Ord. No. 278-F, § 16, 8-8-90)

SECTION 28.18. WIRELESS COMMUNICATION TOWERS, ANTENNAS AND RELATED FACILITIES.

Wireless communication towers, antennas and related facilities and others similar to those cited in this section may be permitted by the Planning Commission, subject to the general standards of section 25.02 and the specific standards set forth below.

A. *Design.*

1. All communication towers, antennas and related facilities and others similar to those cited in this section shall be designed, constructed and maintained to minimize their visual impact to the greatest extent possible, considering technological requirements, by means of tower placement and use of compatible architectural elements, building materials, screening, camouflage, landscaping and other site characteristics.

2. All towers shall be of monopole design. No lattice type towers may be permitted. Towers shall be equipped with anti-climbing devices. The Planning

Commission may require a tower site to be surrounded by a six foot chain-link fence to provide further security.

3. No tower lighting shall be permitted unless required by state or federal agencies.

4. No advertising shall be permitted on any tower or related facility.

5. A 12 foot access road constructed of materials approved by the Planning Commission shall be provided and maintained in good condition to provide access for service and emergency vehicles.

B. *Colors and materials.* The colors and materials of communication towers and related facilities shall be selected to minimize their visual impact on neighboring properties.

C. *Site location criteria.*

1. Wireless communications towers, antennas and related facilities shall meet the area, bulk and setback requirements of the zoning district in which they are located, except as otherwise provided in this subsection. The tower shall be set back: (a) from any residential use or proposed or existing right-of-way a distance not less than the height of the tower; and (b) from any nonresidential use or district a distance not less than that required to meet the minimum yard requirements for a principal building located on the site as provided in the area, height, and bulk requirements of that zoning district.

2. The communications tower and all related facilities shall be landscaped to minimize the visual impact from neighboring property. No tower shall be located within 1,500 feet of an existing wireless communication tower without a variance from the Zoning Board of Appeals.

3. A tower may be located on property zoned for one family residential use only if the property is: (a) developed as a publicly owned or operated facility, including municipal facility, park, fire or police station; a college, university or school; a golf course or other private open air recreational use; a private club, fraternal organization or cultural center; or a full or limited assisted housing development; or (b) characterized by large areas of flood plain or wetland property; provided in all cases the site shall contain at least two acres of land.

D. *Co-location requirements.*

1. To encourage co-location, a new or additional wireless cellular or PCS antennas shall be permitted to be installed on any existing building, structure or tower to which a wireless antenna is attached without special approval land use, provided satisfactory evidence is provided to the City Planner and City Engineer to demonstrate that such co-location is structurally and technically sound.

2. An application to erect a new tower shall include the following information, with such other information deemed necessary by the City Planner:

a. The names, addresses and telephone numbers of all owners of other towers or usable antenna support structures within one-half mile of the proposed site, including city-owned property;

b. A five year plan and site inventory, including a list of all existing and proposed antenna towers within the city and within one mile of the city and a map showing propagation areas of those towers;

c. An affidavit attesting to the fact that the applicant made diligent efforts to obtain permission to install or co-locate the towers on existing usable antenna support structures within one-half mile of the proposed tower site.

E. *Height limitation.*

1. No height variance shall be required for a wireless communication tower not exceeding 120 feet in height if approved as a special approval land use by the Planning Commission.

2. No height variance shall be required for a similarly approved tower not exceeding 200 feet which is designed, engineered and constructed to accommodate two or more wireless cellular or PCS antennas. The owner or operator shall submit manufacturer’s specifications which support the structural feasibility of such co-location.

F. *Discontinuance of use of tower and removal.* The owner or operator shall notify the city in writing of its intent to discontinue use of a tower 30 days prior to the time when such discontinuance is intended to occur. The owner or operator of a tower shall remove all improvements, including foundations, within six months of discontinuance of use, unless the owner or operator obtains an extension of this time period from the Planning Commission based upon good cause. The city may require the owner or operator of a tower to post security in a form acceptable to the city to ensure the timely removal of the tower.

G. *Landscaping.* Sites shall be designed to utilize existing landscaping on the site as screening, including trees, foliage and shrubs. The Planning Commission may require the installation and maintenance of additional landscaping to provide denser screening to minimize visual impact upon nearby properties.

H. *Additional conditions of approval.* The Planning Commission may impose additional conditions in order to ensure that the requirements of this section and of section 25.02 are satisfied and maintained.

(Ord. No. 278-Y, § 43, 5-16-00; Ord. No. 278-EE, § 8, 10-5-04; Ord. No. 278-NN, § 34, 1-6-09)

SECTION 28.19. OUTDOOR PATIO SERVICE ("OPS").

A. An outdoor patio space, or "OPS," that is an accessory use to a lawful principal use is permitted for all cafes, clubs, halls, liquor-controlled establishments, and food service establishments for purposes of offering an outdoor space for patrons to congregate for a variety of purposes, such as dining, drinking, and/or enjoying some form of entertainment, subject to the following conditions:

1. In addition to the parking spaces required for the principal use, sufficient parking must be provided to accommodate the OPS, with such parking calculated on the same basis as that of the principal use.

2. An OPS may not be located on a sidewalk unless a minimum clearance width of at least five feet, or such greater width as required by the state barrier free design law, is maintained between the outdoor seating area and the edge of the sidewalk and any other barriers, structures, or objects.

3. For any OPS proposed as part of a new development, redevelopment, or as an addition to an existing development, the City Planner may require the installation of additional landscaping, screening, or other devices or materials designed to deaden noise, light, and/or other impacts that are anticipated to extend beyond the property line of the site and/or to provide separation from abutting parking and maneuvering areas or other areas incompatible with an OPS use.

B. If Planning Commission review of nuisance mitigation is required pursuant to the city's licensing requirements for a new or existing OPS, the following standards shall apply:

1. A nuisance mitigation plan, including but not limited to all plans to mitigate and eliminate any nuisances or disturbances caused by noise, vibration, litter, congregation, excessive lighting, or vehicular traffic, shall be reviewed by the Planning Commission.

2. Approval of the nuisance mitigation plan may include conditions beyond those that are otherwise required by the city's licensing requirements and/or stricter than those that are otherwise required by any law, ordinance, or code, including but not limited to reduced occupancy limits, increased separation from incompatible uses, specific dates/hours of operation, and additional noise mitigation requirements.

3. Conditions imposed by the Planning Commission when approving a nuisance mitigation plan shall be based on the location of the OPS site, the construction and design of the OPS, the surrounding land uses and conditions, the size of the OPS, the intended use, proposed hours of operation, and any other factors deemed by the Planning Commission to be relevant to preserving the public health, safety, and welfare.

4. Amplified sound, video displays (such as televisions), and the use of musical instruments are not permitted unless specifically included in the Planning Commission's approved noise mitigation plan, which if included shall address but not be limited to type, times, numbers, and levels (if applicable).

5. Any two violations of any requirements of an approved nuisance mitigation plan within any 12-month period shall cause the City Planner to review the OPS approval for potential suspension or revocation. In the event that the violations are not remedied, or cannot be remedied, to the satisfaction of the City Planner, the matter shall be submitted to the Planning Commission for consideration of a modification, suspension, or revocation of the nuisance mitigation plan.

6. A third violation of an approved nuisance mitigation plan within any consecutive 12-month period shall result in an automatic suspension of the right to utilize

the OPS until the owner and/or operator of the OPS petitions the Planning Commission for a review of the conditions of the OPS approval. Operation of an OPS while a nuisance mitigation plan is suspended shall result in the issuance of a municipal civil infraction citation punishable by a fine of $500. A second or subsequent violation shall be deemed a misdemeanor, punishable as provided in Chapter 1 of the city code. Any and all entities, owners, managers, and/or operators may be issued a citation if deemed to be jointly responsible for allowing or not stopping the operation of the OPS while the nuisance mitigation plan is suspended.

(Ord. No. 278-ZZ, § 2, 12-20-16)

SECTION 28.20. NOTICES.

Whenever the Michigan Zoning Enabling Act or this ordinance requires a public hearing, including but not limited to applications for rezoning, special approval land uses, planned center developments, special development options, variances, administrative appeals, temporary use approvals, interpretations, or modifications of the Zoning Ordinance, public notice shall be given in accordance with the following requirements:

A. *Responsibility.* The Office of Planning shall prepare a notice meeting the requirements of this Section and have it published in a newspaper of general circulation in the city and mail or deliver it to individuals entitled to notice not less than 15 days before the date of the hearing at which the request will be considered.

B. *Content.* All notices of public hearings which are published, mailed or delivered notices shall contain the following:

1. *Nature of request.* Identify the nature of the request (request for rezoning, text amendment, special approval land use, planned unit development, planned center development, special development option, variance, administration, appeal, ordinance interpretation or other purpose).

2. *Location of request.* Identify the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used in the notice, such as tax parcel identification numbers, identifying the nearest cross streets, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

3. *Public hearing information.* Indicate when and where the request will be considered, including the date, time and place of the public hearing(s) and that the public may appear at the public hearing in person or by counsel.

4. *Written comments.* Indicate when and where written comments will be received concerning the request.

5. *Handicap access.* Provide information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

C. *Personal and mailed notice.*

1. *General.* When the provisions of this ordinance or state law requires that notice of the public hearing be personally delivered or mailed, such notice shall be given to:

a. The owner(s) of the property that is the subject of the request, and the applicant, if different than the owner(s) of the property.

b. All persons to whom real property is assessed within 300 feet of the boundary of the property which is the subject of the request, regardless of whether the property or occupant is located within the jurisdiction of the City of Sterling Heights, unless the request relates to

1. A rezoning request involving 11 or more adjacent properties; or

2. An ordinance interpretation that does not relate to a specific property. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to Section 28.20E.

2. *Notice by mail/affidavit.* Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Office of Planning shall prepare a list of property owners and registrants to whom notice was mailed, as well as of any individuals to whom personal notice was delivered.

D. *Timing of notice.* Unless otherwise provided in the Michigan Zoning Enabling Act, notice of a public hearing by publication and personal notice shall be provided with respect to an application for rezoning, text amendment, special approval land use, special development option, planned unit development, planned center development, administrative appeal, site plan and temporary land use approval reviews (when review is by the Planning Commission), or ordinance interpretation relating to specific property not less than 15 days before the date of the hearing at which the request will be considered.

E. *Registration to receive notice by mail.*

1. *General.* Any neighborhood organization, public utility company, railroad or any other person may register with the City Clerk to receive written notice of all public hearing requests to be held under the Zoning Ordinance is provided in Section 28.20 , personal and mailed notice, or written notice of all applications for development approval within the zoning district in which they are located. The City Clerk shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.

2. *Requirements.* The requesting party must provide the City Clerk information on an official form to insure notification can be made. All registered persons must re-register biennially to continue to receive notification pursuant to this Section.

(Ord. No. 278-NN, § 21, 1-6-09; Ord. No. 278-ZZ, § 1, 12-20-16)

ARTICLE 29. ADMINISTRATION AND ENFORCEMENT

SECTION 29.00. RESPONSIBILITY FOR ADMINISTRATION.

Except where otherwise stated in this ordinance, the provisions of this ordinance shall be administered and enforced by the Building Official of the City of Sterling Heights, his or her deputies, or such other person as may be designated by the City Manager. The City Manager may establish other regulations which apply to satellite dishes and similar equipment by providing them in a document to be made readily available to antenna users. Such regulations shall not be more burdensome to affected antenna users than is necessary to accomplish a clearly defined and stated safety objective.

(Ord. No. 278-U, § 18, 1-6-98; Ord. No. 278-OO, § 15, 8-5-09)

SECTION 29.01. DUTIES AND LIMITATIONS OF THE BUILDING OFFICIAL.

A. The Building Official shall have the power to grant zoning compliance permits and certificates of occupancy or use and to make inspections of buildings or premises necessary to carry out his or her duties in the enforcement of this ordinance.

B. The Building Official shall have the plans, specifications and other material submitted with each application for a building and/or zoning compliance permit reviewed by the appropriate city departments. The Building Official shall not issue any building and/or zoning compliance permit until such plans and specifications have been reviewed in detail and found to conform with this ordinance.

C. Issuance of a zoning compliance or building permit shall in no case be construed as waiving any provision of this ordinance.

D. The Building Official under no circumstances is permitted to grant exceptions to the actual meaning of any clause, order or regulation nor to make changes or to vary the terms of this ordinance.

E. Deed restrictions, covenants or private agreements have no basis for approval or denial of a building and/or zoning compliance permit.

F. If any application for a permit is not approved, the Building Official shall state in writing the cause for such disapproval.

G. If the Building Official shall find that any provisions of this ordinance is being violated, he or she shall notify the person responsible for such violation and/or the owner of record of the lot upon which such violation is taking place. The notice shall include the nature of violation and the applicable section of the ordinances. He or she shall order discontinuance of the illegal use of any lots or structures; or if illegal additions, alterations or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance or City Code to ensure compliance with, or to prevent violation of, its provisions.

(Ord. No. 278-OO, § 16, 8-5-09)

Editor's note:

Ord. No. 278-A, §48, adopted April 17, 1990, amended the zoning ordinance by changing all references to "zoning official" or "chief zoning official" to refer to the "code enforcement officer." The aforesaid changes shall be made as the ordinance is amended.

SECTION 29.02. PERMITS REQUIRED.

A. A building permit shall be required for all construction, alterations, demolition or other changes as regulated by the Building Code of the City of Sterling Heights. In addition, a zoning compliance permit shall be required whenever the proposed use or change is affected by, or regulated by, a provision of the zoning ordinance.

B. A zoning compliance permit shall be required to establish a principal or accessory use upon a lot; to change one principal use to another principal use upon a lot; to institute a new principal or accessory use upon a lot; to extend a principal use to additional land; to construct, enlarge or structurally alter any sign; or in any other instance where zoning ordinance compliance is required.

C. Every application for a permit for excavation, construction, moving, alteration or change in type of use or type of occupancy shall be accompanied by a written statement and/or plans and specifications, including a plot plan and/or site plan showing the following items in sufficient detail to enable the Building Official to ascertain whether the proposed work or use conforms with the provisions of this ordinance and the approved site plan:

1. The actual shape, location and dimensions of the lot or parcel and data to locate the lot or parcel on the ground;

2. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot;

3. A detailed description of the existing and proposed principal and accessory uses of the lot and of all such structures upon it, including, in residential areas, the proposed number and size of dwelling units;

4. For any development other than single or two family residential, the location of all existing and proposed service drives, parking areas, exits and entrances, walls, greenbelts, fences, swimming pools and other features of the plan for site development;

5. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being met.

D. In all cases where a building permit is required, application for a zoning compliance permit shall be made coincidentally with the application for a building permit; in all other cases, it shall be made prior to the date when a new, changed or enlarged principal or accessory use of a building or premises, or part thereof, is intended to begin.

E. A building or zoning compliance permit for any proposed work shall be deemed to have been abandoned six months after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that the Building Official shall grant one or more extensions of time for additional periods not exceeding 90 days each if there is reasonable cause. Any permit issued shall become invalid if the authorized work is not commenced within six months after issuance of a permit or if the authorized work is suspended or abandoned for a period of six months after the time of commencing the work.

F. The Building Official shall review all plans and permits for conformance with the Michigan Building Code and the City Zoning Ordinance. Where a site plan has been required, the Building Official shall review the building permit request and construction plans for conformance to the approved site plan. Building permits issued on the basis of plans and applications approved by the Building Official authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction.

G. It shall be unlawful to commence the excavation for the construction of any building or other structure, including an accessory building, or to commence the moving, structural alteration or repair of any structure, including an accessory building, until the Building Official has issued for such work a building and zoning compliance permit.

H. It shall be unlawful to establish a principal or accessory use upon a lot, change the type of principal or accessory use of a lot or building, change the type of use upon a lot or the type of occupancy of any building, or to extend any principal or accessory use on any lot, until the Building Official has issued a permit for such proposed use. A zoning compliance permit shall authorize and permit only the principal and accessory uses and occupancy of buildings specifically set forth in the application for a zoning compliance permit and all other principal uses or accessory uses conducted upon the premises shall be unlawful. The Building Official may return an application for zoning compliance permit as incomplete if the applicant does not describe in detail the principal and accessory uses the applicant intends to conduct on the lot or within building(s) located in the lot.

I. The Building Official shall maintain a record of all certificates of zoning compliance and occupancy.

(Ord. 278-OO, § 17, 8-5-09)

SECTION 29.03. CERTIFICATES OF OCCUPANCY.

A. No building, structure or lot for which a building or zoning compliance permit has been issued shall be used or occupied until the Building Official has, after final inspection and approval, issued a certificate of occupancy indicating compliance has been made with all the provisions of this section. However, the issuance of a certificate of occupancy shall in no case be construed as waiving any provision of this section.

B. No establishment of a principal or accessory use, change of principal or accessory use or addition of a new principal or accessory use shall be made in any building, premises or land, or part thereof, now or hereafter erected, altered or used, that does not comply with the provisions of this ordinance; and no such change of use or occupancy shall be made without the issuance of a certificate of occupancy and compliance for such new use.

C. All site improvements which are included on an approved site plan, or which are otherwise required by this ordinance, shall be constructed, installed or placed on the property by the property owner or his or her designate and shall be approved by the appropriate department by the time a final certificate of occupancy is issued.

D. A temporary certificate of occupancy may be issued by the Building Official for a period not exceeding six months, provided that such temporary certificate may include such conditions and safeguards as will protect the safety and health of the occupants and the public. The temporary certificate shall note the items which have not received approval. The Building Official may require a performance guarantee, or similar security as regulated by section 29.04, be posted to assure completion of the improvement as approved.

E. A record of all certificates and permits issued (including the specifically approved principal and accessory uses of lots and occupancy of buildings) shall be kept on file in the office of the Building Official.

(Ord. No. 278-OO, § 18, 8-5-09)

SECTION 29.04. PERFORMANCE GUARANTEE.

To ensure compliance with the zoning ordinance and any condition imposed thereunder, the city may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the city, covering the estimated cost of improvements associated with a project for which site plan approval is sought, be deposited with the Clerk of the city to ensure faithful completion of the improvements.

A. The performance guarantee shall be deposited at the time of the issuance of the building permit authorizing the activity or project. The city shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses.

B. This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit or surety bond has been deposited pursuant to Public Act 288 of 1967, as amended.

C. As used in this section, ***IMPROVEMENTS*** means those features and actions associated with a project which are considered necessary by the body or official granting approval to protect natural resources or the health, safety and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, landscaping and drainage.

SECTION 29.05. LANDSCAPING AND SITE IMPROVEMENTS; RESUMPTION AND RESTORATION.

It is the intent of the city to improve the aesthetics and environmental quality of the city by requiring commercial and industrial properties with required landscaping or other exterior site improvements (such as roads, drives, parking areas, utilities, retention areas, walls, fences, open space areas, etc.) that have deteriorated over time due to a lack of care, maintenance, repair, or replacement to be brought into compliance with the current standards of the Zoning Ordinance.

A. *Landscaping.*

1. Landscaping that is not in compliance with the provisions of the Zoning Ordinance shall be allowed to continue so long as it otherwise remains lawful and is properly maintained.

a. However, such landscaping shall not be extended, replaced, or moved except in a manner that complies with the terms of this Zoning Ordinance.

2. When existing landscaping on a site dies, becomes diseased, becomes overgrown, or is missing from the site despite being required in an approved landscape plan or site plan for the site, the dead, diseased, overgrown, or missing landscaping shall be replaced with landscaping that meets the current requirements of the Zoning Ordinance.

3. A property owner shall bring the landscaping on a site into compliance with all current Zoning Ordinance requirements in any of the following circumstances:

a. Whenever a property owner proposes to do site modifications that require a new site plan approval or replacement work relating to landscaping that requires a new landscape plan approval;

b. Whenever a property owner changes the use of the property or building;

c. Whenever a property owner undertakes improvements relating to a parking lot and/or paving, except that routine maintenance of a parking lot and/or paving shall not cause application of this provision unless the structural integrity of the parking lot or paving has deteriorated to the extent that it must be replaced rather than repaired;

d. Whenever the property is approved for expansion of a non-conforming use or structure; or

e. Whenever the property is approved for a map amendment to the zoning map or a conditional rezoning agreement.

B. *Site improvements.*

1. Site improvements that are not in compliance with the provisions of the Zoning Ordinance shall be allowed to continue so long as they otherwise remain lawful and are properly maintained.

a. However, such site improvements shall not be extended, replaced, altered, moved, constructed, or reconstructed except in a manner that complies with the terms of this Zoning Ordinance.

2. If an existing site improvement has deteriorated and/or has been destroyed, removed, or unlawfully modified to the extent that it is no longer in compliance with the Zoning Ordinance standards applicable at the time the site improvement was approved, the site improvement shall not be permitted to be resumed or restored to non-compliant standards but shall be brought into compliance with the current standards of the Zoning Ordinance, except that routine maintenance of a site improvement shall not cause application of this provision unless the structural integrity of the site improvement has deteriorated to the extent that it must be replaced rather than repaired.

3. A property owner shall bring the site improvements on the site into compliance with all current Zoning Ordinance requirements in any of the following circumstances:

a. Whenever a property owner proposes to do site work or work on any site improvement which requires a permit or city approval;

b. Whenever a property owner changes the use of the property or building;

c. Whenever the property is approved for expansion of a non-conforming use or structure; or

d. Whenever the property is approved for a zoning map change or conditional zoning agreement.

C. *Phasing of work for compliance.*

1. The City Planner may allow a property owner who is required to bring landscaping or site improvements into compliance with the current requirements of this Zoning Ordinance pursuant to this section to do so over a period of time, provided the property owner executes and delivers to the city a Landscaping Upgrade Agreement or Site Improvement Agreement, as the case may be, in recordable form prepared by the city setting forth the property owner's commitments and obligations to install such landscaping or site improvements.

2. In implementing this phased compliance, the City Planner is authorized to allow a property owner a period of up to three years depending on the nature, scope, and cost of the estimated work to bring the landscaping or site improvements into compliance with current Zoning Ordinance requirements. The phasing period shall require continuous, regular progress with respect to bringing the landscaping or site improvements into compliance with current Zoning Ordinance requirements.

3. Notwithstanding any other provision to the contrary contained in this section, a property owner shall not cause any condition or allow any condition to exist on its property which creates a hazard to the health, safety, or welfare of the public or anyone on the property.

D. *Zoning Board of Appeals authority.*

1. A property owner aggrieved by an administrative determination made relating to Section29.05 may file an administrative appeal to the Zoning Board of Appeals in accordance with the provisions of Section 30.02 Paragraph B.1. of the Zoning Ordinance.

2. A property owner may seek a modification from the Zoning Board of Appeals of the requirements of Section29.05 as applied to its property in accordance with the provisions of Section 30.02 Paragraph C.4. of the Zoning Ordinance.

E. *Process.*

1. A written notice of violation shall be delivered to a property owner that fails to bring any landscaping and/or site improvement into compliance as required by this section.

2. Until July 1, 2017, the property owner may restore the landscaping and/or site improvement in a manner that complies with the requirements applicable to the property prior to the issuance of the notice of violation.

3. Effective July 1, 2017, if the property has been determined by the city to be substantially and materially out of compliance with its approved site plan, landscape plan, and/or the ordinance standards applicable to site improvements and/or landscaping on the property, the notice shall require the property owner to submit a new or updated landscaping plan and/or site plan to the City Planner which shall incorporate the current requirements of the Zoning Ordinance.

4. Failure to comply with these requirements shall subject the property owner to the remedial and enforcement provisions set forth elsewhere in the Zoning Ordinance and in Section 11-141 of the City Code.

(Ord. No. 278-YY, § 12, 10-4-16)

ARTICLE 30. Zoning Board of Appeals

SECTION 30.00. CREATION AND MEMBERSHIP.

A. Zoning Board of Appeals which shall perform its duties and exercise its powers as provided in Public Act 207 of 1921, as amended, and in such a way that the objectives of this ordinance shall be observed, public safety secured and substantial justice done. The Zoning Board of Appeals shall consist of seven regular members, each to be appointed for a term of three years, expiring on June 30 in the year of expiration. All vacancies for unexpired terms shall be filled for the remainder of the term. The compensation for members of the Board shall be established by City Council. There is hereby established a Zoning Board of Appeals which shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended, and in such a way that the objectives of this ordinance shall be observed, public safety secured and substantial justice done. The Zoning Board of Appeals shall consist of seven regular members, each to be appointed by a majority of the City Council members serving. All members of the Zoning Board of Appeals shall be selected from the electors of the City and shall be representative of the population distribution and of the various interests in the City. One member of the Board may be a member of the Planning Commission, with the remaining members selected from the electors of the City. Appointments shall be for a three year term expiring on June 30 in the year of expiration, except for appointments to fill vacancies or appointments of the member of the Board who is also a member of the Planning Commission. All vacancies for unexpired terms shall be filled for the remainder of the term in the same manner as the original appointment. The term of the member of the Board who is also a member of the Planning Commission shall be limited to the time he or she is a member of the Planning Commission. Appointments shall be made not more than one month after the term of the preceding member has expired. The City Council may also appoint to the Zoning Board of Appeals not more than two alternate members for the same term as regular members who may be called to serve in the absence of a regular member or for the purpose of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. The alternate member shall serve in accordance with the provisions of applicable law. The compensation for members of the Board shall be established by City Council, and members may be reimbursed for expenses actually incurred in the discharge of their duties.

B. The City Council may also appoint positions for up to two alternate members to serve on the Zoning Board of Appeals for the same terms as regular members. The alternate members shall be called on a rotating basis to sit as regular members of the Board in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. Once an alternate has been called to serve in a particular case, he or she shall continue to participate in that case until a decision has been rendered.

C. Members of the Zoning Board of Appeals shall be removed by the City Council for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which he or she has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

D. A member of the Zoning Board of Appeals who is also a member of the Planning Commission or City Council shall not participate in a public hearing or vote on the same matter that the member voted on as a member of the Planning Commission or City Council. However, the member may consider and vote on other unrelated matters involving the same property.

(Ord. No. 278-Q, § 14, 10-5-95; Ord. No. 278-NN, §§ 22 - 24, 34, 1-6-09)

SECTION 30.01. PROCEEDINGS OF THE BOARD.

A. The Zoning Board of Appeals shall establish rules and procedures in accordance with the provisions of this ordinance and the applicable state law.

B. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson or the Board in accordance with their adapted procedures and at such other times as the Board shall determine or specify in its rules of procedure. All meetings, including hearings, conducted by the Board shall be open to the public, except those authorized to be conducted in closed sessions pursuant to the Open Meetings Act, Public Act 267 of 1976. The public shall be afforded an opportunity to speak at any public hearing in accordance with the rules of procedure and by-laws of the Board. The Board shall not conduct business unless a majority of its members are present.

C. If the Zoning Board of Appeals receives a written request for a variance, interpretation of the Zoning Ordinance, or an appeal of an administrative decision, the Zoning Board of Appeals shall conduct a public hearing on the request. Notice shall be given in accordance with Section 28.20. If the request does not involve a specific parcel of property, notice need only be published as set forth in Section 28.20 A and given to the person making the request as set forth in Section 28.20 C 1 a.

(Ord. No. 278-NN, §§ 25, 34, 1-6-09)

SECTION 30.02. POWERS OF THE BOARD.

The Zoning Board of Appeals shall have all powers and duties granted by state law and by this ordinance to such boards, including the following specific powers:

A. *Ordinance interpretations.*

1. Interpret the ordinance test and map and all matters relating thereto whenever a question arises in the administration of this ordinance as to the meaning and intent of any provision or part of this ordinance. Any text interpretation shall be narrow and in a manner as to carry out the intent and purpose of this ordinance. Interpretations shall not have the effect of amending the ordinance.

2. Map interpretations should be based on the rules of the ordinance (Article 2) and any relevant historical information.

B. *Appeals of administrative decisions.*

1. To hear and decide appeals where it is alleged by the appellant that there is error in any order, interpretation, requirement, permit, decision or refusal made by the Zoning Official in enforcing any provision of this ordinance.

C. *Modification and variance of ordinance requirements.*

1. To hear and decide on all matters referred to it or upon which it is required to pass under this ordinance.

2. Permit such modification of the height, placement and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape or so located with relation to surrounding development or physical characteristics that it cannot otherwise be appropriately improved without such modification.

3. Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modifications will not be inconsistent with the purpose and intent of such requirement.

4. Modify the environmental provisions of Article 24, including walls, buffering, screening or landscaping, provided the spirit and intent of Article 24 is upheld.

5. Modify the requirements under section 28.00, subparagraph H, if the Zoning Board of Appeals finds that the intended function of the antenna would be adversely affected, in some significant way, if the antenna had to be constructed in accordance with the other provisions of that section, or the variance is necessary to harmonize the city's ordinances and federal laws, rules or regulations. A variance under this section does not require a showing of hardship or practical difficulty.

6. To grant variances to the provisions of this ordinance where there are practical difficulties or unnecessary hardships within the meaning of state law and this article in the way of carrying out the strict letter from this ordinance so that the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done in accordance with the applicable standards set forth below. In the consideration of all appeals and proposed variances to this ordinance, the Zoning Board of Appeals shall, before granting any variance in a specific case, first determine that the proposed variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety or unreasonably diminish or impair established property values within the surrounding area or in any other respect, impair the public health, safety, comfort, morals or welfare of the city's inhabitants.

a. Standards for Approval of a Non-Use Variance. The Zoning Board of Appeals may grant a non-use variance to provide relief from a specific standard in this ordinance relating to an area, dimension or construction requirement or limitation upon the concurring vote of a majority of the members of the Zoning Board of Appeals. A non-use variance shall not be granted unless the Zoning Board of Appeals finds that there is a practical difficulty in the way of carrying out the strict letter of this ordinance. In determining whether a practical difficulty exists, the Zoning Board of Appeals must find that:

(i) Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome;

(ii) The grant of a variance will do substantial justice to the applicant as well as to other property owners in the district and a lesser variance will not give

substantial relief to the applicant as well as be more consistent with justice to others property owners in the zoning district;

(iii) The plight of the applicant is due to unique circumstances of the property;

(iv) The problem is not self-created;

(v) The spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done; and

(vi) There is compliance with the standards for discretionary decisions as contained in paragraph D below.

b. Standards Applicable to Use Variances. The Zoning Board of Appeals may grant a use variance to authorize a land use which is not, otherwise, permitted by this ordinance in the district where the property is located upon the concurring vote of five members of the Zoning Board of Appeals. An application for use variance shall not be submitted or considered unless the applicant has (i) received a written determination from the Office of Planning and Zoning that the proposed land use is not permitted under this ordinance in the district where the property is located, or (ii) received a final decision from the City Council denying a rezoning of the property to a zoning district where the proposed land use would be permitted under this ordinance. A use variance shall not be granted unless the Zoning Board of Appeals finds on the basis of substantial, competent and material evidence presented by the applicant, that there is an unnecessary hardship in the way of carrying out the strict letter of this ordinance. In determining whether an unnecessary hardship exists, the Zoning Board of Appeals must find that:

(i) The property in question cannot be reasonably used or cannot yield a reasonable return on a prudent investment if the property were to be used only for a purpose allowed in the zoning district where the property is located;

(ii) The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions;

(iii) The use to be authorized by the variance will not alter the essential character of the area and locality;

(iv) The problem is not self-created;

(v) The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done; and

(vi) There is compliance with the standards for discretionary decisions as contained in paragraph D below.

c. An application for approval of a variance shall not be processed or placed on an agenda for a public hearing, if a public hearing is required for approval under the Zoning Ordinance, if the site and/or building for which the variance is sought is subject to any outstanding, unresolved Property Maintenance Code violation. Any outstanding Property Maintenance Code violation must be first resolved by correcting the violation or by having the applicant/property owner sign a written code compliance agreement with the City setting forth a written commitment by the applicant/property owner to bring the site and/or building into full compliance with all provisions of the Property Maintenance Code within a specific time period acceptable to the City Development Director.

D. *Discretionary Standards.* For decisions of the Zoning Board of Appeals referred to in paragraphs a and b above, and in all other instances in this ordinance where discretionary decisions must be made by a board, commission or official, the requirements and standards as particularly set forth in this ordinance, concerning the matter for a decision shall be followed and such discretionary decision shall also be based upon the findings that the building structure or use which is the subject of the approval will, when approved:

1. Promote the intent and purpose of this ordinance;

2. Be designed, constructed, operated, maintained and managed so as to be compatible, harmonious and appropriate in appearance and in operation with the existing or planned character of the general vicinity, adjacent uses of land, the natural environment, the capacity of public services and facilities affected by the building structure or land use, and the community as a whole;

3. Be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainageways, refuse disposal or that the persons or agencies responsible for the establishment of the building structure, land use or activity shall be able to provide adequately any such service sufficiently;

4. Not be detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property or the public welfare; and

5. Not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

E. *Time limitations.* If the Zoning Board of Appeals approves a variance, the variance shall remain in effect only so long as the facts and circumstances as presented to the Zoning Board of Appeals and upon which the variance was granted continue to exist and that the conditions attached to the approval are satisfied and maintained. The variance shall lapse unless application for a required special land use, building permit, site plan approval, zoning compliance or other required permits, which utilize the variance is made and received by the city not later than one year of the date written notice of the Board's decision is sent to or delivered to the petitioner, or the date the minutes of the Board are approved relating to the Board's final decision on the variance request, whichever occurs first, unless the Board establishes a different time period, or unless an extension is granted as authorized by this paragraph. If a written request for a time extension based upon good cause is received prior to the expiration of the specified time period, the Office of Planning and Zoning may grant an extension under such terms and conditions and for such period of time not exceeding six months as it shall determine to be necessary and appropriate. If the variance has lapsed and the petitioner desires to proceed using the benefit conferred by the variance, the petitioner must reapply for the variance and demonstrate that all of the requirements for approval of a variance have been met, based upon the facts and circumstances in existence at the time the new request is submitted. The Board shall have the right to deny a variance if the facts and circumstances pertaining to the request have changed, if the petitioner is not willing to satisfy the conditions attached to the original approval, or if the petitioner has not affirmatively demonstrated that all of the substantive requirements for the approval of a variance have been satisfied as of the time the new application for variance is considered.

F. The City Council shall have the authority to approve variances or modifications of the standards of the Zoning Ordinance if the variance or modification was considered and approved by the City Council:

1. As part of a Planned Unit Development project under Section 22.03;

2. As a development pursuant to a conditional rezoning approved by the City Council under Section 22.00 C. 4. and H.; or

3. As a development pursuant to a consent judgment approved by the City Council. The City Council shall have the same authority with respect to considering and approving such requests as the Zoning Board of Appeals.

(Ord. No. 278-U, § 19, 1-6-98; Ord. No. 278-CC, §§ 18, 19, 20, 6-3-03; Ord. No. 278-FF, § 4, 5-3-05; Ord. No. 278-NN, § 34, 1-6-09; Ord. No. 278-RR, § 5, 10-18-11)

SECTION 30.03. LIMITATIONS ON THE POWERS OF THE BOARD.

A. The concurring vote of four members of the Board shall be necessary to approve any modification, interpretation or appeal stated in section 30.02A, B and C.

B. The concurring vote of five members of the Board shall be necessary to approve any use variance permitted under section 30.02D.

C. Nothing contained herein shall empower the Board to override the decisions of the Planning Commission with respect to the approval or denial of special approval land uses.

D. Nothing contained herein shall empower the Board to override the decisions of the City Council with respect to the approval or denial of planned unit developments or any other decision authorized to be made by the City Council.

E. Nothing contained herein shall empower the Board to change the terms of this ordinance, to effect changes in the zoning map or to add to the uses permitted in any zoning district, except when specifically empowered to do so (section 30.02(D)).

F. Every decision of the Board shall be based upon findings of fact, and each and every such finding shall be supported in the record of the proceedings of the Board.

G. In authorizing a variance or taking any other action within its jurisdiction, the Board may attach such conditions as may be deemed necessary in the furtherance of the purposes of this ordinance, provided any conditions are in compliance with the three standards listed in section 25.03D of this ordinance. Any failure to satisfy a condition of approval imposed by the Zoning Board of Appeals shall constitute a separate violation of the Zoning Ordinance.

H. The following procedural remedies shall be available to enforce conditions of approval imposed by the Zoning Board of Appeals relating to an approval of a modification or variance to ordinance requirements:

1. If the City Manager or his/her designate reasonably believes, based on available information, that the applicant, property owner, or occupant for whom a modification or variance of ordinance requirements has been approved has failed to satisfy the conditions of approval, the city may, through the authorized official designated below, take any of the following actions in order to obtain compliance:

a. The Building Official, Code Enforcement Officer, Fire Marshal, Police Officer or other city employee authorized to issue an ordinance complaint or civil infraction may issue an ordinance complaint or civil infraction to be prosecuted in the District Court based upon his/her observations or investigation, or may ask the city attorney to request issuance of warrant for an ordinance complaint based upon the information or evidence presented to him/her that there has been a violation of the City Code or Zoning Ordinance.

b. The City Manager or his/her designate based upon available information or evidence may request the Zoning Board of Appeals to conduct a hearing in accordance with the procedure set forth in paragraph 2 below to determine whether the conditions of approval have been satisfied, and if not, whether the conditions of approval relating to approval of the modification or variance should be enforced, or the approval revoked for failing to satisfy the conditions.

c. After City Council authorization, the city attorney may commence litigation in the Circuit Court to require the responsible party to satisfy the conditions or abate violation of the Zoning Ordinance as authorized by law, or request revocation of the approval.

d. The city through the appropriate authorized official may take any other enforcement or remedial action authorized by law.

2. If the Zoning Board of Appeals receives a request from the City Manager or his/her designate supported by credible information that the applicant, property owner, or occupant granted for whom approval of a modification or variance to ordinance requirements has been granted has failed to continuously satisfy the conditions of approval, the Zoning Board of Appeals may conduct a hearing in accordance with the following procedure to review whether the applicant, property owner, or occupant has satisfied the conditions of approval of the modification or variance:

a. The applicant, property owner, or occupant granted approval of the modification or variance and other persons entitled to notice of the original hearing on the ordinance modification or variance request, shall be advised in writing by the city administration of the date of the meeting at which the Zoning Board of Appeals intends to review compliance with the conditions of approval, which notice shall be not less than 30 days before the scheduled meeting, except in cases where the public health, safety or welfare is imminently threatened or endangered, in which case a hearing shall be held within no earlier than five days after written notice of the meeting date has been given.

b. The written notice shall specify the condition(s) of approval relating to the modification or variance with which the applicant, property owner, or occupant is alleged to have failed to comply.

c. At the Zoning Board of Appeals hearing, the city administration and other interested parties (or their authorized representatives) shall be given an opportunity to present evidence or information showing that the conditions of approval have not been continuously satisfied.

d. At the Zoning Board of Appeals hearing, the applicant, property owner, or occupant and other interested parties (or their authorized representatives) shall be given an opportunity to present evidence or information showing whether the conditions of approval have been continuously satisfied.

e. After the Zoning Board of Appeals concludes the hearing, the Board may make its determination as to whether the applicant, property owner, or occupant has continuously satisfied the conditions of approval, whether the applicant, owner or occupant should be given additional time to satisfy the conditions of approval, or whether the conditions of approval should be changed. The Board may determine that the applicant has satisfied the conditions of approval, has failed to continuously satisfy the conditions, or if it deems appropriate, grant an additional time period for compliance, or change the conditions of approval. In addition, the Board may revoke the approval of the modification or variance, or recommend that the City Council commence an action in Circuit Court to enforce the conditions, or alternatively revoke the approval of the modification or variance if the Board determines by majority vote of those members present that the applicant, property owner, or occupant has not continuously satisfied one or more of the conditions of approval. The reasons for the Board's action shall be recorded into the record, with a written copy furnished to the applicant, property owner, or occupant after certification of the minutes of the meeting at which such action was taken.

f. The applicant, property owner, or occupant, or any person who has an interest affected by the Zoning Ordinance who is aggrieved by a decision of the Zoning Board of Appeals, may appeal a final decision of the Zoning Board of Appeals to the Circuit Court within the time period prescribed by law. A recommendation of Circuit Court action shall not constitute a final decision. The appeal period shall commence on the date the minutes of the Zoning Board of Appeals are certified relating to the Board's decision.

g. If the city prevails in any action taken to enforce the conditions of approval imposed by the Zoning Board of Appeals relating to the modification or variance, or if the Zoning Board of Appeals revokes the modification or variance as a result of the applicant, property owner, or occupant failing to continuously satisfy the conditions of approval, the applicant, property owner, or occupant shall be required to reimburse the city for any costs incurred in taking such action, including attorney fees, experts fees, court costs, and other expenses incurred. The city may impose a lien against any interest the applicant, property owner, or occupant has in the property to secure payment of such reimbursement.

3. The procedures set forth in section30.03H1b relating to modifications or variances to the Zoning Ordinance requirements shall apply only to such approvals granted by the Zoning Board of Appeals after the effective date of this amendment to the Zoning Ordinance.

4. The City Manager may promulgate administrative rules and regulations necessary to implement and administer the enforcement and hearing procedures set forth in section 30.03 of this ordinance. All rules and regulations shall be effective 30 days after promulgation. Copies of the rules and regulations shall be filed with the City Clerk as of their effective date and shall be subject to public inspection or copying during the city's normal business hours.

I. Zoning Board of Appeals may appeal the decision to the Circuit Court within the time period prescribed by law. The appeal period shall commence on the date the minutes of the Zoning Board of Appeals are certified relating to the Board's decision. Any party who is aggrieved by a decision of the Zoning Board of Appeals may appeal the decision to the Circuit Court within 30 days after the Zoning Board of Appeals makes a final decision and issues its written decision signed by the chairperson, or signed by the members of the body if there is no chairperson, or within 21 days after approval of the minutes of such final decision by the Zoning Board if the Zoning Board’s chairperson (or all of its members where there is no chairperson) do not issue a written decision.

(Ord. No. 278-Y, § 44, 5-16-00; Ord. No. 278-EE, §§ 4, 5, 10-5-04; Ord. No. 278-NN, § 26, 34, 1-6-09)

SECTION 30.04. PROCEDURE FOR APPEALS TO ZONING BOARD OF APPEALS.

A. Appeals shall be commenced by a person filing a notice of appeal or petition as described in the rules and procedures of the Zoning Board of Appeals, accompanied by such appeal fee as may be specified by City Council. The notice of appeal shall specify the specific grounds upon which the appeal is based and shall be signed by the applicant and property owner. It shall also specify the requirement from which a variance is sought and the nature and extent of such variance.

B. The appeal shall also be accompanied by a fully completed application along with plot plans meeting the rules of procedure adopted by the Board.

C. The Board shall fix a reasonable time for the hearing of the appeal and shall give notice as required by this ordinance and the Michigan Zoning Enabling Act.

D. The Office of Planning shall transmit to the Board all of the documents and records related to the appeal.

E. Any person may appear in person or be represented by a duly authorized agent.

F. The Board shall conduct a public hearing on the appeal, and shall review the official record, and base its decision on the information presented. The official record shall include:

1. The relevant administrative record and administrative orders issued thereon relating to the appeal;

2. The notice of appeal;

3. Such documents, exhibits, photographs or written reports as may be submitted to the Board for its consideration;

4. The minutes of the hearing, findings of fact and decisions and orders of the Board.

G. The record and decision of the Board shall meet all of the following:

1. Complies with the constitution and laws of this state;

2. Is based upon proper procedure;

3. Is supported by competent material and substantial evidence on the record;

4. Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.

(Ord. No. 278-EE, § 6, 10-5-04; Ord. No. 278-NN, § 27 - 29, 34, 1-6-09)

ARTICLE 31. DEFINITIONS

SECTION 31.00. CONSTRUCTION OF LANGUAGE.

Except as specifically indicated otherwise, the following rules of construction apply to the text of this ordinance.

1. The particular shall control the general.

2. In case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.

3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

4. Words used in the present tense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

5. A "building" or a "structure" includes any part thereof, and the word building includes the word structure.

6. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."

7. The word "person" includes a firm, association, organization, partnership, trust, company or corporation, public or private, as well as an individual.

8. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditioning, provisions or events connected by the conjunction "and," "or," "either . . . or," the conjunction shall be interpreted as follows:

   a. "And" indicates that all connected items, conditions, provisions or events shall apply;

   b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination;

   c. "Either . . . or" indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.

9. Terms not herein defined shall have the meaning customarily assigned to them.

(Ord. No. 278-N, § 23, 8-1-95)

SECTION 31.01. DEFINITIONS.

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

ACCESSORY BANQUET OR EVENT USE. A building or facility, or part of a building or facility, which offers, provides, or allows catering of food and beverage services in its event facilities or within separate indoor event rooms or areas which are available for use by individuals or groups as an accessory use to a principal use allowed under the Zoning Ordinance of the City of Sterling Heights. The term "***ACCESSORY BANQUET OR EVENT USE***" specifically excludes (a) banquet and event facilities as defined below, (b) establishments which do not permit their event facilities or event rooms to be used by patrons beyond 11:00 p.m., or (c) events offering, providing, or allowing food or beverage services which are regulated as temporary uses under the provisions of the Zoning Ordinance. The term "***ACCESSORY BANQUET OR EVENT USE***" does not include any building or part of a building which is used as a "banquet and event facility" as defined in this section.

ACCESSORY BUILDING. A structure subordinate and clearly incidental to the principal building on the same parcel and used for a purpose customarily incidental to the purposes of the principal building. The term “accessory structure" shall have the same meaning for purposes of the zoning ordinance as the term "accessory building."

ACCESSORY USE. A subordinate use which is customarily incidental to the principal use on the same lot or parcel.

ACT. Public Act 236 of 1961, as amended.

ADULT BOOK STORE OR VIDEO STORE. An establishment having, as a substantial or significant portion of its stock in trade, books, magazines and other periodicals, video cassettes, films and other such visual media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined in this section or an establishment with a significant segment or section devoted to the sale or display of such material, unless such area is physically separated from the remainder of such establishment and which is accessible to adults only.

ADULT ENTERTAINMENT USE. Any adult bookstore or video store, adult mini-motion picture theater, adult motion picture theater, cabaret, massage parlor, adult personal service businesses, adult novelty businesses or any combination of such uses.

ADULT MINI-MOTION PICTURE THEATER. A building or any part thereof with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this section, for observation by patrons therein.

ADULT MOTION PICTURE THEATER. A building or any part thereof or a drive-in theater with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this section, for observation by patrons therein.

ADULT NOVELTY BUSINESSES. A business which has as a principal activity the sale of devices of simulated human genitals or devices designed for sexual stimulation.

ADULT PERSONAL SERVICE BUSINESSES. A business having as a principal activity the provision of personal services to another person on an individual basis in a closed room while nude or partially nude. It includes but is not limited to the following activities and services: massage parlors, erotic rubs, modeling studios, body painting studios, wrestling studios and individual theatrical performances.

AGRICULTURE. The art or science of cultivating the ground; the production of crops or livestock on a farm; but excluding agricultural business or industry such as commercial greenhouses, the sale of nursery stock, riding or boarding stables, fur farms, piggeries, farms used for disposal of garbage, sewage, rubbish or offal and slaughtering of animals, except animals raised on the premises for use and consumption by persons residing on the premises.

ALLEY. A public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting properties and not intended for general traffic circulation.

ALTERATION. Any change, addition or modification in construction or type of occupancy or any change in the structural members of a building, such as walls, partitions, columns, beams, girders or any change which may be referred to herein as "altered" or "reconstructed."

AMUSEMENT DEVICE. Any machine, device, or game, with or without a video screen or display, that is constructed principally for entertainment or amusement purposes, including but not limited to a pinball machine, air hockey machine, foosball or table soccer machine, skee-ball machine, shuffleboard, a miniature pool table, shooting gallery device, miniature or modified bowling game, pool or similar game table, bubble hockey machine, electronic game of skill, video game, self-operated or attendant-operated merchandise redemption devices, or any similar machine, instrument, device, game, or contrivance, which is made available for display or operation and which may be operated or set in motion by the insertion of a coin or a token, paper currency, ticket, payment of a fee or other valuable consideration, or use of a swipe card. Each device, regardless of the number of stations, shall be considered one device. The term amusement device does not include music playing

devices, vending machines, rides, or any non-electronic activity provided for no cost where no element of chance, bonus, or prize is involved, nor any video lottery games or game terminals or equipment operated or provided directly by the Michigan Lottery as a state agency.

AMUSEMENT DEVICE CENTER. Any of the following:

1. An establishment, business, or location open for public use and participation and which has as its principal use, or which is devoted primarily to, the operation of amusement devices.

2. An establishment, business, or location with more than 15 amusement devices within a space of less than 45,000 square feet.

3. An establishment, business, or location with more than 25 amusement devices.

ANCILLARY AREAS (ELDERLY HOUSING). Activities and facilities which are not necessarily residential in character but are essential to the residential function. These areas may include but are not limited to: public lobbies, corridors, elevators and stairs, laundry facilities, tenant storage, mechanical/electrical spaces, management office and mail and receiving area.

ANIMAL. Any live creature, excepting fish, turtles and birds similar to species of the parrot family.

ANTENNA. A device designed and intended for transmitting or receiving television, radio or microwave signals. An***ANTENNA*** includes all mounting and stabilizing items, such as a tower, a pole, a bracket, guy wires, hardware, connection equipment and related items. Antennas are also "accessory structures" within the meaning of the zoning ordinance.

APARTMENT. A building containing three or more dwelling units whose entrances are from a common hallway or area or series of hallways or areas.

AUTHORIZED CITY OFFICIAL. A police officer or other person employed by the city who is legally authorized to issue municipal civil infraction citations or municipal civil infraction notices.

AUTOMOBILE REPAIR GARAGE. A building or premises where the following services may be carried out in a completely enclosed building: major repairs, including, but not limited to, engine rebuilding and the rebuilding of motor vehicles; application of paint preservation materials; radiator repair and replacement; transmission repair and replacement; automobile and van customizing; collision service, such as body, frame or fender straightening and repair; and the painting and rustproofing of automobiles. ***AUTOMOBILE REPAIR GARAGES*** may also include facilities and/or equipment allowing for the repair of other motor vehicles, including trucks, recreational vehicles, vans and buses, among others.

AUTOMOBILE SERVICE CENTER. A building or premises used primarily for the sale and installation of major automobile accessories, including but not limited to tires, batteries, radios, electronic devices, air conditioners, windows and mufflers, plus such services as brake repair and adjustment, shock absorber installation and repair, wheel alignment and balancing, oil changes and lubrication, tune-ups, exterior reconditioning (excluding paint or painting and major mechanical work) and vehicle inspection pollution compliance facilities but excluding any major mechanical repairs, collision work, undercoating or painting. Sale of gasoline and other fuels for the propulsion of motor vehicles (stored only in underground tanks) and the retail sale of oil and other automotive products shall not be the primary use of the premises. The primary use of the premises shall be devoted to one or more of the listed service activities.

AWNING. A metal, wooden, fiberglass, canvas or other fire-retardant fabric cover which extends over a porch, patio, deck, balcony, window, door or open space.

BAKERY. A facility where baked goods are manufactured and/or displayed primarily for retail sales on premises. This establishment may include an area for consumption within the building, provided that it is not the primary use of the premises.

BANQUET AND EVENT FACILITY. A freestanding building with one or more rentable separate event rooms or areas which is principally used for the holding of (a) private events or gatherings which are not open to the general public, or (b) public events offered by the proprietor of the banquet facility which are open to the public, where food or beverage services are offered, provided, or catered by such proprietor. The term "***BANQUET AND EVENT FACILITY***" does not include any building or part of a building which is used as an "accessory banquet or event use" as defined in this section.

BARN. A detached accessory building to be used for the storage and keeping of farm and agricultural equipment and garden supplies and equipment, used in conjunction with an agricultural use located on the premises.

BASEMENT. That portion of a building which is partially or wholly below-grade, but so located that the average vertical distance from the grade to the floor is greater than the average vertical distance from the grade to the ceiling; provided, however, that if the average vertical distance from the grade to the ceiling is five feet or more, such basement shall be considered as a story (see illustration).

BEDROOM. A room designated or used, in whole or in part, for sleeping purposes.

BERM. A mound of soil or earth that has been graded, shaped and improved with sod or landscaping in such a fashion as to be utilized for screening purposes.

BOARDING HOUSE. A building, other than a motel/hotel where, for compensation and/or prearrangement for periods exceeding seven days, lodging or lodging and meals are provided for three or more persons, together within one dwelling unit.

ZONING BOARD OF APPEALS. The Zoning Board of Appeals of the City of Sterling Heights.

BODY ART FACILITY. A location at which an individual does one or more of the following for compensation:

(1) Performs tattooing.

(2) Performs branding.

(3) Performs body-piercing.

BODY-PIERCING. The perforation of human tissue other than an ear for a nonmedical purpose.

BRANDING. The making of a permanent mark on human tissue by burning with a hot iron or other instrument.

BUILDING. Any structure, temporary or permanent, having one or more floors and a roof intended for the shelter or enclosure of persons, animals or property.

BUILDING FRONT. The facade of a building having frontage on a street.

BUILDING, HEIGHT. The vertical distance measured from the established grade to the highest point on 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 or gambrel roofs; or to a point equivalent to the foregoing on any other roof. Where a building is located on sloping terrain, the height may be measured from the average level of the grade at the building wall (see illustration).

BUILDING LINE. A line parallel to the front lot line at the minimum required front setback line (see illustration).

BUILDING, MAIN OR PRINCIPAL. A building, or where the context so indicates, a group of buildings in which is constructed the main or principal use of the lot on which said building is located.

BUILDING OFFICIAL. The person designated by the City Manager to perform the duties of the Building Official under this Zoning Ordinance and other codes and ordinances of the city.

CABARET. An establishment which features topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, male and female impersonators or similar entertainers.

CANOPY. A roof-like structure providing shelter to a public access area which is either freestanding or projected from a building and is supported by structural members. A ***CANOPY*** may be constructed of metal, wood or any approved fire-retardent material such as cloth, canvas, fabric, plastic, or any light flexible material which is attached to or constructed on a canopy.

CEMETERY. Land used or intended to be used for the interment of human or animal remains, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

CITY. The City of Sterling Heights.

CITY COUNCIL. The City Council of the City of Sterling Heights.

CITY MANAGER. The City Manager of the City of Sterling Heights.

CITY PLANNER. The City Planner of the City of Sterling Heights.

CITY PLANNING COMMISSION. The City Planning Commission of the City of Sterling Heights.

CIVIL INFRACTION. An act or omission that is prohibited by law and is not a crime under that law or that is prohibited by an ordinance and is not a crime under that ordinance and for which civil sanctions may be ordered.

CLINIC, MEDICAL. A place for the care, diagnosis and treatment of sick or injured persons and those in need of medical or minor surgical attention, which customarily provides a wider range of treatment or testing procedures than is normally available in a physician's office. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients but may not include facilities for in-patient care or major surgery.

CLINIC, VETERINARY. A place for the care, diagnosis and treatment of sick and injured animals. A clinic may incorporate customary laboratories, pharmacies and other facilities and services incidentally necessary to the operation of the clinic.

CLUB. A building or portion of a building, together with the grounds and related facilities, primarily used by an organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or similar activities but in no way operated for profit.

CLUSTER. A residential development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and the preservation of environmentally sensitive features.

CODE ENFORCEMENT OFFICER. The Code Enforcement Officer of the City of Sterling Heights who administers and enforces the zoning ordinance.

COMMON AREAS (ELDERLY HOUSING). Activities and facilities not essential to the residential function but are provided for the convenience of residents to promote and support recreational and social functions. These areas include but are not limited to: multi-purpose rooms, party kitchens, barber and beauty shops, handicraft areas and meeting rooms.

CONDOMINIUM ACT. Public Act 59 of 1978, as amended.

CONDOMINIUM MASTER DEED. The document recording the condominium project as approved by the city to which is attached by exhibits and incorporated by reference the approved by-laws for the project and the approved subdivision plan for the site.

CONDOMINIUM SUBDIVISION PLAN. The site plan illustrating the existing site features and all proposed improvements pursuant to the requirements for site plan review.

CONDOMINIUM UNIT. That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.

CONFORMING COMMERCIAL EARTH STATION. An antenna that is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under state or local land use regulations. Such an area does not extend to those portions of a site where most land uses are forbidden or severely restricted, such as, for example, street areas, utility easements, visibility triangles and required yards.

CONGREGATE CARE HOUSING. A group of dwelling units providing shelter and services for the elderly which may include meals, housekeeping and personal care assistance.

CUL-DE-SAC. A street terminated at one end with a turning radius.

DAY CARE FACILITY (CHILD AND ADULT). A structure and accessory facility wherein child or adult care is provided for children or adults unrelated by blood, marriage or adoption to the owner or operator of the facility which receives a payment, fee or grant for any person receiving care, wherever operated, and whether or not operated for profit. Care facilities provide care, protection and supervision for less than 24 hours a day on a regular basis.

DECK. A structure comprising a decorative wooden platform or tiers of decorative wooden platforms located adjacent to any structure and used for leisure and recreational activities. A ***DECK*** may include appurtenant accessories such as railings, whirlpools, spas, hot tubs, gazebos and similar related facilities.

DISTRICT, ZONING. A portion of the city within which certain uses of land and buildings are permitted and within which certain regulations and requirements apply under the provisions of this ordinance.

DRIVE-IN or ***DRIVE-THROUGH***. A business establishment so developed that its retail or service character is characterized by providing a maneuvering lane or parking spaces so as to serve patrons while in the motor vehicle (e.g. restaurants, cleaners, banks, theaters).

DWELLING. A building or a portion thereof which is occupied as the home, residence or sleeping place of one or more human beings. In no case shall a travel trailer, recreational vehicle, automobile chassis or tent be considered a dwelling. In the case where a building is occupied in part as a dwelling unit, the part so occupied shall comply with the provisions relative to dwellings.

DWELLING, MULTIPLE FAMILY. A building designed, arranged or occupied as a dwelling and containing three or more dwelling units, and including townhouses, apartments and multiplexes, but excluding cluster developments.

DWELLING, ONE FAMILY. A building designed, arranged or occupied as a dwelling unit for one family only, including cluster housing.

DWELLING, TWO FAMILY. A building designed, arranged or occupied as a dwelling and containing two separate dwelling units.

DWELLING UNIT. A room or rooms within a dwelling connected together, constituting separate independent living quarters for one household, physically separated from any other rooms or dwelling units and containing permanent provisions for its own independent bathroom, sleeping and kitchen facilities.

EFFICIENCY UNIT. A dwelling unit with eight bathroom and principal kitchen facilities designed as a self-contained unit for occupancy for living, cooking and sleeping purposes and having no separate designated bedroom.

ENHANCED LANDSCAPING TREATMENT. An outdoor site element, feature, or amenity (such as an outdoor dining area, plaza, or pedestrian pass through) that (i) contributes to making a place more inviting and aesthetically pleasing to current or prospective residents, employees, businesses, visitors, or others who currently or may in the future live, work, play, do business, or visit the city, and/or (ii) promotes community spirit within the city, and camaraderie among those who live, work, play, do business, or visit the city.

ERECTED. Built, constructed, altered, reconstructed, moved upon or any physical operations on the premises which are required for the construction of a building or structure. Excavations, fill, drainage and the like shall be considered a part of erection.

ESSENTIAL SERVICES. Any of the following services which provide a basic and indispensable service to residents and businesses, if such service is designed and constructed to directly serve local users within the geographic boundaries of the city. Such ***ESSENTIAL SERVICES*** may include the erection, construction, alteration or maintenance by public utilities or municipal departments of gas, electrical, steam or water transmission or distribution systems, collection, communication (including cellular telephone equipment and related facilities located on municipally-owned property, which are utilized as part of the city emergency communication network, but excluding cellular telephone equipment and related facilities which are not located upon municipally-owned property or which are not incorporated into the city emergency communication network, computer networking, private mail services and facsimile transmission centers), supply and disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, neighborhood municipal drop-off centers, traffic signals, hydrants and similar equipment, provided they are designed and constructed to directly serve local users. Any of the services which serve users beyond the limits of Sterling Heights shall not constitute an ***ESSENTIAL SERVICE***. ***ESSENTIAL SERVICES*** shall be exempt from this ordinance. See "public utility."

EXCAVATION. Any breaking of ground, except common household gardening, general farming and group care.

FAMILY. Any individual, two or more persons related by blood or marriage or group of not more than five persons who need not be related by blood or marriage occupying a dwelling, living together and maintaining a common household. The relationship must be of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. ***FAMILY*** does not include any organization or group of individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary.

FENCE. A partly obscuring structure serving as a physical barrier, marker or enclosure but excluding a masonry wall.

FILLING. The depositing or dumping of any matter onto or into the ground, except common household gardening or lawn care.

FLOODPLAIN AREA. That area defined as a special flood hazard area in “The Flood Plain Insurance Study of the City of Sterling Heights,” dated May 15,1986.

FLOOR AREA. Area measured to the exterior face of exterior walls and to the centerline of interior partitions, plus, similarly measured, that area of all other stories having more than 84 inches of headroom which may be made usable for human habitation, but excluding the floor area of basements, attics, garages, breezeways, porches and accessory buildings.

FOSTER CARE FACILITY. A building or structure and accessory facility within which 24 hour care, family-type living arrangements, including room and board and/or personal services, are provided to persons who are unrelated to the facility owner or operator. Such facilities may include child or adult care and may be a part of an existing residence or a separate facility.

FOUNDATION PLANTING. A planting providing decorative landscaping adjacent to (i) an exterior building wall visible to the general public from a public thoroughfare, or parking lot of the overall shopping center or site, or (ii) an outdoor dining area or outdoor plaza area.

FRONTAGE. That side of a lot abutting a street.

FRONTAGE GREENBELT. A flat or undulating landscaped area or landscaped berm located in the front yard(s) of a lot or parcel of a depth not less than the required front yard setback.

FRONTAGE LANDSCAPING. Grass, shrubs, trees, other plantings, mulch, and decorative stones installed in a bed or other landscape area located in the frontage greenbelt of a lot or parcel parallel to the street(s) adjacent to the lot or parcel.

FRONTAGE TREES. Evergreen or deciduous trees installed in the frontage greenbelt of a lot or parcel. Frontage trees shall not include street trees planted in the right-of-way area adjacent to the front yard of a lot or parcel.

FULL ASSISTED HOUSING FOR THE ELDERLY. A structure and accessory facilities designed exclusively to provide for the care of the aged and infirm or those suffering from bodily disorders where two or more persons are housed or lodged and are furnished meals, nursing and/or medical care assistance.

GARAGE. An accessory building or portion of a main building designated or used solely for the storage of motor-driven vehicles, boats and similar vehicles and equipment and not more than two commercial vehicles, owned and used by the occupants of the building to which it is accessory.

GASOLINE SELF-SERVICE STATION. A building or premises designed primarily for the pumping by customers of gasoline and other fuels used for the propulsion of motor vehicles (stored only in underground tanks) and to provide self serve retail sale of oil and other products used by motor vehicles, but excluding the sale of tires, batteries, shocks and the like and the repair and maintenance of vehicles. The retail sale of nonalcoholic beverages, cigarettes and other convenience store food items shall be permitted within the gasoline self-service station building, including a drive-through window, provided such sales do not constitute the principal use of the premises.

GASOLINE SERVICE STATION. A building or premises to be used for the retail sale of gasoline, oil or other fuel for the propulsion or lubrication of motor vehicles (including some, but not only, self-service gasoline sale) and which may include facilities for minor services such as tune-ups, brake adjustments and repair, shock absorber repair and replacement, wheel alignments, the changing and repairing of tires, washing, polishing, oil changes, lubrication and other minor servicing, but excluding painting, engine rebuilding and other major repairs not incidental to the principal. The provision of the above-listed and similar service activities on the premises shall not be permitted unless the premises are used primarily for the retail sale of gasoline and oil and other automotive products. The retail sale of nonalcoholic beverages, cigarettes and other convenience store food items shall be permitted within the automobile service station provided such sales do not constitute the principal use of the premises. A drive-through window shall not be permitted.

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 determined by averaging the elevation of the grade for each face of the building.

GREENBELT. A strip of land of specified width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip.

GROCERY STORE (FOOD STORE). An establishment that deals primarily in the retail sale of staple food stuffs, meats, produce, dairy products, baked goods, health and beauty aids and household supplies.

HAZARDOUS MATERIAL. Any item which constitutes a ***HAZARDOUS MATERIAL*** as defined in the Fire Prevention Code adopted by the city, including but not limited to explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, oxidizers, organic peroxides, pyrophoric materials, unstable (reactive) materials, water-reactive materials, cryogenic liquids, highly toxic or toxic materials, radioactive materials, corrosives, irritants, sensitizers and medical wastes and any other hazardous material determined by the Fire Department to present a "health hazard" or "physical hazard" as such terms are defined under the Fire Prevention Code.

HOME OCCUPATION. An occupation, activity or hobby that is traditionally or customarily carried on within the walls of a dwelling unit, provided that it is clearly incidental and secondary to the use of the dwelling for dwelling purposes, is not offensive and does not change the character thereof. A home occupation shall include use of a single family residence by an owner or occupant giving instruction in a craft or fine art within the residence, subject to other limitations contained in this ordinance.

HOSPITAL. An institution providing health services, primarily for in-patients, plus medical and surgical care for the sick or injured, including such related facilities as laboratories, out-patient departments, central service facilities and staff offices.

IMPOUND LOT. A parcel of land used to store and dispose of articles impounded, seized or recovered by the Police Department, the Treasurer or any other authorized representative of the city, county, state or federal governments.

INDEPENDENT HOUSING FOR THE ELDERLY. A group of dwelling units principally designed for elderly residents who are generally capable of living and caring for themselves independently without supervision, personal care assistance and extensive medical attention.

JUNK YARD. Includes automobile wrecking yards and/or other areas used for the purchase, sale, exchange, disassembly, storage, processing, baling or packaging of junk, including but not limited to scrap metals, unusable machinery or motor vehicles, tires, bottles and paper and not including uses established entirely within enclosed buildings.

KENNEL. Any lot or premises on which four or more dogs or cats, six months or older, are kept either permanently or temporarily.

LABORATORY. A building devoted to experimental or routine study, such as testing and analytical operations, and in which manufacturing of products is not permitted.

LIMITED ASSISTED HOUSING FOR THE ELDERLY. A group of dwelling units providing shelter and services principally for the elderly which may include one or more of the following: social programs, meals, housekeeping and personal care/medical assistance.

LINEAR FOOTAGE OR LINEAR FEET. The straight line measurement in feet of lot or parcel frontage on a street or of an object (such as exterior wall of a building).

LOADING SPACE. An off-street facility or space on the same lot with a building or group of buildings for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

LOT. Land occupied, or intended to be occupied, by a main building and accessory buildings, together with such yards and open spaces as are required under the provisions of this ordinance. A lot may or may not be specifically designated as such on public records.

LOT AREA. The total horizontal area between the lot lines of a lot.

LOT, CORNER. Any lot containing two or more front yards, including a cul-de-sac lot. A through lot shall not be considered a corner lot unless it abuts two or more streets in addition to the street abutting the rear lot line. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this ordinance 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 of the straight street line extended, form an

interior angle of less than 135 degrees (see illustration).

LOT COVERAGE. That part or percentage of lot occupied by principal and accessory buildings.

LOT DEPTH. The mean horizontal distance measured from the lot line to the rear lot line.

LOT, INTERIOR. Any lot other than a corner or through lot.

LOT, THROUGH. A lot which may include a corner lot, having frontage on two parallel or approximately parallel streets.

LOT LINE, FRONT. The lot line separating a lot from the street right-of-way line. In the case of a through lot, all portions of the lot having frontage on a street right-of-way shall be considered a front lot line.

LOT LINE, REAR. That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line, parallel to the front lot line and not less than ten feet long, lying farthest from the front lot line and wholly within the lot.

LOT LINE, SIDE. Any lot line other than a front or rear lot line.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a recorded plat on file with the County Register of Deeds or any parcel which has been separated therefrom in accordance with the provisions of the plat act and which exists as described.

LOT WIDTH. The least straight line distance between the side lot lines measured but not encroaching into the front yard setback.

MAJOR INDUSTRIAL FACILITY. A parcel of property of twelve (12) or more acres zoned M-1 Light Industrial or M-2 Heavy Industrial (or a combination of such zoning classifications) that is developed with buildings of 150,000 square feet or more of lot coverage (or was developed with such buildings immediately preceding the application under the IFR Option). A major industrial facility also includes a parcel of property of less than twelve (12) acres or which is developed with buildings of less than 150,000 square feet of lot coverage if the Planning Commission has approved a modification of such minimum standard for a particular site as authorized by Section 22.05 D 1 e.

MANEUVERING LANE. A paved lane or drive located in an off-street parking area facilitating the flow of vehicles to and from parking spaces.

MASSAGE. Any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or other similar preparations commonly used in the practice.

MASSAGE ESTABLISHMENT. Any building, room, place or establishment where manipulated massage or manipulated exercises are practiced for pay upon the human body by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse or practical nurse operating under a physician's directions, registered speech pathologists and physical or occupational therapists who treat only patients recommended by a licensed physician and operate only under such physician's direction, whether with or without the use of mechanical, therapeutic or bathing devices. A ***MASSAGE ESTABLISHMENT***, as defined herein, shall include, but is not limited to, massage parlors, health clubs, health spas, sauna baths, turkish bathhouses and steam baths. This term shall not include a regularly licensed hospital, medical clinic or nursing home or other licensed facilities where massages are provided as an incidental or accessory use to the main use of the premises for a related activity.

MASTER LAND USE PLAN. A comprehensive plan document including graphic and written material intended to establish policies and directions for the future growth and development of the city, including the location of future residential commercial and industrial areas, parks, streets and similar forms of development.

MASTER ROAD PLAN. The adopted Master Road Plan of the City of Sterling Heights, as amended from time to time.

MEZZANINE. An intermediate or fractional story between the floor and ceiling of a main story occupying not more than one-third of the floor area of such main story.

MOBILE HOME. A structure in one or more sections which is built on a chassis and designed to be used as dwelling with or without a permanent foundation when connected to the required facilities and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. ***MOBILE HOME*** does not include a recreational vehicle. A ***MOBILE HOME*** shall not lose its character as such when placed on a permanent foundation.

MOBILE HOME PARK. A lot or parcel or tract of land used or intended to be used as a site for mobile homes, under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street equipment or facility used or intended to be used incidental to the harboring or occupancy of mobile homes, for use incidental to the occupancy of a mobile home and which is not intended for use as a temporary trailer park and licensed pursuant to the provisions of Public Act 419 of 1976.

MODULAR HOME. A structure transportable in one or more sections, not built on a chassis, constructed according to the city's Building Code and designed to be used as a dwelling unit with a permanent foundation when connected to the required facilities.

MOTEL. A series of attached, semidetached or detached rental units containing bedroom, bathroom and closet space, which provides overnight lodging and are offered to the public for compensation.

MULTIPLEX. A building designed exclusively for occupancy by three or more families living independently of each other. Each dwelling unit shall have the following characteristics:

(1) Two side walls exposed to the outside;

(2) Separate maintained entrances, directly to the outside;

(3) Not more than two common walls with adjoining units; and

(4) Single story units.

MUNICIPAL CIVIL INFRACTION. A civil infraction involving a violation of a city ordinance.***MUNICIPAL CIVIL INFRACTION*** does not include a violation described in section 113 of the Act, being M.C.L. §§ 600.113(a) and 600.113(c)(i) through (vi) and (ix), as amended, or any act or omission that constitutes a crime and is punishable as a misdemeanor under this ordinance.

NEIGHBORHOOD MUNICIPAL DROP-OFF CENTER. A municipal recycling center where recyclables are collected and diverted from landfill disposal.

NONCONFORMING BUILDING. A building, or portion thereof, lawfully existing at the effective date of this ordinance, or amendments thereto, and that does not conform to the provisions of the ordinance in the district in which it is located.

NONCONFORMING LOT. A lot with dimensions which conflict with the provisions of this ordinance.

NONCONFORMING USE. A use which lawfully occupied a building or land at the effective date of this ordinance, 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 ordinance does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

NURSERY SCHOOL. A public or private school, kindergarten or child care facility wherein day care and education is provided for seven or more minors.

OCCUPIED. Used in any way at the time in question.

OFF-STREET PARKING LOT. A facility other than for single or two family dwellings providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than three vehicles.

OPEN SPACE. Land required by this ordinance to remain as open space to be used for recreation, resource protection, amenity or other specified purpose.

PARKING SPACE. A marked area of definite length and width inclusive of vehicle circulation areas giving access thereto and which is fully accessible for the storage

and parking of permitted vehicles.

PARKING STRUCTURE. A building or structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

PAWNBROKER. A person, corporation, or member, or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

PET. An animal kept for pleasure rather than utility.

PUBLIC UTILITY. Any person, firm, corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: electricity, gas, sanitary sewers, cellular telephone service, steam, communications, telegraph, transportation or water services, subject to the provisions of this ordinance.

PUBLIC UTILITY FACILITY. A building or structure devoted to providing the public with water, gas, electricity, waste and sewage disposal or similar uses but which does not include a storage yard.

RECREATIONAL FACILITIES (PRIVATE CONTRACTUAL). Facilities including but not limited to batting cages, golf domes, concession stands, swimming pools and the like, excluding portable toilet facilities which are installed at city and public (non-city) owned and/or operated parks through contractual arrangement.

REPEAT OFFENSE. A second (or subsequent) municipal civil infraction violation of the same requirement or provision of this ordinance committed by a person within any six month period for which the person admits responsibility or is determined to be responsible.

RESIDENTIAL ENTRANCEWAY STRUCTURE. A masonry structure, wall, gatehouse, gate, column or similar architectural feature located near the entranceway to a residential development which marks or identifies the development.

RESTAURANT. An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state and whose principal method of operation includes one of the following characteristics:

(1) Customers are normally provided with an individual menu and are served their foods and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed;

(2) A cafeteria-type operation where food and beverages are consumed within the restaurant building.

RESTAURANT, CARRY-OUT. A business establishment primarily selling prepared foods and/or beverages intended to be taken off the premises for consumption.

RESTAURANT, FAST FOOD. An establishment whose principal business is the sale of food and/or beverages in a ready to consume state for consumption:

(1) Within the restaurant building; or

(2) Off-the-premises as carry-out orders and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in edible containers or in paper, plastic or other disposal containers; or

(3) The establishment includes a drive-through service facility.

ROADSIDE STAND. A temporary or existing structure containing not more than 200 square feet of floor area and operated for the purpose of selling agricultural, dairy or poultry products raised or produced only by the proprietor of the stand or by his or her family at that location.

SATELLITE DISH ANTENNA. A structure or apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit.

SATELLITE EARTH STATION. An antenna, usually parabolic in shape, designed and intended for transmitting or receiving television, radio or microwave signals to or from earth satellites.

SEASONAL ENCLOSURE. A room addition with no more than 25% of any elevation being constructed of materials other than glass, screen or approved transparent materials.

SELF-STORAGE FACILITY. A group of buildings divided into separate units or areas used to meet the storage needs of businesses and residents of the community on a self-service basis. This use is not designed to serve as a warehouse for inventory or equipment for commercial and industrial uses, as such a warehousing use by nature requires greater frequency of deliveries to and from the storage location than accompanies the self-storage facility use.

SHED. An accessory building designated or used solely for the storage of lawn and gardening tools and equipment, snowblowers, patio furniture and other similar household and lawn equipment but excluding the storage of automobiles, trucks, boats, recreational vehicles or equipment on trailers, trailers and similar vehicles and equipment, owned and used by the occupants of the building to which it is accessory.

SIGN. See section 28.13.

SIMPLIFIED TRADITIONAL. An architectural style incorporating design elements which include dormers, cupolas, cornices, parapets, canopies, awnings, and masonry or brick piers, pilasters, and lintels. (See illustration at end of the definitions in this section).

SITE CONDOMINIUMS. A condominium version of a platted subdivision. These developments include a dwelling unit or structure and an area of land immediately surrounding each dwelling or building unit (referred to as building envelope) which together are equivalent to the area of a platted lot.

SITE-OBSCURING. An opaque fence, greenbelt, decorative masonry wall or other structure which serves as a complete visual barrier to persons outside its perimeter.

SITE PLAN. A detailed drawing showing all salient features of a proposed development so that it may be evaluated to determine its compliance with all applicable requirements of this ordinance.

SPECIAL APPROVAL LAND USES. A land use or an activity which, under certain circumstances, might be detrimental to other permitted uses and should not be permitted as a right in a given zoning district, but which use can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the city which provide protection to land uses.

SPECIFIED ANATOMICAL AREAS.

(1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse or sodomy; and

(3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STABLE, PRIVATE. An accessory building for the keeping of horses for non-commercial use of the residents of the principal building on the lot, excluding the keeping of horses for others or for commercial riding or boarding.

STABLE, RIDING OR BOARDING. An accessory structure or building wherein horses, ponies or other equine are kept or sheltered for riding, showing, breeding or boarding purposes for a fee or for hire, remuneration or sale.

STATE LICENSED RESIDENTIAL FACILITY. A structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer persons under 24-hour supervision or care.

STORAGE YARD. An open area, not enclosed by a building, primarily used to store goods, raw materials, equipment or vehicles when not in use but excluding waste or scrap materials.

STORY. That portion of a building between a floor and a ceiling.

STORY, HALF. An uppermost story lying under a sloping roof, the usable floor area of which does not exceed 50% of the floor area immediately below. Tri-level shall be considered one and one-half stories, quad-level shall be considered two stories.

STREET, PRIVATE. A street which serves more than one property and adjacent landowners are responsible for its maintenance.

STREET, PUBLIC. A public thoroughfare which affords the principal means of access to abutting property and which has been accepted either expressly or impliedly by the city, Macomb County Road Commission or other public road agency as a public street.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

STRUCTURAL ALTERATION. Any change in the supporting members of a building or structure, such as bearing walls; or partitions, columns, beams or girders, stairways or any change in the width or number of exits; or any substantial change in the roof and exterior wall.

SUPERMARKET. An establishment that deals primarily in the retail sale of food, sundries, household and general merchandise in a large variety and quantity and typically includes personal services such as photo processing, shoe repair, dry cleaning, video rentals and the like.

TATTOO. Any of the following indelible marks:

(1) An indelible mark made upon the body of another individual by the insertion of a pigment under the skin.

(2) An indelible design made upon the body of another individual by production of scars other than by branding.

TATTOOING. The making of a tattoo upon the body of another individual.

TEMPORARY. For a duration of less than one year.

TEMPORARY USE OR BUILDING. A use or building permitted after approval by either the Planning Commission or Office of Planning and Zoning for periods of time that are limited in duration to the period of a seasonal sale or special event or a non-permanent structure used in conjunction with a temporary use.

TOWNHOUSE. A building occupied by three or more families in which each unit has its own front and rear access to the outside, no unit is located above another unit and each unit is separated from another unit by one or more common fire resistant walls.

TRUCK STORAGE. An area used for the temporary storage of private trucks or trucks for hire.

TRUCK TERMINAL. A structure owned, leased or operated by a common carrier to which goods, except raw or unprocessed agricultural products, natural minerals or other resources, are delivered for immediate distribution to other locations or to be amalgamated for delivery in larger units to other points in the metropolitan area or for distribution or amalgamation involving transfer to other modes of transportation.

USE, PRINCIPAL. The primary and chief purpose for which a lot, parcel or building is used.

USE, VARIANCE. A variance granted for a use or structure that is not permitted in a particular zoning district.

VARIANCE. A modification of the literal provisions of this ordinance granted by the Zoning Board of Appeals in situations or under circumstances where permitted by law.

WALL. An obscuring structure of definite height and location, constructed of masonry, concrete or similar material and intended for security, screening or enclosure.

YARD. An open space of prescribed width or depth on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied from the ground upward, except, as otherwise provided herein.

YARD, FRONT. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point on the main building (see illustration).

YARD, REAR. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point on the main building (see illustration).

YARD, SIDE. An open space between a main building and the side lot line, extending from the front 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 (see illustration).

(Ord. No. 278-A, §§ 44-46, 4-17-90; Ord. No. 278-G, § 21, 9-18-90; Ord. No. 278-L, § 6, 6-2-92; Ord. No. 278-N, §§ 24, 25, 8-1-95; Ord. No. 278-O, § 11, 9-5-95; Ord. No. 278-R, §§ 20, 21, 8-20-96; Ord. No. 278-T, § 18, 6-3-97; Ord. No. 278-U, §§ 20-23, 1-6-98; Ord. No. 278-W, § 1, 11-30-98; Ord. No. 278-Y, §§ 45, 46, 5-16-00; Ord. No. 278-AA, § 13, 3-20-01; Ord. No. 278-CC, § 21, 6-3-03; Ord. No. 278-KK §§ 2, 3, 4-15-08; Ord. No. 278-LL, § 3, 7-1-08; Ord. No. 278-MM, § 5, 10-21-08; Ord. No. 278-NN, §§ 30, 31, 34, 35, 1-6-09; Ord. No. 278-OO, § 19, 8-5-09; Ord. No. 278-PP, § 4, 12-1-09; Ord. No. 278-XX, § 2, 7-19-16; Ord. No. 278-YY, § 14, 10-4-16; Ord. No. 278-AAA, § 2, 5-3-17; Ord. No. 278-BBB, § 8, 7-18-17)

[Click here to view Basic Structural Terms image.]

[Click here to view Building Line image.]

[Click here to view Basement & Story and Building Height image.]

[Click here to view Lots & Areas image.]

[Click here to view Through Lot, Interior & Corner image.]

[Click here to view Yards image.]

ARTICLE 32. ZONING CHANGES AND AMENDMENTS

SECTION 32.00. AMENDMENT INITIATION.

A. An amendment to this ordinance text and/or map may be initiated by: City Council on its own motion; the Planning Commission; or by petition of a property owner, vested party or one with a legal interest.

B. All petitions for amendments to this ordinance shall be in writing, signed and filed with the city. At this time, the fee established by City Council shall be paid.

C. All petitions for amendments to this ordinance, without limiting the right to file additional materials, shall contain at least the following:

1. The petitioner's name, address and interest in the petition, as well as the name, address and interest of every person having a legal or an equitable interest in the land covered by the petition. The signature of each party having an interest must be presented on the application;

2. A description of the proposed amendment;

3. If the proposed amendment would require a change in the zoning map, a fully dimensioned map showing:

a. The land which would be affected by the proposed amendment;

b. A legal description of such land;

c. The present zoning classification of the land.

4. An owner may voluntarily offer in writing to use and develop land with a particular use or development as a condition to rezoning or to amendment of the zoning map relating to the land.

a. An owner willing to condition rezoning or map amendment upon use or development of the land in a particular manner may request (but shall not be required to obtain) a pre-preliminary review prior to filing a formal petition for rezoning or for map amendment.

b. The petitioner's new application request, including the proposed conditions, shall be considered by the Planning Commission during the public hearing prior to making a recommendation on the proposed request to the City Council.

c. A request for rezoning or map amendment based upon conditions shall be subject to all of the requirements and procedures set forth in Article 24 which do not conflict with this division, division C.5., and Section 32.04 H.

d. The conditions offered by the owner and accepted by the City Council as a condition of the rezoning or map amendment shall be incorporated into a written agreement approved by the owner and the city, including any site plans, elevation plans, landscape plans, signage plans, or other applicable conditions which were offered by the owner and accepted by the city as part of the conditions relating to the rezoning or map amendment. The agreement shall be recorded with the Macomb County Register of Deeds. Any approved final site plan for the proposed use or development must be consistent with the conditions of approval proposed by the owner and accepted by the City Council.

e. The owner must receive final site plan approval for the proposed use or development within 12 months of the effective date of the ordinance amendment approving the conditional rezoning or map amendment, obtain a building permit within 18 months of the effective date, and complete development of the proposed development within 30 months of the effective date. If the owner fails to proceed with development of its property in accordance with the mutually agreeable conditions, the zoning of the land reverts to its former zoning classification. This time limitation may be extended by the City Council in response to a request from the owner.

f. An owner who develops land with a development or use pursuant to a conditional rezoning or map amendment shall continuously operate and maintain the development or use in compliance with all of the terms and conditions of the conditional rezoning agreement executed by the City and the owner. Any failure to satisfy a condition of rezoning or map amendment incorporated into the written agreement shall constitute a separate violation of the Zoning Ordinance.

g. Any rezoning or map amendment approved pursuant to this conditional rezoning or map amendment procedure shall be binding upon and inure to the benefit of successor owners of the land in accordance with the terms and conditions set forth in the agreement.

h. The conditions of the rezoning or map amendment offered by the owner and approved by the City Council shall not be altered or added to during the specified time period except as provide in provided in division i. below.

i. Any changes to the conditions of the rezoning or map amendment shall be incorporated into a written amendment to the agreement executed by the owner and the city, which shall be recorded with the Macomb County Register of Deeds.

5. If a petition for amendment of the zoning classification of a rezoning or map amendment for a parcel of property of land is denied by the City Council, a new application requesting amendment of the current zoning classification to the same requested classification or to a more intense zoning classification shall not be accepted by the Office of Planning for a period of one year after the effective date of such denial unless:

a. Changed conditions in the surrounding neighborhood and/or vicinity are clearly evident;

b. The provisions of the zoning ordinance relating to the matter previously decided by the City Council have been amended; or

c. The new application is filed by a new property owner or party with an interest in the property.

d. The denial received by the petitioner related to a request for rezoning or map amendment based upon conditions in accordance with the procedure set forth in Section 32.00C.4. After the City Council makes a determination that such request satisfies one of the exceptions set forth in C.5.a., b., or c., the petitioner may file its application for rezoning for consideration in accordance with the procedures for zoning amendments set forth in Article 32.

e. A petitioner who wishes to submit a new application for rezoning or map amendment within the one year period after denial of a request for conditional rezoning or map amendment may do so by filing a new application for rezoning or map amendment accompanied by a new application and fee. The petitioner's new application request shall be considered by the Planning Commission which shall make a recommendation to the City Council after conducting a public hearing in accordance with the procedures applicable to requests for conventional rezoning or map amendment. A petitioner who wishes to submit a new application for rezoning or map amendment within the one year period after denial of a request for rezoning or map amendment that was considered in the conventional manner must submit correspondence demonstrating that the request meets one of the above criteria set forth in Section 32.00 C.5.a., b., or c. The City Council must determine that the petitioner's new request for rezoning or map amendment is within any of the exceptions set forth in C.5.a., b., or c. prior to acceptance of the new application by the Office of Planning and prior to conducting any public hearing.

(Ord. No. 278-CC, § 22, 6-3-03; Ord. No. 278-FF, § 5, 5-3-05)

SECTION 32.01. ACTION OF PLANNING COMMISSION.

A. Upon receipt of a petition to amend this ordinance, the Planning Commission shall hold a public hearing on any proposed amendment to this ordinance before making a recommendation to the City Council. Notice of the public hearing shall be given according to state law. After the public hearing, the Planning Commission shall forward to the City Council a summary of the comments submitted at the public hearing and its recommendations and report on the proposed amendment.

SECTION 32.02. ACTION OF CITY COUNCIL.

A. Upon receipt of the recommendations and report from the Planning Commission, the city may adopt the ordinance and maps with or without amendments or may refer the ordinance and maps back to the Planning Commission for further study and a supplemental report before taking final action on the proposed amendment.

B. An amendment to this zoning ordinance may be passed only by an affirmative vote of at least five members of the City Council if a protest against the proposed amendment is presented to the City Council at or before the time for final action on the amendment. The protest shall be duly signed by:

1. The owners of at least 20% of the area of land included in the proposed change, excluding publicly owned land; or

2. The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change, excluding publicly owned land.

C. Following adoption of an amendment to this ordinance by the City Council, notice of adoption shall be published in a newspaper of general circulation in the city. The notice shall include the following information:

1. Either a summary of the regulatory effect of the amendment, including the geographic area affected or the text of the amendment;

2. This ordinance shall be effective upon the expiration of seven days after publication of a notice of adoption;

3. The place and time where a copy of the ordinance may be purchased or inspected.

(Ord. No. 278-NN, § 32, 1-6-09)

SECTION 32.03. FILING OF PETITIONS FOR AMENDMENTS FEES.

All petitions for amendments to this ordinance shall be in writing, signed and filed with the City Clerk on forms provided by the city and according to the administrative provisions established by the city. At this time, the fee established by City Council to cover the cost of processing, erection of public notice signs and hearings shall be paid.

(Ord. No. 278-X, § 22, 4-6-99)

SECTION 32.04. CONTENTS OF PETITION FOR AMENDMENT.

All petitions for amendments to this ordinance, without limiting the rights to file additional material, shall contain at least the following:

A. The petitioner's name, address and verified interest in the petition, as well as the name, address and interest of every person having a legal or an equitable interest in the land covered by the petition;

B. The nature and effect of the proposed amendment;

C. If the proposed amendment would require a change in the zoning map, a fully dimensioned map showing:

1. The land which would be affected by the proposed amendment;

2. A legal description of such land;

3. The present zoning classification of the land;

4. The zoning classification of all abutting districts;

5. All public and private rights-of-way and easements bounding and intersecting the land under consideration.

An application for approval of a rezoning shall not be processed or placed on an agenda for a public hearing until the site for which the rezoning has been requested is subject to any outstanding, unresolved Property Maintenance Code violation. Any outstanding Property Maintenance Code violation must be first resolved by correcting the violation or by having the applicant/property owner sign a written code compliance agreement with the City setting forth a written commitment by the applicant/property owner to bring the site and/or building into full compliance with all provisions of the Property Maintenance Code within a specific time period acceptable to the City Development Director.

D. If the proposed amendment would require a change in the zoning map, the names and addresses of the owners of all land within the area to be changed by the proposed amendment.

E. The alleged error in this ordinance, if any, which would be corrected by the proposed amendment, together with a detailed explanation of such error in the ordinance which is alleged and detailed reasons as to how the proposed amendment will correct the same.

F. The changed or changing conditions, if any, in the area or in the municipality generally which make the proposed amendment reasonably necessary.

G. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.

H. If the proposed request for rezoning or zoning map amendment includes conditions upon which the owner proposes to develop the land with a particular development or use, the owner may submit with the petition any documentation or information related to its proposed development, including but not limited to the following materials (in addition to those required by division A. through G.):

1. A detailed site plan for the proposed use or development of the land showing proposed buildings, setbacks, driveways, parking and other information required by Article 26 of the Zoning Ordinance.

2. Elevation drawings for any proposed buildings or structures to be constructed on the land, and descriptions of building materials to be incorporated.

3. Landscape plans showing the proposed landscaping and screening of the use or development of the property.

4. Signage plans showing the proposed signage to be installed as part of the proposed development or use of the land.

5. A written agreement specifying the conditions of approval voluntarily offered by the petitioner as a condition to approval of a rezoning or map amendment of the property, which may include site plans, elevation drawings, landscape plans, signage plans or other document that assist in identifying the conditions that have been proposed by the owner and accepted by the city.

6. The time period during which the owner intends to proceed with and complete development of the land in the manner proposed in the agreement (including interim benchmarks such as anticipated time to obtain site plan approval and securing of building permits), and after which the zoning change made by the rezoning or map amendment shall revert to the former zoning classification unless the time period is extended by the city.

I. Approval of a rezoning or map amendment by the City Council conditioned upon development or use of land in a particular manner with a use which is a special approval land use under the Zoning Ordinance shall not require separate special approval land use if the development or use has been approved by the City Council as part of the conditional rezoning or map amendment for the land.

J. Approval of a rezoning or map amendment by the City Council conditioned upon development or use of land in a particular manner with a use or in a manner which requires a variance or modification of the standards set forth in the Zoning Ordinance shall not require separate approval of the variance or modification if the development or use has been approved by the City Council with the variance or modification included as part of the conditional rezoning or map amendment for the land.

K. An owner shall not be required to propose voluntary conditions as part of a request for rezoning or map amendment.

L. An owner who has filed a request for rezoning or map amendment with conditions may request at any time prior to a final decision of the City Council that the petition be considered as a request for map amendment or rezoning without conditions. In such instances, the petition shall be referred to the Planning Commission for a new public hearing after notice is given as required by law.

(Ord. No. 278-FF, §§ 6-7, 5-3-05; Ord. No. 278-RR, § 6, 10-18-11)

SECTION 32.05. COMPREHENSIVE REVIEW OF ORDINANCE.

The Planning Commission, at intervals of not less than three years, shall examine the provisions of this ordinance and shall submit a report to City Council recommending changes, if any, deemed desirable in the interests of public health, safety and welfare.

SECTION 32.06. RESERVED.

Editor's note:

Ord. No. 278-J, § 1, adopted June 18, 1991, enacted § 32.06, relative to a moratorium on certain commercial retail development, which was repealed effective Dec. 21, 1991 by § 4 of said ordinance. Ord. No. 278-K, § 1, adopted May 19, 1992, enacted § 32.06, relative to a moratorium on certain commercial retail development, which was repealed effective July 31, 1992 by § 4 of said ordinance.

ARTICLE 33. PENALTIES, PUBLIC NUISANCES, SEVERABILITY AND REPEAL

SECTION 33.00. VIOLATIONS AND PENALTIES.

A. Whenever, by the provisions of this ordinance, the performance of any act is required or the performance of any act is prohibited or wherever any regulation, dimension or limitation is imposed on the use of or upon any land or on the erection or alteration or the use or change of occupancy or structure or the uses within such structure, a failure to comply with such provisions of this ordinance shall constitute a violation of this ordinance. Every day on which a violation exists shall constitute a separate violation and a separate offense.

B. Any person, or any other acting in behalf of said person, violating any of the provisions of this ordinance shall, upon conviction thereof, be subject to a fine of not more than $500 and the costs of prosecution, by imprisonment for not more than 90 days or by both such fine and imprisonment at the discretion of the court. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this ordinance.

C. Municipal civil infraction. It is unlawful and constitutes a municipal infraction for any person to violate or fail to comply with the following provisions of this zoning ordinance:

Article	Title	Section
23	Residential parking must be on paved areas	23.01(J)
28	Portable signs	28.13
28	All signs within the city must be properly maintained	28.13
28	Regulation of window signs	28.13
28	Operation of outdoor patio while nuisance mitigation plan suspended	28.19(B)6 (first offense only)

The sanction for a municipal civil infraction citation shall be a civil fine in the amount provided by this zoning ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Public Act 236 of 1961, as amended, and other applicable laws.

1. The fine for a first offense violation of §28.19(B)6 shall be $500. Unless otherwise specifically provided by this code, the fine for any other violation of this zoning ordinance shall not be less than $100 or more than $200.

2. An increased fine may be imposed by the court for each repeat offense in accordance with the following:

   a. The fine for any offense that is a first repeat offense shall be no less than $250 nor more than $400;

   b. The fine for any second repeat offense or any subsequent repeat offense shall be no less than $500.

D. In addition to all other remedies, the city may commence and prosecute appropriate actions or proceedings in court to restrain or prevent any noncompliance with or violation of any of the provisions of this ordinance or to correct, remedy or abate such noncompliance or violation.

(Ord. No. 278-W, § 2, 11-30-98; Ord. No. 278-ZZ, § 3, 12-20-16)

SECTION 33.01. PUBLIC NUISANCE.

Any use of land or of a dwelling, building or structure, including a tent or recreational vehicle, used, erected, altered, razed or converted in violation of any of the provisions of this ordinance or a regulation adopted under it is declared to be a public nuisance per se and shall be abated by order of a court of competent jurisdiction. The City Manager or his or her designate(s) shall administer and enforce the Zoning Ordinance.

(Ord. No. 278-NN, § 33, 1-6-09)

SECTION 33.02. SEVERANCE CLAUSE.

Sections of this ordinance shall be deemed to be severable and should any section, paragraph or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

SECTION 33.03. REPEAL.

The existing zoning regulations of the City of Sterling Heights, being the zoning ordinance, Ordinance Number 131 adopted by the City Council on June 17, 1970, as amended, are hereby repealed. The adoption of this ordinance, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of the aforementioned ordinance dated June 17, 1970, as amended, if the use so in violation is in violation of the provisions of this ordinance.

SECTION 33.04. MUNICIPAL CIVIL INFRACTIONS.

A. *Definitions*. In this article, the following words shall have the following meaning ascribed to them.

BUREAU. The City of Sterling Heights Municipal Ordinance Violations Bureau as established by this article.

MUNICIPAL CIVIL INFRACTION ACTION. A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

MUNICIPAL CIVIL INFRACTION CITATION. A written complaint or notice to appear in court upon which an authorized city official records the occurrence or existence of one or more municipal civil infractions by the person cited.

MUNICIPAL CIVIL INFRACTION NOTICE. A written notice prepared by an authorized city official directing a person to appear at the City of Sterling Heights Municipal Ordinance Violations Bureau to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city.

B. *Municipal civil infraction action; commencement.* A municipal civil infraction action may be commenced upon the issuance by an authorized city official of: (1) municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction notice directing the alleged violator appear at the City of Sterling Heights Municipal Ordinance Violations Bureau, within ten days, to pay a civil fine if the alleged violator admits responsibility.

C. *Municipal civil infraction citations; issuance and service.* Municipal civil infraction citations shall be issued and served by authorized city officials as follows:

1. The time for appearance specified in a citation shall be within a reasonable time after the citation is issued;

2. The place for appearance specified in a citation shall be the District Court;

3. Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the city and issued to the alleged violator as provided by Section 8705 of the Act;

4. A citation for a municipal infraction signed by an authorized city official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare

under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief;"

5. An authorized city official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation;

6. An authorized city official may issue a citation to a person if:

a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

b. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the City Attorney approves in writing the issuance of the citation;

7. Municipal civil infraction citations shall be served by an authorized city official as follows:

a. Except as provided by Section33.04C,7,b, an authorized city official shall personally serve a copy of the citation upon the alleged violator;

b. If the municipal civil infraction action involved the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building or structure at the owner's last known address.

D. *Municipal civil infraction citations; contents.*

1. A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court and the time at or by which the appearance shall be made.

2. Further, the citation shall inform the alleged violator that he or she may do one of the following:

a. Admit responsibility for the municipal civil infraction by mail, in person or by representation at or by the time specified for appearance;

b. Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or in person or by representation;

c. Deny responsibility for the municipal civil infraction by doing either of the following:

(1) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the city;

(2) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

3. The citation shall also inform the alleged violator of all of the following:

a. If the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time for a hearing, unless a hearing date is specified on the citation;

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

c. A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the city;

d. At an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney;

e. At a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

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

E. *Municipal Ordinance Violations Bureau.*

1. The City of Sterling Heights Municipal Ordinance Violations Bureau ("Bureau") is established as authorized by Section 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction notices issued and served by authorized city officials and to collect and retain civil fines and costs as prescribed by ordinance.

2. The Bureau shall be located at a site designated by the City Manager and shall be under the supervision and control of the City Manager. The City Manager, subject to the approval of the City Council, shall adopt rules and regulations for the operation of the Bureau and appoint any regulations for the operation of the Bureau and appoint any necessary qualified city employee(s) to administer the Bureau.

3. The Bureau may dispose of municipal civil infractions for which a fine has been scheduled and for which a municipal civil infraction notice (as differentiated from a citation) has been issued. The Bureau may not dispose of a municipal civil infraction citation (as differentiated from a municipal civil infraction notice).

Nothing in this article shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any action for such a violation in a court of competent jurisdiction. No person shall be required to respond to a municipal civil infraction notice at the Bureau and may instead have the violation processed as a citation so that the matter will be handled by a court of competent jurisdiction. The unwillingness of any person to respond to any municipal civil infraction notice at the Bureau shall not prejudice or diminish such person's rights, privileges and protection accorded by law.

4. The Bureau shall only accept admissions of responsibility for municipal civil infractions for which a municipal civil infraction notice has been issued (as differentiated from a municipal civil infraction citation). The Bureau shall collect and retain civil fines and costs resulting from those admissions. The Bureau shall not accept payment of a civil fine from any person who denies responsibility for the offense or who admits responsibility only with an explanation. In no event shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to the alleged violation.

5. Municipal civil infraction violation notices shall be issued and served by authorized city officials under the same circumstances and upon the same persons as provided for citations as provided in sections 33.040 and 33.04C,7,a. and b. of this ordinance. In addition to any other information required by this ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation and the consequences for failure to appear and pay the required fine within the required time.

6. An alleged violator receiving a municipal civil infraction violation notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person or by representation.

7. If an authorized city official issues and serves a municipal civil infraction notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violations are not paid at the Bureau within ten days from the date of issuance of the municipal civil infraction notice, a municipal civil infraction citation may be filed with the District Court and a copy of the citation may be served by first class mail upon the alleged violator at his or her last known address. The citation filed with the Court shall consist of a sworn complaint containing the allegations stated in the municipal civil infraction notice and shall fairly inform the alleged violator how to respond to the citation.

F. *Schedule of municipal civil infraction fines.*

1. The following schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with municipal civil infraction notices shall apply:

a. $100 for each violation;

b. $250 for the first repeat offense;

c. $500 for any second or subsequent repeat offense.

2. A copy of the schedule, as amended from time to time, shall be posted at the Bureau.

(Ord. No. 278-W, § 3, 11-30-98)

SECTION 33.05. SCHEDULE OF REGULATIONS.

Sterling Heights Zoning Ordinance Schedule of Regulations	*Minimum Yard Setbacks*	

Sterling Heights Zoning Ordinance Schedule of Regulations					*Minimum Yard Setbacks*													
					Front Yard Setbacks													
	Minimum Lot Size		*Maximum Bldg. Height*									*Side Yard Setbacks*		*Rear Yard Setbacks*		*Min. Floor Area (Sq. Ft.)*	*Max. Lot Coverage*
Zoning Districts	*Area*	*Width*	*Stories*	*Feet*	*Regional 204'*	*Regional 150'*	*Major*	*Secondary*	*Collector*	*Local*	*Private Road*	*Not Abutting Residential*	*Abutting Residential*	*Not Abutting Residential*	*Abutting Residential*		
R-100 One Family	14,000	100	2	25	132	105	90	73	65	60	30	10/25	10/25	35	35	2,000	30%
R-90 One Family	11,700	90	2	25	132	105	90	73	65	60	30	8/20	8/20	35	35	2,000	30%
R-80 One Family	10,000	80	2	25	132	105	90	73	65	60	30	5/15	5/15	35	35	1,800	30%
R-70 One Family	8,400	70	2	25	132	105	90	73	65	60	30	5/15	5/15	35	35	1,400	30%
R-60 One Family	7,200	60	2	25	132	105	90	73	65	60	30	5/15	5/15	35	35	1,000	30%
R-2 Two Family	12,000	100	2	25	132	105	90	73	65	60	30	10/20	10/20	35	35	800	30%
MHP Mobile Home Park	5,500	—	2	25	110 feet from the centerline of any abutting public road							25	25	25	25	720	—
RM-1 Low Rise Multiple	(See District Requirements)		2	25	(See District Requirements)							35	35	35	35	(See District Requirements)	25%
RM-2 Low Rise Multiple			2	25								35	35	35	35		25%
RM-3 Mid and High Rise Multiple			None	None								(See District Requirements)					18%
O-1 Business & Professional Office	12,000	80	1	20	137	110	95	78	70	65	35	0/20	35	20	35	800	—
O-2 Planned Office	2 Ac.	200	2	30	152	125	110	92	85	80	52	25	75	40	75	5,000	—
O-3 Office/ Commercial Service	—	—	—	—	177	150	135	118	110	105	75	(See District Requirements)				—	35%
C-1 Local Convenience	12,000	80	1	20	137	110	95	78	70	65	35	5/20	50	60	50	700	—
C-2 Planned Comparison	10 Ac.	300	2	30	177	150	135	118	110	105	75	25	—	40	—	—	—
C-3 General Business	20,000	100	2	30	137	110	95	78	70	65	35	(See District Requirements)				—	—
C-4 Multi Use	(See District Requirements)																
P-1 Parking	12,000	80	2	25	137	110	95	78	70	65	35	(See District Requirements)				—	—
O-R Office Research	40,000	140	2	30	177	150	135	118	110	105	75	25/100	75	75	100	5,000	—
M-1 Light Industrial	20,000	100	—	35	177	150	135	118	110	105	75	5/20	20/50	50	50/20	5,000	—
M-2 Heavy Industrial	25,000	100	—	50	177	150	135	118	110	105	75	15	20/50	50	20/20	10,000	—
PCD Planned Center District and TRO Technical Research Office District(See District Requirements)																	

SUBDIVISION REGULATIONS

An act to regulate the subdivision of land; to promote the public health, safety and general welfare; to further the orderly layout and use of land; to provide for orderly growth and harmonious development of land; to secure adequate traffic circulation and to lessen congestion in the streets and highways; to facilitate adequate provisions for transportation, water, sewage, drainage and other public requirements; to plan for the provision of adequate recreational areas, school sites and other community facilities; to facilitate the division of larger tracts into smaller parcels of land; to promote appropriate land development throughout the city; to provide for the approvals to be obtained by subdividers prior to the recording and filing of plats; to establish the procedure for vacating, correcting and revising plats; to control residential building development within flood plain areas; to provide for the filing of amended plats; to approve the penalties for violations hereof and to provide logical procedures for the achievement of these purposes. The City of Sterling Heights ordains:

ARTICLE I. SHORT TITLE

SECTION 1.01. [SHORT TITLE].

This ordinance shall be known and may be cited as the City of Sterling Heights Subdivision Regulations.

Editor's note:

Ordinance No. 196 is set out herein as adopted on July 19, 1977. The original arrangement, numbering system, titles and catchlines have been retained. However, the editor has employed a uniform system of capitalization and punctuation, and enclosed in brackets [ ] any corrections or material added for clarity.

Statutory reference:

Subdivision Control Act of 1967, M.S.A. §§ 26.430-(101)-26.430(293); M.C.L. §§ 560.101-560.293

ARTICLE II. DEFINITIONS

SECTION 2.01. [DEFINITIONS].

The following definitions shall apply in the interpretation and enforcement of this ordinance unless otherwise specifically stated. The word "person" includes a firm, association, organization, partnership, trust, company or corporation, public or private, as well as an individual. The word "shall" is always mandatory and not merely directory, and the word "may" is permissive.

ALLEY. Public or private right-of-way which provides a secondary means of access to a lot, block or parcel of land.

AREA DEVELOPMENT PLAN. A graphic presentation indicating a scheme of how an area of land abutting the property to be platted can be developed with streets.

BLOCK. Property abutting one side of a street and lying between the two nearest intersecting streets, 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.

BUILDING LINE or ***SETBACK LINE.*** A line parallel to a street right-of-way line, shore of a lake, edge of a stream or river bank, established on a parcel of land or on a lot for the purpose of prohibiting construction of a building between such line and right-of-way, other public area or the shore of a lake or the edge or a stream or river bank.

CAPTION. The name by which the plat is legally and commonly known.

COMMERCIAL DEVELOPMENT. A business center establishing building area, parking areas, service areas, screen plating and widening, turning movement and safety lane roadway improvements.

COMPREHENSIVE DEVELOPMENT PLAN (or ***MASTER PLAN***). The Comprehensive Land Use Plan for the city, including graphic and written proposals indicating the general locations recommended for streets, parks, schools, public buildings, zoning districts and all physical developments of the City of Sterling Heights 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 and certified to the Council and to the County Register of Deeds.

COUNTY PUBLIC WORKS COMMISSIONER. The Macomb County Public Works Commissioner.

COUNTY PLAT BOARD. The Macomb County Plat Board.

COUNTY ROAD COMMISSIONERS. The Macomb County Road Commission and/or its duly authorized agent.

COUNTY PLAT COORDINATING COMMITTEE- P.C.C. A committee represented by the offices of the Macomb County Road Commission, the Macomb County Public Works Commission, the Macomb County Department of Health and the Macomb County Planning Commission and established for the purpose of reviewing preliminary plats to afford, advise and give assistance to the developer and his or her engineer.

DEDICATION. The intentional appropriate of land by the owner to public use.

DEVELOPER. (See Subdivider)

DIVISION (PARTITIONING, DIVIDING). The dividing and recording of parcels of land into smaller tracts for the purpose of sale, lease or other legal transfer of use.

EASEMENT. A right or privilege over a specific portion of land area granted by the owner to the public, a corporation or some particular person or persons for specific uses and purposes and which is designated a "public" or "private" easement depending on the nature of the user.

FLOOD PLAIN. That area of land adjoining the channel of a river, stream, watercourse, lake or other watercourse which will be inundated by a flood as defined by the zoning ordinance for the City of Sterling Heights.

GOVERNING BODY. The Sterling Heights City Council.

GREENBELTS or ***BUFFER PARKS***. A strip or parcel of land privately restricted or publicly dedicated as open space located between similar or dissimilar uses for the purpose of protecting and enhancing each use.

HEALTH DEPARTMENT. The state, city, county or district health department having jurisdiction.

IMPROVEMENTS. Grading, street surfacing, curb and gutter, sidewalks, crosswalks, water mains and lines, sanitary and storm sewers, culverts, bridges, utilities, trees and other additions to the natural state of land which increases its value, utility or habitability.

LOCATION MAP. A map indicating significant physical features of the area surrounding the property to be subdivided.

LOT. A measured portion of a parcel or tract of land which is described and fixed in a recorded plat.

(a) ***LOT DEPTH.*** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

(b) ***LOT WIDTH.*** The horizontal distance between the side lot lines measured at the setback line and at right angles to the lot depth.

LOT SPLIT. The division of a parcel of land whose boundaries are fixed in a recorded plat into more than one but less than five lots or tracts.

MASTER PLAN. (See Comprehensive Development Plan.)

OUTLOT. Any lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

PARCEL or ***TRACT***. A continuous area or acreage of land which can be described in the subdivision regulations.

PLANNED INDUSTRIAL DEVELOPMENT. A planned area designed specifically for industrial use providing, but not limited to, screened buffers, wider paving and turning provisions, traffic safety lanes and increased utility capacity, where necessary.

PLANNED UNIT DEVELOPMENT. A land area which has both individual building sites and common property and which is designated and developed under one

owner or organized group as a separate neighborhood or community unit.

PLANNING COMMISSIONER. The Planning Commission of the City of Sterling Heights as established under Public Act 285 of 1931, as amended.

PLAT. A map or chart of a subdivision of land.

(a) ***PRE-PRELIMINARY PLAT.*** A map drawn to scale, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.

(b) ***PRELIMINARY PLAT.*** A map showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration.

(c) ***FINAL PLAT.*** A map of all or part of a subdivision prepared and the accuracy certified by a registered civil engineer or land surveyor in accordance with the requirements of the Subdivision Control Act and this ordinance and suitable for recording.

PROPRIETOR. (See Subdivider.)

PUBLIC RESERVATION. A portion of a subdivision which is set aside for public use and made available for public use and acquisition.

PUBLIC UTILITY. Any person, firm or corporation, municipal department, board or commissioner duly authorized to furnish and furnishing under state or city regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water or other services of a similar nature.

PUBLIC OPEN SPACE. Land dedicated or reserved for use by the general public. It includes, but is not limited to, parks, parkways, recreation areas, school sites, community or public building sites, streets and highways and public parking spaces.

REPLAT. The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof as provided in Public Act 288 of 1967, as amended.

RIGHT-OF-WAY. Land reserved, used or to be used for a street, alley, walkway or other public purpose.

STREET. A public way or 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 and includes the land between right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulders, curbs and gutters, sidewalks, parking areas, lawn areas and other areas within the right-of-way lines. The following are included.

(a) ***COLLECTOR STREET.*** A street intended primarily to gather traffic from minor streets and carry it to major streets.

(b) ***CUL-DE-SAC.*** A short minor street, having one end open to traffic and being permanently terminated at the other end by a vehicular turn around.

(c) ***EXPRESSWAY***. Those streets designed for high speed, high volume traffic, with full or limited access, some grade crossings and limited driveway connections.

(d) ***FREEWAY***. Those streets designed for high speed, high volume through traffic, with completely controlled access, no grade crossings and no private driveway connections.

(e) ***INDUSTRIAL STREET.*** A street serving or intended to serve lots or parcels of land platted or to be developed for industrial use or as an industrial subdivision.

(f) ***MAJOR THOROUGHFARE.*** An arterial street of great continuity which is intended to serve as a large volume trafficway for both the immediate area and region beyond and may be designated in the Master Road Plan as a major thoroughfare.

(g) ***MARGINAL ACCESS STREET.*** A minor street parallel and adjacent to a major thoroughfare and which provides access to abutting properties and protection from through traffic.

(h) ***MINOR STREET.*** A street supplementary to a secondary thoroughfare and intended to serve primarily the local needs of the neighborhood and of limited continuity used primarily as access to abutting residential properties.

(i) ***PUBLIC WALKWAY.*** A public right-of-way dedicated for the purpose of a pedestrian access to residential areas and located so as to connect to two or more streets or a street and a parcel of land or other open space.

(j) ***SECONDARY THOROUGHFARE.*** A street intended to serve as a major means of access from minor and/or collector streets to major thoroughfares or as a connector between major thoroughfares and having considerable continuity within the framework of the Master Road Plan.

SUBDIVIDER. A person or persons, firm, corporation, association, partnership, trust or any legal combination of them or any other legal entity proceeding under these regulations to affect a subdivision of land. The word ***SUBDIVIDER*** shall include the word "proprietor" as used in Public Act 288 of 1967, as amended.

SUBDIVIDE or ***SUBDIVISION***. The partitioning or dividing of a parcel or tract of land by the subdivider (proprietor) thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale or lease of more than one year or of building development, where the act of division creates 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.

SUBDIVISION CONTROL ACT. Public Act 288 of 1967, as amended, of the State of Michigan.

SURVEYOR. Either a land surveyor or a civil engineer, both of whom must be registered in the state.

TOPOGRAPHICAL MAP. A map showing existing physical characteristics with contour lines at sufficient intervals to permit determination of existing and proposed grades and drainage.

WATER RESOURCES COMMISSION. The Water Resources Commission of the State of Michigan.

ZONING ORDINANCE. The City of Sterling Heights Zoning Ordinance, as amended.

ARTICLE III. PLATTING PROCEDURE AND DATA REQUIRED

The procedures for the submittal, review and approval of a subdivision plat shall follow the steps as listed below.

SECTION 3.01. PRE-APPLICATION INVESTIGATION.

1. Prior to the preparation of a preliminary plat, the subdivider may meet informally with the City Planner and other city agencies concerned to investigate the procedures and standards of the City of Sterling Heights.

2. The subdivider shall familiarize himself or herself with the zoning ordinance, subdivision regulations, 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 municipality.

3. The subdivider shall review the area zoning for the proposed subdivision to determine if it is properly zoned for the intended use.

4. The subdivider shall complete an investigation of existing schools and of public open spaces, including parks and playgrounds, to serve the proposed subdivision.

5. The subdivider shall investigate the relationship of the proposed subdivision with respect to the Master Road Plan.

6. The subdivider shall investigate the standards for sewage disposal, water supply and drainage of the city and Macomb County and the health standards of Macomb County and the State of Michigan.

7. The subdivider shall review Public Act 288 of 1967, as amended, and the requirements of those state and county agencies which are required by said Public Act to review and approve the plat.

SECTION 3.02. PRE-APPLICATION REVIEW.

A. [*Layout*.] The pre-application layout, if submitted, shall consist of the following:

1. General layout of streets, blocks and lots in sketch form;

2. Existing conditions and characteristics of the land on and adjacent to the site;

3. Any general area set aside for schools, parks and other community facilities.

B. *Procedure*.

1. The subdivider shall submit 12 copies of the pre-application layout to the City Planner.

2. The Planning Department or subdivision committee will review the plan with the subdivider or his or her agent. The review shall consist of examining the following:

(a) Major thoroughfares in the area;

(b) Utility systems available to service the platted areas;

(c) Adjacent land use;

(d) Unusual development problems;

(e) Topography;

(f) Existing zoning;

(g) Adequacy of existing schools and public open space;

(h) Availability and feasibility of providing city services;

(i) Conformance to the Master Plan;

(j) Applicable ordinance provisions;

(k) Environmental effects.

3. The City Planner shall review the proposed subdivision and:

(a) Stipulate the necessary changes that would make the plat acceptable for processing;

(b) Notify the proprietor of the results of the pre-application review.

SECTION 3.03. APPLICATION, REVIEW AND TENTATIVE APPROVAL OF PRELIMINARY PLAT.

A. *Procedure*. The subdivider shall submit to the City Clerk not less than 30 copies of the preliminary plat and location map, together with a written application in triplicate and other data required by the subdivision regulations.

B. *Submittal*. The following shall be shown on the preliminary plat or submitted with it:

1. Statement of intended use of the proposed plat, such as residential single family, two family and multiple housing, commercial, industrial, recreational or agricultural;

2. Proposed sites, if any, for multi family dwellings, shopping centers, churches, industry and other nonpublic uses exclusive of single family dwellings;

3. Any sites proposed for parks, playgrounds, schools or other public uses.

C. *Fees*. Fees, as required in accordance with this ordinance, for checking and reviewing the proposed plat are to be deposited with the City Treasurer when the application is submitted.

D. *Preliminary plat.* The preliminary plat, with a topographical map superimposed at the same scale, shall contain the following information and shall be drawn up and submitted in the following manner:

1. Scale of map. (Minimum scale: 1" = 100');

2. Name of and acreage contained within the proposed subdivision;

3. Name, address and phone number of subdivider, proprietor, owner, engineer, land surveyor, designer or planner who prepared the preliminary plat;

4. Location of the subdivision, giving the numbers of section, town and range and the name of the city and county;

5. Date for preparation, scale and north point;

6. Lots and outlots shall be shown as follows:

(a) All lots to be numbered consecutively;

(b) Total number of lots to be shown;

(c) All outlots to be lettered alphabetically;

(d) Total number of outlots to be shown;

(e) The length of each lot line;

(f) Width of each lot;

(g) Building setback lines;

(h) Width and location of any known existing easement;

7. Existing elevations around the perimeter of the property to be subdivided to a point 250 feet outside the perimeter. The elevations shall be given at all points or locations where property lines change course or at intervals of not more than 100 feet. Contour lines shall be shown at one foot intervals except where the topography is such that the interval should be increased for clarity, in which case contours shall be shown at two foot or five foot intervals as determined by the City Engineer;

8. Proposed street layout shall be shown indicating:

(a) Width of the right-of-way;

(b) Proposed connections with existing or future streets;

(c) Width and location of public walkways;

(d) Rights-of-way and easements, showing location, width and purpose;

9. Designation of any land proposed to be acquired, reserved or dedicated for public use and/or the use of property owners in the subdivision;

10. All land within the boundaries of the plat shall be shown thereon in such a manner that title to the area may be clearly established as to whether dedicated to public use or reserved to private use;

11. The exterior boundaries of the subdivision shall include and correctly show the area within the existing right-of-way of any abutting street, county road or state trunk line highway, if such area has not previously been dedicated to public use and if it is the proprietor's land;

12. When any part of this land lies within or abuts a floodplain area, the plat shall include the following:

(a) The floodplain, as established by ordinance of the City of Sterling Heights, shall be shown within a contour line;

(b) The floodplain area shall be clearly labeled on the plat.

E. [*Area development plan.*] The area development plan shall be combined with the location map and shall indicate how the remaining tract or tracts can be developed in relation to the initial subdivision to be platted and further contain the following information:

1. General street patterns;

2. Location of schools and recreation areas;

3. Proposed general layout for entire area.

F. *Location map.* The location map shall contain the following information and be drawn in the following manner:

1. The area included in the location map shall extend at least 300 feet beyond the perimeter of the proposed subdivision and shall show how this area may be or has been developed and/or subdivided. (Minimum scale of map: 1" = 200');

2. Title and location of proposed subdivision;

3. Name and address of subdivider and owners of record;

4. North point, scale and date;

5. Boundary lines of proposed subdivision, section or corporation lines within or adjacent to the tract;

6. Location of the following:

(a) Existing subdivisions, assessors' plats, supervisors' plats or adjoining proposed subdivisions, together with their recorded liber and page;

(b) Platted location, widths and names of existing or prior streets and private streets;

7. Locations of streams, lakes, swamps and drainage features;

8. Names of owners of all unplatted adjoining properties as recorded on the tax records of the City of Sterling Heights;

9. Location of existing drains or high tension electrical lines in and around the proposed subdivision;

10. The names of abutting subdivisions.

G. *Review of preliminary plat (step 1).*

1. Upon being furnished with all the required information and data, the preliminary plat and location map shall be referred to the appropriate city departments, local school districts and any other governmental board, agency or authority the city deems has an interest or concern in the plat for their review and recommendations.

2. Following review of the preliminary plat by the above it shall be forwarded to the Planning Commission with written comments and recommendations by the reviewing party.

H. *Review of preliminary plat (step 2).*

1. The City Planner shall review the proposed plat and location map for conformance with all ordinances, administrative rules and regulations and the Master Plan of the city.

2. The Planning Commission shall review the proposed plat with the City Planner, who shall prepare his or her recommendations with copies of all written comments received as required in section 3.03, subsection G, to be submitted to the Planning Commission at the time of the hearing.

I. *Notice of hearing.* The Planning Commission shall hold a hearing on the proposed plat and notice of said hearing shall be sent to the name and address shown on the plat by registered or certified mail; said notice shall inform of the time and place of the meeting of the Planning Commission which will consider the plat; said notice shall be sent not less than five days before the date fixed therefor. Similar notice shall be mailed to owners of land immediately adjoining the platted land, as their names appear on the tax records of the municipality or county. A notice of hearing and a location map shall be sent to Michigan Bell, Detroit Edison, Consumers Power Company and any other affected public utility company.

J. *Tentative approval of preliminary plat-Planning Commission.* Following the receipt and review of all comments and recommendations and following the hearing on the plat, the Planning Commission shall, if it finds that all conditions have been met, recommend tentative approval of the preliminary plat and record same on the plat and in its minutes or recommend disapproval of the proposed plat with reasons for such disapproval to be recorded in the minutes of the Planning Commission meeting and forward the same with a letter advising of the approval or disapproval and the reasons therefor to the City Council and the subdivider. The Planning Commission shall forward its recommendations to the City Council within 70 days after submittal of the application to the City Clerk.

K. *Tentative approval of preliminary plat-City Council.* The City Council, within 90 days from the date of filing of application, shall tentatively approve the proposed plat and date its approval on the plat which is to be returned to the developer or set forth in writing its reasons for rejection and requirements for tentative approval. The 90 day period may be extended if the applicant consents.

L. *Conditions and duration of tentative approval.* Tentative approval of the preliminary plat shall confer upon the proprietor for a period of one year from date approval of lot sizes, lot orientation and street layout. Such tentative approval may be extended if applied for by the proprietor and granted by the City Council.

SECTION 3.04. FINAL APPROVAL OF PRELIMINARY PLAT.

A. *Distribution to authorities.* The subdivider shall submit an approved tentative preliminary plat to the various authorities as required by sections 112 through 119 of the Subdivision Control Act.

B. *List of authorities.* The subdivider shall file with the Planning Commission a list of all authorities to whom validated copies of the preliminary plat have been distributed.

C. *Submittal to the City Clerk.*

1. When the subdivider has secured the approvals of the various approving authorities as required by sections 112 through 119 of the Subdivision Control Act, he or she shall deliver all copies plus not less than 30 copies of the proposed final preliminary plat to the City Clerk.

2. A certificate signed by a registered engineer or surveyor certifying that all proposed lots conform to the minimum requirements for the particular zoning district as set forth in the Sterling Heights Zoning Ordinance shall accompany the submittal.

D. *Review and final approval of preliminary plat.*

1. The preliminary plat shall be reviewed by appropriate administrative officials of the city and the City Manager or his or her designates shall make written comments to the City Council regarding the preliminary plat.

2. If the preliminary plat does not meet all requirements, the City Planner shall notify the subdivider by letter, giving the earliest date for resubmission of the plat and additional information required.

3. If the preliminary plat meets all requirements laid down for tentative approval, the City Planner shall forward the preliminary plat to the City Council.

E. *City Council, final approval of the preliminary plat.*

1. The City Council shall consider and review the preliminary plat at its next meeting or within 20 days from the date of verified compliance with all conditions of tentative approval of preliminary plat.

2. The City Council shall give final approval of the preliminary plat, if the proprietor has met all conditions laid down for approval of said plat, or reject said plat and advise the proprietor of the reasons for the rejection.

3. The City Council shall instruct the City Clerk to promptly notify the proprietor of approval or rejection in writing.

4. The City Council shall instruct the City Clerk to note all proceedings in the minutes of the meeting, which minutes shall be open for inspection.

5. The 20 day period for consideration by the City Council may be extended if the applicant consents.

F. *Conditions and duration of approval of preliminary plat.*

1. Approval of a preliminary plat shall not constitute approval of the final plat, but rather, that final plat approval shall be conditional on all requirements being met.

2. Final approval of the preliminary plat shall be effective for a period of two years from the date of approval by the City Council, but may be extended for periods not to exceed one year, if applied for by the subdivider in writing and granted in writing by the City Council.

3. No installation or construction of any improvements shall be made before the final approval of the preliminary plat by the City Council, final approval of engineering plans by the City Engineer and payment of all fees to the City Treasurer as required under the provisions of this ordinance.

G. *Final engineering plans review fee schedule.* All final plat fees shall be determined by the City Engineer and collection of same verified by the City Engineer. All fees shall be established by Council resolution and collected in advance of the installation or construction of any improvements.

SECTION 3.05. FINAL PLAT.

The procedure for preparation and review of the final plat shall be as follows.

A. *Requirements.*

1. The final plat shall comply with the provisions of the Subdivision Control Act.

2. The final plat shall conform to the preliminary plat (stage 2) as approved and shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time; provided, however, that such portion conforms to this subdivision regulations ordinance.

3. A written application for approval and the filing and recording fee required by section 241 of the Subdivision Control Act shall accompany all final plats.

B. *Filing and review.*

1. One mylar and not less than 25 copies of the final plat shall be filed with the City Clerk and the subdivider shall deposit such sums of money as required by this ordinance or any other ordinance of the city with the City Treasurer.

2. The final plat shall be reviewed by the City Engineer and the City Planner as to compliance with the approved preliminary plat and plans for utilities and other improvements.

3. The City Engineer and City Planner shall notify the City Council of their recommendations for approval or rejection of the final plat.

C. *Final approval.*

1. The City Council shall consider and review the final plat at its next meeting or within 20 days from the date of submission to the City Clerk.

2. If the final plat meets all requirements, the City Council shall prepare a resolution of approval of the final plat and authorize the City Clerk to sign the plat on behalf of the city.

3. If the final plat does not meet all requirements, the City Council shall reject the plat and specify the reasons for rejection.

4. Upon the approval of the final plat by the City Council, the subsequent approvals shall follow the procedure set forth in the Subdivision Control Act. The mylar copy shall be forwarded to the Clerk of the County Plat Board.

ARTICLE IV. DESIGN STANDARDS

The design standards set forth in this article are development guides to be used by the developer. All final plans for the construction or provision of the required facilities must be reviewed and approved by the City Engineer to insure compliance with all appropriate codes, ordinances and standards of the city.

SECTION 4.01. STREETS.

A. *General*. The standards set forth under this section shall be the minimum standards for streets, roads and intersections. Generally, all streets shall be dedicated to public use.

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 and secondary thoroughfares, and such part shall be platted in the location and width indicated on such plan. The standards for state and county roads are intended to be in harmony with all the road right-of-way standards and policies of the Macomb County Road Commission and the Michigan Department of State Highways and Transportation.

2. The street layout shall provide for continuation of secondary thoroughfares in the adjoining subdivisions or of the proper projection of streets when adjoining property is not subdivided (generally not more than 1,300 feet apart) or conform to a plan for a neighborhood unit drawn up and adopted by the Planning Commission.

3. The minor streets shall be so laid out that their use by through traffic shall be discouraged. Whenever and wherever possible, collector streets shall form the basic design for residential subdivisions. Primary consideration shall be given to a street pattern which is efficient and where all lots are conveniently accessible to collector, secondary or major thoroughfares. All minor streets should be oriented to lead to an elementary school as much as possible.

4. Where a proposed subdivision borders on or contains an expressway or other limited access highway right-of-way, the Planning Commission may require the location of a street approximately parallel to and on each side of such right-of-way of a distance suitable for the development of an appropriate use of the intervening land as for parks in residential districts or for commercial or industrial purposes in appropriate areas. Such distances shall be determined with due consideration of minimum distance required for approach grades to future grade separations.

5. Planting strips may be required to be placed next to incompatible features such as highways, railroads and commercial or industrial uses to screen the view

from residential properties. Such screens shall be a minimum of 20 feet wide and shall not be a part of the normal roadway right-of-way or utility easement and shall meet the standards and specifications adopted by the City Council.

6. Street names shall not duplicate any existing street name in the City of Sterling Heights except where a new street is a continuation of an existing street. Street names that may be spelled differently but sound the same shall also be avoided. Street names are to be approved by the City Engineer.

C. *Right-of-way width.* Street right-of-way shall conform to at least the following minimum requirements.

Street Type	***Right-of-Way Width***
1. Major thoroughfares	In conformance with the adopted Master Road Plan and rules of the County Road Commission and the State Department of Highways
2. Secondary streets	86 feet
3. Minor streets (single family residential)	60 feet
4. Industrial streets	60 feet, plus ten feet utility easements on each side
5. Multiple family residential streets	60 feet
6. Marginal access streets	40 feet
7. Collector streets	70 feet
8. Alleys (where permitted)	20 feet
9. Boulevard	86 feet
10. Cul-de-sac streets:	
(a) Residential	60 feet and shall terminate in a circular right-of-way of 110 feet diameter. Upon concurring recommendation from the City Planner and City Engineer the Planning Commission may consider a reduction to a right-of-way to 100 feet diameter
(b) Industrial	60 feet and shall terminate in a circular right-of-way of 150 feet diameter.

11. Maximum length of cul-de-sac streets shall be 500 feet. The maximum length may be exceeded where in the opinion of the Planning Commission there is justification for a greater length but not to exceed 800 feet.

12. Boulevard streets shall have a minimum right-of-way width of 86 feet and shall have an improved roadway minimum width of 22 feet and the exterior diameter of the roadway at its terminating loop shall be not less than 65 feet. The boulevard areas between the roadways shall be dedicated to the public.

13. Half streets shall be prohibited, except where absolutely essential to the reasonable development of the subdivision in conformity with the other requirements of this ordinance and where the Planning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is developed. Where there exists adjacent to the tract to be subdivided a dedication or platted and recorded half street, the other half shall be dedicated.

D. *Grade standards.* For adequate drainage, the following grades shall be:

1. Minimum grades shall not be less than 0.4%;

2. Maximum grades shall not be greater than 6%;

3. Maximum grades for public walkways shall not be greater than 10%;

4. The City Council may make an exception to these standards on the recommendation of the City Engineer. See Article VI.

E. *Street alignment.*

1. *Horizontal alignment.* When street lines defect from each other by more than ten degrees in alignment, the centerlines shall be connected by a curve with a minimum radius of 500 feet for arterial streets (major thoroughfares), 400 feet for collector streets and 150 feet for local or minor streets. Between reverse curves, on minor streets, there shall be a minimum tangent distance of 50 feet, and on collector or arterial streets, 225 feet.

2. *Vertical alignment.*

(a) Major thoroughfares shall have profile grade changes, where the grade change exceeds a total of 1.2% connected by vertical curves of a minimum length equivalent to 20 times the algebraic difference in the rate of grade.

(b) Secondary streets shall have profile grade changes where the grade change is over a total of 1.5% connected by vertical curves of a minimum length equivalent to 15 times the algebraic difference in the rate of grade.

(c) Minor streets shall have profile grade changes of 1.5% connected by vertical curves of a minimum length equivalent to ten times the algebraic difference in the rate of grade.

3. *Visibility requirements.* Minimum vertical visibility, measured from four and one-half foot eye level to 18 inch tail light level shall be:

(a) Major streets shall have a minimum vertical sight distance of 350 feet;

(b) Secondary streets shall have a minimum vertical sight distance of 200 feet;

(c) Minor streets shall have a minimum vertical sight distance of 200 feet and 100 feet when minor streets are less than 500 feet in length.

4. *Minimum horizontal visibility*.

(a) Major streets shall have a minimum horizontal visibility of 1,800 feet measured on centerline.

(b) Secondary streets shall have a minimum horizontal visibility of 1,100 feet measured on centerline.

(c) Minor streets shall have a minimum horizontal visibility of 100 feet measured on centerline.

F. *Intersections*.

1. *Angle of intersection.*

(a) Streets shall be laid out so as to intersect as nearly as possible to 90 degrees.

(b) Curved streets intersecting with major thoroughfares and secondary thoroughfares shall do so with a tangent section of centerline 100 feet in length measured from the right-of-way line of the major thoroughfare or secondary street.

(c) Slight jogs at intersections shall be avoided. Where such jogs are unavoidable, street centerlines shall be offset by a distance of 150 feet or more.

2. *Sight triangles.* Minimum clear sight distances at all minor street intersections shall permit vehicles to be visible to the driver of another vehicle when each is 120 feet from the center of the intersection.

3. *Vertical alignment of intersections.* Intersection areas should be designed with appropriate drainage grades. Gutter drainage shall not be carried across through streets but shall be collected at the intercepting streets.

SECTION 4.02. BLOCKS.

Blocks within subdivisions shall conform to the following standards.

A. *Sizes*.

1. The maximum length for residential blocks shall not exceed 1,300 feet in length, except where, in the opinion of the Planning Commission, physical conditions may justify a greater distance.

2. Minimum length for residential blocks shall generally not be less than 500 feet in length, except where, in the opinion of the Planning Commission, physical conditions justify a lesser distance.

3. Widths of blocks shall be determined by the condition of the layout and shall be suited to the intended layout.

B. *Arrangement*. Blocks shall be so designed as to provide two tiers of lots, except where lots back onto an arterial street, natural feature or subdivision boundary.

C. *Public walkways.*

1. Right-of-way for public walkways may be required where necessary to obtain convenient pedestrian circulation.

2. Widths of public walkways shall be 60 feet and shall be dedicated as a public street for this purpose.

D. *Easements*.

1. Location of utility line easements shall be provided along the rear or side lot lines as necessary. Easements shall give access to every lot, park or public grounds. Such easements in the rear yard shall generally be a total of not less than 12 feet wide, normally six feet for each lot. Such easements in the side yard shall generally be a total of not less than six feet wide, normally all on one lot; provided, however, conditions may require larger easements.

2. Recommendations on the proposed layout of telephone and electric company easements shall be sought from all of the utility companies servicing the area. (See Article V section 5.03(B).

3. Easements needed for storm drainage shall be determined by the City Engineer and shall meet the requirements of this ordinance and the City Engineer.

SECTION 4.03. 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 use shall be appropriate for the location and the type of development contemplated.

2. Lot areas shall conform to the minimum requirements of the zoning ordinance for the district in which the subdivision is proposed.

3. Lot widths shall in no case be less than that required by the zoning ordinance and the Subdivision Control Act for the district in which the subdivision is proposed.

4. Whenever easements along the rear lot line exceed six feet in width, the depth of the line shall be increased by the width of the easement which exceeds six feet.

5. One family residential lots fronting on major thoroughfares shall be a minimum of 80 feet in width and 140 feet in depth with a front setback of 40 feet for R-1C, R-170, R-1B and R-2 Residential Districts. The R-1A Residential District shall be 100 feet in width and 140 feet in depth with a front setback of 40 feet.

6. Lots abutting a public walkway shall be considered corner lots.

7. Corner lots, including lots abutting public walkways, shall be provided with an additional 20 feet of width above that required by the zoning ordinance and the Subdivision Control Act for the district in which the subdivision is proposed.

8. Corner lots shall be provided a side yard setback abutting the side street equal to the front yard setback required for that district.

9. Building setback lines shall conform to the minimum requirements of the zoning ordinance.

10. 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.

11. Lots and outlots intended for purposes other than residential use shall be specifically designed for such purposes and shall have direct access to a street and adequate provision for off-street parking and unloading all in accordance with the requirements of the zoning ordinance.

B. *Lot arrangements.*

1. All lots shall front or abut on only one street, except corner lots and lots located on a curve of a street and except for the cases covered in item 4 following. Variances may be permitted for approved planned unit developments.

2. Side lot lines shall be essentially at right angles to straight streets and radial to curved streets.

3. All driveways of corner lots shall exit onto minor streets and not major or secondary thoroughfares.

4. Residential lots abutting major thoroughfares or secondary streets, where marginal access streets are not practical, shall be platted with reverse frontage lots. In order to restrict access to the arterial street, to minimize noise and to protect outdoor living areas, an approved screen planting and berm shall be provided in a dedicated, non-access easement along the rear property line, which easement shall be at least 20 feet wide and in addition to the normal utility easement. A decorative masonry wall complying with the requirements of section 24.01 paragraph (B)(4) of Ordinance 278 as amended may be constructed in lieu of or in conjunction with the berm required by this section.

5. Residential lots extending through a block and having frontage on two local streets shall be prohibited.

6. Lots shall have a front to front relationship across all streets wherever possible except as provided for under section4.02B,1. Any deviation shall require the review and approval of the Planning Commission.

(Ord. No. 196-C, § 1, 6-2-92)

SECTION 4.04. FLOODPLAIN.

If any part of a proposed subdivision lies within the floodplain of a river, stream, creek or lake, approval of the final plat shall be conditioned on the following:

1. No building shall be located on any portion of a lot lying within a floodplain, unless approved in accordance with the rules of the Water Resources Commission of the Department of Natural Resources;

2. Restrictive deed covenants shall be filed and recorded with the final plat that the floodplain area will be left essentially in its natural state;

3. Any portion of the proposed subdivision within the floodplain, either wholly or in part, shall require specific compliance with the Subdivision Control Act and its review by the Water Resources Commission of the Department of Natural Resources.

4. If it is determined that a flood problem does exist, the City Council shall reject the plat for failure to comply with the provisions of this section.

SECTION 4.05. NATURAL FEATURES.

A. *Existing features.* Existing natural features and character of lands shall be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, watercourses and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the subdivider, and the dedication and provision of adequate barriers, where appropriate, shall be

required.

B. *Suitability of lands.* Lands subject to flooding or otherwise deemed by the Planning Commission to be uninhabitable shall not be platted for residential purposes or for uses that may, in the judgment of the Planning Commission, increase the danger to health, life or property or increase the flood hazard. Such land shall be platted for other uses, such as parks or other open space.

C. *Environmental assessment.* Where appropriate, the Planning Commission may require the subdivider to submit an environmental assessment which shall include reviews and statements from all affected agencies.

ARTICLE V. IMPROVEMENTS

It is the purpose of this section [article] to establish and define minimum acceptable standards for public improvements which shall be required to be constructed by the subdivider as conditions for final plat approval and also to outline the procedures and responsibilities of the subdivider and the various public officials and agencies concerned with the administration, planning, design, construction and financing of public facilities and to further establish procedures for assuring compliance with these requirements. All those improvements for which standards are not specifically set forth shall be established by the City Engineer and the City Council.

SECTION 5.01. PROCEDURE.

A. The subdivider shall have prepared, by a registered civil engineer, a complete set of construction plans. Such construction plans shall be in accord with the approved preliminary plat and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible public agencies shown.

B. Monuments shall be set in accordance with the Subdivision Control Act.

SECTION 5.02. STREETS.

Street and utility improvements shall be provided in accordance with the standards and requirements with specifications approved by the City Council. The following standards shall apply.

A. *Local.*

1. Residential subdivision street (minor street):
   (a) Serves adjacent residential development;
   (b) Cross section standards:
      (1) Right-of-way: 60 feet;
      (2) Pavement width: 28 feet (back-to-back of curb);
      (3) Separation strip: 10 feet;
      (4) Sidewalks: 5 feet wide, one foot from property line both sides of street, unless modified by the City Council pursuant to paragraph (section) 5.03;
      (5) Concrete pavement and sidewalk.
2. *Industrial streets.*
   (a) Serves adjacent industrial development.
   (b) Cross section standards:
      (1) Right-of-way: 60 feet;
      (2) Pavement width: 36 feet (back-to-back of curb);
      (3) Sidewalks: 5 feet, both sides of street (where warranted).
      (4) Concrete pavement and sidewalk.
3. *Collector streets.*
   (a) Serves as access between local residential streets and secondary or major street.
   (b) Cross section standards:
      (1) Right-of-way: 70 feet;
      (2) Pavement: 36 feet (back-to-back of curb);
      (3) Sidewalks: 5 feet, both sides of street;
      (4) Concrete pavement and sidewalk.
4. *Arterial streets.*
   (a) Secondary streets:
      (1) Serves as a major means of access from minor and/or collector streets;
      (2) Cross section standards:
         a. Right-of-way: 86 feet;
         b. Pavement: 47 feet (back-to-back of curb);
         c. Sidewalks: 5 feet, both sides of street.
      (3) Parking: Not allowed.
   (b) Major thoroughfares:
      (1) Serves through traffic, has considerable route continuity;
      (2) Cross section standards:
         a. Right-of-way: 120 feet to 180 feet;
         b. Pavement: Current standards and specifications established by the Macomb County Road Commission and the City of Sterling Heights.
         c. Sidewalks: 5 feet, both sides of street.
   (c) Expressway or parkway:
      (1) Serves through traffic, with partial control of access;
      (2) Cross section standards:

a. Right-of-way: 204 feet;

b. Pavement: Conform to current standards and specifications established by the Macomb County Road Commission and the City of Sterling Heights;

c. Sidewalks: 5 feet, where frontage warrants;

(3) Parking: Not allowed.

(d) Freeway:

(1) Serves through traffic at high speeds, high volumes and has full control of access;

(2) Cross section standards:

a. Right-of-way: 300 feet or more as required;

b. Pavement: Conform to current standards and specifications established by the Macomb County Road Commission and/or State Department of Highways;

c. Sidewalk: On service drives, where warranted;

(3) Parking: on service drives, where parking lane has been provided.

(4) Interchange with:

a. Secondary thoroughfare;

b. Major thoroughfare;

c. Expressways.

5. *Other public roads.*

(a) Marginal access street:

(1) Provides access from abutting properties to major thoroughfares;

(2) Cross section standards:

a. Right-of-way: 40 feet;

b. Pavement width: 22 feet (back-to-back of curb);

c. Parking: Not permitted;

d. Sidewalks: 5 feet, one side;

e. Concrete pavement and sidewalks.

(b) Cul-de-sac:

(1) Provides access to abutting properties and serves as vehicular turnaround;

(2) Cross section standards:

a. Right-of-way: 60 feet;

b. Vehicular turn-around: 110 feet diameter;

c. Pavement: 28 feet (back-to-back of curb);

d. Parking: Permitted;

e. Sidewalks: 5 feet, both sides of street, unless modified by the City Council pursuant to paragraph [section] 5.03;

f. Concrete pavement and sidewalks.

(Ord. No. 196-B, §§ 2-4, 8-18-87)

SECTION 5.03. OTHER IMPROVEMENTS.

A. *Sidewalks.*

1. Concrete sidewalks shall be constructed along both sides of every dedicated street or portion thereof shown on the plat, except as provided in this paragraph or as modified by the City Council pursuant to the paragraph 2 of this section. Sidewalks may not be required along industrial service streets or alleys. In addition, sidewalks need be provided only one side of marginal access street. Sidewalks shall be five feet wide and shall be placed one foot off the property line. At all intersections, sidewalks shall be constructed from curb to sidewalk. Sidewalks shall be constructed in accordance with the ordinances and specifications of the city.

2. (a) Upon petition by the proprietor, the City Council, after review and recommendation by the Planning Commission, may modify the requirements for installation of sidewalks which do not abut collector or arterial streets or major thoroughfares in platted residential subdivisions in the following circumstances:

(1) In platted single family residential subdivisions with lots developed with a minimum width of 70 feet or more;

(2) On lots (irrespective of size) located immediately adjacent to a cul-de-sac of 500 feet or less in length within any platted single family residential subdivision;

(3) As part of the development of a single family residential planned unit development (PUD), provided an alternative pedestrian circulation plan is provided.

(b) In the event a proprietor requests the elimination of sidewalks within a platted subdivision, the City Council may require such developer to install greenbelts, berms, trees, landscaping, bicycle paths and/or to develop open recreational areas in lieu of installation of the sidewalks. These requirements shall apply to subdivided lots and common areas within the subdivision and to common areas located adjacent to a subdivision and a thoroughfare adjoining but outside the combines of the subdivision.

(c) A proprietor who wishes to eliminate or modify the requirements for installation of sidewalks in a platted subdivision shall submit with the request a plan designating in detail the additional improvements, trees, landscaping and/or open recreational areas to be provided by the proprietor. The plan pertaining to landscaping shall be in substantial conformance with the requirements of Article XIX, section 19.08 of the zoning ordinance and the plan pertaining to other improvements shall be in accordance with the requirements of Article XXA, section 20A.02 of the zoning ordinance. The plan shall be drawn to scale and shall contain detailed specifications and data pertaining to the improvements to be made and landscaping and trees to be provided, including the proposed location, type, number and size of trees and landscaping at planting. The City Council shall make a final determination as to the specifics of the improvements and alternate landscaping and trees to be provided.

Editor's note:

It should be noted that these references are to the prior zoning ordinance, No. 131, repealed by Ord. No. 278

(d) The proprietor shall deposit cash with or shall furnish to the city an irrevocable letter of credit in an amount determined by the city to secure completion of the installation of the improvements and/or trees and landscaping. At the time the request for modification of the sidewalk requirements is submitted, the proprietor shall submit to the city an estimate of the cost of the alternative improvements or landscaping to be installed. The cash deposit or letter of credit shall be in an amount

determined by the city and shall not be less than 100% of the estimated costs. The cash deposit or irrevocable letter of credit shall be held and administered in accordance with the provisions of section 6.03 of the subdivision regulations. If the landscaping, trees or improvements are not installed within the specified time period set forth therein, the cash deposit or irrevocable letter of credit shall be forfeited and the city may use said funds to install the improvements and/or landscaping.

(e) All improvements to be completed or landscaping to be installed shall be done in accordance with established city standards.

B. *Telephone and electric service.* All lines for telephone, electric, television and other similar service distributed by wire or cable shall be placed underground entirely throughout a subdivided area, (exclusive of main supply lines, perimeter feed lines and necessary surfaced facilities) and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways. Those telephone and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephone and electrical facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. All underground utility installments which traverse privately owned property shall be protected by easements granted by the subdivider. The subdivider or proprietor shall bear any increase in cost, if any, over the normal mode of construction of telephone or electrical lines and facilities, as determined by the telephone or electric company involved, in accordance with the valid rules and regulations of the telephone or electric company involved.

C. *Grading and centerline gradients.* Per plans and profiles approved by the City Engineer.

D. *Curbs and gutters.* In accordance with details and specifications prescribed by the City Engineer. No curb drop shall be installed at the time of paving unless a house exists at the time of paving.

E. *Storm drainage system and other drainage improvements.* An adequate storm drainage system, including necessary storm sewers, drain inlets, manholes, culverts, bridges and other appurtenances, shall be required in all subdivisions per plans approved by the City Engineer and governing body. Where county drains are involved, a certificate of approval from the County Public Works Commissioner must be submitted by the subdivider as required by section 3.04. Rear lot drainage shall be provided in accordance with current standards adopted by the city. Storm sewers shall be provided in such a manner that each lot, outlot or parcel is serviced by a storm sewer. An outlet shall be provided for each lot for the purpose of connecting the sump pump discharge of the storm and ground water drainage collected in footing drains and/or basement drains. Where practical, the storm sewers for this purpose shall be extended along the rear yard easements.

F. *Sewage disposal.* The sewerage system shall generally be located within street rights-of-way per plans approved by the City Engineer and governing body.

G. *Water supply.* Water distribution system per plans approved by the City Engineer and in conformance with the regulation of the Michigan Department of Health relating to municipal water supplies and a certificate of approval from the Michigan Department of Health must be submitted by the subdivider.

H. *Landscaping and trees.*

1. *Trees*. In accordance with section 4.05 of this ordinance, existing trees shall be preserved by the subdivider if feasible. The following information must be supplied to and approved by the City Planner:

(a) Location of trees to be retained;

(b) Specifications for protection during development;

(c) Specifications for grading and drainage to assure the preservation of those trees to be retained.

2. *Landscaping.*

(a) The subdivider shall submit to the Planning Department a landscape plan for unusual areas in the proposed subdivision. During the plat review process the City Planner shall determine the specific areas requiring landscaping. This includes, but is not limited to: boulevards, buffer strips and islands. It is required that all landscape data must be submitted, reviewed and approved before final plat approval is granted.

(b) The City Council may require completion of all or some of the required landscaping prior to approval of the final plat or a deposit by the proprietor with the City Treasurer in the form of cash in an amount sufficient to insure completion within the time specified. The amount of the deposit shall be set by the City Council based upon an estimate from the City Planner.

I. *Street signs.* Street name signs shall be provided at intersections of all streets. The Police Department shall determine necessary traffic-control signs required for the subdivision. The developer shall escrow funds with the city to provide for installation of the signs. The signs shall be as specified by the Michigan Manual of Uniform Traffic-Control Devices and/or the agency having jurisdiction of the street.

J. *Fire hydrants and water mains.*

1. *Water mains.* All water mains shall be of sufficient size to provide the needed quantity of water for the use intended of the property and for firefighting use. Water mains shall form a network of pipes arranged as far as possible in loops so as to give at least two directions of supply to any point.

2. *Hydrants.*

(a) Hydrants shall be placed with consideration to their possible use.

(1) In residential districts, hydrants shall have a maximum spacing of 500 feet.

(2) In business and industrial districts, hydrants shall have a maximum spacing of 300 feet.

(b) Hydrants shall have two four-inch discharge outlets with Detroit Fire Department hose thread.

(c) Hydrants shall have a value opening of at least six inches.

(d) Hydrant barrels shall have a net area of at least 133% of the valve opening.

(e) Hydrants shall have a connection with the water main of not less than six inches in diameter.

(f) Hydrants shall have a uniform sized pentagonal operating nut measuring one and one-half inches from point to flat.

(g) Hydrants shall, immediately after being placed in service, be painted in accordance with city requirements.

(h) Hydrant discharge outlets shall be about 18 inches above the earth, finished grade.

(i) Hydrants shall be so located so that they are not more than ten feet from the curb.

3. Water mains and hydrants shall be in service before any building permits are issued for construction.

(Ord. No. 196-B, § 5, 8-18-87)

Charter reference:

Authority to require underground utility installations, see §15.03

Cross reference:

Provisions of "concrete ordinance" relative to sidewalks, see §§ 8-242 et seq.;

Sidewalks generally, see Ch. 31

ARTICLE VI. COMPLIANCE STANDARDS

SECTION 6.01. SURFACE DRAINAGE BUILDING PERMIT.

No building permit shall be issued in any subdivision or for a building or building site in the City of Sterling Heights unless the application for such permit is

accompanied by evidence in the form of plat diagrams showing topography of such building site and the proposed surface drainage thereof approved by the City Engineer. After the grade has been established and approved by the City Engineer, it shall be unlawful for any person to impede, block, change, alter or interfere with the natural flow of surface drainage in any manner or maintain any such impediment or blockage in any manner in any subdivision or building site unless an alternate plan for natural flow of surface drainage is presented [to] and approved by the City Engineer. Such alternate plan shall be implemented before any disruption to the existing system is performed.

SECTION 6.02. SURFACE DRAINAGE OCCUPANCY PERMIT.

No final occupancy permit required under the provisions of the Sterling Heights Zoning Ordinance shall be issued for a new building until satisfactory evidence is furnished that the yard grading is complete for the lot or parcel of land on which the building is located. "Satisfactory evidence" shall be in the form of a survey prepared by and certified by a registered land surveyor or registered professional civil engineer. When weather conditions will not permit the required grading to be done, a temporary certificate of occupancy may be issued by the Building Inspector.

SECTION 6.03. IMPROVEMENTS AND FACILITIES REQUIRED BY THE CITY.

All required improvements of the subdivision shall be completed prior to the approval of a final plat. In lieu thereof, the City Council may require a deposit by the subdivider with the Clerk of the municipality in the form of cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the governing body in an amount sufficient to insure completion within the time specified.

The city shall rebate to the subdivider, as the work progresses, amounts of any cash deposits equal to the ratio of the work completed to the entire project.

Prior to the acceptance of the improvements by the city, a two year maintenance bond in an amount set by the city, based upon an estimate by the City Engineer, shall be posted by the subdivider.

After completion of construction of all required improvements, the subdivider shall file with the city a complete copy of "as built" engineering plans of each public improvement, which plans shall be of a quality to be able to be reproduced. Until such plans are filed, building permits shall not be issued to more than 25% of the platted lots within the subdivision.

If the City Council approves modification of the sidewalk requirements pursuant to section 5.03(A)(2), the landscaping, trees and/or improvements required by the City Council to be installed in lieu of the sidewalk shall be completed by the proprietor prior to issuance of permits for more than 25% of the platted lots within the subdivision. The proprietor shall file a two year maintenance bond in an amount established by the city to insure that the landscaping and/or improvements will be in acceptable condition at the time the lots within the subdivision are developed.

(Ord. No. 196-B, § 6, 8-18-87)

SECTION 6.04. OTHER REQUIREMENTS.

No building permit shall hereafter be issued for any new construction unless and until the City of Sterling Heights has approved and accepted all public improvements within the subdivision upon which the construction is to take place. Provided, however, the city within its discretion may issue a building permit for sales models prior to completion of mass grading and rear yard drainage.

ARTICLE VII. VARIANCES

SECTION 7.01. [GENERALLY.]

The City Planning Commission may recommend to the City Council a variance from the provisions of this ordinance on a finding that undue hardship may result from strict compliance with specific provisions or requirements of the ordinance or that application of such provision or requirement is impractical. The Planning Commission shall only recommend variances that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable affect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be recommended unless the Planning Commission finds after a hearing:

A. That there are such special circumstances or conditions affecting said property that the strict application of the provisions of this ordinance would clearly be impractical or unreasonable. In such cases the subdivider shall first state his or her reasons in writing as to the specific provision or requirement involved and submit them to the Planning Commission;

B. That the granting of the specific variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated;

C. That such variance will not violate the provisions of Public Act 288 of 1967, as amended, the State Subdivision Control Act;

D. That such variance will not have the effect of nullifying the interest and purpose of this ordinance and the Comprehensive Development Plan of this city;

E. The Planning Commission shall include its findings and the specific reasons therefor in its report of recommendations to the City Council and shall also record its reasons and actions in its minutes.

The City Council, upon receipt of the recommendation of the Planning Commission, may grant a variance in accordance with the requirements of this section of the ordinance.

SECTION 7.02. TOPOGRAPHICAL-PHYSICAL LIMITATION VARIANCE.

Where in the case of a particular proposed subdivision it can be shown that strict compliance with the requirements of this ordinance would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions or other such conditions which are not self-inflicted or that these conditions would result in inhabiting the achievement of the objectives of this ordinance, the Planning Commission may recommend to the City Council that variance modification or a waiver of these requirements be granted.

SECTION 7.03. PLANNED UNIT DEVELOPMENT VARIANCE.

The developer may request a variance from specified portions of this ordinance in the case of a planned unit development. If in the judgment of the Planning Commission such a plan provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs, it shall make findings as required herein below. The Planning Commission shall take into account the nature of the proposed use of land and existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable affect of the proposed subdivision upon traffic conditions in the vicinity. The Planning Commission shall report to the City Council whether:

A. The proposed project will constitute a desirable and stable community development; or

B. The proposed project will be in harmony with adjacent areas.

ARTICLE VIII. PARCEL SPLITTING

SECTION 8.01. SPLITTING PROCEDURE AND REQUIREMENTS.

A. *[Application.]* Any person wishing to split an acreage parcel into one or more parcels of land, any of which shall be ten acres or less in size, or any person wishing to split a platted lot, outlot or other parcel of land in a recorded plat shall submit to the City Assessor written application for parcel splitting, along with any required fees, and five copies of the proposed split and site plan for development of the property.

B. *Duties of the Assessor.* The City Assessor shall request a review and recommendation of the resultant split and site plan by the City Planner and City Engineer in order to determine its compliance with this ordinance, all other applicable city ordinances, all city rules and regulations and with Public Act 288 of 1967. If the resultant split is in conformance with all regulations, ordinances and conditions, the Assessor shall have the authority to authorize the requested split. The Assessor

shall inform the Building Department, Engineering Department and Planning Department of his or her action.

C. *[Taxes, assessments, etc., to be paid].* No lot or acreage parcel shall be split until all taxes, special assessments and other delinquent accounts on the land, including but not limited to weed cutting, water bills and capital charges, have been paid in full. A receipt for said payments must be submitted with the proposed split plan.

D. *[Frontage on public streets.]* No lot or acreage parcel in a one family residential or two family residential zoning district shall be split unless the resultant parcels have frontage on a public street to the extent required by the zoning ordinance.

(Ord. No. 196-A, § 1, 10-16-79)

ARTICLE IX. FEES AND CHARGES

All fees and charges shall be paid by the proprietor as may be provided by resolution of the City Council or other applicable ordinances and shall be deposited with the City Treasurer immediately upon determination of said fees.

ARTICLE X. PENALTIES

SECTION 10.01. PENALTIES.

Violation of any of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more [than] $500 or imprisoned for not more than 90 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City Council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this ordinance of the Subdivision Control Act.

ARTICLE XI. AMENDMENTS

SECTION 11.01. PROCEDURES.

The City Council may from time to time amend, supplement or repeal the regulations and provisions of this ordinance in the manner prescribed by Public Act 288 of 1967, as amended. A proposed amendment, supplement or repeal may be originated by the City Council or City Planning Commission. All proposals not originating with the Planning Commission shall be referred to it for a report thereon before any action is taken on the proposal by the City Council.

ARTICLE XII. SEVERABILITY

This ordinance and the various parts, sections and clauses thereof are hereby declared to be severable. If any part, section, paragraph, subsection or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the ordinance shall not be affected thereby.

ARTICLE XIII. REPEAL OF EXISTING SUBDIVISION REGULATION ORDINANCE

SECTION 13.01.

The existing subdivision regulations, Ordinances 87, 87A, 87B, 87C, 87D, are hereby repealed.

ARTICLE XIV. EFFECTIVE DATE

SECTION 14.01.

This ordinance shall become effective immediately upon publication.

That the above and foregoing ordinance was introduced at a regular meeting of the Sterling Heights City Council on the third day of May, 1977 and duly adopted at a regular meeting of the Sterling Heights City Council on July 19, 1977.

By Order of the City Council

INTRODUCED: May 3, 1977

ADOPTED: July 19, 1977

PUBLISHED: July 27, 1977

EFFECTIVE: July 27, 1977

Zoning Comparative Table

Subdivision Comparative Table

ZONING COMPARATIVE TABLE

This table shows the disposition of ordinances amending Zoning Ordinance No. 278.

Ordinance Number	*Date*	*Section*	*Disposition*
Ordinance Number	*Date*	*Section*	*Disposition*
278-A	4-17-90	1	3.04A2b
		2	3.04A4
		3	3.04A6a
		4	4.04A4a
		5	6.01B, B1
		6	6.01B1b
		7	6.02A3a
		8	6.02A3a2
		9	6.04C2
		10	6.04D
		11	6.04E

		12	7.01C, C1
		13	7.01C1b
		14	7.04C2a
		15	7.04E
		16	8.04D1
		17	8.05C
		18	9.05C
		19	10.04D1
		20	10.05D
		21	11.04D1
		22	11.04D2
		23	11.05D
		24	12.01S
		25	12.05K
		26	13.02I1
		27	13.04C1
		28	13.05D
		29	14.04D1
		30	14.05
		31	14.06H1
		32	15.04D1
278-A	4-17-90	33	17.04D1
		34	18.04E1
		35	19.02J
		36	19.04D1
		37	20.04D1
		38	23.02C4
		39	23.02E4
		40	23.02E17
		41	23.02E21-23
		42	24.01(table)
		43	24.01B1i
		44	31.01
		45	31.01
		46	31.01
		47	(Sch. of Regs.)
		48	Art. 29(note)
278-B	5-15-90	1	24.01A3
278-C	5-15-90	1	24.01A4a
278-D	5-15-90	1	24.03A1
278-E	7-3-90	1	3.02E3
		2	3.02F2
		3	3.04A10
		4	9.04D 2, 3
		5	11.01E,F,K,M
		6	11.01Q
		7	12.01K-M
		8	12.04A1
		9	13.01 C, E, F, H, K, M4, N, P, Q
		10	24.01B3
278-F	8-8-90	1	6.04A1, 2
		2	Rpld 6.04A3, E-N
		3	6.05
		4	Rpld 7.04E-K
		5	7.05
		6	11.026
		7	19.02L
		8	19.05C
		9	20.021
		10	20.05D
		11	23.02F5
		12	23.05B
278-F	8-8-90	13	24.02A3
		14	24.05
		15	28.10C4
		16	28.17
278-G	9-18-90	1	6.04E
		2	7.04E
		3	9.04D1

		4	11.02E2
		5	12.04C1
		6	13.021
		7	13.02J5
		8-10	13.02K-M
		11	19.04B2
		12	19.04D2
		13	20.04B2
		14	23.03O
		15	25.03D
		16	28.00B
		17,18	28.00E, F
		19	28.00G1
		20	28.13C23
		21	31.01
278-H	12-18-90	1	22.01C2
		2	22.01C13-20
278-I	2-5-91	1	22.00E
		2	22.01A, B
		3	22.01C4
		4	22.01C11c
		5	22.01C11d
		6	Rpld 22.01C11e
		7	22.01C16
		8	22.01C21,22
		9	22.01E1a
		10	22.01E1b-e
		11	22.01E2
		12	22.02A
		13	22.02B3
		14	Rpld 22.02B4
			Rnbd 22.02B5 as B4
		15	22.02B5
		16	22.02C1
		17	22.02C3a-c
278-I	2-5-91	18	Rnbd 22.02C3(4) as
			22.02C3d Amd'd 22.02C3d
		19	Rnbd 22.02C3 (4)-(7) as 22.02C3d-g
			22.02C4
		20	22.02D
		21	22.02E1a-f
		22	22.02E2b
278-J	6-18-91		32.06(note)
278-K	5-19-92		32.06(note)
278-L	6-2-92	1	24.01B4
		2	28.12
		3	28.13C26
		4	28.13D
		5	28.13
		6	31.01
278-M	6-21-94	1	21.00-21.06
278-N	8-1-95	1	3.02G
		2	3.02H-N
		3	3.04A12
		4	3.04A6a
		5	3.04A6c
		6	3.04A11
		7	6.01B
		8	6.02A
		9	6.02F
		10	6.04A
		11	6.04C3,4
		12	6.05A, D, F
		13	7.01C
		14	22.01B7
		15	22.01B7,8
		16	22.01C11a, c

		17	22.01D
		18	22.01E1e
		19	22.02B5
		20	22.02B6
		21	22.02C3a
		22	22.02E1f
		23	31.00 8
		24	31.01
278-O	9-5-95	1	11.00
		2	11.01
		3	11.02H
		4	12.01
		5	12.04A1
		6	12.04C1
		7	13.01
		8	13.02A
		9	13.02N
		10	13.04C1
		11	31.01
278-P	10-8-95	1	9.04D1
		2	16.03
		3	19.02M, N
		4	26.01E, F
		5	26.01H
		6	26.02B
		7	26.03
278-Q	8-20-96	1	3.02I, J
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		3	6.01A
		4	6.04C4
		5	6.04D
		6	7.01B
		7	7.04C2
		8	7.05C
		9	19.02H
		10	22.01C18
		11	22.02C3c
		12	23.01J
		13	24.03C1
		14	28.00F, G
		15	28.10B
		16	28.13B4-29
		17	28.13C7, 8, 10
		18	28.13D
		19	28.13P
		20-21	31.01
278-R	8-20-96	1	3.02I, J
		2	3.04A2c
		3	6.01A
		4	6.04A4
278-R	8-20-96	5	6.04D
		6	7.01B
		7	7.04C2a
		8	7.05C
		9	19.02H
		10	22.01C1, 8
		11	22.02C3c
		12	23.01J
		13	24.03C1
		14	28.00F, G
		15	28.10B
		16	28.13B4-29
		17	28.13C7, 8, 10
		18	28.13 (Table)
		19	28.13 (Notes)
		20	31.01
		21	31.01
278-S	2-18-97	1	3.02O
278-T	6-3-97	1	3.02I

		2	6.05E
		3	8.02D
		4	8.02E
		5	9.02G
		6	14.01D
		7	14.01O
		8	14.04B, C, D, E, F, G
		9	14.06A
		10	22.02C3c
		11	23.02E10, 23
		12	24.05C
		13	28.11F
		14	28.13C8
		15	28.13D
		16	28.14
		17	28.14O
		18	31.01
278-U	1-6-98	1	3.02A5
		2	3.02N5
		3	3.03D3-6
		4	6.02B5
		5	8.02B2
		6	8.02B5
278-U	1-6-98	7	9.04A1,2
		8	12.02H
		9	22.02C3,c
		10	24.01
		11	24.01A4,c
		12	24.01B1,d
		13	26.02B
		14	28.00
		15	28.13B15
		16	28.13C26-29
		17	28.13D
		18	29.00
		19	30.02C5, 6
		20	31.01
		21	31.01
		22	31.01
		23	31.01
278-V	1-20-98	1	11.02I
278-W	11-30-98	1	31.01
		2	33.00
		3	33.04
278-Y	5-16-00	1	3.02I4
		2	Rpld 3.02I5
		3	Add 5.04
		4	6.02D
		5	Add 6.02G
		6	7.02D
		7	8.02D
		8	8.02E
		9	8.04B2
		10	9.02H
		11	9.02I
		12	9.04D
		13	10.02C
		14	11.02E
		15	12.02I
		16	13.01E
		17	Rpld 13.01L
		18	Rnbd 13.01M-N
			as 13.01L-M
		19	13.02M
		20	Add 13.02O
278-Y	5-16-00	21	14.02C
		22	Add 15.02B
		23	Add 16.05

			Rnbd existing 16.05-16.07 as 16.06-16.08
		24	17.02H
		25	18.02A
		26	19.02K
		27	20.02F
		28	22.00B4
		29	22.01C11c
		30	22.02C14
		31	Add 23.02A5
		32	23.02B3
		33	23.02B8
		34	23.03F
		35	24.01A2-3
		36	24.02A2
		37	25.01
		38	25.02F
		39	25.03B
		40	26.01H
		41	28.01
		42	28.13G
		43	Add 28.18
		44	30.03G
		45-46	31.01
278-Z	11-8-00	1	28.13C
278-AA	3-20-01	1	11.04B2
		2	13.01D
		3	13.01K
		4	13.02A
		5	17.04B2
		6	17.04D1
		7	19.02J
		8	19.04D
		9	20.04D
		10	28.00B, C
		11	28.10B
		12	28.10C4
		13	31.01
278-BB	12-18-01	1	8.02B
		2	9.02I, J
		3	11.02B
		4	19.01D1
		5	20.04D1
278-CC	6-3-03	1	3.04A6b
		2	6.05E
		3	8.04D2
		4	11.04D2
		5	13.04D2
		6	19.04D2
		7	22.01A
		8	22.01C1
		9	22.01C12
		10	22.02A
		11	22.02C-1
		12	27.02D
		13	27.05C
		14	28.10D
		15	28.13B24
		16	28.13C7
		17	28.13C21
		18	30.02
		19	30.02C, D
		20	30.02E
		21	31.01
		22	32.00C4
278-DD	7-6-04	1	11.01S
		2	11.02A1
		3	23.02E6
		4	23.02E9

		5	23.02E19
		6	24.01
		7	24.01A
		8	24.02D
		9	24.03A1
		10	25.03B
		11	28.00B
278-EE	10-5-04	1	25.03D-I
		2	27.05B
		3	27.05C
		4	30.03G, H
		5	30.03I
		6	30.04
		7	1.02, 5.04, 12.02, 14.00, 25.00 - 25.03, 28.00, 28.12, 31.00
		8	25.03, 28.00, 28.18
278FF	5-3-05	1	22.03
		2	25.01
		3	26.01
		4	32.00
		5	32.04
278-GG	12-6-05	1	17.06
		2	19.06
		3	20.06
		4	24.06
278-HH	12-20-05	1	28.13
278-II	3-19-08	1	22.04
		2	24.02
		3	24.06
		4	24.06
278-JJ	3-4-08	1	3.04
		2	3.04
		3	6.04
		4	13.04
		5	13.04
		6	23.02
		7	24.02
		8	26.01
		9	28.13
		10	28.13
		11	28.13
		12	28.13
		13	28.14
278-KK	4-15-08	1	26.01
		2	31.01
278-LL	7-1-08	1	28.13
		2	28.13
278-MM	10-21-08	1	12.02
		2	12.02
		3	12.03
		4	28.00
		5	31.01
278-NN	1-6-09	1	Title
		2	1.01
		3	1.02
		4	1.02
		5	3.01
		6	16.02
		7	16.03
		8	21.01
		9	21.03
		10	21.04
		11	21.05
		12	22.00
		13	22.03
		14	25.01
		15	25.02
		16	25.03

		17	25.03
		18	25.03
		19	25.03
		20	26.03
		21	28.19
		22	30.00
		23	30.00
		24	30.00
		25	30.01
		26	30.03
		27	30.04
		28	30.04
		29	30.04
		30	31.01
		31	31.01
		32	32.02
		33	33.01
		34	2.01, 16.08, 21.07, 22.01 - 22.03, 23.03, 24.06, 25.03, 27.00, 27.02, 27.04 - 27.06, 27.09, 28.00, 28.05, 28.10, 28.18, 30.00 - 30.04, 31.01
		35	20.01, 31.01
278-QQ	2-16-10	1	3.03
		2	28.13
		3	28.14
		4	28.14
		5	28.14
		6	28.14
		7	28.14
		8	28.14
		9	28.14
		10	28.14
		11	28.14
		12	28.14
		13	28.14
		14	28.14
278-SS	7-17-12	1	22.06
		3	25.01
		4	25.04
		5	26.02
278-TT	4-16-13	1	28.13
278-UU	4-16-13	1	28.13
		2	28.13
278-VV	4-1-14	1	28.13
		2	28.13
		3	28.13
		4	28.13
		5	28.13
		6	28.13
		7	28.13
		8	28.13
		9	28.13
		10	28.13
		11	28.13
		12	28.13
		13	28.13
278-XX	7-19-16	1	28.13
		2	31.01
278-YY	10-4-16	1	23.01
		2	24.02
		3	24.03
		4	24.03
		5	24.05
		6	24.07
		7	24.08
		8	24.09
		9	24.10
		10	24.11
		11	24.12

		12	29.05
		13	28.14
		14	31.01
278-ZZ	12-20-16	1	28.20
		2	28.19
		3	33.00
278-AAA	5-3-17	1	28.01
		2	31.01
		3	12.02
		4	13.02
278-CCC	4-2-19	1	12.01A-12.04A

SUBDIVISION COMPARATIVE TABLE

This table shows the disposition of ordinances amending Subdivision Ordinance No. 196.

Ordinance Number	*Date*	*Section*	*Disposition*
196-A	10-16-79	1	8.01(C)
196-B	8-18-87	2-4	5.02 A.1(b)(4),
			4.(b)(2)c., 5.(b)(2)e
		5	5.03A
		6	6.03
196-C	6- 2-92	1	4.03B.4

APPENDIX

Code Comparative Table

The Code Comparative Table provides a reference to assist in locating sections from the 1978 Code as they are codified in the 1992 Code.

1978 Code	*1992 Code*
1978 Code	*1992 Code*
1-1	1-1
1-2	1-2
1-3	1-3
1-4	1-4
1-5	1-5
1-6	1-6
1-7	1-7
1-8	1-8
1-9	1-9
1-10	1-10
1-11	1-11
2-1	2-1
2-2	2-2
2-3-2-15	2-3-2-15
2-16	2-16
2-17	2-17
2-18	2-18
2-19	2-19
2-20	2-20
2-21-2-94	2-21-2-94
2-95	2-95
2-96-2-100	2-96-2-100
2-101	2-101
2-102	2-102
2-103-2-107	2-103-2-107
2-108	2-108
2-109	2-109
2-110	2-110
2-111	2-111
2-112	2-112
2-113	2-113
2-114-2-118	2-114-2-118
2-119	2-119

2-120	2-120
2-121	2-121
2-122	2-122
2-123-2-127	2-123-2-127
2-128	2-128
2-129	2-129
2-130	2-130
2-131	2-131
2-132	2-132
2-133-2-137	2-133-2-137
2-138	2-138
2-139	2-139
2-140	2-140
2-141	2-141
2-142	2-142
2-143	2-143
2-144	2-144
2-145	2-145
2-146	2-146
2-147	2-147
2-148	2-148
2-149	2-149
2-150	2-150
2-150.1	2-150.1
2-150.2	2-150.2
2-150.3	2-150.3
2-150.4	2-150.4
2-150.5	2-150.5
2-150.6	2-150.6
2-150.7-2-150.9	2-150.7-2-150.9
2-150.10	2-150.10
2-150.11	2-150.11
2-150.12	2-150.12
2-150.13	2-150.13
2-150.14	2-150.14
2-150.15-2-150.20	2-150.15-2-150.20
2-150.21	2-150.21
2-150.22	2-150.22
2-150.23	2-150.23
2-150.24	2-150.24
	2-150.25-2-150.29
2-150.30	2-150.30
2-150.31	2-150.31
2-150.32	2-150.32
2-150.33	2-150.33
2-150.34	2-150.34
2-150.35	2-150.35
2-151	2-151
2-152	2-152
2-153	2-153
2-154	2-154
2-155	2-155
2-156	2-156
2-157	2-157
2-158	2-158
2-159	2-159
2-160-2-169	2-160-2-169
2-170-2-202	2-170-2-202
2-203	2-203 Repealed
2-204	2-204 Repealed
2-205	2-205 Repealed
2-206	2-206 Repealed
2-207	2-207 Repealed
2-208	2-208 Repealed
2-209	2-209 Repealed
2-210	2-210 Repealed
2-211	2-211 Repealed
2-212	2-212 Repealed
2-213	2-213 Repealed

2-214	2-214 Repealed
2-215	2-215 Repealed
2-216	2-216 Repealed
2-217	2-217 Repealed
2-218	2-218 Repealed
2-219	2-219 Repealed
2-220	2-220 Repealed
2-221	2-221 Repealed
2-222	2-222 Repealed
2-223	2-223 Repealed
2-224-2-249	2-224-2-249 Repealed
2-250	2-250
3-1-3-15	3-1-3-15
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3-18	3-18
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3-35	3-35
3-36	3-36
3-37	3-37
3-38	3-38
3-39	3-39
4-1-4-20	4-1-4-20
4-21	4-21
4-22	4-22
4-23	4-23
4-24	4-24
5-1	5-1
5-2	5-2
5-3	5-3
5-4	5-4
5-5-5-15	5-5-5-15
5-16	5-16
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5-5.12	7-12
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6-12	8-10
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6-48	8-10
6-49	8-10
6-50	8-29
6-51	8-10
6-52	8-10
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8-2	11-2
8-3	11-3
8-4	11-4
8-5-8-20	11-9-11-20
8-21	11-21
8-22	11-22 Repealed
8-23	11-23 Repealed
8-24	11-24 Repealed
8-25	11-25 Repealed
8-26-8-33	11-26-11-33 Repealed
8-34	11-34
8-35	11-35 Repealed
8-36	11-36 Repealed
8-37	11-37 Repealed
8-38	11-38 Repealed
8-39	11-39 Repealed
8-40	11-40 Repealed
8-41	11-41 Repealed
8-42	11-42 Repealed
8-43	11-43 Repealed
8-44	11-44 Repealed
8-45	11-45 Repealed
8-46	11-46 Repealed
8-47	11-47 Repealed
8-48	11-48 Repealed
8-49	11-49 Repealed
8-50-8-57	11-50-11-51 Repealed
	11-52-11-57
8-58	11-58
8-59	11-59 Repealed
8-60	11-60 Repealed
8-61-8-70	11-61-11-70
8-71	11-71
8-72	11-72 Repealed
8-73	11-73 Repealed

8-74	11-74
8-75-8-83	11-75-11-83
8-84	11-84 Repealed
8-85	11-85 Repealed
8-86-8-93	11-86-11-93
8-95	11-95 Repealed
8-96	11-96 Repealed
8-97	11-97 Repealed
8-98	11-98 Repealed
8-99	11-99 Repealed
8-100	11-100 Repealed
8-101-8-180	11-101-11-104
	11-107-11-180
8-181	11-84
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8-183	11-87
8-184-8-193	11-184-11-193
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8-195	11-195
8-196	11-196
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8-198	11-198
8-199	11-199
8-200	11-200
8-201	11-201
8-202	11-202
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8-206	11-206
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8-208	11-208
8-209-8-218	11-209-11-218
8-219	11-219
8-220	11-220
8-221	11-221
8-222	11-222
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8-225	11-225
8-226	11-226
8-227	11-227
8-228	11-228
8-229	11-229
8-230	11-230
8-231	11-231
8-232	11-232
8-233	11-233
8-234-8-241	11-234-11-241
8-242	48-60
8-244	48-62
8-245	48-63
8-246	11-48-64
8-247	48-65
8-248	48-66
8-249	48-67
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8.2-2	12-2
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8.2-6	12-6
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8.2-9	12-9
8.2-10-8.2-20	12-10-12-20
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8.5-5	13-5
8.5-6	13-6
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8.5-9	13-9
8.5-10	13-10
8.5-11	13-11
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8.5-13	13-13
8.5-14	13-14
8.5-15	13-15
8.5-16	13-16
8.5-17	13-17
8.5-18	13-18
8.5-19	13-19
8.5-20	13-20
8.5-21	13-21
8.5-22	13-22
8.5-23	13-23
8.5-24	13-24
8.5-25	13-25
8.5-26	13-26
8.5-27	13-27
8.5-28	13-28
9-1	14-1
10-1	15-1 Repealed
10-2	15-2 Repealed
10-3	15-3 Repealed
10-4	15-4 Repealed
10-5	15-5 Repealed
10-6	15-6 Repealed
10-7	15-7 Repealed
10-8	15-8 Repealed
10-9	15-9 Repealed
10-10	15-10 Repealed
10-11	15-11 Repealed
10-12	15-12 Repealed
10-13	15-13 Repealed
10-14	15-14 Repealed
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11-10	17-10
11-11	17-11
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11-19	17-19
11-20-11-43	17-20-17-43
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11-52	17-52
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11.5	Chapter 18
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12-15	19-15
13-1-13-20	20-1-20-20
13-21	20-21
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13-23	20-23
13-24-13-27	20-24-20-27
13-28	20-28
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13-30	20-30
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14-45	22-45
15-1	23-1
15-2	23-2
15-3	23-3
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15-5	23-5
15-6	23-6
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15-9	23-9
15-10	23-10
15-11	23-11
15-12	23-12
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15-24	23-24
15-25	23-25
15-26.1	23-26.1
15-27	23-27
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	Reserved
	Chapter 27
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19-2	28-2
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19-11	28-11
	Chapter 21
	Reserved
	Chapter 30
	Reserved
22-1	31-1
22-2	31-2
22-3	31-3
22-4	31-4
22-5	31-5
22-6	31-6
	Chapter 32
	Reserved
23-1	33-1
23-2	33-2
23-3	33-3
23-4	33-4
23-5	Reserved
23-6	Reserved
23-7	Reserved
23-8	Reserved
23-9-23-18	Reserved
23-19	Reserved
23-20	Reserved
23-21	Reserved
23-22	Reserved
23-23	Reserved
24-1	34-1
24-2	34-2
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24-4	34-4
24-5	34-5
24-6	34-6
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25-15	35-15
25-16	35-16
25-17	35-17
25-18	35-18
25-19	35-19
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ORDINANCE DISPOSITION LIST

This Ordinance Disposition List provides a listing of the ordinances adopted by the City Council commencing with Ordinance No. 132-J, adopted February 16, 1993.

Ordinance No.	***Date of Adoption***	***Description***
Ordinance No.	***Date of Adoption***	***Description***
117-G	6-16-92	Amends section 49-314, accident reports
132-J	2-16-93	Amends sections 41-19(e), 41-20(b)(3), 41-20(c) and 41-25, repeals section 41-19(f), General Employees Retirement System
272-A	3-16-93	Amends section 2.150.10, members of Board of Review
278-8	3-16-93	Amends zoning map (Special)
307	3-16-93	Adds Chapter 30, massage establishments
278-9	4-20-93	Amends zoning map (Special)
278-10	6-1-93	Amends zoning map (Special)
278-11	6-1-93	Amends zoning map (Special)
64-C & 286-B	6-1-93	Amends section 33-2, definition; amends sections 53-52(b), 53-56, discharge of non-storm water to storm sewer system
278-12	7-6-92	Amends zoning map (Special)
278-13	7-20-93	Amends zoning map (Special)
278-14	7-20-93	Amends zoning map (Special)
278-15	8-3-93	Amends zoning map (Special)
278-16	8-3-93	Amends zoning map (Special)
278-17	9-7-93	Amends zoning map (Special)
182-M	9-21-93	Amends sections 53-5(b), 53-26; adds sections 53-30.5, 53-36, water and sewer rates
270-B	10-19-93	Amends sections 12-1-12-9, business registration
293-A	10-19-93	Amends 12-43, 12-44, cigarette vending machines
309	10-19-93	Adds sections 35-36-35-59, sale and use of tobacco by minors (35-36 - 35-38 repealed)
222-J	11-3-93	Adds sections 13-29-13-32, cable television rate regulations
179-I, 117-H,		
& 218-A	11-3-93	Amends sections 35-16, disturbing the peace, 39-18, cruising and loitering, 35-22, giving false information to a police officer, 35-24, dangerous weapons prohibited, 35-52, unlawful sale or possession of paraphernalia, 49-97, driving without license or with revoked or suspended license or registration; adds section 35-54, attempt to commit offense; repeals section 35-23, possession of certain weapons prohibited
190-D	12-21-93	Amends section 2-209 (b), competitive bidding, waiver by City Council (Repealed)
278-18	2-1-94	Amends zoning map (Special)
222-K	2-20-94	Adds Article II to Chapter 13, cable communications system
278-19	3-6-94	Amends zoning map (Special)
310	3-6-94	Amends sections 20-22 and 20-23 BOCA National Fire Prevention
278-20	3-27-94	Amends zoning map (Special)
278-21	4-5-94	Amends zoning map (Special)
135-B	4-5-94	Adds sections 44-13, 44-14, use of tobacco on school property

222-L	5-17-94	Adds sections 13-33, 13-34, cable television for mobile home parks
278-22	5-17-94	Amends zoning map (Special)
201-H	6-7-94	Amends sections 2-17, 2-19, administrative offices
201-I	6-7-94	Amends section 2-250, authority to issue and serve appearance tickets
278-23	6-7-94	Amends zoning map (Special)
311	6-7-94	Amends sections 11-34, 11-35, National Electrical Code
312	6-21-94	Amends sections 11-86, 11-87 International Property Maintenance Code
313	6-21-94	Amends sections 11-71, 11-73, 11-74, BOCA National Mechanical Code
314	6-21-94	Amends sections 11-58, 11-59, 11-60, BOCA National Plumbing Code
315	6-21-94	Amends sections 11-36-11-49, adds Section 11-50, installation, repair, maintenance, etc. of electrical equipment; licensing of electricians and electrical contractors; provide for Electrical Examining and Appeals Board
316	6-21-94	Amends sections 11-21, BOCA National Building Code
278-M	6-21-94	Amends Article 21 of the Zoning Ordinance, PCD Planned Center District
310-A	8-8-94	Amends section 20-37(a); fire hydrants
278-25	9-6-94	Amends zoning map (Special)
209-C	9-20-94	Adds sections 5-50-5-54, serving of alcoholic beverages to minors at parties
278-26	9-20-94	Amends zoning map (Special)
278-27	9-20-94	Amends zoning map (Special)
278-28	10-4-94	Amends zoning map (Special)
278-29	10-18-94	Amends zoning map (Special)
278-30	11-1-94	Amends zoning material (Special)
170-J	11-15-94	Amends section 35-33, prohibits public nudity
226-D	12-6-94	Amends sections 49-156, 49-157, 49-157.1, 49-157.2; adds sections 49-156.1, 49-156.2, 49-156.3, driving under the influence of alcohol
317		1994-1995 Appropriations Ordinance (Special)
318	12-6-94	Adds Chapter 13A, regulation of carnivals
278-31	12-20-94	Amends zoning map (Special)
314-A	1-17-95	Amends section 11-59, Plumbing Code
278-32	1-3-95	Amends zoning map (Special)
201-J	4-18-95	Amends sections 2-17, 2-19, administrative departments and offices
314-B	5-2-95	Amends section 11-60, amendments to BOCA National Plumbing Code
177-E	5-16-95	Amends section 48-63(d), waiver of permit fees for homeowner replacing damaged or defective sections of public sidewalk adjacent to his or her property
278-33	6-11-95	Amends zoning map (Special)
278-34	7-9-95	Amends zoning map (Special)
278-35	7-9-95	Amends zoning map (Special)
218-N	8-1-95	Amends sections 3.02, 3.04, 6.01, 6.02, 6.04, 6.05, 7.01, 22.01, 22.02, 31.00, 31.01 of the zoning ordinance
278-36	8-15-95	Amends zoning map (Special)
278-37	8-15-95	Amends zoning map (Special)
278-38	8-15-95	Amends zoning map (Special)
278-O	9-5-95	Amends sections 11.00, 11.01, 11.02, 12.01, 12.04, 13.01, 13.02, 13.04, 31.01 of the zoning ordinance
278-P	10-3-95	Amends sections 9.04, 16.03, 19.02, 26.01, 26.03 of the zoning ordinance
278-Q	9-5-95	Amends sections 23.01, 23.02, 24.01, 24.05, 27.02, 28.00, 28.03, 28.08, 28.13, 30.00 and table following 33.05 of the zoning ordinance
278-39	10-3-95	Amends zoning map (Special)
210-B, 226-E,		
117-I	10-17-95	Amends sections 49-2, 49-194, 49-207, handicapper policy offenses
226-F	10-17-95	Amends sections 49-156, 49-158, 49-159, adds sections 49-16049-163, drunk driving
278-40	1-16-96	Amends zoning map (Special)
278-41	2-6-96	Amends zoning map (Special)
278-42	2-20-96	Amends zoning map (Special)
278-43	3-5-96	Amends zoning map (Special)
278-44	6-4-96	Amends zoning map (Special)

286-C	6-4-96	Amends Chapter 48, Article I, streets, sidewalks and rights-of-way
179-K & 209-D	6-18-96	Amends sections 5-1, 5-2(d) and 5-4, penalties for persons under 21 possessing alcoholic beverages
187-G	6-18-96	Amends section 2-95(b), compensation of Planning Commission and Zoning Board of Appeals
279-A	7-2-96	Adds Chapter 2, Division 12, Board of Code Appeals, amends Chapter 11, Article II, BOCA Building Code, Article IV, BOCA Plumbing Code, Article V, BOCA Mechanical Code, Article VII, BOCA Property Maintenance Code, Chapter 20, BOCA Fire Prevention Code
187-H	8-7-96	Amends section 2-95(b), compensation of members of boards and commissions
222-M	8-7-96	Amends Chapter 13, cable communications
278-R	8-20-96	Amends sections 3.02, 3.04, 6.01, 6.04, 7.01, 7.04, 7.05, 19.02, 22.01, 22.02, 24.03, 28.00, 28.10, 28.13, 31.01, zoning
278-45	9-3-96	Amends zoning map (Special)
278-46	9-3-96	Amends zoning map (Special)
321	9-17-96	Grant right-of-way to cable television franchise (Special)
179-L	10-1-96	Adds section 35-16a, picketing of residences
278-47	12-3-96	Amends zoning map (Special)
159-D	12-17-96	Amends section 38-3(a), park regulations, hours
115-E	1-7-97	Amends section 23-1, 23-2(f), (g), 23-4(f), 23-9, 23-10, 23-11, 2312(a), 23-20(f), 23-21(a), (b), refuse collection
117-J & 210-C	1-21-97	Amends section 49-330, disposition of abandoned vehicles
177-F	1-21-97	Amends section 48-67, driveways
181-D	1-21-97	Amends Ch. 15, emergency management
278-48	1-21-97	Amends zoning map (Special)
278-S	2-18-97	Amends section 3.02, zoning
278-49	3-4-97	Amends zoning map (Special)
278-50	3-4-97	Amends zoning map (Special)
322	4-15-97	Adds sections 41-1, 41-2, 41-3, Defined Contribution Pension Plan
324	6-3-97	Adds Ch. 48A, telecommunications
278-T	6-3-97	Amends sections 3.02, 6.05, 8.02, 9.02, 14.01, 14.04, 14.06, 22.02, 23.02, 24.05, 28.11, 28.13, 28.14, 31.01, zoning
278-51	6-17-97	Amends zoning map (Special)
325	6-24-97	Grants cable television franchise to Comcast Cablevision of Sterling Heights, Inc. (Special)
170-B	7-1-97	Amends section 17-60, variances and appeals, Board of Ordinance Appeals
132-K	7-15-97	Amends sections 41-22, 41-24, 41-27, 41-29, 41-30, 41-37(b), 4139(c), 41-41(a), (b), 41-42(a), (c), 41-43, 41-44, 41-46, 41-55, pensions and retirement
327	8-5-97	Adds Article V to Chapter 2, personnel polices and procedures for employees of 41-A District Court
278-52	10-7-97	Amends zoning map (Special)
243-B	10-7-97	Amends section 5-34(d), (e), (f)(3), (g)(13), (i), (j), (k), (1), application for liquor licenses
326	10-21-97	Grants limited natural gas franchise to West Bay Exploration Company (Special)
117-K	10-21-97	Amends sections 49-128, 49-130(a), (b), traffic regulations passing through a funeral procession; overtaking a school bus flashing red lights
328	11-5-97	Amends sections 1-3, 1-9, 1-10, 2-250, 28-11, adds sections 1-21-1-26, 2-251, 35-101; deletes sections 8-76, 11-23 subsection 116.4, 11-60, subsection P-116.4, 11-74 subsection M116 and M-117.2, 11-182, subsection PM-106.2, 11-183, subsection PM-101.6.2, 12-9, 12-46, 23-27, 31-6, 35-54, 35-70, 3583, 51-49(a), 53-57(b), penalties
278-53	11-18-97	Amends zoning map (Special)
Z-951	12-16-97	Amends zoning map (Special)
329	12-12-97	Amends sections 11-86, 11-87, International Property Maintenance Code
330	12-16-97	Amends sections 11-34, 11-35, amends National Electrical Code
331	12-16-97	Amends sections 11-59, 11-60, amends International Plumbing Code
332	12-16-97	Amends section 11-36, definitions and adds section 11-51, administrative requirements for enforcement of National Electrical Code

333	12-16-97	Amends sections 11-72, 11-73, 11-74, International Mechanical Code
278-U	1-6-98	Amends sections 3.02, 3.03, 6.02, 8.02, 9.04, 12.02, 22.02, 24.01, 26.02, 28.00, 28.13, 29.00, 30.02, 31.01, zoning
278-V	1-20-98	Amends section 11.02, zoning
278-55	3-17-98	Amends zoning map (Special)
278-56	3-17-98	Amends zoning map (Special)
117-L, 179-M & 218-B	4-21-98	Amends sections 49-2, 49-10, valid registration plates and tabs
182-N	4-21-98	Deletes section 53-7, water and sewer billing during September, October and November
278-57	4-21-98	Amends zoning map (Special)
278-58	5-5-98	Amends zoning map (Special)
328-A	5-18-98	Amends sections 1-9(c), 1-26, civil fines
278-59	6-2-98	Amends zoning map (Special)
326-A	7-7-98	Amends Ordinance No. 326 awarding a limited natural gas franchise to West Bay Exploration Company (Special)
278-60	7-21-98	Amends zoning map (Special)
278-61	7-21-98	Amends zoning map (Special)
		Amends sections 20-22 and 20-23 adoption and amendments to BOCA National Fire Prevention Code/1996 Tenth Edition
278-62	9-15-98	Amends zoning map (Special)
278-63	9-15-98	Amends zoning map (Special)
145-B	9-15-98	Amends sections 2-120(a), 2-121, Beautification Commission
337	9-15-98	Adds Article III, sections 12-51 to 12-70, hotels and motels
278-64	10-6-98	Amends zoning map (Special)
278-65	11-4-98	Amends zoning map (Special)
211-E	11-4-98	Amends section 19-5, fence and privacy screen construction
222-N	11-4-98	Amends sections 13-9(b)(3) and 13-30(h), change of channel positions used by Utica Community Schools and Warren Consolidated Schools
278-W	11-30-98	Amends sections 31.01, 33.00, 33.04, zoning
278-66	12-15-98	Amends zoning map (Special)
278-67	1-5-99	Amends zoning map (Special)
292-B	1-5-99	Adds paragraphs (g) and (h) to section 51-49, additional penalties for violations
209-E	1-19-99	Amends paragraphs (a)(1) and (g) to section 5-4, penalty; miscellaneous provisions regarding minors and substance abuse
338	1-19-99	Add Chapter 27, land division and combination
339 & 328-B	1-19-99	Adds section 35-39, use of non-motorized wheeled vehicles
243-C	1-19-99	Amends Chapter 5, Article III, liquor licensing
270-C	1-19-99	Amends section 12-8, privacy regulation
278-68	1-19-99	Amends zoning map (Special)
132-L	3-2-99	Amends sections 41-19(x)(4), 41-24, adds section 41-23(b)(5), employees' retirement system
278-69	3-2-99	Amends zoning map (Special)
278-70	3-2-99	Amends zoning map (Special)
278-71	3-16-99	Amends zoning map (Special)
278-72	3-16-99	Amends zoning map (Special)
179-N & 222-O	4-6-99	Adds section 13-21(b)(c), unauthorized telecommunications tampering or fraud; amends sections 35-26 - 35-32, theft and property destruction
278-X	4-6-99	Amends sections 3.02, 6.04, 7.04, 12.02, 19.04, 20.04, 22.01, 22.02, 23.01, 23.02, 24.01, 24.02, 28.00, 28.01, 28.13, 32.03 of the zoning ordinance
278-73	4-6-99	Amends zoning map (Special)
278-74	4-6-99	Amends zoning map (Special)
278-75	4-20-99	Amends zoning map (Special)
340	4-20-99	Amends sections 11-72, 11-73, 11-74, International Mechanical Code
341	4-20-99Amends sections 11-59, 11-60, International Plumbing Code	
342	4-20-99	Amends sections 11-21, 11-23, BOCA National Building Code/1996 Edition
278-76	5-4-99	Amends zoning map (Special)
278-77	5-4-99	Amends zoning map (Special)
278-78	5-4-99	Amends zoning map (Special)
117-M	5-18-99	Amends section 49-19, obstruction of traffic by trains

284-A	5-18-99	Amends Chapter 53, Article VI, wastewater pollution control
187-I	6-1-99	Amends section 2-95(b), Board of Appeals
278-79	6-1-99	Amends zoning map (Special)
278-80	6-1-99	Amends zoning map (Special)
117-9, 210-D,		
226-G & 233-A	6-15-99	Amends sections 49-8(c), 49-9, 49-86(b), 49-87(c), (d), (e), 4996(e), (fl, 49-97, 49-100, 49-103, 49-104, 49-105(c), (d), (e), (f), 49-173(b), 49-207(c), update city traffic regulations to conform to state law
278-81	7-20-99	Amends zoning map (Special)
278-82	8-3-99	Amends zoning map (Special)
278-83	8-3-99	Amends zoning map (Special)
201-K	8-17-99	Amends sections 2-17, 2-18, 2-19, administrative services
243-D	8-17-99	Amends section 5-34(i), restrictions on licenses and permits for liquor licenses and related permits
278-84	8-17-99	Amends zoning map (Special)
278-85	9-21-99	Amends zoning map (Special)
278-86	9-21-99	Amends zoning map (Special)
278-87	10-19-99	Amends zoning map (Special)
211-F	11-3-99	Amends sections 19-5 and 9-8, fences
230-B	11-3-99	Amends section 53-52(k), floor drains in basements
324-A	11-3-99	Adds section 48A-10(b)(6), telecommun- ications services, fee considerations
344	11-23-99	Adds section 2-224, purchasing cards
117-O	11-23-99	Adds section 49-194(d), (e), (f), prohibits use of special registration plates, placards or tabs for persons with disabilities by persons who do not qualify
117-P	11-23-99	Adds section 49-100(e), distinguish between intentionally and unintentionally altered driver's license
327-A	12-7-99	Amends sections 2-187, 2-188, retirement program for administrative staff employees of the 41A District Court
278-88	12-7-99	Amends zoning map (Special)
278-89	12-7-99	Amends zoning map (Special)
278-90	12-21-99	Amends zoning map (Special)
278-91	12-21-99	Amends zoning map (Special)
345	1-18-00	Amends Ch. 20, adds Division 3, maintenance, testing and certification of private water supply systems available for fire suppression
278-92	2-1-00	Amends zoning map (Special)
278-93	3-7-00	Amends zoning map (Special)
278-94	3-21-00	Amends zoning map (Special)
278-95	4-4-01	Amends zoning map (Special)
346	4-4-00	Amends section 2-101, appointment and removal of Planning Commission members
278-Y	5-16-00	Amends sections 3.02, 5.04, 6.02, 7.02, 8.02, 8.04, 9.02, 9.04, 10.02, 11.02, 12.02, 13.01, 13.02, 14.02, 15.02, 16.05, 16.06, 16.07, 16.08, 17.02, 18.02, 19.02, 20.02, 22.00, 22.01, 23.02, 23.03, 24.01, 24.02, 25.01, 25.02, 25.03, 26.01, 28.01, 28.13, 28.18, 30.03, 31.01, wireless communication towers, antennas and facilities
278-96	6-6-00	Amends zoning map (Special)
278-97	7-18-00	Amends zoning map (Special)
117-G	8-15-00	Amends section 48-69, concrete ordinance
234-C	9-19-00	Amends section 7-3 and subsection 7-12(x)(3), gambling and redemption games
278-98	9-5-00	Amends zoning map (Special)
278-99	9-5-00	Amends zoning map (Special)
278-100	10-17-00	Amends zoning map (Special)
278-101	10-17-00	Amends zoning map (Special)
278-102	10-17-00	Amends zoning map (Special)
348	10-17-00	Grants limited electrical franchise to DTE Energy Marketing (Special)
349	10-17-00	Amends sections 1-9 and 1-26, general penalty and municipal civil infraction fines
350	10-17-00	Amends sections 5-1, 5-2, 5-4, 13-21, 23-32, 23-43, 23-44, 35-2, 35-4, 35-16, 35-19, 35-20, 35-23, 35-26, 35-26a, 35-27, 35-28, 35-29, 35-30, 35-31, 35-31a, 35-32, 35-32a, 35-33, 35-35, 35-40, 35-41, increase penalties for certain offenses and update prohibited conduct to conform to state law
351	10-17-00	Repeals and replaces Chapter 49, Traffic, in its entirety
278-Z	11-8-00	Amends section 28.13C, zoning

352	12-19-00	Amends Ch. 11, adds sections 11-5, 11-6, 11- 7, 11-8, amends sections 11-21, 11-34, 11-35, 11-58, 11-71, repeals sections 11-22, 11-23, 11-35-11-46, 11-47-11-49, 11-50-11-51, 11-59-11-60, 11-72-11-73, 11-84-11-85, 11-94-11-100, amends sections 11-181, 11-182
353	3-6-01	Replaces Ch. 15, emergency management
278-AA	3-20-01	Amends sections 11.04B, 13.01D, 13.01K, 13.02A, 17.04B, 17.04D, 19.02J, 19.04D, 20.04D, 28.00B, C, 28.10B, 28.10C, 31.01
346-A	6-5-01	Amends section 2-101
355	6-19-01	Adds sections 48-50, 48-51, 48-52
278-BB	12-18-01	Amends sections 8.02, 9.02, 11.02, 19.03, 20.04, zoning
357	12-18-01	Amends sections 2-17, 2-18, 2-19, 2-20
358	12-18-01	Amends section 41-19
359	1-2-02	Amends sections 51-3, 51-4, 51-6, 51-7, 51-8, 51-9, 51-10, 51-11, 51-12, 51-13, 51-14, 51-15
346-B	1-2-02	Amends section 2-101
361	5-7-02	Amends section 20-23; adds sections 20-100 through 20-125
362	6-4-02	Amends section 2-150.10(A), (C)
363	7-16-02	Amends sections 41-22, 41-26, 41-28, 41-49; adds sections 41-56 through 41-61
364	8-20-02	Amends sections 35-4(A), (B), 35-16; adds 35-19(C); amends 35-23, 35-33(A)
365	10-15-02	Amends Chapter 48A, Telecommunications, sections 48A-1 through 48A-14
366	11-6-02	Amends section 1-9; repeals and replaces Chapter 20, Fire Prevention and Protection
367	12-17-02	Amends sections 1-9, 1-26, 2-150.30, 2-150.31, 2-150.34, 2-150.35, 2-150.40, 2-150.41, 2-150.44, 2-150.45, 11-81 through 11-102, 11-141 through 11-180, 11-181 through 11-193, 33-1 through 33-4
368	3-18-03	Amends section 1-9; repeals and replaces Chapter 8, Animals and Fowl
278-CC	6-3-03	Amends sections 3.04, 6.05, 8.04, 11.04, 13.04, 19.04, 22.01, 22.02, 27.02, 27.05, 28.10, 28.13, 30.02, 31.01, 32.00, zoning
370	1-20-04	Amends sections 2-183, 2-184, 2-187, 2-188
278-DD	7-6-04	Amends sections 11.01, 11.02, 23.02, 24.01 through 24.03, 25.03, 28.00, zoning
278-EE	10-5-04	Amends sections 1.02, 5.04, 12.02, 14.00, 25.00 through 25.03, 27.05, 28.00, 28.12, 28.18, 30.03, 30.04, 31.00, zoning
372	10-19-04	Amends section 5-1
373	10-19-04	Amends section 2-173
374	12-21-04	Amends section 1-9; repeals and replaces Chapter 20, Fire Prevention and Protection
375	3-1-05	Amends section 23-4
376	3-15-05	Amends section 1-9; adds Chapter 36, False Alarms
378	5-3-05	Amends section 1-9; adds sections 37-51 through 37-62; amends sections 48-32 through 48-40
278FF	5-3-05	Amends Zoning Code, sections 22.03, 25.01, 26.01, 32.00, and 32.04
292-C	5-17-05	Amends sections 51-36 through 51-41, 51-44, 51-46
379	8-2-05	Amends Chapter 41, sections 41-1 through 41-67
380	10-4-05	Amends Chapter 31, sections 31-1 through 31-05
278-GG	12-6-05	Amends Zoning Code, sections 17.06, 19.06, 20.06, and 24.06
278-HH	12-20-05	Amends Zoning Code, section 28.13
384	8-15-06	Amending sections 1-9, 1-26 and 17-1 - 17 - 51
385	8-15-06	Creates a new Chapter 2, Division 8, sections 2-150 - 2-150.9
386	10-3-06	Amending section 11-7 and repealing Chapter 21
387	12-19-06	Amends Chapter 2, Division 8, creating sections 2-150.9A and 2-150.9B
388	1-3-07	Amending 1-9, 1-26, 7-7, 8-42, 11-244, 11-245, 12-4, 14-45, 12-56, 12, 63, 19- 4, 19-11, 22-41, 23-16, 23-21, 23-42, 26, 26, 26-27, 27-4, 39-5, 48-6, 48-7, 48-21, 48, 4.3, 48A-5, 51-41, 52-49, 52-64, 52-66, 53-5, 53-30, and 53-52
389	4-3-07	Amending 2-18 and 2-19
391	4-17-07	Amending 1-26, 38-1, 38-14
392	12-18-07	Amending 23-1. Creating new sections 23-51 - 23.56
393	1-2-08	Amending 20-22, 20-23, 20-116, 20-21, 20-122, 20-125

394	3-18-08	Amending 26-2, 26-9, 26-11, 26-12, 26-25
278-II	3-19-08	Amending Zoning Code, sections 22.04, 24.02, 24.06
278-KK	4-15-08	Amending Zoning Code, sections 26.01, 31.01
396	5-6-08	Amends sections 1-26, 11-21 through 11-232, 22-22, 33-1 through 33-5, 47-19, 48-37, 48-61 through 48-69, 51-15
397	6-3-08	Creates a new Chapter 53, Article VII, 53-101 - 53-108
278-LL	7-1-08	Amending the Zoning Code, sections 28.13 and 31.01
278-MM	10-21-08	Amending the Zoning Code, sections 12.02, 28.00 and 31.01
398	10-21-08	Creating new Articles IV and V in Chapter 12, sections 12-81 - 12-149
399	12-16-08	Amending sections 8-12 and 8-13
278-NN	1-6-09	Amending the Zoning Code, sections Title, 1.01, 1.02, 2.01, 3.01, 16.02, 16.03, 16.08, 20.01, 21.01 - 21.05, 21.07, 22.00, 22.01 - 22.03, 23.04, 24.06, 25.01 - 25.03, 26.03, 27.00, 27.02, 27.04 - 27.06, 27.09, 28.00, 28.05, 28.10, 28.18, 28.20, 30.00 - 30.04, 31.01, 32.02
370-A	1-6-09	Amending sections 2-174, 2-183, 2-184, 2-186, and 2-188
400	1-6-09	Amending sections 2-101 and 2-102
401	3-2-09	Amending section 1-9; Creating new Article VI in Chapter 12, sections 12- 150 - 12-199
402	4-21-09	Amending sections 53-77 - 53-79, 53-86 and adding Appendix B and C
404	6-16-09	Amending sections 2-203 - 2-230
405	7-15-09	Creates new Article VII - Article IX in Chapter 12, sections 12-200 - 12-269
406	7-21-09	Amending sections 2-17 - 2-19
407	7-21-09	Amending sections 1-9, 5-1, 5-2, 35-2, 35-16, 35-22, 35-24, 35-28, 35-34, 43-9, 44-7 and adding sections 5-4, 20-17, 35-5, 35-6, 35-7, 35-17A, 35-23A, 35-28A, 35-42, 44-8, 44-8A
278-OO	8-5-09	Amending the Zoning Code, sections 8.05, 9.05, 11.05, 12.02, 12.05, 13.05, 14.06, 17.05, 18.05, 19.05, 20.05, 21.07, 26.01, 28.13, 29.00, 29.01, 29.02, 29.03, 31.01
408	11-17-09	Amending sections 12-202, 12-205, 12-231, 12-232, 12-234, 12-235, 12-252, 12-253
278-PP	12-1-09	Amending the Zoning Code, sections 19.01, 20.01, 22.05, 31.01
278-QQ	2-16-10	Amending the Zoning Code, sections 3.03, 28.13, 28.14
411	2-1-11	Amending sections 2-150.30, 2-150-34, 1-9, 1-26, 8-10, 8-28, 8-29, 8-55 and adding 8-28A
413	5-17-11	Amending sections 1-9, 1-26, 20-22, 20-23
414	6-12-11	Amending sections 11-86, 11-87
415	7-5-11	Amending 2-17 - 2-19
416	7-5-11	Amending 2-173, 2-186 and 2-189, repealing 2-180 and renumbering 2-181 - 2-191 as 2-180 - 2-190
278-RR	10-18-11	Amending 25.03, 26.02, 28.00, 28.13, 28.14, 30.02 and 32.04
417	3-6-12	Adding new Article IV in Ch. 23 sections 23-61 - 23-69
419	6-19-12	Amending 1-9, 1-26, 20-100 - 20-103, 20-111, 20-116, 20-117, 20-121 - 20-125, and adding 20-115 and 20-131
278-SS	7-17-12	Amending the Zoning Code, adding sections 22.06 and 25.04, amending sections 25.01 and 26.02
420	10-16-12	Amending 2-17 and 2-19
421	11-7-12	Amending 15-1 through 15-24
422	12-4-12	Amending 49-4, adding 49-6, repealing 49-12
423	1-2-13	Amending 2-179, 2-183, 2-186, 2-187, 2- 189, 2-190, 2-191
424	2-5-13	Amending 1-87, 33-1, 33-2, repealing 51- 27 - 51-35
425	3-5-13	Amending 1-9 and adding 12-21
426	3-5-13	Adding 11-88
278-TT	4-16-13	Amending 28.13, zoning
278-UU	4-16-13	Amending 28.13, zoning
428	6-18-13	Amending 2-186, 2-190, 41-30
429	7-16-13	Amending 20-23
430	8-6-13	Amending 1-9, 1-26, 20-115
431	10-1-13	Adding 8-36, Amending 1-9 and 8-41
432	11-6-13	Amending 2-18, 2-19
278-VV	4-1-14	Amending 28.13, zoning
434	5-20-14	Amending 2-150.9A and 2-150.9B
435	6-17-14	Repealing Ch. 25, Art II, Adding 25-1 - 25-17 (Repealed), Amending 1-9 and 1-26

436	8-19-14	Amending 1-9, 35-50 - 35-52, 35-64 - 35-66, Adding 35-67 - 35-69
437	10-7-14	Repealing Ch. 25, Art I, Re-enacting 25-16 - 25-22 (Repealed), Amending 1-9 and 1-26
438	12-16-14	Repealing 30-1 - 30-20, Adding 30-1 - 30-16 (Repealed)
439	2-17-15	Amending 1-9, 1-26, Repealing 35-36 - 35-38, Adding 35-91 - 35-97, 35-101
440	3-3-15	Amending 2-138 - 2-142
442	8-18-15	Amending 20-100, 20-115
443	1-5-16	Amending 20-23
444	2-2-16	Amending 2-17 - 2-19
445	3-1-16	Amending Ch. 26-1 - 26-14, 26-25 - 26-29, Adding 26-15, 26-30 - 26-32
447	6-21-16	Amending 8-9
448	8-3-16	Amending 37-23 and 37-24
449	8-16-16	Amending 8-28 and 8-28A
450	12-20-16	Amending 1-9 and 1-26, Adding 12-46 - 12-50B
278-ZZ	12-20-16	Amending 28.19, 28.20, 33.00, zoning
278-AAA	5-3-17	Amending 12.02, 13.02, 28.01, 31.01, zoning
452	6-20-17	Amending 1-9, 20-23, Adding 49-101 - 49-106
453	5-3-17	Amending 1-9, 1-26, 7-1 - 7-14
278-BBB	7-18-17	Amending 3.03, 12.02, 12.03, 13.02, 13.03, 14.02, 14.03, 31.01, zoning
454	7-18-17	Amending 1-9, 1-26, 12-259, Adding 12-270 - 12-277
278-186-A	2-20-18	Amending zoning map (Special)
278-187	9-19-17	Amending zoning map (Special)
278-188	9-19-17	Amending zoning map (Special)
209-F	12-5-17	Amending 1-9, 1-26, 5-1
278-190	12-5-17	Amending zoning map (Special)
278-191	12-5-17	Amending zoning map (Special)
455	12-19-17	Amending 1-9, 1-26, 20-22, 20-23
278-192	2-20-18	Amending zoning map (Special)
457	6-19-18	Amending 2-18, 2-19
278-193	6-19-18	Amending zoning map (Special)
278-194	6-19-18	Amending zoning map (Special)
278-195	7-17-18	Amending zoning map (Special)
458	8-8-18	Granting franchise to Consumers Energy Company (Special)
459	9-18-18	Amending 2-173, 2-179, 2-182, 2-183, 2-185, 2-187, 2-189
460	12-4-18	Adding 35-70
461	12-18-18	Amending 1-9, 1-26, 35-52, 35-64, 36-65
462	3-18-19	Amending 1-9, 1-26, 11-86, 11-87, Adding 11-116 - 11-127
278-CCC	4-2-19	Adding 12.01A - 12.04A, zoning
463	4-16-19	Amending 1-9, 1-26, 20-100, 20-101, 20-115
465	8-6-19	Adding 2-150.50 - 2-150.54
278-DDD	11-6-19	Adding 14A.00 - 14A.11, zoning
278-EEE	11-6-19	Adding 20A.00 - 20A.10, zoning
467	12-3-19	Adding 53-110 - 53-125
468	2-4-20	Adding 30-1 through 30-16; Repealing 30-1 through 30-16
278-196	2-18-20	Amending zoning map (Special)
469	3-17-20	Adding Ch. 2, Art. III, Division 14, 2-150.60 - 2-150.69
278-197	5-19-20	Amending zoning map (Special)
278-FFF	7-21-20	Adding 14B.00 - 14B.12, zoning
471	8-5-20	Amending 1- 9, 12-2, 12-4, 12-8, Repealing 29-1 - 29-15, Adding 29-1 - 29-16
472	8-18-20	Amending 2-101, 2-102
473	10-20-20	Adding Ch. 2, Art. III, Division 15, 2-150.70 - 2-150.79
278-198	3-2-21	Amending zoning map (Special)
475	3-2-21	Amending 51-36 - 51-46, 51-48 - 51-50, Repealing 51-47
478	6-15-21	Amending 2-95, 2-150.33, 2-150.43
479	7-20-21	Amending 1-9, 1-26, 11-87, 33-2
480	1-18-22	Amending 1-9, 1-26, Adding 25-1 - 25-17, Repealing 25-16 - 25-22