

# CITY OF SCOTTVILLE, MICHIGAN

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## **CITY OFFICIALS**

**OF**

## **SCOTTVILLE, MICHIGAN**

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### **CITY COMMISSION**

Mayor	Bruce Krieger
Mayor Pro-Tem	Marcy Spencer
Commissioner	Connie Duncil
Commissioner	Sue Petipren
Commissioner	Sally Cole
Commissioner	Rob Alway
Commissioner	Vacancy

### **CITY ADMINISTRATION**

City Manager	Amy Williams
City Clerk	Deborah Howe
City Treasurer	Kathy Shafer
Police Chief	Donald Riley
City Attorney	Tracy Thompson

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## **PREAMBLE**

We, the people of the City of Scottville, mindful of the ideals and labors of our fathers in founding and developing this community, grateful for God's blessings of freedom, peace, and justice in a free and democratic state and nation, and desirous of further securing these blessings to ourselves and our posterity, do hereby ordain and establish this charter for the City of Scottville.

## **CHAPTER 1**

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### **BOUNDARIES AND SUBDIVISIONS OF THE CITY**

#### **Boundaries:**

Section 1.1. The following described territory, together with all territories that may be annexed thereto, shall be and remain a body corporate under the official name and title of "City of Scottville" and shall be subject to the municipal control of said city:

The East half (E 1/2) of Section thirteen (13) Town eighteen (18) North, Range seventeen (17) West;

also,

The West half (W 1/2) of Section eighteen (18), Town eighteen (18) North, Range sixteen (16) West excepting therefrom the Northeast quarter (NE 1/4) of the Northwest quarter (NW 1/4) of Section eighteen (18), Town eighteen (18) North, Range seventeen (17) West;

also,

The West Half (W 1/2) of Section nineteen (19), Town eighteen (18) North, Range sixteen (16) West lying North of the center of the Pere Marquette River;

also,

The East half (E 1/2) of Section twenty-four (24), Town eighteen (18) North, Range seventeen (17) West lying North of the center of the Pere Marquette River.

#### **Composition of the City:**

Section 1.2. The city shall be constituted of the persons residing or domiciled within the territorial boundaries herein specified; of all property, both real and personal located or having a legal situs therein, and of the public facilities, improvements, and works thereof.

#### **Wards and Their Boundaries:**

Section 1.3. The City of Scottville shall be divided into two wards, with their several boundaries established as follows:

The First Ward shall embrace all that portion of said city lying west of Main Street.

The Second Ward shall embrace all that portion of said city lying east of Main Street.

The Commission may from time to time alter the ward boundaries as in its discretion it shall deem proper; provided, that when the population of any ward of the city shall be shown by any regular decennial Federal census to exceed the population of any other ward of the city by fifty percent, or more, the Commission shall within three years after the taking of such census redefine the boundaries as to reasonably equalize the population thereof: Provided, That nothing herein contained shall preclude the submission of a proposition to amend this charter to redefine the boundaries of the wards at any time.

#### **Election Precincts:**

Section 1.4. The election precincts of the city shall remain as established on the date that this charter becomes law. The Commission shall, by ordinance, when it deems necessary or when required by law, alter the boundaries of the election precincts of the city.

## **CHAPTER 2**

## **MUNICIPAL POWERS**

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### **Continuation of Powers of Former Charter:**

Section 2.1. All powers, privileges, and immunities, not inconsistent with the provisions of this charter, possessed by the City of Scottville by virtue of its incorporation as such and enumerated in Act 215 of the Public Acts of 1895, the former charter of the city which is hereby superseded, are hereby expressly retained by the city and shall constitute a part of the powers of the city even though not expressly enumerated herein.

### **General Powers:**

Section 2.2. Unless otherwise provided or limited in this charter, the city and its officers shall possess and be vested with any and all powers, privileges and immunities, expressed or implied, which cities and their officers are, or hereafter may be permitted to exercise or to provide for in their charters under the Constitution and statutes of the State of Michigan, including all powers, privileges and immunities which cities are, or may be permitted to provide in their charter by Public Act 279 of 1909, as amended, as fully and completely as though those powers, privileges and immunities were specifically enumerated in and provided for in this charter, and in no case shall any enumeration of particular powers, privileges or immunities herein be held to be exclusive.

The city and its officers shall have power to exercise all municipal powers in the management and control of municipal property and in administration of the municipal government, whether such powers be expressly enumerated herein or not; to do any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants, and through its regular constituted authority, to pass and enforce all laws, ordinances and resolutions relating to its municipal concerns, subject to the Constitution and the provisions of this charter.

### **Further Definition of Powers:**

Section 2.3. In addition to the powers possessed by the city under the Constitution and statutes, and those set forth throughout this charter, the city shall have power with respect to and may, by ordinance and other lawful acts of its officers, provide for the following, subject to any specific limitation placed thereon by this charter:

(a) The acquisition by purchase, gift, condemnation, lease, construction or in any manner permitted by statute, of private property of every type and nature for public use, which property may be located within or without the County of Mason and which may be required for or incidental to the present or future exercise of the purposes, powers and duties of the city, either proprietary or otherwise;

(b) The maintenance, development, operation, leasing and disposal of city property subject to any restrictions placed thereon by statute or this charter;

(c) The refunding of money advanced or paid on special assessments;

(d) The installation and connection of conduits for the service of municipally owned and operated electric lighting plants;

(e) The purchase or condemnation of the franchises and of the property used in the operation of companies, or individuals engaged in the cemetery, hospital, almshouse, electric light, gas, water, heat, and power business;

(f) The establishment and vacating of streets, alleys, public ways and other public places, and the use, regulations, improvement and control of the surface of such streets, alleys, public ways and other public places and of the space above and beneath them;

(g) The use, by others than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owners thereof;

(h) A plan of streets and alleys within and for a distance of not more than three miles beyond the municipal limits;

(i) The use, control and regulation of streams, waters and water courses within its boundaries, subject to any limitations imposed by statute;

(j) The securing by condemnation, by agreement or purchase, or by any other means, of an easement in property abutting or adjacent to any navigable body of water for the purpose of securing the privilege and right to construct, own and maintain along or adjacent to any navigable body of water an elevated structure of one or more levels for use as a vehicular or pedestrian passageway, or for any other municipal purpose;

(k) The acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collection of charges for services and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise, the land necessary therefore;

(l) The acquiring, constructing, establishment, operation, extension and maintenance of facilities for the docking of water craft, hydroplanes and seaplanes, within its corporate limits, including the fixing and collection of charges for use thereof, and for such purpose or purposes, to acquire by gift, purchase, condemnation or otherwise, the land necessary therefor;

(m) Regulating, restricting and limiting the number and locations of oil and gasoline stations;

(n) The establishing of 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 may be regulated by ordinance in accordance with statutory provisions governing zoning;

(o) The regulating of trades, occupations and amusements within the city, not inconsistent with state and federal laws, and for

the prohibiting of such trades, occupations, and amusements as are detrimental to the health, morals or welfare of its inhabitants;

(p) Licensing, regulating, restricting and limiting the number and locations of advertising signs or displays and billboards within the city;

(q) The preventing of injury or annoyance to the inhabitants of the city from anything which is dangerous, offensive or unhealthful, and for preventing and abating nuisances and punishing those occasioning them or neglecting or refusing to abate, discontinue or remove the same;

(r) The prescribing of the terms and conditions upon which licenses may be granted, suspended or revoked; requiring payment of reasonable sums for licenses; and requiring the furnishing of a bond to the city for the faithful observance of the conditions under which licenses are granted, and otherwise conditioning such licenses as the Commission may prescribe;

(s) The regulating of all airports located within its boundaries and for the purpose of promoting and preserving the public peace, safety and welfare, controlling and regulating the use of the air above the city by aircraft of all types;

(t) The prohibiting or regulating of the use, occupancy, sanitation and parking of house trailers within the city, and the right of the city to so regulate any house trailer shall not be abrogated because of any detachment thereof from its wheels or because of placing it on, or attaching it to, the ground by means of any temporary or permanent foundation, or in any manner whatsoever;

(u) The requiring of an owner of real property within the city to construct and maintain sidewalks abutting upon such property, if the Commission shall determine that such sidewalks are necessary for the protection of the public safety, health and welfare, and if the owner fails to comply with such requirements or if the owner is unknown, to construct and maintain such sidewalks and assess the cost thereof against the abutting property in accordance with Section 13.9;

(v) The requiring of an owner of real property within the city to abate public hazards and nuisances which are dangerous to the health or safety of inhabitants of the city within a reasonable time after the Commission notifies him that such hazard or nuisance exists, and if the owner fails to comply with such requirements, or if the owner is unknown, to abate such hazard or nuisance and assess the cost thereof against such property in accordance with Section 13.9;

(w) The compelling of owners of real property within the city to keep sidewalks abutting upon their property clear from snow, ice or other obstructions, and if the owner fails to comply with such requirements, to remove such snow, ice or other obstructions and assess the cost thereof against the abutting property in accordance with Section 13.9;

(x) The control over all trees, shrubs and plants in the public streets, highways, parks or other public places in the city, all dead and diseased trees on private property and trees on private property overhanging the street, sidewalk, or public places including the removal thereof and assessing the cost thereof against the abutting property according to Section 13.9.

#### **Exercise of Power:**

Section 2.4. Where no procedure is set forth in this charter for the exercise of any power granted to or possessed by the city or its officers, the procedure set forth for the exercise of such power in any statute of the State of Michigan, including statutes passed for the government of any public body, shall govern. If alternative procedures are to be found in different statutes, the Commission shall select that procedure which it deems to be most expedient and to the best advantage of the city and its inhabitants. Where no procedure for the exercise of any power of the city or its officers is set forth, either in this charter or in any statute of the State of Michigan, the Commission shall prescribe a reasonable procedure for the exercise thereof by ordinance.

#### **Inter-Governmental Contracts:**

Section 2.5. The city shall have power to join with any governmental unit or agency, or with any number or combination thereof by contract or otherwise as may be permitted by law, to perform jointly, or by one or more of them, for or on behalf of the other or others any power or duty which is permitted to be so performed by law or which is possessed or imposed upon each such governmental unit or agency.

## **CHAPTER 3**

### **INTERPRETIVE AND LIMITING PROVISIONS**

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#### **City Liability:**

Section 3.1. The city shall not be liable for damages sustained by any person either to his person or property by reason of negligence of the city, its officers or employees, nor by reason of any defective highway, street, bridge, sidewalk, crosswalk or culvert, or by reason of any obstruction, ice, snow, or other encumbrances upon such highway, street, bridge, sidewalk, crosswalk or culvert, situated in the city, unless such person shall serve or cause to be served upon the Clerk within sixty days after such damages shall have occurred, a notice in writing and a statement that the person sustaining such damages intends to hold the city liable for such damages as may have been sustained by him. Such notice shall set forth substantially the time and place of the damages, the manner in which they occurred, the extent of such damages as far as the same has become known, and the names and addresses of the witnesses known at the time by the claimant. No person shall bring any action against the city for any damages to person or property arising out of any of the reasons or circumstances aforesaid unless he shall have first presented to the Clerk his claim in writing and under oath setting forth particularly the nature and extent of such injury and the amount of damages claimed by reason thereof, which claim shall be presented to the Commission by the Clerk and the Commission given opportunity to act thereon either by allowing or refusing to allow such claim.

It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against



the city under this section that the notice of damages and the verified proof of the claim as in this section required were not presented and filed within the time and in the manner as herein provided.

**No Estoppel:**

Section 3.2. No estoppel may be created against the city.

**Processes Against City:**

Section 3.3. All processes against the city shall run against the city in the corporate name thereof and may be served by leaving a true copy with the Mayor, Clerk or Attorney.

**Vested Rights Continued:**

Section 3.4. After the effective date of this charter, the city shall be vested with all the property, moneys, contracts, rights, credits, effects and the records, files, books and papers belonging to the city.

No right or liability, either in favor of or against the city, existing at the time this charter becomes effective and no suit or prosecution of any character shall in any manner be affected by any change, resulting from the adoption of this charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the city shall be the debts and liabilities of the city and all fines and penalties imposed at the time of such change shall be collected.

**Trusts:**

Section 3.5. All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cy pres doctrine. The Commission may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purposes except in cases where the cy pres doctrine shall apply.

**Vacancies in Appointive Boards and Commissions:**

Section 3.6. Except as otherwise provided in this charter, if a vacancy occurs in the membership of any appointive board or commission, the authority responsible for the appointment of the person whose position has become vacant shall fill such vacancy by appointment of a qualified person for the unexpired term of such person.

**Quorum:**

Section 3.7. Except as provided otherwise in this charter, 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 members.

**Records to be Public:**

Section 3.8. All records of the city shall be public, shall be kept in city offices except when required for official reasons or for purposes of safe keeping to be elsewhere and shall be available for inspection at all reasonable times.

**Definition of Publication, Mailing of Notices:**

Section 3.9. The requirement contained in this charter for the publishing or publication of notices, ordinances or proceedings shall be met by publishing an appropriate insertion in a newspaper published in the English language for the dissemination of news of a general character which newspaper shall have had a general circulation at regular intervals in the city for at least two years immediately preceding the time that it is used for such publication purposes. The affidavit of the printer or publisher of such newspaper, or of his foreman or principal clerk, annexed to a printed copy of such notice, ordinance or proceeding taken from the paper in which it was published and specifying the times of publication shall be prima facie evidence of such publication.

In any case in which this charter requires the mailing of notices, the affidavit of the officer or employee responsible for such mailing that said notice was mailed shall be prima facie evidence of such mailing.

**Sundays and Holidays:**

Section 3.10. Whenever the date fixed by this charter for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed in the next succeeding day which is not a Sunday or legal holiday.

**Chapter and Section Headings:**

Section 3.11. The chapter, section and sub-section headings used in this charter are for convenience only and shall not be considered as part of the charter.

**Interpretations:**

Section 3.12. Except as otherwise specifically provided or indicated by the context:

(a) All words used in this charter indicating the present tense shall not be limited to the time of the adoption of this charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.

(b) The singular number shall include the plural, the plural number shall include the singular and the masculine gender shall extend to and include the feminine gender and the neuter.

(c) The word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.

(d) The words "printed" and "printing" shall include reproductions by printing, engraving, stencil duplicating, lithographing or any similar method.

(e) Except in reference to signatures, the words “written” and “in writing” shall include printing and typewriting.

(f) The word “officer” shall include the Mayor and other members of the commission, the administrative officers, members of city boards and commissions created by or pursuant to this charter, and the Justices of the Peace.

(g) The word “freeholders” shall be defined to include any person and his spouse who is purchasing property on land contract among its meanings.

(h) The word “default” shall be defined to include being delinquent in taxes among its meanings.

(i) The word “statute” shall denote the Public Acts of the State of Michigan in effect at the time the provisions of the charter containing the word “statute” is to be applied.

(j) All references to specific Public Acts of the State of Michigan shall be to such acts as are in effect at the time the reference to such act is to be applied.

(k) The words “law” or “general laws of the state” shall denote the Constitution and the Public Acts of the State of Michigan in effect at the time the provision of the charter containing the words “law” or “general laws of the State” is to be applied, and applicable common law.

(l) All references to section numbers shall refer to section numbers of this charter.

#### **Penalties for Violation of Charter:**

Section 3.13. Any officer of the city found guilty by a court of competent jurisdiction of any act declared by this charter to constitute misconduct in office may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days or both in the discretion of the court. The punishment provided in this section shall be in addition to that of having the office declared vacant as provided in Section 6.2.

#### **Amendments:**

Section 3.14. This charter may be amended at any time in the manner provided by statute. Should two or more amendments adopted at the same election have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

#### **Severability of Charter Provision:**

Section 3.15. If any provision, section, article or clause of this charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable and to this end this charter is declared to be severable.

## **CHAPTER 4**

### **ELECTIONS**

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#### **Qualification of Electors:**

Section 4.1. The residents of the city having the qualifications of electors in the State of Michigan shall be electors of the city.

#### **Election Procedure:**

Section 4.2. The election of all city officers shall be on a nonpartisan basis. The general election statutes shall apply to and control as near as may be, all procedures relating to registration and city elections except as such statutes relate to political parties or partisan procedure and except as otherwise provided in this charter.

The Clerk shall give public notice of the time and place of holding each city election and of the officers to be elected and the questions to be voted upon in the same manner as is required by statute for the giving of public notice of general elections in the state.

The polls at all elections shall be opened and closed at the time prescribed by law for the opening and closing of polls at state elections, subject to the statutory right of the Commission to adjust these hours to local time.

#### **Regular City Elections:**

Section 4.3.

A regular city election shall be held every two (2) years on the first Tuesday following the first Monday in November in each even numbered year.

The office of the City Commissioners from Wards I and II that have terms ending in November, 1981, shall have a term ending in November 1984.

The office of the City Commissioners from Wards I and II that have terms ending in November, 1982, shall have a term ending in November 1986.

The office of the City Commissioner-at-Large with a term ending in November, 1981, shall have a term ending in November, 1984.

The office of the City Commissioner-at-Large with a term ending in November, 1982, shall have a term ending in November, 1986.

The office of the City Commissioner-at-Large with a term ending in November, 1983, shall have a term ending in November, 1986.

Thereafter, the terms of office of all City Commissioners shall be for four (4) years from the second Monday in November at 7:30 p.m. local time in every even numbered year.

**Editor's note:**

*This section was amended by city election on November 3, 1981.*

**Special Elections:**

Section 4.4. Special city elections shall be held when called by resolution of the Commission at least forty days in advance of such election, or when required by this charter or by statute. Any resolution calling a special election shall set forth the purpose of such election. No more special elections shall be called in any one year than permitted by statute.

**Elective Officers and Terms of Office:**

Section 4.5. All ward Commissioners shall serve for a period of two years and all Commissioners at large shall serve for a period of three years. And further, there shall be elected two ward Commissioners from each ward and three Commissioners at large.

The Justice of Peace and the Associate Justice of Peace shall be elected for four years.

**Nominations:**

Section 4.6. The method of nominating of all candidates for the city elections shall be by petition. Such petition for each candidate shall be signed by not less than twenty nor more than forty registered electors of the city. No person shall sign his name to a greater number of petitions for any one office than there are persons to be elected to said office at the following regular city election. Where the signature of any individual appears on more petitions than he is so permitted to sign, such signatures shall be counted only to the extent he is permitted to sign in the order of the respective dates and hour of filing the petitions containing such signatures.

Nomination petitions shall be filed with the Clerk between the thirty-fifth day preceding such election and 5:00 p. m. on the thirtieth day preceding the regular city primary election or any special election for the filling of vacancies in office.

The Clerk shall, prior to every city election, publish notice of the last day permitted for filing nomination petitions and of the number of persons to be nominated or elected to each office at least one week and not more than three weeks before such day.

**Form of Petition:**

Section 4.7. The form of petition shall be substantially as that designated by the Secretary of State for the nomination of nonpartisan judicial officers. A supply of official petition forms shall be provided and maintained by the Clerk.

**Approval of Petition:**

Section 4.8. The Clerk shall accept only nomination petitions which conform with the form provided and maintained by him, and which contain the required number of valid signatures for candidates having the qualifications required for elective city offices by this charter. All petitions shall be accompanied by the affidavit of qualifications provided for in Section 6.1. When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate.

The Clerk shall, forthwith after filing of a petition, notify in writing any candidate whose petition is then known not to meet the requirements of this section, but the failure to so notify any candidate shall not prevent a final determination that the petition does not meet such requirements. Within three days after the last day for filing petitions, the Clerk shall make his final determination as to the validity and sufficiency of each nomination petition and write his determination thereof on the face of the petition. No petition shall be determined to be valid unless the affidavit of qualifications provided for in Section 6.1 shall be filed with such petition.

The Clerk shall immediately notify in writing the candidate whose name appears thereon of his determinations.

**Public Inspection of Petitions:**

Section 4.9. All nomination petitions shall be open to public inspection in the office of the Clerk, except the three days after the last day for filing the petitions.

**Election Commission:**

Section 4.10. An Election Commission is hereby created, consisting of the Clerk and two other members as appointed by the Commission who shall not be a candidate for elective office at the election for which he serves as a member of the Election Commission, such members to be appointed by the Commission not less than thirty days before such election. The members shall serve without compensation. The Clerk shall be chairman. The Election Commission shall appoint the Board of Election Inspectors for each precinct and have charge of all activities and duties required of it by statute and this charter relating to the conduct of elections in the city. The compensation of election personnel shall be determined in advance by the Commission. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed, subject to state election laws.

**Form of Ballot:**

Section 4.11. The form printing and numbering of ballots or the preparation of the voting machines used in any city election shall conform as nearly as may be to the provisions of statute, except that no party designation or emblem shall appear. In all city elections, the names of qualified candidates or nominees for each office shall be listed under a separate heading and shall be rotated systematically in the manner prescribed by statute for rotation of names.

If two or more candidates or nominees for the same office have the same or similar surnames, the Election Commission shall print the occupation and residence address under the respective names of each of such candidates or nominees on the ballots (or on labels or slips to be placed on voting machines when used), provided, that for any of such candidates who is an incumbent of such office, the occupation shall be designated as "Incumbent."

Except as provided in this section, there shall be no supplementary identification of candidates or nominees on the ballot.

**Canvass of Votes:**

Section 4.12. The Clerk and the members of the Commission shall be the board of canvassers to canvass the votes at all city elections, except that if any of such persons are candidates for office at the election to be canvassed such person shall not serve as a canvasser at such election. The board of canvassers shall convene on the day following each city election at the usual time and place of meeting of the Commission and determine the results of the city election upon each question and proposition voted upon and what persons are duly elected to the several offices respectively at said election, and shall notify in writing the successful candidates of their election. The Clerk shall make under the corporate seal of the city, duplicate certificates of the determinations of the board and shall file one certificate with the County Clerk and the other in his own office.

**Tie Vote:**

Section 4.13. If, at any city election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes, then the Commission shall name a date for the appearance of such persons for the purpose of determining the election of such candidate by lot as provided by statute.

**Recount:**

Section 4.14. A recount of the votes cast at any city election for any office or upon any proposition may be had in accordance with election statutes. Unless otherwise required by statute (a) the petition for a recount of the votes cast at any city election shall be filed with the Clerk by 5:00 P. M. on the second full day on which the Clerk's office is open for business after the board of canvassers has made its official report of the result of the election at which such votes were cast, (b) any counter petition shall be filed by 5:00 P. M. on the next full day thereafter on which the Clerk's office is open for business and (c) no officer shall be qualified to take office until final determination of any recount of the votes cast for such office.

**Recall:**

Section 4.15. Any elected official may be recalled from office by the electors 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 and by statute.

## CHAPTER 5

### ORGANIZATION OF GOVERNMENT

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**Commission-Manager Government:**

Section 5.1. The city shall have the Commission-Manager form of government.

**The City Commission:**

Section 5.2. There shall be a Commission of seven members, consisting of the seven elected Commissioners, one of whom shall serve as Mayor. The Commission shall constitute the legislative and governing body of the city and shall have power and authority, except as otherwise provided in this charter or by statute, to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof. In all cases where the word "Commission" is used in this charter, the same shall be synonymous with the word "Council", or any other term used in any statute or federal law in referring to municipal legislative or governing bodies.

**Compensation of Mayor and Commissioners:**

Section 5.3. Each Commissioner and the Mayor shall receive as compensation, five dollars for each regular meeting and \$2.00 for each special meeting of the Commission which he attends, but the compensation so paid shall not exceed one hundred fifty dollars in any fiscal year. The Mayor shall, in addition, receive the sum of one hundred dollars per year.

Such compensation shall be paid one-half thereof on October 1 and one-half thereof on April 1 following in such fiscal year, and except as otherwise provided in this charter shall constitute the only compensation which may be paid the Mayor and Commissioners for the discharge of any official duty for or on behalf of the city during their tenure in office. However, the Mayor and Commissioners may, upon order of the Commission, be paid such necessary bona fide expenses incurred in service in behalf of the city as are authorized and itemized.

**Election of Mayor, Mayor Pro Tem:**

Section 5.4. At 7:30 P. M. of the then prevailing local time on the first Monday following the regular municipal election, the Commission shall meet at the City Hall for the purpose of organization and elect one of its members to serve as Mayor and for the

purpose of electing one of its members to serve as Mayor Pro Tem, both for a term expiring at the first Commission meeting following the next regular city election. No person shall be eligible for election as Mayor unless said person has had at least one year previous experience on Scottville City Commission.

In the event of absence or disability of both the Mayor and Mayor Pro Tem, the Commission may designate another of its members to serve as Acting Mayor during such absence or disability.

#### **Duties of Mayor:**

Section 5.5. (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 Commission equal with that of other members of the Commission but shall have no veto power. He shall be the presiding officer of the Commission.

(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 ordinance of the city to suppress riot and disorder.

(c) The Mayor shall execute or authenticate by his signature, such instruments as the Commission, this charter or any 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 Commission 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.

#### **Administrative Service:**

Section 5.6. The administrative officers of the city shall be the City Manager, Attorney, Clerk, Treasurer, Assessor, and such additional administrative officers as may be created by ordinance. The Commission may by ordinance create additional administrative offices and may by ordinance combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the city.

The City Manager and Attorney shall be appointed by the Commission for an indefinite period, shall be responsible to and serve at the pleasure of the Commission and shall have their compensation fixed by the Commission.

All administrative officers of the city, except the City Manager and Attorney, shall be appointed by the City Manager for an indefinite period, subject to confirmation by the Commission. Such officers shall be responsible to the City Manager and shall have their compensation fixed by him in accordance with budget appropriations and subject to approval of the Commission. Such officers may be discharged by the City Manager at his pleasure without confirmation by the Commission.

Except as may be otherwise required by statute or this charter, the Commission shall establish by ordinance such departments of the City as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities and responsibilities of the officers of each department. The City Manager may prescribe such duties and responsibilities which are not inconsistent with this charter or with any ordinance or resolution.

All personnel employed by the city who are not elected officers of the city or administrative officers by, or under the authority of, this charter shall be deemed to be employees of the city. The head of each department shall have the power to hire, suspend or discharge the employees of his department with confirmation by the City Manager.

Any administrative officer or employee who had been discharged may within ten days thereafter petition the Commission to hear the facts regarding such discharge, and in such case the Commission may, in its sole discretion hold a hearing and inquire into such facts and may make such decision in the matter as it considers proper.

#### **Relationship of Commission to Administrative Service:**

Section 5.7. Neither the Commission nor any of its members or committees shall dictate the appointment of any person to office by the City Manager or in any way interfere with the City Manager or other city officer to prevent him from exercising his judgment in the appointment or employment of officers and employees in the administrative service. Except for the purpose of inquiry, the Commission and its members shall deal with the administrative service solely through the City Manager, and neither the Commission nor any member thereof shall give orders to any of the subordinates of the City Manager.

#### **City Manager: Appointment and Qualifications:**

Section 5.8. The Commission shall appoint a City Manager within ninety days after any vacancy exists in such position. The City Manager shall hold office at the pleasure of a majority of the Commission, but he shall not be removed from office during a period of sixty days following any regular city election except by the affirmative vote of five members of the Commission. He shall be selected on the basis of his executive and administrative qualifications with special reference to his training and experience.

#### **Acting City Manager:**

Section 5.9. The Commission may appoint or designate an Acting City Manager during the period of a vacancy in the office or during the absence of the City Manager from the City. Such Acting City Manager shall, while he is in such office, have all the responsibilities, duties, functions and authority of the City Manager.

#### **City Manager: Functions and Duties:**

Section 5.10. The City Manager shall be the chief administrative officer of the city government. His functions and duties shall be:

(a) To be responsible to the Commission for the efficient administration of all administrative departments of the city government

except the department under the direction of the Attorney;

(b) To see that all laws and ordinances are enforced;

(c) To appoint, with the consent of the Commission, the heads of the several city departments whose appointment is not specified in this charter, and to direct and supervise such department heads;

(d) To give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts or agreements;

(e) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed;

(f) To recommend an annual budget to the Commission and to administer the budget as finally adopted under policies formulated by the Commission, and to keep the Commission fully advised at all times as to the financial condition and needs of the city;

(g) If required by the Commission, by resolution or ordinance, the City Manager shall submit to the Commission, simultaneously with his recommended budget, a schedule showing all recommended capital outlay expenditures during the following five fiscal years. The City Manager shall prepare this schedule after consultation with the City Planning Commission. This schedule shall list separately each proposed acquisition of capital equipment or facility and each proposed capital expenditure program with estimates of cost, as accurate as may be made without detailed plans and specifications. This schedule shall be for the guidance of the Commission in adoption of the regular annual budget and the Commission may delete items or make such revisions as it deems appropriate and may arrange items in the order of priority for acquisition or construction. After making any desired corrections or addition, the Commission shall adopt the capital outlay program at the same meeting as it adopts the regular annual budget, but such adoption shall be only for the purpose of setting up a guide for future capital expenditures and in no way shall obligate the city to carry out the programs listed nor to include any of the items in future budgets nor to appropriate funds for any of the items or programs. In the preparation of the annual budget, neither the City Manager nor the Commission shall include or appropriate funds for any capital expenditure unless the item was included in the capital outlay program adopted the previous year or is included in the capital outlay program submitted with the budget;

(h) To recommend to the Commission for adoption such measures as he may deem necessary or expedient, and to attend Commission meetings with the right to take part in discussions but not to vote;

(i) To exercise and perform all administrative functions of the city that are not imposed by this charter or ordinance upon some other official;

(j) To be responsible for the maintenance of a system of accounts of the city which shall conform to any uniform system required by law and by the Commission and to generally accepted principles and procedure of governmental accounting. He shall submit financial statements to the Commission quarterly, or more often as the Commission directs;

(k) To act as Purchasing Agent for the city and in such capacity shall purchase all supplies and equipment and dispose of the same in accordance with procedures established by the Commission;

(l) To perform such other duties as may be prescribed by this charter or required of him by ordinance or by direction of the Commission.

#### **Clerk: Functions and Duties:**

Section 5.11. (a) The Clerk shall be the Clerk of the Commission and shall attend all meetings of the Commission and shall keep a permanent journal of its proceedings in the English language.

(b) The Clerk shall be custodian of the City seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents, bonds, and records pertaining to the city, the custody of which is not otherwise provided for.

(c) The Clerk shall certify by his signature all ordinances and resolutions enacted or passed by the Commission.

(d) The Clerk shall provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose by the provisions of this charter.

(e) The Clerk shall have power to administer oaths of office.

(f) The Clerk shall perform such other duties as may be prescribed for him by this charter, by the Commission or by the City Manager.

#### **Treasurer: Functions and Duties:**

Section 5.12. (a) The Treasurer shall have the custody of all moneys of the city, any bond pertaining solely to the Clerk, and all evidences of indebtedness belonging to the city or held in trust by the city.

(b) The Treasurer shall collect all moneys of the city, the collection of which is not provided for elsewhere by charter or ordinance. He shall receive from other officers and employees of the city all money belonging to and receivable by the city that may be collected by such officers and employees, including fines, license fees, taxes, assessments and all other charges. All moneys shall be turned over to the Treasurer after collection or receipt, and he shall in all cases give a receipt therefor.

(c) The Treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the Commission may determine and shall report the same in detail to the City Manager.

(d) The Treasurer shall disburse all city funds in accordance with the provisions of statute, this charter and procedures to be

established by the Commission.

(e) The Treasurer shall have such powers, duties, and prerogatives in regard to the collection and custody of state, county, school district and city taxes as are conferred by statute upon township treasurers in connection with state, county, township and school district taxes upon real and personal property.

(f) The Treasurer shall perform such other duties as may be prescribed for him by this charter, by the Commission or by the City Manager.

**Assessor: Functions and Duties:**

Section 5.13. The Assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon assessing officers by statute. He shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by statute. He shall perform such other duties as may be prescribed for him in this charter, by the Commission or by the City Manager.

**Attorney: Functions and Duties:**

Section 5.14. (a) The Attorney shall act as legal advisor to, and be attorney and counsel for, the Commission and shall be responsible solely to the Commission. 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 Commission may request. He shall file with the Clerk copies of such records and files relating thereto as the Commission may direct.

(c) The Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the Commission and shall promptly give his opinion as to the legality thereof,

(d) The Attorney shall call to the attention of the Commission all matters of law, and changes or developments therein, affecting the city.

(e) The Attorney shall perform such other duties as may be prescribed for him by this charter or by the Commission.

(f) Upon the recommendation of the Attorney, or upon its own initiative, the Commission may retain special legal counsel to handle any matter in which the city has an interest, or to assist and counsel with the Attorney therein.

**Compensation of Attorney and Special Counsel:**

Section 5.15. The compensation of the Attorney shall be set by the Commission. No compensation to special legal counsel shall be paid except in accordance with an agreement between the Commission and the Attorney or special counsel made before the service for which such compensation is to be paid has been rendered.

**Deputy Administrative Officers:**

Section 5.16. The Clerk, Treasurer and Assessor may appoint their own deputies subject to the written confirmation of the City Manager, and may terminate the status of their deputies at their pleasure, upon written notice to the City Manager. Such deputies shall, in each case possess all the powers and authorities of their superior officers except as the same may be from time to time limited by their superiors or by the City Manager.

**Planning and Zoning:**

Section 5.17. The Commission shall maintain a city planning commission in accordance with and having all the powers and duties granted by the provisions of statute relating to such ordinances. Insofar as may be, such ordinance shall provide that zoning be coordinated with the work of the city planning commission.

**Reserved:**

Section 5.18. Reserved.

**Editor's note:**

*This section was deleted because of city election held August 8, 2000.*

## **CHAPTER 6**

### **GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL OF THE CITY**

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**Eligibility for Office and Employment in City:**

Section 6.1. No person shall hold any elective office of the City unless he has been a resident of the City for at least one year immediately prior to the last day for filing original petitions for such office, or prior to the time of his appointment to fill a vacancy, nor shall any person be eligible to hold an elective office of the City if he shall have been convicted of a felony. No person shall hold any elective office unless he is a qualified and registered elector of the City on such last day for filing or at such time of appointment and throughout his tenure of office.

Ward Commissioners must be residents of the ward immediately prior to the last day for filing original petitions for such office.

No person shall be eligible for any elective or appointive city 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 Commission or unless such person shall in good faith be contesting the liability for such default.

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

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 elector of the city on such day and throughout his tenure of office.

**Vacancies in Elective Offices:**

Section 6.2. Any elective city office shall be declared vacant by the Commission before the expiration of the term of such office:

- (a) For any reason specified by statute or by this Charter as creating a vacancy in office;
- (b) If no person is elected to, or qualified for, the office at the election at which such office is to be filled;
- (c) If the officer shall be found guilty by a competent court of any act constituting misconduct in office under the provisions of this Charter;
- (d) In the case of any member of the Commission, if such officer shall miss four consecutive regular meetings of the Commission or twenty-five per cent of such meetings in any fiscal year of the city, unless such absence be excused by the Commission and the reason therefor entered in its proceedings at the time of each absence;
- (e) If the officer is removed from office by the Commission in accordance with provisions of Section 6.4.

**Vacancies in Boards and Commissions:**

Section 6.3. The office of any member of any board or commission created by, or pursuant to, this Charter shall be declared vacant by the Commission before the expiration of the term of such office:

- (a) For any reason specified by statute or by this Charter as creating a vacancy in office;
- (b) If the officer shall be found guilty by a competent court of any act constituting misconduct in office under the provisions of this Charter;
- (c) If such officer shall miss four consecutive regular meetings of such board, or commission or twenty-five per cent of such meetings in any fiscal year of the city, unless such absence shall be excused by such board or commission and the reason therefor entered in the proceedings at the time of each absence;
- (d) If the officer is removed from office by the Commission in accordance with the provisions of Section 6.4.

**Removals from Office:**

Section 6.4. Removals by the Commission of elective officers or of members of boards or commissions shall be made for either of the following reasons: (a) for any reason specified by statute for removal of city officers by the Governor, (b) for any act declared by this charter to constitute misconduct in office. Such removals by the Commission shall be made only after hearing of which such officer has been given notice by the Clerk at least ten days in advance, either personally or by delivering the same at his last known place of residence. Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross-examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the Commission in office at the time, exclusive of any members whose removal may be being considered, shall be required for any such removal.

**Resignations:**

Section 6.5. Resignations of elective officers shall be made in writing and filed with the Clerk and shall be acted upon by the Commission at its next regular meeting following receipt thereof by the Clerk. Resignations of officers appointed by the Commission shall be made in writing to the Commission. All resignations shall be immediately acted upon.

**Filling Vacancies in Elective Offices:**

Section 6.6. (a) Any vacancy which occurs in the Commission more than sixty days before the next regular city election shall be filled within thirty days by a majority vote of the remaining members of the Commission, said appointee to hold office until the Monday following such election, at which election such vacancy shall be filled for any balance of the unexpired original term.

Any vacancy which occurs in the Commission sixty days or less before the next regular city election shall not be filled.

(b) If any vacancy in the office of the Commissioners which the Commission is authorized to fill is not so filled within thirty days after such vacancy occurs, or if four or more vacancies exist simultaneously in the office Commissioner such vacancies shall be filled for the respective unexpired terms at a special election. In connection with any special election to fill a vacancy or vacancies in any elected office; candidates shall be nominated by petitions in a manner identical to that provided in Chapter 4; the names of all qualified candidates who file sufficient valid nominating petitions thirty days before such special election shall be certified to the Election Commission and placed on the ballot; and all other provisions of this Charter, not inconsistent with this Section 6.6 shall govern. January 9, 2013

- (c) The provisions of this Section 6.6 shall not apply to the filling of vacancies resulting from recall.

**Editor's note:**



*This section was by amended by city election on August 8, 2000.*

**Filling Vacancies in Appointive Offices:**

Section 6.7. Vacancies in appointive offices shall be filled in the manner provided for making the original appointment.

**Filling Vacancies in the Office of the Justice of the Peace:**

Section 6.8. (a) Vacancies in the office of Justice of the Peace occurring 120 days or more before any regular city election, shall be filled by appointment by a majority vote of the members of the Commission then in office for a term expiring on the Monday following the next regular city election. At such election such vacancy shall be filled for the unexpired term of office through the regular election procedure as provided in Chapter 4 and the Justice so elected shall take office on the Monday following such election.

(b) Vacancies in the office of Justice of the Peace occurring less than 120 days before any regular city election shall be filled by appointment by a majority vote of the members of the Commission then in office for a term expiring on the Monday following the next succeeding regular city election. At such election such vacancy shall be filled for the unexpired term of office through the regular election procedure as provided in Chapter 4 and the Justices so elected shall take office on the Monday following such election.

(c) The provisions of this Section 6.8 shall not apply to the filling of vacancies resulting from recall.

**Change in Term of Office or Compensation:**

Section 6.9. Except by procedures provided in this Charter, the terms of office of the elective officers and of members of boards and commissions appointed for a definite term shall not be shortened. 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 or appointed and has qualified.

The Commission shall not grant or authorize extra compensation to any officer or employee after his service has been rendered. The salary of any elective officer shall not be increased or decreased from the day he is elected until the end of the term of office for which he was elected.

**Oath of Office and Bond:**

Section 6.10. Every officer, elective or appointive, before entering upon the duties of his office, shall take the oath of office prescribed for public officers by the Constitution and shall file the oath with the Clerk, together with any bond required by statute, this charter or by the Commission. In case of failure to comply with the provisions of this section within ten days from the date he is notified in writing of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Commission shall by resolution extend the time in which such officer may qualify.

**Surety Bonds:**

Section 6.11. Except as otherwise provided in this Charter, all officers of the city whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the Commission shall, before they enter upon the duties of their respective offices, file with the city an official bond, in such form and amount as the Commission shall direct and approve. Such official bond of every officer and employee shall be conditioned that he will faithfully perform the duties of his office, and will on demand deliver over to his successor in office, or other proper officer or an agent of the city, all books, papers, moneys, effects and property belonging thereto, or appertaining to his office, which may be in his custody as an officer or employee; and such bonds may be further conditioned as the Commission shall prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that he will, on demand, pay over or account for to the city, or any proper officer or agent thereof, all moneys received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, city employees and officers.

All official bonds shall be corporate surety bonds and the premium thereon shall be paid by the city. The Clerk shall be custodian of all the bonds of all officers or employees, except that the Treasurer shall be custodian of any bonds pertaining solely to the Clerk.

**Delivery of Office:**

Section 6.12. Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he shall within five days, or sooner on demand, deliver to his successor in office or to his superior all the books, papers, moneys and effects in his custody as such officer or employee. Any officer violating this provision may be proceeded against in the same manner as public officers generally for a like offense under statute. Any employee found guilty of violating this provision by a competent tribunal may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days, or both, in the discretion of the court.

**Compensation of Employees and Officers:**

Section 6.13. (a) The compensation of all employees and officers of the city whose compensation is not provided for herein shall be fixed by the appointing officer or body within the limits of budget appropriations and in accordance with any pay plan adopted by the Commission.

(b) 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 their services.

Such fees, commissions and compensation shall belong to the city and shall be collected and accounted for by such officers and

employees, and be paid into the city treasury and a statement thereof filed periodically with the City Manager. The provisions of paragraph (b) of this section shall not apply to fees, commissions or other compensation paid by the County of Mason to any officer or employee serving as a city representative on the Board of Supervisors.

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

**Employee Welfare Benefits:**

Section 6.14. The Commission shall have the power to make available to the administrative officers and employees of the city and its departments and boards any recognized standard plan of group life, hospital, health, or accident insurance either independently of, or as a supplement to, any retirement plan provided for said officers and employees.

**Merit System:**

Section 6.15. The Commission may provide for a merit system for city employees.

## CHAPTER 7

### CITY LEGISLATION

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**Regular Meetings:**

Section 7.1. The Commission shall provide by resolution for the time and place of its regular meetings and shall hold at least two regular meetings each month.

**Special Meetings:**

Section 7.2. Special meetings shall be called by the Clerk on written request of the Mayor or any two members of the Commission on at least twenty-four hours written notice to each member of the Commission served personally or left at his usual place of residence; but a special meeting may be held on shorter notice if all members of the Commission are present or have waived notice in writing.

**Business at Special Meetings:**

Section 7.3. No business shall be transacted at any special meeting of the Commission unless the same has been stated in the notice of such meeting. However, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the Commission present consent thereto and all the members absent file their written consent.

**Meetings to be Public:**

Section 7.4. All regular and special meetings of the Commission shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Commission may prescribe.

**Quorum: Adjournment of Meeting:**

Section 7.5. A majority of the members of the Commission in office at the time shall be a quorum for the transaction of business at all Commission meetings but in the absence of a quorum a less number may adjourn any meeting to a later time or date, and in the absence of all members, the Clerk may adjourn any meeting for not longer than one week.

**Compulsory Attendance and Conduct at Meetings:**

Section 7.6. Any two or more members of the Commission may by vote either request or compel the attendance of its members and other officers of the city at any meeting. Any member of the Commission or other officer, who, when notified of such request for his attendance, fails to attend such meeting for reason other than those approved by the Commission shall be deemed guilty of misconduct in office unless excused by the Commission. The presiding officer shall enforce orderly conduct at meetings and any member of the Commission or other officer who shall fail to conduct himself in an orderly manner at any meeting shall be deemed guilty of misconduct in office.

All meetings of the Commission shall be conducted according to Robert's Rules of Order; Provided, however, nothing herein shall contravene the provision of the statutes or this charter. The following procedure shall be adopted:

1. Call meeting to order.
2. Roll Call.
3. Reading of previous minutes.
4. Hearing citizens present.
5. Reading of correspondence.
6. City Manager's report.
7. Committee reports.
8. Special orders.

9. Unfinished business and general orders.

10. New business.

This procedure may be suspended in accordance with parliamentary procedure.

Any police officers designated by the presiding officer of the meeting shall serve as the Sergeant-at-Arms of the Commission in the enforcement of the provisions of this section.

#### **Organization and Rules of the Commission:**

Section 7.7. The Commission shall determine its own organization, rules and order of business subject to the following provisions:

(a) A journal of the proceedings of each meeting shall be kept in the English language by the Clerk and shall be signed by the presiding officer and clerk of the meeting.

(b) A vote upon all ordinances and resolutions shall be taken by a roll call vote and entered upon the records, except where the vote is unanimous it shall only be necessary to so state.

(c) No member of the Commission shall vote on any question in which he has a financial interest, or on any question concerning his own conduct, but on all other questions each member who is present shall vote when his name is called unless excused by the unanimous consent of the remaining members present. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office.

In all roll call votes, the names of the members of the Commission shall be called in alphabetical order and the name to be called first shall be advanced one position alphabetically in each successive roll call vote.

(d) The proceedings of the Commission, or a brief summary thereof, shall be published within fifteen days following each meeting. Any such summary shall be prepared by the Clerk and approved by the Mayor and shall show the substance of each separate proceeding of the Commission.

(e) The Commission may provide for the appointment of standing committees of its members.

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

*This section was by amended by city election on August 8, 2000.*

#### **Investigations.**

Section 7.8. The Commission, 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 and to make investigations as to matters in which the municipality has an interest. The Commission for the purposes stated herein, may summon witnesses, administer oaths and compel the attendance of witnesses and the production of books, papers and other evidence.

Failure on the part of any officer to obey such summons or to produce books, papers and other evidence as ordered under the provisions of this section shall constitute misconduct in office. Failure on the part of any employee or other person to obey such summons or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a violation of this charter and such person when found guilty of such violation by a competent tribunal may be punished by a fine of not to exceed five hundred dollars or imprisonment not to exceed ninety days, or both, in the discretion of the court.

It is provided further, that in case of failure on the part of any person to obey such summons or to produce such books, papers and other evidence as so ordered, the Commission may invoke the aid of the proper judicial tribunal in requiring obedience of such summons or production of such books, papers and other evidence.

#### **Providing for Public Health and Safety:**

Section 7.9. The Commission shall see that provision is made for the public peace and health, and for the safety of persons and property. Unless and until a board of health is established for the city by ordinance, the Commission shall constitute the board of health of the city, and it and its officers shall possess all powers, privileges and immunities granted to boards of health by statute.

#### **Prior City Legislation:**

Section 7.10. All valid bylaws, ordinances, resolutions, rules and regulations of the city which are not inconsistent with this charter and which are in force and effect at the time of the effective date of this charter shall continue in full force and effect until repealed or amended. If any such ordinance, resolution, rule or regulation provides for the appointment of any officers or members of any board or commission by the Mayor, such officers or members of any board or commission shall, after the effective date of this charter, be appointed by the City Commission.

Those provisions of any effective valid bylaw, ordinance, resolution, rule or regulation which are inconsistent with this charter, are hereby repealed.

#### **Form of Ordinances:**

Section 7.11. All legislation of the City of Scottville shall be by ordinance or by resolution. The word "resolution" as used in this charter shall be the official action of the Commission in the form of a motion, and such action shall be limited to matters required or permitted to be done by resolution by this charter or by state or federal law and to matters pertaining to the internal affairs or concerns of the city government. All other acts of the Commission, and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the Commission shall be "The City of Scottville Ordains."

**Enactment, Amendment, and Repeal of Ordinances:**

Section 7.12. Ordinances may be enacted, amended, or repealed by the affirmative vote of not less than four Commissioners subject to the limitations of Section 7.13. Unless by the affirmative vote of five Commissioners no office shall be created or abolished; no tax assessment be imposed; no street, alley, or public ground be vacated; no real estate or any interest therein be sold or disposed of; no private property be taken for public use; nor any vote of the Commission be reconsidered or rescinded at a special meeting; nor any money appropriated except as otherwise provided by this charter.

Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the Commission until one month after the meeting at which it is introduced. A brief description of the subject and contents of the ordinance as introduced shall be published in a newspaper of general circulation in the city at least one week before final passage, either separately or as part of the published proceedings of the Commission.

No ordinance shall be revised, altered, or amended by reference to the title only, but the section or sections of the ordinance revised, altered, or amended shall be re-enacted and published at length in a newspaper of local circulation in the city. However, an ordinance may be repealed by reference to its number and title only. This requirement shall not apply to Sections which list one-way streets, stop streets, and street intersections and of parking limitations which are contained in any traffic ordinance.

**Publication and Recording of Ordinances:**

Section 7.13. Each ordinance shall be published within ten days after its enactment by publishing the full text thereof in a newspaper as defined in Section 7.18 either separately or as part of the published Commission proceedings; provided, nothing shall contravene the provisions of 7.12.

All ordinances shall be recorded by the Clerk in a book to be called "The Ordinance Book", and it shall be the duty of the Mayor and Clerk to authenticate such records by their official signatures thereon, but the failure to so record and authenticate such ordinance shall not invalidate it or suspend its operation.

**Effective Date of Ordinances:**

Section 7.14. The effective date of all ordinances shall be prescribed therein but the effective date shall not be less than fifteen days after enactment nor before publication thereof.

**Penalties for Violations of Ordinances:**

Section 7.15. The Commission may provide in any ordinance for the punishment of those who violate its provisions. The punishment for the violation of any city ordinance shall not exceed a fine of five hundred dollars or imprisonment for ninety days, or both, in the discretion of the court.

**Enactment of Technical Codes by Reference:**

Section 7.16. The Commission may adopt in whole or in part any provision of state law or any detailed technical regulations as a city ordinance or code by citation of such provision of state law or by reference to any recognized standard code, official or unofficial, provided that any such provision of state law or recognized official or unofficial standard code shall be clearly identified in the ordinance adopting the same as an ordinance of the city. Where any code, or amendment thereto is so adopted, all requirements for its publication may be met, other provisions of this charter notwithstanding, by (1) publishing the ordinance citing such code in manner provided for the publication of other ordinances and (2) by making available to the public, copies of the code cited therein in book or booklet form at a reasonable charge.

**Severability of Ordinances:**

Section 7.17. Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portion or application of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperative, and to this end ordinances are declared to be severable.

**Compilation or Codification of Ordinances:**

Section 7.18. Within five years after the effective date of this charter, the Commission shall direct the compilation or codification and printing in looseleaf or pamphlet form of all ordinances of the city then in force. Such compilation or codification shall be completed within one year thereafter. If a codification is completed it shall be maintained thereafter in current form; if a compilation is completed a recompilation shall be completed at least once in every five years thereafter. Any codification may include provisions not previously contained in ordinances of the city.

All requirements for publication of such compilation or codification, and of the ordinances contained therein, other provisions of this charter notwithstanding, may be met by making copies thereof available for inspection by, and distribution to, the public at a reasonable charge and by publishing notice of the printing and availability thereof before the effective date thereof.

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

**Initiative and Referendum:**

Section 7.19. An ordinance may be initiated by petition, or referendum on an ordinance enacted by the Commission may be had by petition, as hereinafter provided.

**Initiatory and Referendum Petitions:**

Section 7.20. An initiatory petition shall be signed by not less than ten per cent of the registered electors of the city, as of the

date of the last regular city election, and all signatures on said petition shall be obtained within twenty-one days before the date of filing the petition with the Clerk. A referendary petition shall be signed by not less than twenty-five per cent of the registered electors of the city, as of the date of the last regular city election, and all signatures on said petition shall be obtained within twenty-one days before the date of filing the petition with the Clerk. Any such petition, either initiatory or referendary, shall be addressed to the Commission, and may be the aggregate of two or more petition papers identical in contents. An initiatory petition shall set forth in full the ordinance it proposes to initiate and no petition shall propose to initiate more than one ordinance. A referendary petition shall identify the ordinance or code sections it proposes to have repealed.

Each signer of a petition shall sign his name, and shall place thereon after his name, the date and his place of residence by street and number or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereof and that each signature thereon is a genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within fifteen days, canvass the signatures thereon. If the petition does not contain a sufficient number of signatures of registered electors of the city, the Clerk shall notify forthwith the person filing such petition and fifteen days from such notification shall be allowed for the filing of supplemental petition papers. When a petition with sufficient signatures is filed within the time allowed by this section, the Clerk shall present the petition to the Commission at its next regular meeting.

#### **Commission Procedure on Initiatory and Referendary Petitions:**

Section 7.21. Upon receiving an initiatory or referendary petition from the Clerk, the Commission shall either, within thirty days, unless otherwise provided by statute:

- (a) Adopt the ordinance as submitted by an initiatory petition;
- (b) Repeal the ordinance referred to by a referendary petition; or,
- (c) Determine to submit the proposal provided for in the petition to the electors.

#### **Submission of Initiatory and Referendary Ordinances to Electors:**

Section 7.22 Should the Commission decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any other purpose, or, in the discretion of the Commission, at a special election called for the specific purpose. In case of an initiatory petition, if no election is to be held in the city for any other purpose within one hundred and fifty days from the time the petition is presented to the Commission and the Commission does not adopt the ordinance, then the Commission shall call a special election within sixty days from such time for the submission of the initiatory proposal. The results shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by statute or the Constitution.

#### **Ordinance Suspended:**

#### **Miscellaneous Provisions on Initiatory and Referendary Ordinance:**

Section 7.23. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed for a period of six months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be re-enacted for a period of six months after the date of the election at which it was repealed. It is provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with provisions of this chapter or if submitted to the electorate by the Commission on its own motion.

If two or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

## **CHAPTER 8**

### **JUSTICE COURT**

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#### **Establishment of Court:**

Section 8.1. There is hereby established a Justice Court in the city to be presided over by the Justices of the Peace.

#### **Justice of the Peace:**

Section 8.2. The Justices of the Peace in office at the time of the adoption of this charter shall remain in office until the expiration of the terms for which they were elected, but shall have powers and duties prescribed in this charter for the Justices of the Peace to be elected in 1959 and 1961 and every fourth year thereafter.

#### **Justice of the Peace Election:**

Section 8.3. A Justice of the Peace shall be elected at the city election held in 1961 and every fourth year thereafter. The Justice of the Peace shall take office on July 4th following his election and shall serve for a term of four years.

The Associate Justice of the Peace shall be elected at the city election held in 1959 and every fourth year thereafter. The Associate Justice of the Peace shall take office on July 4th following his election and shall serve for a term of four years.

#### **Justice of the Peace Qualifications:**

Section 8.4. The Justices of the Peace shall possess the same qualifications as are prescribed in the charter for other elective

officers.

**Power and Jurisdiction—General:**

Section 8.5. The Justices of the Peace in the City of Scottville shall have the same powers, duties and jurisdiction as the Justices of the Peace in Townships and shall be subject to the general laws with respect to such Justices except as otherwise provided in this charter.

**Extended Jurisdiction:**

Section 8.6. The Justices of the Peace shall also have:

(a) Concurrent jurisdiction, to the amount of \$500.00 in all civil matters ex contractu and ex delicto with such exceptions as are provided by law.

(b) The same power and authority as Circuit Courts possess to set aside the verdict or judgment in any civil cause, and grant a new trial therein, upon legal cause shown therefor, whenever a motion, in writing, is made and filed with the Justice within five days after rendition of the verdict or judgment in said case, which motion shall briefly and plainly set forth the reasons and grounds upon which it is made and shall be setting forth the facts relied upon. Notice of the hearing of such motion, with a copy of motion and affidavits, filed as aforesaid, shall be served upon the adverse party or his attorney at least two days before hearing thereof and such motion shall be submitted and be heard within one week after the same shall have been filed, and such motion shall be determined within two days after the same shall have been heard and submitted; and the time for taking an appeal from judgment in case such motion shall not be granted, shall begin to run from the time when such motion shall be overruled; and in no case shall the pendency of such motion stay the issuing and levy of an execution in such case, but in case of a levy under execution pending such motion, no sale of the property so levied on, shall be advertised or made, until the final determination of such motion.

(c) Such additional powers and authorities as may be conferred upon City Justices of the Peace by State Law, it being the intent of this charter that the Justices of the Peace of the City of Scottville shall have and exercise all powers and authority which such Justices in cities may now or hereafter be permitted to exercise under the State law, under this charter or under the ordinances of the city.

**Jurisdiction in Charter and Ordinance Cases:**

Section 8.7. The Justices of the Peace shall have exclusive authority to hear, try and determine all suits and prosecutions for the recovery and enforcing of fines, penalties and forfeitures imposed by this Charter and the ordinances of the city, and to punish offenders for the violation of such Charter and ordinances as in such Charter or ordinances as prescribed and directed.

Justices of the Peace shall have exclusive jurisdiction within the limits prescribed by law, to hear, try and determine all actions and prosecutions for the recovery or enforcing of all fines, penalties and forfeitures; for violation of this Charter, or any law of the State with the City of Scottville; and for encroachments upon and injuries to any of the streets, alleys and public grounds within the City.

**Associate Justice of the Peace:**

Section 8.8. In the City of Scottville, one Justice shall be hereinafter referred to as the Justice of the Peace, and another shall be referred to as the Associate Justice of the Peace. The Justice of the Peace elected in the election of 1959, and each fourth year thereafter, shall be called the Associate Justice of the Peace and shall serve for a term of four years from and after the 4th day of July next following his election. The Justice of the Peace elected in the election of 1961, and each fourth year thereafter, shall be termed the Justice of the Peace and shall hold office for a term of four years from and after the 4th day of July next following the City election. The Associate Justice of the Peace shall devote such part of his time to his official duties as the work of the Justice Court shall require or as may be required by law or ordinance. The Associate Justice of the Peace shall normally act only in the case of the absence, disability or disqualification of the Justice of the Peace. The Justice of Peace and his business partners and employees shall have no part in any case before the Justice Court in which such Justice of the Peace is sitting or otherwise serving officially. The Associate Justice of the Peace and his business partners and employees shall have no part in any case before the Justice Court in which such Associate Justice of the Peace is sitting or otherwise serving officially.

**Compensation of the Justice of the Peace and Associate Justice of the Peace:**

Section 8.9. The Justice of the Peace shall receive such annual compensation as shall be fixed by ordinance. The Associate Justice of the Peace shall receive such per diem compensation as shall be fixed by the ordinance.

The ordinance fixing the salaries of the Justices may not be amended less than thirty days before the last day of filing nominating petitions for the election at which such Justices are to be elected nor may the compensation of any Justice be changed during the term of office for which he was elected or appointed. In the event that no ordinance is passed amending the salary of the Justice of the Peace as set out in this paragraph, the salary of the Justice of the Peace shall remain the same for the ensuing term as it was for the previous term.

The salary of the Justice of the Peace shall be in lieu of all fees, both in civil and criminal cases, to which said Justice might be entitled, but for the provisions of this section, except those for the performance of marriage ceremonies, for administering oaths in matters not connected with situs and proceedings in this court, and for acting as coroner.

The City may by ordinance, determine that the Justice of the Peace and the Associate Justice of the Peace shall receive no salary from the city and shall retain as full compensation for his duties as Justice of the Peace and as Associate of the Peace, such fees as are or may be allowed to that office under the laws of the State of Michigan.

**Place and Conduct of Court:**

Section 8.10. The Commission may furnish necessary supplies and a suitable place for the conducting of court by the Justices.

It may regulate the hours of court of said Justices and may make other necessary and proper rules and regulations for the conduct of the business of the court which are not inconsistent with this Charter or the statutes.

**Transfer of Cases:**

Section 8.11. In case of the absence, disability or disqualification of both Justice and the Associate Justice, any other Justice of the Peace or Municipal Judge in the County of Mason shall be qualified to act in the place of and for the Justice in the performance of any of the duties imposed upon him by statute or this Charter.

The Commission shall by ordinance, fix the compensation to be paid any such Justice or Judge for such services and the procedure to be followed in calling upon him so to act. Unless the Commission shall so provide by ordinance, no such Justice shall act or be entitled to compensation therefor.

**Accounting of Fines:**

Section 8.12. If the Justice be paid an annual salary, all fees and fines, penalties, forfeitures, and moneys collected in city ordinance and charter cases, shall be credited to the general fund of the City. All costs and fines received for the violations of the penal laws of the state, when collected and paid into the city treasury shall be disposed of as provided by statute. If the Justice is on the fee system of compensation, all fines, penalties, forfeitures and moneys collected or received by the Court shall be paid over to the City Treasurer on or before the first day of the next month after the collection or receipt thereof and the Court shall take receipt thereof and file the same with the Clerk. Failure of the presiding officer to comply with the foregoing provisions shall constitute misconduct in office. The expenses of prosecution before the Justice for violations of penal laws of the State and in punishing the offenders shall be paid by the County of Mason.

**Docket:**

Section 8.13. The Justice of the Peace shall keep, at the place of holding court, a docket in the manner required by statute. Failure to comply with the requirements of this section shall constitute misconduct in office.

**Violations Bureau:**

Section 8.14. The Commission shall have power and authority to establish by ordinance, a Traffic Violations Bureau within the Court for the handling of violations of ordinances and regulations of the City restricting the parking of vehicles. The creation of such a bureau shall not operate so as to deprive any person of a full and impartial hearing in court should such person so choose.

**Constables:**

Section 8.15. The City Manager shall appoint one or more persons of the city as constables. Such constables shall have like powers and authorities in matters of civil and criminal nature and in relation to the service of processes, civil and criminal, as are conferred by law on constables in townships. They shall have power also to serve all processes issued for breaches of ordinances of the city. The bond of constables shall be that required of constables in townships. The compensation of the constables shall be determined by the Commission.

## CHAPTER 9

### SUPERVISORS

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**Numbers of Supervisors:**

Section 9.1. The City shall have the maximum number of representatives on the County Board of Supervisors to which it is entitled by statute.

**Designation of Supervisors:**

Section 9.2. The Assessor of the City shall be one of the representatives of the city on the Board of Supervisors. In case he shall be unable to perform the duties of his office for any reason, the Commission may appoint such other person or officer as may be permitted by statute to serve in his stead, either temporarily or permanently.

The additional representative or representatives to which the city may be entitled on the County Board shall be appointed by the City Commission and shall serve at the pleasure of the Commission. Such representatives shall be qualified electors of the city, shall have been residents of the city for at least two years immediately prior to their appointment, and may be elective or appointive officials of the City. If any representative of the City shall be unable to attend any meeting of the Board because of absence or disability, the Commission shall appoint some other qualified person to discharge the duties of such office during such absence or disability.

**Compensation of Supervisors:**

Section 9.3. All representatives of the City on the County Board of Supervisors shall be entitled to retain any compensation paid to them as members of such board.

## CHAPTER 10

### GENERAL FINANCE — BUDGET, AUDIT

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**Fiscal Year:**

Section 10.1. The fiscal year of the city and of all its agencies shall begin on the first day of July of each year and end on the thirtieth day of June the following year.

**Budget Procedure:**

Section 10.2. The City Manager shall prepare and submit to the Commission at its first meeting following the regular city election in April of each year, a recommended budget covering the next fiscal year, and shall include therein at least the following information:

- (a) Detailed estimate with supporting explanations of all proposed expenditures for each department, office, and agency of the City, and for the court, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to March first and estimated expenditures for the balance of the current fiscal year;
- (b) Statements of the bonded and other indebtedness of the city, if any, showing the debt redemption and interest requirements, the debt authorized and unissued, and the conditions of sinking funds, if any;
- (c) Detailed estimates of all 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 March first, and estimated revenues for the balance of the current fiscal year;
- (d) A statement of the estimated 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 Commission may request.

**Budget Hearing:**

Section 10.3. A public hearing on the proposed budget shall be held before its final adoption at such time and place as the Commission shall direct. Notice of such public hearing, a summary of the proposed budget and notice that the proposed budget is on file in the office of the Clerk shall be published at least one week in advance of the hearing. The complete proposed budget shall be on file for public inspection during office hours at such office for a period of not less than one week prior to such hearing.

**Adoption of Budget:**

Section 10.4. Not later than the second week in May of each year, the Commission shall by resolution adopt a budget for the next fiscal year, shall appropriate the money needed for municipal purposes during the next fiscal year of the City and shall provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes subject to the limitations contained in Section 11.1.

**Clerk to Certify Tax Levy: Budget Control:**

Section 10.5. Except for purposes which are to be financed by the issuance of bonds or by special assessment, or for other purposes not chargeable to a budget appropriation, no money shall be drawn from the treasury of the city except in accordance with an appropriation thereof for such specific purpose, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The Commission by resolution may transfer any unencumbered appropriation balance, or any portion thereof from one account, department, fund, or agency to another.

The Commission may make additional appropriations during the fiscal year for unanticipated expenditures required by the city, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget unless the appropriations are necessary to relieve an emergency endangering the public health, peace or safety.

Except in those cases where there is no other logical account to which an expenditure can be charged, expenditures shall not be charged directly to the contingency fund (or other similar fund). Instead, the necessary part of the appropriation for the contingency fund (or other similar fund) shall be transferred to the logical account and the expenditure then charged to such account.

At the beginning of each quarterly period during the fiscal year, and more often if required by the Commission, the City Manager shall submit to the Commission data showing the relation between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than anticipated, the Commission may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

The balance in any budget appropriation which has not been encumbered at the end of the fiscal year shall revert to the general fund.

**Depository:**

Section 10.6. The Commission shall designate depositories for city funds and shall provide for the regular deposit of all city moneys. The Commission 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.

**Independent Audit: Annual Report:**



Section 10.7. An independent audit shall be made of all city accounts at least annually, and more frequently if deemed necessary by the Commission. Such audit shall be made by Certified Public Accountants experienced in municipal accounting selected by the Commission.

The city manager shall prepare an annual report of the affairs of the city including a financial report. Copies of such audit and annual report shall be made available for public inspection at the office of the city manager within thirty days after receipt of the audit.

## CHAPTER 11

### TAXATION

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#### **Power to Tax: Tax Limit:**

Section 11.1. The City shall have the power to assess taxes and levy and collect rents, tolls and excises. Exclusive of any levies authorized by statute to be made beyond Charter tax rate limitations, the annual ad valorem tax levy shall not exceed one and four-fifths percent of the assessed value of all real and personal property subject to taxation in the City.

#### **Subject of Taxation:**

Section 11.2. The subjects of ad valorem taxation for municipal purposes shall be the same for state, county and school purposes under the general law. Except as otherwise provided by this Charter, City taxes shall be levied, collected and returned in the manner provided by statute.

#### **Exemptions:**

Section 11.3. No exemption from taxation shall be allowed except as expressly required or permitted by statute.

#### **Tax Day:**

Section 11.4. Subject to the exceptions provided or permitted by law, the taxable status of persons and property shall be the same as for state, county, and school purposes under the general law.

#### **Preparation of the Assessment Roll:**

Section 11.5. On or before the first Monday in March in 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 statute and this Charter. Values shall be estimated according to recognized methods of systematic assessment. 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.

On or before the first Monday in March the Assessor shall give by first class mail, a notice of any increase over the previous year in the assessed value of any property or of the addition of any property to the roll to the owner as shown by such assessment roll. The failure to give any notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

#### **Board of Review:**

Section 11.6. The Board of Review shall be composed of three freeholders of the city who shall meet the eligibility requirements for elective officers contained in Section 6.1 and who during their term of office shall not be city officers or employees. The appointment to a city office or the election to a city office by a member of the Board of Review shall constitute resignation from the Board of Review. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation. Three members of the Board shall be appointed by the Commission in January, 1959, one of said members to serve for one year, another to serve for two years and another to serve for three years, and in each January thereafter one person shall be appointed to the Board of Review to fill the vacancy of the member whose term expires that year. The Commission shall fix the compensation of the members of the Board. The Board of Review shall annually in February select its own chairman for the ensuing year, and the Assessor shall be Clerk of the Board and shall be entitled to be heard at its sessions, but shall have no vote.

#### **Meetings of the Board of Review:**

Section 11.7. The Board of Review shall convene in its first session on the second Monday in March of each year at such time of day and place as shall be designated by the Commission and shall remain in session for at least eight hours for the purpose of considering and correcting the roll. In each case in which the assessed value of any property is increased over the amount shown on the assessment roll as prepared by the Assessor or any property is added to such roll by the Board, or the Board has resolved to consider at its second session such increasing of an assessment or the adding of any property to such roll, the Assessor shall give notice thereof to the owners as shown by such roll by first class letter mailed not later than the second day following the end of the first session of the Board. Such notice shall state the date, time, place and purpose of the second session of the Board. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

The Board of Review shall convene in its second session on the fourth Monday in March of each year at such time of day and place as shall be designated by the Commission and shall continue in session until all interested persons have had an opportunity to be heard, but in no case for less than six hours. At the second session, the Board may not increase any assessment or add any property to the rolls except in those cases which the Board resolved at its first session to consider such increase or addition at its second session.

#### **Notice of Meetings:**

Section 11.8. Notice of the time and place of the sessions of the Board of Review shall be published by the Clerk at least ten days prior to each session of the Board.

**Duties and Functions of Board of Review:**

Section 11.9. 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 statute conferred upon and required of Boards of Review in townships, except as otherwise provided in this Charter. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and 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. In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after said day shall be considered by the Board in making its decisions. Except as otherwise provided by statute, no person other than the Board of Review shall make or authorize any change upon, or additions or corrections to the assessment roll. It shall be the duty of the Assessor to keep a permanent record of all proceedings and to enter therein all resolutions and decisions of the Board.

**Endorsement of Roll:**

Section 11.10. After the Board of Review has completed its review of the assessment roll, and not later than the first Monday in April, the majority of its members shall 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.

**Clerk to Certify Levy:**

Section 11.11. Within three days after the Commission has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Commission determines shall be raised by general ad valorem tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the Commission requires to be assessed, reassessed or charged upon any property or against any person.

**City Tax Roll:**

Section 11.12. After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a copy of assessment roll to be known as the "City Tax Roll", and upon receiving the certification of the several amounts to be raised, as provided in Section 11.11, the Assessor shall spread upon said tax roll the several amounts determined by the Commission to be charged, assessed or reassessed against persons or property. He shall also spread the amounts of the general ad valorem city tax 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.

**Tax Roll Certified for Collection:**

Section 11.13. After spreading the taxes, the Assessor shall certify the tax roll and the Mayor shall annex his warrant thereto directing and requiring the Treasurer to collect prior to March 1st of the following year from the several persons named on said roll the several sums mentioned therein opposite their respective names as a tax or assessment and granting to him for the purpose of collecting the tax assessments and charges on said roll such powers and immunities necessary to collect same. On or before June 1st the roll shall be delivered to the Treasurer for collection.

**Tax Lien on Property:**

Section 11.14. On July first the taxes thus assessed shall become a debt due to the city from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall become a lien upon such real property, for such amounts and for all interest and charges thereon, and all personal taxes shall become a first lien on all personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances and liens to the extent provided by statute and shall continue until such taxes, interest and charges are paid.

**Taxes Due: Notification Thereof:**

Section 11.15. City taxes shall be due on July first of each year. The Treasurer shall not be required to call upon the persons named in the city tax roll, nor to make personal demand for the payments of taxes, but he shall (a) publish, between June fifteenth and July first, notice of the time when said taxes will be due for collection and the penalties and fees for late payment of same, and (b) mail a bill to each person named in said roll, but in case of multiple ownership of property only one bill need be mailed.

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 person or property assessed from the penalties and fees provided in this chapter in case of late payment or non-payment of the same.

**Interest on Late Payment of Taxes:**

Section 11.16. All taxes paid on or before the thirty-first day of August shall be collected by the Treasurer without additional charge. On September first he shall add to all taxes paid thereafter four percent of the amount of said taxes and on the first day of October and of each succeeding month he shall add an additional one-half of one percent of said taxes that remain unpaid. Such interest shall not exceed six percent and shall belong to the city and constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectable in the same manner as the taxes to which they are added. It is provided, however, that if delivery of the tax roll to the Treasurer, as provided in Section 11.13 is delayed for any reason by more than thirty days after June first, the application of the interest charge provided herein shall be postponed thirty days for the first thirty days of such delay and shall be postponed an additional thirty days for each additional thirty days, or major fraction thereof, of such delay.

**Failure or Refusal to Pay Personal Property Tax:**

Section 11.17. If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him or

them by October first, the Treasurer shall collect the same by seizing the personal property of such person, firm or corporation to an amount sufficient to pay for such tax, fees and charges for subsequent sale, wherever the same may be found in the state, and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory provisions. The Treasurer may, if otherwise unable to collect a tax on personal property, sue, in accordance with statute, the person, firm or corporation to whom it is assessed.

#### **Delinquent Tax Roll to County Treasurer:**

Section 11.18. All city taxes on real property remaining uncollected by the Treasurer on the first day of March following the date for returns by township treasurers of township, school and county Treasurer in the manner and with like effect as provided by statute for returns by township treasurers of township, school and County taxes. Such returns shall include all the additional assessments, charges and fees hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with statute, and shall be and remain a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the Treasurer of the County of Mason, is no longer charged with the collection of delinquent real property taxes, such delinquent taxes shall be collected in the manner then provided by statute for the collection of delinquent township, school and county taxes.

#### **State, County and School Taxes:**

Section 11.19. 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 statute relative to the collection of and accounting for such taxes shall apply. For these purposes the Treasurer shall perform the same duties and have the same powers as township treasurers under statute; Provided that nothing in this section shall deter the City Commission's power to determine the Treasurer's salary.

## **CHAPTER 12**

### **BORROWING POWER**

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#### **Grant of Authority to Borrow:**

Section 12.1. Subject to the applicable provisions of law and this Charter, the Commission may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the City and permitted by law and may authorize the issuance of bonds or other evidences of indebtedness therefor. Such bonds or other evidences of indebtedness shall include but not be limited to the following types:

- (a) General obligations which pledge the full faith, credit and resources of the city for the payment of such obligations;
- (b) Notes issued in anticipation of the collection of the taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided by Section 10.5.
- (c) In case of fire, flood or other calamity, emergency loans due in not more than five years for the relief of inhabitants of the city and for the preservation of municipal property;
- (d) Special assessment bonds issued 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. Such special assessment bonds may be both an obligation of the special assessment district or districts and a general obligation of the city.
- (e) Mortgage bonds for the acquiring, owning, purchasing, constructing, improving or operating of any public utility which the city is authorized by this Charter to acquire or operate; provided such bonds shall not impose any liability upon such city but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty years from the date of the sale of such utility and franchise on foreclosure. A sinking fund shall be created in the event of the issuance of such bonds, by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity, unless serial bonds are issued of such a nature that no sinking fund is required.
- (f) Bonds issued at a rate of interest not to exceed six percent per annum to refund money advanced or paid on special assessments imposed for water main extensions.
- (g) Bonds for the refunding of the funded indebtedness of the city.
- (h) Revenue bonds as authorized by statute which are secured only by the revenues from a public improvement and do not constitute a general obligation of the city.

#### **Authorization of Electors Required:**

Section 12.2. (a) Except as provided in Section 12.2 (b), no bonds pledging the full faith and credit of the city shall be issued without the approval of three-fifths of the electors voting thereon at any general or special election.

(b) The restrictions of Section 12.2 (a) shall not apply to general obligation bonds issued to pay for the city's portion of public improvements the remainder of which are to be financed by special assessments, tax anticipation notes issued under Section 12.1 (b), emergency bonds issued under Section 12.1 (c), special assessment bonds issued under Section 12.1 (d), refunding bonds issued under Section 12.1 (g) or to bonds the issuance of which cannot, by statute, be so restricted by this Charter.

(c) Only those persons who have properly assessed for taxes in the city and their husbands and wives shall be entitled to vote on the approval of any issue of bonds which constitute a general obligation of the city, but no person may so vote unless he is a registered elector.

**Applicable of Other Statutory Restrictions:**

Section 12.3. The issuance of any bonds not requiring the approval of the electors shall be subject to applicable requirements of statute with regard to public notice in advance of the authorization of such issues, filing of petitions for a referendum on such issues, holding of such referendum and other applicable procedural requirements.

**Limits of Borrowing Powers:**

Section 12.4. The net bonded indebtedness incurred for all public purposes shall not at any time exceed that percentage of the assessed value as allowed by statute of all the real and personal property in the City provided that in computing such net bonded indebtedness there shall be excluded money borrowed under the following sections of this Charter: 12.1 (b) (tax anticipation notes), 12.1 (c) (emergency loans), 12.1 (d) special assessment bonds even though they are also a general obligation of the city), 12.1 (e) (mortgage bonds), 12.1 (f) (special assessment refunding bonds), 12.1 (h) (revenue bonds), and other bonds which do not constitute a general obligation of the city.

The amount of emergency loans which the Commission may make under the provisions of Section 12.1 (c) of this Charter may not exceed that percentage as allowed by statute of the assessed value of all the real and personal property in the City.

The total amount of special assessment bonds pledging the full faith and credit of the City shall at no time exceed that percentage as allowed by statute of the assessed value of all the real and personal property in the City nor shall such bonds be issued in any consecutive period of twelve months in excess of that amount as allowed by statute of the assessed value unless authorized by a majority vote of the electors voting thereon at any general or special election.

**Preparation and Record of Bonds:**

Section 12.5. Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose, and any officer who shall violate this provision shall be deemed guilty of misconduct in office. All bonds and other evidence of indebtedness issued by the City shall be signed by the Mayor and countersigned by the Clerk, under the seal of the City. Interest coupons may be executed with the facsimile signatures of the Mayor and Clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the Clerk. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "Cancelled."

**Unissued Bonds:**

Section 12.6. No unissued bonds of the city shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized, and if any such bonds are not sold within ten years after authorization, such authorization shall, as to such bonds, be null and void, and such bonds shall be cancelled.

**Deferred Payment Contracts:**

Section 12.7. The City may enter into installment contracts for the purchase of property or capital equipment subject to the applicable provisions of state law and this charter.

**Editor's note:**

*This section was by amended by city election on August 8, 2000.*

## **CHAPTER 13.**

### **SPECIAL ASSESSMENTS**

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**General Power Relative to Special Assessments:**

Section 13.1. The Commission 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.

**Detailed Procedure to be Fixed by Ordinance:**

Section 13.2. The Commission shall prescribe by ordinance the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of districts, making and confirming of assessment rolls, correction of errors in the rolls, collection of assessments and any other matters concerning the making of improvements by the special assessment method.

Such ordinance shall be subject to the following provisions:

(a) No resolution finally determining to proceed with establishing any special assessment district for the making of any public improvement shall be enacted until cost estimates have been prepared and a public hearing has been held on the advisability of so proceeding, which hearing shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city.

(b) No special assessment roll shall be finally confirmed until after a meeting of the Commission has been held for the purpose of reviewing such roll, which meeting shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the City.

(c) No original special assessment roll shall be confirmed except by the affirmative vote of five members of the Commission if prior to such confirmation written objections to the proposed improvement have been filed by the owners of property in the district which will be required to bear more than fifty percent of the amount of such special assessment.

(d) No public improvement to be financed in whole or part by special assessment shall be made before the confirmation of the special assessment roll for such improvement.

(e) No special assessment district or districts shall be created by the Commission for any one public improvement which includes property having an area in excess of twenty-five per cent of the total area of the City. No public improvement project shall be divided geographically for the purpose of circumventing this provision.

#### **Special Assessment Powers:**

Section 13.3. The Commission shall, in the exercise of its powers of special assessment, have power to provide for the following, but this list shall not be exclusive:

(a) For the construction of public parking facilities as a public improvement financed in whole or part by the special assessment method.

(b) For installing a boulevard lighting system on any street as a public improvement to be financed in whole or part by special assessment upon the lands abutting thereupon, provided, that the property owners of a majority of the frontage on such street or part thereof to be so improved shall petition therefor.

(c) For the payment of special assessments in annual installments not to exceed ten in number. The first such installment to be due upon confirmation of the special assessment roll, and subsequent installments to be due on July first of succeeding years and to be placed upon the annual city tax roll, if delinquent, and for an interest charge only until the due date of each such deferred installment not to exceed six per cent per year, subject to the right of advance payment of any such installment with interest only to the date of payment.

#### **Disposition of Excessive Special Assessments:**

Section 13.4. 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 three percent or less of the assessment, but should the assessment prove larger than necessary by more than three per cent, the entire excess shall be refunded on a pro rate basis to the owners of the property assessed as shown by the current assessment roll of the city. Such refund shall be made by credit against future unpaid installments 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 in part by such special assessment.

#### **Additional Assessments: Correction of Invalid Special Assessments:**

Section 13.5. Additional pro rate assessments may be made when any special assessment roll proves insufficient to pay for the improvement for which it was levied and the expenses incident thereto, or to pay the principal and interest on bonds or other evidences of obligation issued therefor; provided that the additional pro rate assessment shall not exceed twenty-five percent of the assessment as originally confirmed unless a meeting of the Commission be held to review such additional assessment, for which meeting notices shall be published and mailed as provided in the case of review of the original special assessment roll.

Whenever any special assessment shall, in the opinion of the Commission, 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 Commission shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or part thereof levied upon any property in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment or if the payments exceed the amount of the reassessment, refunds shall be made.

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

#### **Contested Assessments:**

Section 13.6. No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment (a) unless within thirty days after the confirmation of the special assessment roll written notice is given to the Commission of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal and (b) unless such suit or action shall be commenced within sixty days after confirmation of the roll.

#### **Collection of Special Assessments:**

Section 13.7. Upon the confirmation of each special assessment roll the special assessments shall become a debt to the city from the persons to whom they are assessed and shall until paid by a lien upon the property assessed for the amount of such assessment and all interest and charges thereon. Such lien shall be of the same character and effect as created by this Charter for city taxes.

Special assessments, or installments thereof, which become due on July first of any year shall be collected in all respects as are

city taxes due on July 1 of the same year, and if uncollected on the following first day of March, shall be returned to the County Treasurer with unpaid taxes as provided in Section 11.18.

The initial special assessment installments which become due other than on July first shall, if unpaid for ninety days or more on May first of any year, be certified as delinquent to the Commission by the Treasurer and the Commission shall place such delinquent assessments on the tax roll for that year together with accrued interest to July first of such year. The total amount of such assessment and interest shall thereafter be collected in all respects as are city taxes due on July first of that year and shall be subject to the same fees and penalties as are city taxes due on that date and if uncollected on the following March first shall be returned to the County Treasurer with unpaid taxes as provided in Section 11.18.

#### **Special Assessment Accounts:**

Section 13.8. Except as otherwise provided in this charter, moneys raised by special assessment for any public improvement shall be credited to a special account and shall be used to pay for the costs of the improvement for which the assessment was levied and expenses incidental thereto or to repay any money borrowed therefor.

#### **Assessments for Renewal of Hazards, Etc.:**

Section 13.9. The assessment for the cost of the construction of any sidewalk or the abatement of any hazard or nuisance to be made pursuant to Section 2.3 (u) or Section 2.3 (v), or for the cost of removing snow, ice or other obstructions from sidewalks or trimming and removal of hazardous trees to be made pursuant to Section 2.3 (w) or Section 2.3 (x), shall be made by resolution of the Commission. Notice of the time at which the Commission will act thereon shall be given by first class mail to the owner of the property to be assessed as shown by the current tax roll of the city, except that no notice shall be required in the case of assessments for the removal of weeds, snow or ice. For the purpose of collection of such assessments, the adoption of such resolution shall be equivalent to the confirmation of a special assessment roll. The amount of any such assessment shall become a debt to the city upon adoption of such a resolution, be due at such time as the Commission shall prescribe and shall be subject to the collection fees and become a lien as provided in Section 13.7. Every such assessment shall also be subject to Section 13.4, 13.5, and 13.6.

#### **Failure to Mail Notice:**

Section 13.10. Failure to mail or receive any notice required to be so sent by this chapter or by ordinance shall not invalidate any special assessment or special assessment roll.

## **CHAPTER 14**

### **PURCHASES — CONTRACTS — LEASES**

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#### **Purchase and Sale of Property:**

Section 14.1. The City Manager shall be responsible for the purchase and sale of all city property, subject to the restrictions of statutes and ordinances.

Comparative prices shall be obtained for the purchase or sale in amount not in excess of two thousand dollars (\$2,000.00) of all materials, supplies and public improvements except (a) in the employment of professional services and (b) when the City Manager shall determine that no advantage to the city would result.

In all sales or purchases in excess of two thousand dollars (\$2,000.00), (a) the sale or purchase shall be approved by the Commission, (b) sealed bids shall be obtained, and (c) the requirements of Section 14.2 shall be complied with. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The Commission may authorize the making of public improvements or the performance of any other city work by any city agency without competitive bidding.

Purchases shall be made from the lowest competent bidder meeting specifications unless the Commission shall determine that the public interest will be better served by accepting a higher bid. Sales shall be made to the bidder whose bid is most advantageous to the city.

All purchases and sales shall be evidenced by written contract or purchase order.

The city may not sell any park, cemetery or any part thereof except in accordance with restrictions placed thereon by statute.

The city may not purchase, sell or lease any real estate or any interest therein except by the affirmative vote of four or more members of the Commission.

Detailed purchasing, sale and contract procedures shall be established by ordinance.

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

*This section was amended by city election on August 8, 2000.*

#### **Contracts:**

Section 14.2. The authority to contract on behalf of the city is vested in the Commission and shall be exercised in accordance with the provisions of statute and of this Charter, provided that purchases and sales may be made by the City Manager subject to the provisions of Section 14.1.

Any contract or agreement in an amount of two thousand dollars or more made with form or terms other than the standard city purchase order shall before execution be submitted to the Attorney and his opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed in the office of the Clerk together with a copy of the opinion.

Before any contract, agreement or purchase order obligating the city to pay an amount of two thousand dollars or more is executed, the accounting officer of the city shall first have certified that an appropriation has been made for the payment thereof, or, that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds or by special assessments or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the city for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for the purchase or construction of a public improvement unless such purchase or construction is being financed by an installment contract under authority of Section 12.7. Certification by the accounting officer of the city shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment thereto.

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

No contract shall be amended after the same has been made except upon the authority of the Commission, provided that the City Manager may amend contracts for those purchases and sales made by him under the authority of Section 14.1.

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

No contract shall be made with any person, firm or corporation in default to the city.

An individual agreement of employment shall not be deemed a contract requiring opinion by the Attorney or certification by the accounting officer of the city.

**Editor's note:**

*This section was by amended by city election on August 8, 2000.*

**Restriction on Powers to Lease Property:**

Section 14.3. The Commission may not rent or let public property for a period longer than three years unless such rental or lease agreement shall have been referred to the people at a regular or special election and shall have received the approval of a majority of the electors voting thereon at such election. No such lease shall be approved by the Commission for presentation to the electorate before thirty days after application therefore has been filed with the Commission nor until a public hearing has been held thereon. No such lease shall be submitted to the electors unless the party leasing or renting the property has filed with the Clerk his unconditional acceptance of all terms of such lease or rental agreement.

## CHAPTER 15

### MUNICIPALLY OWNED UTILITIES

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**General Powers Respecting Utilities:**

Section 15.1. Subject to the provisions of the Constitution and statute, the city shall have the power to acquire, own, establish, construct, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, a public utility for supplying water to the municipality and its inhabitants for domestic, commercial and municipal purposes, and may sell and deliver water without its corporate limits in an amount not to exceed the limitations set by the Constitution and statute. Subject to statutory provisions, the city shall also have the power to acquire, own, establish, construct, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits including, but not by way of limitation, public utilities for supplying light, heat, power, gas, sewage treatment and garbage disposal facilities, and facilities for the storage and parking of vehicles within its corporate limits.

**Management of Municipal Utilities:**

Section 15.2. All municipally owned and operated utilities shall be administered as a regular department of the city government under the management and supervision of the City Manager.

**Rates:**

Section 15.3. The Commission shall have the power to fix 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. There shall be no discrimination in such rates within any classification of users thereof, nor shall free service be permitted. Higher rates may be charged for service outside the corporate limits of the city.

**Utility Rates and Charges—Collections:**

Section 15.4. The Commission shall provide by ordinance for the collection of all public utility rates and charges of the city. Such ordinance shall provide at least:

(a) That the City shall have as security for the collection of such utility rates and charges, those liens as authorized by statute upon the real property supplied by such utility, which lien shall become effective immediately upon the supplying of such utility

service and shall be enforced in the manner provided in such ordinance.

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

(c) 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, as amended.

#### **Disposal of Utility Plants and Property:**

Section 15.5. Unless approved by the affirmative vote of three-fifths of the electors voting thereon in a regular or special election, the city shall not sell, exchange, lease or in any way dispose of any property, easements, equipment, privilege or asset belonging to and appertaining to any municipally owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, 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 any articles of machinery or equipment of any city owned public utility which are worn out or useless or which have been, or could with advantage to the service, be replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or easements. It is provided, however, that the provisions of this section shall not extend to vacating or abandonment of streets, as provided by statute.

#### **Utility Finances:**

Section 15.6. 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 for such utility, including depreciation.

Transactions pertaining to the ownership and operation by the city of each public utility shall be recorded as 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 fairly the financial position of each utility and the results of its operation, which report shall be available for inspection at the office of the Clerk.

## **CHAPTER 16**

### **PUBLIC UTILITY FRANCHISES**

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#### **Franchises Remain in Effect:**

Section 16.1. All franchises to which the City of Scottville is a party when this Charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

#### **Granting the Public Utility Franchises:**

Section 16.2. 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 years.

No franchise ordinance which is not subject to revocation at the will of the Commission 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 of the electors voting thereon. No such franchise ordinance shall be approved by the Commission for referral to the electorate before thirty days after application therefor has been filed with the Commission 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 purpose shall be ordered unless the expense of holding such election, as determined by the Commission, 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 Commission may be enacted by the Commission 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 weeks after publication of a notice that such ordinance is on file.

#### **Conditions of Public Utility Franchises:**

Section 16.3. 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, but this enumeration shall not be exclusive or impair the right of the Commission to insert in such franchise any provision within the power of the City to impose or require:

- (a) To repeal the same for misuse; non-use 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 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 Commission to be conducive to the safety, welfare and accommodation of the public.

**Regulation of Rates:**

Section 16.4. All public utility franchises shall make provision therein for fixing rates, fares and charges, and may provide for readjustments thereof at periodic intervals. The value of the property of the utility used as a basis for fixing such rates, fares and charges shall in no event include a value predicated upon the franchise, good will or prospective profits.

**Use of Public Places by Utilities:**

Section 16.5. 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 harmless from all damages arising from said use. Every such public utility may be required by the city 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 Commission 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.

## CHAPTER 17

### SCHEDULE

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**Election to Adopt Charter:**

Section 1. This Charter shall be submitted to a vote of the qualified electors of the City of Scottville in the next general election to be held on Tuesday, November 4, 1958. If this Charter is adopted at such election, it shall take effect and become the Charter of the City of Scottville on Thursday, January 1, 1959 at 12 o'clock noon.

**Form of Ballot:**

Section 2. The form of the ballot on submission of this charter shall be as follows:

Instructions—A cross (x) in the square after the word “Yes” is in favor of the adoption of the proposed Charter, and a cross (x) in the square after the word “No” is against the adoption of the proposed Charter.

Shall the proposed Charter of the City of Scottville, drafted by the Charter Commission which was elected on April 7, 1958 be adopted?
YES: <input checked="" type="checkbox"/>
NO: <input type="checkbox"/>

**Officers of the City Under Previous Charter:**

Section 3. The Mayor and each Commissioner who held office on the effective date of this Charter shall be the Mayor and the Commissioner of the City under this Charter and shall perform the duties under it and otherwise be subject to its provisions. Such officer shall hold and continue the office held by him until he or his successor is reelected or elected or appointed in the case of a vacancy under the provisions of this Charter.

At the City election held in April, 1959, the following Commissioners shall be elected: A Commissioner at Large for a three year term; a Commissioner at Large for a two year term; and a Commissioner at Large for a one year term. Said Commissioners shall file their nominating petitions as required under statute, designating the office that they are seeking to be that of Commissioner at Large. Of those seeking the office, the candidate that receives the largest number of votes shall be the Commissioner at Large for the three year term, the candidate obtaining the second largest number of votes shall be the Commissioner at Large for a two year term, and the candidate obtaining the third highest number of votes shall be the Commissioner at Large for the one year term.

At the city election held in April, 1960, two Ward Commissioners shall be elected for two year terms each, and one Commissioner at Large for a three year term.

At the City election held in April, 1961, there shall be elected two Ward Commissioners for two year terms each and one City Commissioner for a three year term.

At the city election held in April, 1959, an Associate Justice of the Peace shall be elected for a four year term under the provisions of this Charter. The Justice of the Peace whose term expires in April, 1959 and who held office on the effective date of this Charter shall continue in office and his term shall terminate on the 4th day of July, 1959 at which time the office shall be filled by the person elected to that office at the April, 1959 regular City election. At the City election held in April, 1961, a Justice of the Peace shall be elected for a four year term under the provisions of this charter. The Justice of Peace whose term expires in April, 1961 and who held office on the effective date of this Charter shall continue in office and his term shall terminate on the 4th day of July, 1961, at which time the office shall be filled by the person elected to that office at the April, 1961 regular City election.

The terms of office specified in this section are for the purpose of bringing the transitions from the scheduled terms of office in the former Charter of the City and those provided in this Charter.

**Administrative and Other Officers:**

Section 4. All administrative officers and employees of the city, both elected and appointed, and including the City Clerk, City Treasurer and City Assessor and the City Attorney, who held office in or were employed by the City at the time this Charter became law as the Charter of the City, shall continue in the office of employment at that time held by them respectively for the balance of the terms of office or employment to which they were appointed or employed.

**City Commission:**

Section 5. The Commissioners and the Mayor of the City of Scottville who held such offices at the time this Charter became law as the Charter of the City, shall constitute the Commission of the City of Scottville under this Charter subject to the provisions hereof.

**Board of Review:**

Section 6. The board of review as constituted on the effective date of this Charter shall continue to serve as the Board of Review until such time as their successors are appointed under the provisions of this Charter.

**Status of Schedule Chapter:**

Section 7. The purpose of this schedule chapter is to inaugurate the government of the City of Scottville under this Charter and it shall constitute a part of said Charter only to the extent and for the time required to accomplish that end.

**Transition Provision.**

Section 8. In all cases involving the transition of the City Government from that under the previous Charter to that under this Charter which are not covered by this chapter, the Commission shall supply necessary details and procedures and may adopt such rules, regulations and ordinances as may be required therefor.

**RESOLUTION OF ADOPTION**

At a regular meeting of the Charter Commission of the City of Scottville held on August 28, 1958, the following resolution was offered by Commissioner Widmark:

RESOLVED, that the Charter Commission of the City of Scottville does hereby adopt the foregoing proposed charter for the City of Scottville and the Attorney of this Commission is directed (1) to transmit copies of this charter to the Governor of the State of Michigan for his approval in accordance with statute, (2) to file with the City Clerk a copy of this charter on September 4, 1958 and (3) to cause this proposed charter to be published in the Mason County Press of Scottville, Michigan on October 9, 1958.

The resolution was seconded by Commissioner Reeds, and adopted by the following vote:

YEAS: Kaye, Reeds, Schulte, Widmark, Orth, Parsons, Kruse, Diesing, Smith.

NAYS: None

ABSENT: None

The Chairman declared the foregoing resolution carried and requested the members of the Charter Commission to authenticate said resolution and also the copies of the charter to be presented to the Governor and filed with the City Clerk by attesting their names thereto in the following manner:

Orin W. Kaye, Jr.

Oliver Reeds

Raymond Schulte

Thurston E. Widmark

Clifford Orth

Donald Parsons

Harry E. Kruse

Donald Diesing

Robert J. Smith

All the Commissioners having attested as to said resolution and also having attested the copies to be signed by the Governor and filed with the City Clerk, the meeting adjourned subject to the call of the chairman.

STATE OF MICHIGAN

SS.

COUNTY OF MASON

Marshall Seitz, being first duly sworn, says that he is the Clerk of the Charter Commission of the City of Scottville; that at an election duly called and held in the City of Scottville on April 7, 1958, the following named persons were duly elected on the

Charter Commission to frame a revised Charter for the City, namely: Orin W. Kaye Jr., Oliver Reeds, Raymond Schulte, Thurston B. Widmark, Glenn Wallace, Donald Parsons, Harry E. Kruse, Donald Diesing, and Robert J. Smith, and that the said Glenn Wallace did resign from said Commission on the 29th day of May, 1958, said resignation accepted at the regularly scheduled meeting held May 29, 1958, and that the said Commission did fill the vacancy created according to the statute provided in such cases, by electing Clifford Orth to the Charter Study Commission, and that the said Clifford Orth did qualify for the office so held, and that the annexed and foregoing charter was duly adopted by said Charter Commission by the foregoing resolution which is a true and correct copy thereof, and that the said Charter Commission directed that said charter be presented to the electors of the City of Scottville in accordance with the requirements of this charter and the laws of the State of Michigan.

Dated: September 3, 1953.

S/Marshall Seitz

Clerk of the Charter Commission of the City of Scottville.

Subscribed and sworn before me this 3rd day of September, 1958.

S/William H. Van Duzer

Notary Public

Mason County, Michigan

My commission expires July 8, 1961.

I, the undersigned, G. Mennen Williams, Governor of the State of Michigan, do hereby approve the above and foregoing Charter of the City of Scottville.

Dated at Lansing, Michigan this 2nd day of October, 1958.

S/G. Mennen Williams

Governor of the State of Michigan

#### **CHARTER ADOPTED**

I hereby certify that at the annual election held on November 4, 1958, the foregoing charter was adopted by the qualified electors of the City of Scottville by a vote of 304 in favor of its adoption and 244 against its adoption.

MARSHALL SEITZ

City Clerk

Dated: November 6, 1958

## **TITLE I: GENERAL PROVISIONS**

Chapter

### **10. RULES OF CONSTRUCTION; GENERAL PENALTY**

## **CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY**

Section

- 10.01 Title of code
- 10.02 Contents of code
- 10.03 Interpretation
- 10.04 Application to future ordinances
- 10.05 Captions
- 10.06 Definitions
- 10.07 Rules of interpretation
- 10.08 Severability
- 10.09 Reference to other sections
- 10.10 Reference to offices
- 10.11 Errors and omissions
- 10.12 Official time
- 10.13 Reasonable time

- 10.14 Ordinances repealed
- 10.15 Ordinances unaffected
- 10.16 Effective date of ordinances
- 10.17 Repeal or modification of ordinance
- 10.18 Ordinances which amend or supplement code
- 10.19 Amendment procedure
- 10.20 Section histories; statutory references
- 10.21 Publication and distribution of code
- 10.22 Publication and distribution of amendments
- 10.23 Title of officer to include deputy or subordinate
- 10.24 Notice
- 10.25 Responsibility for violations
  
- 10.99 General penalty

**§ 10.01 TITLE OF CODE.**

This codification of ordinances by and for the City of Scottville shall be designated as the “Code of Scottville” and may be so cited.

(1993 Code, § 10.01)

**§ 10.02 CONTENTS OF CODE.**

(A) This code contains all ordinances of a general and permanent nature of the city and includes ordinances dealing with municipal administration, utilities and services, parks and public grounds, streets and sidewalks, zoning and planning, food and health, businesses and trades, building, housing, electrical, heating and plumbing regulations, police regulations and traffic regulations, and excludes ordinances granting franchises and special privileges, establishing sewer and other public improvement districts, providing for the construction of particular sewers, streets or sidewalks, or for the improvement thereof, establishing salaries or other compensation for officers or employees, and for the construction and improvement of other public works, authorizing the borrowing of money or the issuance of bonds.

(B) Ordinances hereafter adopted which are not of a general or permanent nature shall be numbered consecutively, authenticated, published, and recorded in the book of ordinances, but shall not be prepared for insertion in this code, nor be deemed a part thereof.

(1993 Code, § 10.02)

**§ 10.03 INTERPRETATION.**

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(1993 Code, § 10.03)

**§ 10.04 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

(1993 Code, § 10.04)

**§ 10.05 CAPTIONS.**

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

(1993 Code, § 10.05)

**§ 10.06 DEFINITIONS.**

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

**CITY, MUNICIPALITY, or MUNICIPAL CORPORATION.** The City of Scottville, Michigan.

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

**CITY MANAGER**. The City Manager of the city.

**CLERK** or **CITY CLERK**. The Clerk of the city.

**CODE, THIS CODE, or THIS CODE OF ORDINANCES**. This city code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

**COUNTY**. Mason County, Michigan.

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

**MONTH**. A calendar month.

**OATH**. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT**. An officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

**PERSON**. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PRECEDING** or **FOLLOWING**. Next before or next after, respectively.

**PUBLIC PLACE**. Any place to or upon which the public resorts, or travels, whether the place is owned or controlled by the city or any agency of the state or is a place to or upon which the public resorts or travels by custom, or by invitation, express or implied.

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

**SIDEWALK**. The portion of a street between the curb lines or lateral lines and the right-of-way lines which is intended for the use of pedestrians.

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

**STATE**. The State of Michigan.

**STREET, HIGHWAY, and ALLEY**. The entire width subject to an easement for public right-of-way, or owned in fee by the city, county, or state, of every way or place, of whatever nature, whenever any part thereof is open to the use of the public, as a matter of right for purposes of public travel. The word **ALLEY** shall mean any way or place providing a secondary means of ingress and egress from a property.

**SUBCHAPTER**. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS**.

**WRITTEN**. Any representation of words, letters, or figures, whether by printing or otherwise.

**YEAR**. A calendar year, unless otherwise expressed; equivalent to the words **YEAR OF OUR LORD**.

(1993 Code, § 10.06)

## § 10.07 RULES OF INTERPRETATION.

The construction of all ordinances of this city shall be by the following rules, unless the construction is plainly repugnant to the intent of the City Commission or of the context of the same ordinance.

(A) **AND or OR**. Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) **Acts by assistants**. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) **Gender; singular and plural; tenses**. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) **General term**. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

(1993 Code, § 10.07)

## § 10.08 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

(1993 Code, § 10.08)

## § 10.09 REFERENCE TO OTHER SECTIONS.

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

(1993 Code, § 10.09)

#### **§ 10.10 REFERENCE TO OFFICES.**

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

(1993 Code, § 10.10)

#### **§ 10.11 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express that intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

(1993 Code, § 10.11)

#### **§ 10.12 OFFICIAL TIME.**

The official time, as established by applicable state/federal laws, shall be the official time within this city for the transaction of all city business.

(1993 Code, § 10.12)

#### **§ 10.13 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, **REASONABLE TIME OR NOTICE** shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

(1993 Code, § 10.13)

#### **§ 10.14 ORDINANCES REPEALED.**

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

(1993 Code, § 10.14)

#### **§ 10.15 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

(1993 Code, § 10.15)

#### **§ 10.16 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the City Commission requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

(1993 Code, § 10.16)

#### **§ 10.17 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in anyway be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

(1993 Code, § 10.17)

#### **§ 10.18 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the City Commission shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to any indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

(1993 Code, § 10.18)

#### **§ 10.19 AMENDMENT PROCEDURE.**

(A) This code shall be amended by ordinance.

(B) The title of each amendatory ordinance, adapted to the particular circumstances and purposes of this amendment, shall be substantially as follows:

(1) To amend any section:

AN ORDINANCE TO AMEND SECTION \_\_\_[or "SECTIONS \_\_\_ AND \_\_\_"] OF CHAPTER \_\_\_ OF TITLE \_\_\_ OF THE CODE OF THE CITY OF SCOTTVILLE.

(2) To insert a new section, chapter, or title:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF SCOTTVILLE BY ADDING A NEW SECTION \_\_\_[or "NEW SECTIONS," "A NEW CHAPTER," or "A NEW TITLE," as the case may be] WHICH NEW SECTION \_\_\_[or "SECTIONS," "CHAPTER," or "TITLE"] SHALL BE DESIGNATED AS SECTION \_\_\_[or "SECTIONS \_\_\_ AND \_\_\_" OF CHAPTER \_\_\_ OF TITLE \_\_\_ " or proper designation if a Chapter or Title is added] OF SAID CODE.

(3) To repeal a section, chapter, or title:

AN ORDINANCE TO REPEAL SECTION \_\_\_[or "SECTIONS \_\_\_ AND \_\_\_," "CHAPTER \_\_\_," or "TITLE \_\_\_," as the case may be] OF THE CODE OF THE CITY OF SCOTTVILLE.

(1993 Code, § 10.19)

#### **§ 10.20 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example:

(Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example:

(M.C.L.A. § 551.271)

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

##### **§ 31.10 MAYOR.**

The Mayor shall preside at all meetings of the City Commission.

(Ord. 10, passed 1-1-1980)

##### ***Statutory reference:***

*Powers and duties of the Mayor, see M.C.L.A. § 87.1*

(1993 Code, § 10.20)

(C) If a section of this code is derived from the 1993 code of ordinances of the city, the prior code section number shall be indicated in the history by "(1993 Code, § \_\_\_)."

#### **§ 10.21 PUBLICATION AND DISTRIBUTION OF CODE.**

(A) Publication of the within codification of the ordinances of the city is hereby directed. Copies of the code shall be published in loose-leaf form and shall be distributed to city officers and employees as directed by the City Commission.

(B) Copies of the original printing of this code shall be published and made available to the public at a charge to be fixed by the City Commission.

(1993 Code, § 10.21)

#### **§ 10.22 PUBLICATION AND DISTRIBUTION OF AMENDMENTS.**

(A) Amendments to the code shall be published as required by this chapter, and sufficient copies of each amendment shall be published in loose-leaf form for insertion in the loose-leaf copies of the code.

(B) The City Clerk shall distribute the copies to the officers of the city having copies of the code assigned to them. Each officer assigned a copy of the code shall be responsible for maintaining the same and for the proper insertion of amendatory pages as received.

(C) Each copy of the code shall remain the property of the city and shall be turned over by each officer having custody thereof upon expiration of his or her term of office to the City Clerk.

(1993 Code, § 10.22)

### **§ 10.23 TITLE OF OFFICER TO INCLUDE DEPUTY OR SUBORDINATE.**

Whenever, by provisions of this code, any officer of the city is assigned any duty or empowered to perform any act or duty, the title of the officer shall mean and include the officer or his or her deputy or authorized subordinate.

(1993 Code, § 10.23)

### **§ 10.24 NOTICE.**

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

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

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

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

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

(1993 Code, § 10.24)

### **§ 10.25 RESPONSIBILITY FOR VIOLATIONS.**

Whenever any act is prohibited by this code, by an amendment thereof, or by any rule or regulation adopted thereunder, the prohibition shall extend to and include the causing, securing, aiding, or abetting of another person to do that act.

(1993 Code, § 10.25)

### **§ 10.99 GENERAL PENALTY.**

(A) Unless a violation of this code or other city ordinance is specifically designated in the code or ordinance as a municipal civil infraction (or unless expressly otherwise provided by the code or other city ordinance or expressly otherwise required by applicable state or federal laws), the violation shall be a misdemeanor.

(B) The penalty for a misdemeanor violation shall be a fine not exceeding \$500, plus costs of prosecution, or imprisonment not exceeding 90 days or both the fine, plus costs, and imprisonment in the discretion of the court, unless another maximum fine or term of imprisonment is otherwise specifically provided for the violation by this code or other city ordinance or authorized by state law.

(C) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this code or other city 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) Unless otherwise specifically provided for a particular municipal civil infraction violation by this code or other city ordinance, the civil fine shall be not less than \$100, plus costs, expenses and other sanctions, for each violation.

(2) (a) Increased civil fines may be imposed for repeat violations by a person of any requirement or provision of this code or other city ordinance. As used in this section, **REPEAT OFFENSE** means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision:

1. Committed by a person within any 12-month period (unless some other period is specifically provided by this code or other city ordinance); and

2. For which the person admits responsibility or is determined to be responsible.

(b) Unless otherwise specifically provided by this code or other city ordinance for a particular violation, the increased fine for a repeat offense shall be as follows.

1. The fine for any offense which is a first repeat offense shall be not less than \$250, plus costs, expenses and other sanctions.

2. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$500, plus costs, expenses and other sanctions.



(D) A violation includes any act which is prohibited or made or declared to be unlawful or an offense by this code or other city ordinance; and any omission or failure to act where the act is required by this code or other city ordinance.

(E) Each act of violation and each day on which any violation of this code or other city ordinance continues or is permitted to exist constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(F) The imposition of a fine, penalty or other sanction shall not excuse any person from compliance with the requirements of this code or other city ordinance.

(G) The remedies, penalties and sanctions provided by this code and other city ordinances are cumulative. In addition to any remedies provided by this section or otherwise available to the city at law, the city may revoke or suspend any permit or license or bring an action for an injunction or initiate other available processes against a person to restrain, prevent or abate any violation of this code or other city ordinance. The city may also seek orders from courts of competent jurisdiction to compel compliance with this code to abate a nuisance or other condition violating this code, to provide for restitution or for other equitable relief. The city shall also have a cause of action to recover as damages any cost incurred by the city resulting from the violation of this code.

(H) The remedies, penalties and sanctions provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this code or other city ordinance, whether or not the remedy, penalty or sanction is reenacted in the amendatory ordinance.

## TITLE III: ADMINISTRATION

### Chapter

- 30. CITY OFFICERS AND EMPLOYEES
- 31. DEPARTMENTS, BOARDS, AND COMMISSIONS
- 32. POLICE AND FIRE
- 33. TAXATION AND FINANCE

### CHAPTER 30: CITY OFFICERS AND EMPLOYEES

#### Section

- 30.01 City Manager
- 30.02 Department heads; duties generally
- 30.03 Vacancies

#### **Cross-reference:**

*Fire Chief and firefighters, see §§ 32.15 through 32.19*

*Police Chief and police officers, see §§ 32.01 through 32.03*

#### **§ 30.01 CITY MANAGER.**

The City Manager shall see that all laws, ordinances, rules, and regulations adopted by the City Commission and the provisions of this code are properly enforced. He or she shall attend all meetings of the City Commission, regular and special. During the absence or disability of the Manager, an acting City Manager shall be appointed in accordance with § 5.9 of the Charter.

(1993 Code, § 30.01)

#### **§ 30.02 DEPARTMENT HEADS; DUTIES GENERALLY.**

(A) All administrative officers are responsible to the City Manager for the effective administration of their respective departments and offices, and all activities assigned to them. He or she shall employ or appoint all officers and employees except as otherwise provided by the City Charter or this code. The City Manager may set aside any action taken by any administrative officer other than the City Attorney and may supersede any officer other than the City Attorney in the functions of his or her office.

(B) All department heads of the city shall comply with the following:

(1) All department heads shall keep informed as to the latest practice in their particular fields and shall inaugurate, with the approval of the City Manager in the case of departments responsible to him or her, or in the case of other departments, with the approval of the officer or body to whom the department head is responsible, any new practices as appear to be of benefit to the service and to the public;

(2) Reports of the activities of each department shall be made to the Manager as he or she shall direct; and

(3) Each department head shall be responsible for the preservation of all public records under his or her jurisdiction and shall provide a system of filing and indexing the same. No public records, reports, correspondence, or other data relative to the business of any department shall be destroyed or removed permanently from the files without the knowledge and approval of the City Commission and shall be subject to the provisions of this chapter.

(1993 Code, § 30.02)

**§ 30.03 VACANCIES.**

In case of vacancy in the office or during the absence of any administrative officer, the City Manager may designate an interim acting head or perform personally the functions of the office, until the vacancy is filled in accordance with the Charter.

(1993 Code, § 30.03)

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## **CHAPTER 31: DEPARTMENTS, BOARDS, AND COMMISSIONS**

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*Police and Fire Departments, see Ch. 32*

*Water Department, see Ch. 51*

### **GENERAL PROVISIONS**

**§ 31.001 BOARDS AND COMMISSIONS TO CONTINUE.**

All boards and commissions existing at the adoption of this code shall be continued, and the members serving thereon shall remain in office for the duration of the term for which they were appointed.

(1993 Code, § 31.01)

## LOCAL OFFICERS COMPENSATION COMMISSION

### § 31.015 LOCAL OFFICERS COMPENSATION COMMISSION CREATED.

Effective May 22, 2007, a Local Officers Compensation Commission is hereby created which shall determine the salaries of each local elected official. The Compensation Commission shall consist of five members who are registered electors of the city, appointed by the Mayor subject to confirmation by a majority of the members elected and serving on the City Commission. The terms of office shall be five years, except that of the members first appointed, one each shall be appointed for terms of one, two, three, four, and five years. All first members shall be appointed within 30 days after the effective date of this subchapter. Thereafter members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of the unexpired term. No member or employee of the legislative, judicial, or executive branch of any level of government or members of the immediate family of the member or employee shall be eligible to be a member of the Compensation Commission.

(Ord. 07-04, passed 5-7-2007)

### § 31.016 SALARIES.

The Compensation Commission shall determine the salary of each local elected official, which determination shall be the salary unless the City Commission, by resolution adopted by two-thirds of the members elected to and serving on the City Commission, rejects it. The determination of the Compensation Commission for each local elected official shall be effective 30 days following its filing with the City Clerk unless rejected by the City Commission. In case of rejection, the existing salary shall prevail. Any 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.

(Ord. 07-04, passed 5-7-2007)

### § 31.017 MEETINGS; QUORUM; COMPENSATION.

(A) The Compensation 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. **SESSION DAYS** means any calendar day on which the Compensation Commission meets and a quorum is present. A majority of the members of the Compensation Commission shall constitute a quorum for conducting the business of the Compensation Commission.

(B) The Compensation Commission shall take no action or make any determination without a concurrence of a majority of the members appointed and serving on the Compensation Commission. The Compensation Commission shall elect a Chairperson from among its members.

(C) The members of the Compensation Commission shall receive no compensation, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.

(Ord. 07-04, passed 5-7-2007)

## DOWNTOWN DEVELOPMENT AUTHORITY AND BOARD

### § 31.030 TITLE.

This subchapter shall be known and may be cited as the "Downtown Development Authority Ordinance."

(1993 Code, § 31.45) (Ord. 87-1, passed 8-18-1987)

### § 31.031 DEFINITIONS.

The terms in this subchapter shall have the same meaning as given to them in Public Act 197 of 1975, being M.C.L.A. §§ 125.1651 through 125.1657 and 125.1659 through 125.1680, or as hereinafter provided in this section, unless the context clearly indicates the contrary.

**ACT 197** or **ACT**. Public Act 197 of the Public Acts of Michigan of 1975 as now in effect, or hereafter amended, being M.C.L.A. §§ 125.1651 *et seq.*

**AUTHORITY**. The Downtown Development Authority created by this subchapter.

**BOARD** or **BOARD OF TRUSTEES**. The Board of Trustees of the Authority, the governing body of the Authority.

**CHIEF EXECUTIVE OFFICER**. The Mayor of the city.

**DOWNTOWN DISTRICT**. The Downtown District designated by this subchapter as now existing or hereafter amended.

(1993 Code, § 31.46) (Ord. 87-1, passed 8-18-1987)

### § 31.032 DETERMINATION OF NECESSITY.

The City Commission determines that it is necessary for the best interest of the city to prevent property value deterioration and increase the property tax valuation where possible in the business district of the city, to eliminate the causes of that deterioration, and to promote economic growth by establishing a Downtown Development Authority.

(1993 Code, § 31.47) (Ord. 87-1, passed 8-18-1987)

### **§ 31.033 CREATION OF THE AUTHORITY.**

(A) *Purpose.* There is hereby created pursuant to Act 197 a Downtown Development Authority for the city. The Authority shall be a public body corporate and shall be known and exercise its power under the title of the "City Downtown Development Authority."

(B) *Plans.* The Authority shall develop the plans necessary to appropriate which, in the opinion of the City Council, aids in the economic growth of the district. Once the plans are approved by the Commission, the Authority shall implement any plans for the development in the district necessary to achieve the purpose determined by the city through its adoption of these plans and other purposes as provided in Act 197.

(1993 Code, § 31.48) (Ord. 87-1, passed 8-18-1987)

### **§ 31.034 DESCRIPTION OF DOWNTOWN DISTRICT.**

The Downtown District, in which the Authority shall exercise its power as provided by Act 197, shall consist of the following described territory in the city within the boundaries as described as follows subject to any changes as hereafter made pursuant to this subchapter and Act 197:

Beginning at the point of intersection of the S row of Second St. and the W row of Crowley St., then N to the S row of First St., then W to the W row of Reinberg Ave., then N the NE corner of parcel 2, block 1, of the City Assessor's Western Add., then N to the SW corner of parcel 26, block 2, of the City Assessor's Western Add., then E to the SE corner of parcel 23, block 2, of the City Assessor's Western Add., then N to the S row of State St., then W to point 8 of the SE corner of parcel 23, block 4, of the City Assessor's Western Add., then N to the NW corner of parcel 21, block 4, of the City Assessor's Western Add., then E to the SE corner of parcel 18, block 4, of the City Assessor's Western Add., then N to the SW corner of parcel 16, Block 4, of the City Assessor's Western Add., then E to the NE corner of parcel 15, Block 4, of the City Assessor's Western Add., then S to the NE corner of parcel 13, block 4, of the City Assessor's Western Add., then E to the NE corner of parcel 11, Block 4, of the City Assessor's Western Add., then N to the S row of Broadway, then NE to the SE of parcel 9, block 5, of the City Assessor's Western Add., then N to the NE corner of parcel 15, block 5 of the City Assessor's Western Add., then W to the SW corner of parcel 1, block 5, of the City Assessor's Western Add., then N to the NW corner of parcel 1, block 5, of the City Assessor's Western Add., then E to the E row of Main St., then S to the SW corner of parcel 4, block 5, of the Assessor's Replat of Neil's Addition, then E to the SW corner of parcel 7, block 5, of the Assessor's Replat of Neil's Addition, then S to the N row of Broadway, then E to a point N of the NW corner of parcel 9, block 1, of the Assessor's Replat of Neil's Addition, then S to the SE corner of parcel 24, block 1, of the Assessor's Replat of Neil's Addition, then W to the NW corner of parcel 22, block 1, of the Assessor's Replat of Neil's Addition, then S to the N row of State St., then E to the E row of Blaine St., then S to the SW corner of parcel 5, block 13, of the City Assessor's Replat, then E 160 ft., then S to the SW corner of parcel 14, block 14, of the City Assessor's Replat, then E to the W row of Columbia Ave., then S to the c.l. of the CSX row, then W to a point N of the NW corner of parcel 6, block 15, of the City Assessor's Replat, then S to the SW corner of parcel 6, block 15, of the City Assessor's Replat, then S to the SW corner of parcel 6, block 18, of the City Assessor's Replat, then W to the point of beginning.

(1993 Code, § 31.49) (Ord. 87-1, passed 8-18-1987)

### **§ 31.035 ESTABLISHMENT OF A GOVERNING BOARD.**

(A) The Authority shall be under the supervision and control of a Board, consisting of the Mayor of the city or his or her designated representative from the City Commission and eight members appointed by the Mayor subject to the approval of the City Commission. At least a majority of the Board's members shall be having an interest in property located within the Downtown District. At least one member shall be a resident of the Downtown District, provided the district is found to have 100 or more persons residing therein.

(B) Members of the Board shall serve for a term of four years.

(C) The Chairperson of the Board shall be elected by the Board.

(D) The Board members shall receive no compensation for their services on the Authority, but they may be reimbursed for necessary and actual expenses.

(1993 Code, § 31.50) (Ord. 87-1, passed 8-18-1987)

### **§ 31.036 BOARD RULES AND MEETINGS.**

The Board shall adopt rules governing its procedures and the holding of regular and special meetings, subject to the approval of the City Commission. All meetings shall be open to the public.

(1993 Code, § 31.51) (Ord. 87-1, passed 8-18-1987)

### **§ 31.037 DIRECTOR; BOND.**

If a director is employed as authorized in Public Act 197, § 5, being M.C.L.A. § 125.1655, he or she shall post bond in the penal sum of \$5,000 as required in that section of Act 197.

(1993 Code, § 31.52) (Ord. 87-1, passed 8-18-1987)

### **§ 31.038 FISCAL YEAR; ADOPTION OF BUDGET.**

(A) The fiscal year of the Authority shall begin on July 1 of each year and end on June 30 of the following year, or any other

fiscal year as hereafter be adopted by the city.

(B) The Board shall annually prepare a budget and submit it to the City Commission on the same date that the proposed budget for the city is required to be submitted to the Commission. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the City Commission. The Board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.

(C) The Authority shall submit financial reports to the City Commission as requested by the Commission. The Authority shall be audited annually by the same independent auditor auditing the city and copies of the audit report shall be filed with the Commission.

(1993 Code, § 31.53) (Ord. 87-1, passed 8-18-1987)

#### **§ 31.039 DEVELOPMENT OF CITIZENS' DISTRICT COUNCIL; DUTIES.**

(A) If a proposed Development District has 100 or more residents, a Citizens' District Council shall be established at least 90 days before the public hearing on the Development or Tax Increment Plan. The Citizens' Council shall be established by the City Commission and shall consist of not less than nine members. The members of the Citizens' Council shall be residents of the Development District and shall be appointed by the Mayor and confirmed by the Commission. A member of the Citizen's Council shall be at least 18 years of age.

(B) A Citizens' District Council established pursuant to Act 197 shall act as an advisory body to the Authority and the City Commission in the adoption of the Development and Tax Increment Financing Plans (see § 33.40).

(1993 Code, § 31.54) (Ord. 87-1, passed 8-18-1987)

#### **§ 31.040 FINANCING OF AUTHORITY.**

The activities of the Authority may be financed from one or more of any of the sources as set forth in Public Act 197, § 11, being M.C.L.A. § 125.1661.

(1993 Code, § 31.55) (Ord. 87-1, passed 8-18-1987)

#### **§ 31.041 TERMINATION OF AUTHORITY.**

An Authority which has completed the purposes for which it was organized shall be dissolved by ordinance of the City Commission. The property and assets remaining after its termination shall belong to the city.

(1993 Code, § 31.56) (Ord. 87-1, passed 8-18-1987)

### **PLANNING COMMISSION**

#### **§ 31.055 PLANNING COMMISSION CONTINUED.**

The Planning Commission of the city is continued and shall have the powers and duties hereinafter set forth, the Commission being created pursuant to Public Act 33 of 2008, as amended, being M.C.L.A. §§ 125.3801 *et seq.*

(1993 Code, § 31.65)

#### **Cross-reference:**

*Subdivision Regulations, see Ch. 152*

*Zoning, see Ch. 153*

#### **§ 31.056 PURPOSE.**

The City Planning Commission is charged with the responsibility of monitoring and fostering the future growth of the city.

(1993 Code, § 31.66)

#### **§ 31.057 MEMBERSHIP.**

The Planning Commission for the city shall consist of seven members, to include the following:

(A) The Mayor shall be an ex officio member with the right to vote; and

(B) Six other members, citizens of the city, appointed by the Mayor on the basis of their particular fitness for their duty on the Planning Commission, and subject to the approval of the City Commission.

(1993 Code, § 31.67)

#### **§ 31.058 TERM OF OFFICE.**

The Mayor shall serve for the term of his or her elective office. Of the six appointed citizen members first appointed, two shall serve for a period of one year, two for a period of two years, and two for a period of three years. Thereafter, these appointed citizen members shall serve for a period of three years. Vacancies shall be filled by appointments for unexpired terms only. All members of the Commission shall serve without compensation, except that, if the City Commission deems it advisable, the Secretary of the Planning Commission may receive compensation as may be fixed from time to time by the City Commission.

(1993 Code, § 31.68)

#### **§ 31.059 PROCEDURE.**

Within ten days following their appointment, the members of the Planning Commission shall meet, organize, and elect any officers as it may deem necessary. The Planning Commission may adopt and later change or alter any rules and regulations or organization and procedure consistent with this code, the City Charter, and state laws. The Commission shall keep written minutes of its proceedings, which shall be open at all times to public inspection. The Commission shall also file an annual report with the Mayor and the City Commission, setting forth its transaction and recommendations.

(1993 Code, § 31.69)

#### **§ 31.060 POWER AND DUTIES.**

The Planning Commission shall have the following powers and duties:

(A) (1) To prepare and recommend to the City Commission a comprehensive plan of public improvements, looking to the present and future development and growth of the city. Such a plan, after its adoption by the City Commission, will be known as the "City Master Plan."

(2) The Master Plan shall include reasonable requirements in reference to streets, alleys, and public grounds within the corporate limits and the contiguous territory outside of and distant not more than one and one-half miles from the city limits.

(B) To prepare and recommend to the City Commission, from time to time, any changes in the Master Plan or any part thereof as may be deemed necessary by the City Commission or by the Planning Commission;

(C) To give aid to the city officials charged with the direction of projects for improvements embraced within the official plan, to further the making of the improvements, and generally to promote the realization of the official Master Plan;

(D) To arrange and conduct any form of publicity relative to its activities for the general purpose of public understanding;

(E) To cooperate with municipal, county, or regional planning commissions and other agencies or groups to further the local planning program, and to assure harmonious and integrated planning for the area;

(F) To ensure the orderly administration of the subdivision regulations in Chapter 152; and

(G) To exercise any other powers germane to the powers granted by statute.

(1993 Code, § 31.70)

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

*Duties of the Planning Commission, pertaining to the administration of the zoning regulations, are described in Chapter 153.*

#### **§ 31.061 LAND SUBDIVISION OR RESUBDIVISION.**

Following the adoption of an official Master Plan in the manner prescribed herein, no map or plat of any subdivision presented for record, affecting land within the corporate limits of the city, shall be entitled to record or shall be valid unless the subdivision thereon shall be in full and complete compliance with Chapter 152 and the Master Plan.

(1993 Code, § 31.71)

#### **§ 31.062 MEETINGS.**

The Planning Commission shall meet at least quarterly but may meet at any time upon request of the City Manager to consider recently submitted tentative preliminary plat petitions.

(1993 Code, § 31.72)

#### **§ 31.063 QUORUM.**

The presence of four members shall constitute a quorum at any given official meeting and the concurring vote of a majority of those present shall be necessary to decide in favor of or against any action on any pending matters before the Planning Commission.

(1993 Code, § 31.73)

#### **§ 31.064 EXPENDITURES.**

The Planning Commission may, at the discretion of the City Commission, employ professional or administrative help whose salaries, wages, compensation, and other necessary expenses shall be provided for by adequate appropriation made by the City Commission from public funds. If the Planning Commission shall deem it advisable to secure technical advice or services, it may be done only upon authority from the City Commission and appropriations by the City Commission.

(1993 Code, § 31.74)

Section

**Police Department**

- 32.01 Minimum standards adopted
- 32.02 Department rules
- 32.03 Acting Chief

**Department of Fire**

- 32.15 Department of Fire
- 32.16 Department rules
- 32.17 Department equipment
- 32.18 Enforcement of fire laws
- 32.19 Members, compensation

**POLICE DEPARTMENT**

**§ 32.01 MINIMUM STANDARDS ADOPTED.**

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

- (A) The applicant shall be a citizen of the United States;
- (B) The applicant shall be the minimum age of 21 years;
- (C) The applicant shall have undergone graduation from high school or equivalent. **EQUIVALENT** is defined as having attained a passing score on the general education development (GED) test indicating high school graduation level;
- (D) Fingerprinting of applicants with a search of local, state, and national fingerprint files to disclose any criminal record;
- (E) The applicant shall not have been convicted of a felony offense;
- (F) The applicant shall be of good moral character as determined by a favorable report following a comprehensive background investigation covering school and employment records, home environment, personal traits, and integrity. Consideration will be given to any and all law violations, including traffic and conservation law convictions, as indicating a lack of good character;
- (G) The applicant shall be of acceptable physical, emotional, and mental fitness as established by a licensed physician following examination to determine the applicant is free from any physical, emotional, or mental condition which might adversely affect his or her performance of duty as a police officer;
- (H) The trainee shall possess normal hearing and normal color vision. He or she shall be free from any impediments of the senses. He or she must possess normal visual functions and visual acuity in each eye correctable to 20/20. The trainee must be physically sound; well developed physically, with height and weight in relation to each other and to age as indicated by accepted medical standards and in possession of his or her extremities. He or she shall be free from any physical defects, chronic diseases, organic or functional conditions, or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or himself or herself if he or she lacks these qualifications;
- (I) A declaration of the applicant's medical history shall become a part of the background investigation. The information shall be available to the examining physician;
- (J) An oral review shall be held by the hiring authority or his or her representative, to determine the applicant's acceptability for a police officer position and to assess appearance, background, and ability to communicate; and
- (K) Recruitment and employment practices and standards shall be in compliance with existing state statutes governing this activity.

(1993 Code, § 32.01)

**§ 32.02 DEPARTMENT RULES.**

The Chief of Police may prescribe rules for the government of police officers of the city, subject to approval by the City Manager, which shall be entered in a book of Police Department Rules and Orders and may be amended or revoked by the Police Chief upon written notice to the City Manager. It shall be the duty of all members of the police force to comply with the rules and orders while effective.

(1993 Code, § 32.02)

**§ 32.03 ACTING CHIEF.**

In case of the absence from the city of the Police Chief, or his or her disability, or inability from any cause to act as Police Chief, the City Manager shall designate and appoint some other member of the Police Department to act as Chief during the absence or disability.

(1993 Code, § 32.03)

## DEPARTMENT OF FIRE

### § 32.15 DEPARTMENT OF FIRE.

The Department of Fire shall be headed by the Fire Chief, who shall be charged with the prevention and extinguishment of fires, the protection of life and property against fire, the removal of fire hazards, the performance of other public services of an emergency nature assigned to it, and the conducting of an educational fire prevention program.

(1993 Code, § 32.15)

#### **Cross-reference:**

*Fire Prevention, see Ch. 92*

### § 32.16 DEPARTMENT RULES.

The Fire Chief shall adopt rules and regulations for the government of the Department, subject to the approval of the City Manager, which shall be entered in a book of Fire Department Rules and which may be changed and repealed by the Fire Chief upon notice to and approval by the City Manager. These rules and regulations shall designate the chain of command for the Department so that in the absence or disability of the Chief, the responsibility for the operation of the Department shall immediately and automatically be vested in the next ranking officer or member of the Department present.

(1993 Code, § 32.16)

### § 32.17 DEPARTMENT EQUIPMENT.

The Fire Chief shall be responsible for the maintenance and care of all property and equipment used by the Fire Department.

(1993 Code, § 32.17)

### § 32.18 ENFORCEMENT OF FIRE LAWS.

It shall be the duty of the Fire Chief to enforce all state laws and provisions of this code governing the following:

- (A) The prevention of fires;
- (B) The storage and use of explosives and flammables;
- (C) The maintenance of fire alarm systems, both automatic and private, and all fire extinguishing equipment;
- (D) The maintenance and use of fire escapes;
- (E) The maintenance of fire protection and the elimination of fire hazards in all buildings and structures; and
- (F) The maintenance and adequacy of fire exits from factories, schools, hotels, asylums, hospitals, churches, halls, theaters, and all other places in which numbers of persons work or congregate for any purpose.

(1993 Code, § 32.18)

### § 32.19 MEMBERS, COMPENSATION.

The City Fire Department shall consist of a Fire Chief and any officers, firefighters, and substitutes as shall be determined by the City Manager and City Commission. The City Manager and City Commission shall fix and determine the compensation to be paid to the Chief, the officers, firefighters, and substitutes from time to time.

(1993 Code, § 32.19)

## CHAPTER 33: TAXATION AND FINANCE

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Section

### *Special Assessments*

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- 33.02 Authority to assess
- 33.03 Petition for improvement
- 33.04 Report by Manager
- 33.05 Notice of hearing
- 33.06 Hearing on necessity
- 33.07 Commission determination
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- 33.09 Assessor's certificate
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- 33.25 Assessment to precede construction

***Downtown Development Plan and Tax Increment Financing Plan***

- 33.40 Downtown Development Plan and Tax Increment Financing Plan; established

**SPECIAL ASSESSMENTS**

**§ 33.01 DEFINITIONS.**

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

**CITY MANAGER.** The City Manager of the city.

**COST.** When referring to the cost of any improvement, shall include the cost of surveys, plans, land, rights-of-way, spreading of rolls, notices, advertising, financing, and construction and all other cost incident to the making of the improvement, 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 benefited thereby, in proportion to the benefit to be derived therefrom.

(1993 Code, § 33.15)

**§ 33.02 AUTHORITY TO ASSESS.**

The Commission shall have power to determine by resolution that the whole or any part of the cost or expense of any improvement shall be defrayed by special assessments upon the property especially benefited, in proportion to the benefits derived or to be derived.

(1993 Code, § 33.16)

**§ 33.03 PETITION FOR IMPROVEMENT.**

The Commission, in order to ascertain whether or not a reasonable number of property owners to be assessed desire any particular improvements to be made, may request and receive a petition therefor, or may receive such a petition voluntarily presented; but in either event, the petition shall be advisory only and shall not be jurisdictional.

(1993 Code, § 33.17)

**§ 33.04 REPORT BY MANAGER.**

Before determining to make any improvement, any part of the cost of which is to be defrayed by special assessment, the Commission shall require the City Manager to ascertain the assessment 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 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 installments in which assessments may be paid and the lands which should be included in the special assessment district.

(1993 Code, § 33.18)

### **§ 33.05 NOTICE OF HEARING.**

After the filing, a public hearing shall be held before the Commission, which hearing shall be held not less than ten days after notice of the time and place thereof has been published and sent by the Clerk by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city.

(1993 Code, § 33.19)

### **§ 33.06 HEARING ON NECESSITY.**

At the time and place specified in the notice for public hearing, the Commission 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 Commission.

(1993 Code, § 33.20)

### **§ 33.07 COMMISSION DETERMINATION.**

After the public hearing, the Commission 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 benefited in proportion to the benefits derived or to be derived. By this resolution the Commission shall approve the plans and specifications for the improvement; determine the estimated cost therefor; determine what proportion of the cost shall be paid by special assessment upon the property especially benefited 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 assessment shall be levied; and direct the Assessor to prepare a special assessment roll in accordance with the Commission's determination.

(1993 Code, § 33.21)

### **§ 33.08 PREPARATION 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 Commission, and shall assess to each 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 the lot or parcel of land bears to the total benefits to all lands in the district. There shall also be entered upon the roll the amount which has been assessed to the city at large.

(1993 Code, § 33.22)

### **§ 33.09 ASSESSOR'S CERTIFICATE.**

When the Assessor shall have completed the 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 Commission (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 the resolution, and to the City Charter and the provisions of this chapter. Thereupon he or she shall file the special assessment roll with the Clerk who shall present the same to the Commission.

(1993 Code, § 33.23)

### **§ 33.10 NOTICE OF HEARING.**

Upon receipt of the special assessment roll, the Commission shall order it filed in the office of the Clerk for public examination; shall fix the time and place when it will meet and review the roll, which meeting shall be held not less than ten days after notice thereof has been sent by the Clerk, by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city. The notice shall specify the time and place of the meeting. The Commission may, in its discretion, publish notice of the meeting not less than ten days prior to date of the meeting.

(1993 Code, § 33.24)

### **§ 33.11 HEARING ON ROLL.**

Any person deeming himself or herself aggrieved by the special assessment roll may file his or her objections thereto in writing with the Clerk prior to the close of the hearing, which written objections shall specify in what respect he or she deems himself or herself aggrieved.

(1993 Code, § 33.25)

### **§ 33.12 CONFIRMATION OF ROLL.**

(A) *Review.* The Commission shall meet and review the special assessment roll at the time and place appointed, or at any adjourned date therefor, and shall consider any written objections thereto. The Commission 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 Commission's minutes. After the hearing and review the Commission may confirm the special assessment roll with such corrections as it may have made, if any; may refer it back to the Assessor for revision; or may annul it and any proceedings in connection therewith. No original special assessment roll shall be finally confirmed except by the affirmative vote of five of the members of the Commission if, prior to the confirmation, written objections to the proposed improvement have been filed by the owners of property which will be required to bear more than 50% of the amount of the special assessment. The Clerk shall endorse the date of confirmation upon each special assessment roll.

(B) *Roll final on confirmation.* The roll shall, upon confirmation, be final and conclusive.

(1993 Code, § 33.26)

### **§ 33.13 LIEN ESTABLISHED; WHEN PAYMENT DUE.**

All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall, from the date of confirmation of the 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 City Charter taxes and shall include accrued interest and penalties. No judgment or decree, nor any act of the Commission vacating a special assessment, shall destroy or impair the lien of the city upon the premises assessed for the 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. All special assessments shall become due upon confirmation of the special assessment roll or in annual installments, not to exceed ten in number, as the Commission may determine at the time of confirmation and, if in annual installments, the Commission shall determine the first installment to be due upon confirmation or on the following July 1, and subsequent installments on July 1 of succeeding years.

(1993 Code, § 33.27)

### **§ 33.14 COLLECTION BY TREASURER.**

The assessment roll shall be transmitted by the Clerk to the Treasurer for collection immediately after its confirmation. The Treasurer shall give notice by one publication in a newspaper which shall meet the requirements of the City Charter concerning the publication 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 may 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 the statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.

(1993 Code, § 33.28)

### **§ 33.15 EARLY PAYMENT; DIVISION INTO INSTALLMENTS.**

The whole or any part of any assessment may be paid during the period of 60 days from the date of confirmation of the special assessment roll without interest or penalty. Not later than 15 days after the end of the 60-day period, the Treasurer shall transmit the roll to the Assessor with all payments upon assessments noted thereon. The Assessor shall then divide any remaining balance of each assessment into a number of equal installments as shall have been fixed by the Commission; provided, that if the 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.

(1993 Code, § 33.29)

### **§ 33.16 SPREADING ON TAX ROLL.**

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 the date of the confirmation of the roll to July 1 of the year in which the tax roll is made; provided, that any fraction of a month shall be considered as a full month. 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 installments shall have been prepaid as hereinafter provided, then there shall be spread upon the tax roll for the year only the interest upon all unpaid installments.

(1993 Code, § 33.30)

### **§ 33.17 COLLECTION FROM TAX ROLL.**

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 Charter for the collection of taxes. On the first day of the third month following due date, the Treasurer shall add to all assessments or installments paid on the first day of the third month and thereafter a collection fee of 4% of the amount of the assessment, and on the first day of each succeeding month he or she shall add an additional 0.5% as a collection fee. All collection fees shall belong to the city and be collectible in the same manner as the collection fee on city taxes.

(1993 Code, § 33.31)

### **§ 33.18 PAYMENT OF FUTURE INSTALLMENTS.**

After the expiration of the 60-day period provided for in §33.10, any installment which has not been spread upon the tax rolls may be discharged by paying the face amount thereof plus interest thereon to date of payment. Any person desiring to pay the 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 the information before spreading installments on the next city tax roll.

(1993 Code, § 33.32)

### **§ 33.19 REPORT ACTUAL COST.**

Upon completion of the improvement and the payment of the cost thereof, the City Manager shall certify to the Commission the

total cost of the improvement, together with the amount of the original roll for the improvement.

(1993 Code, § 33.33)

#### **§ 33.20 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 are made, then the Commission 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, provided that the additional pro rata assessment shall not exceed 25% of the assessment as originally confirmed, unless a meeting of the Commission be held to review the additional assessment, for which meeting notices shall be mailed as provided in the case of review of the original special assessment rolls.

(1993 Code, § 33.34)

#### **§ 33.21 REFUNDS.**

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 the excess is 3% or less of the assessment, but should the assessment prove larger than necessary by more than 3%, 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 the installments then exist, and the balance of the 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 the special assessment.

(1993 Code, § 33.35)

#### **§ 33.22 EFFECT OF INVALIDITY.**

Whenever any special assessment shall, in the opinion of the Commission, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge the assessment to be illegal, the Commission 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 the reassessment and for the collection thereof shall be conducted in the same manner as provided for in 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.

(1993 Code, § 33.36)

#### **§ 33.23 COLLECTION BY SUIT.**

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 the defendant or upon the premises.

(1993 Code, § 33.37)

#### **§ 33.24 SIZE OF DISTRICT.**

No special assessment district shall be created by the Commission for any one public improvement which includes property having an area in excess of 25% of the total area of the city. No public improvement project shall be divided geographically for the purpose of circumventing this provision.

(1993 Code, § 33.38)

#### **§ 33.25 ASSESSMENT TO PRECEDE CONSTRUCTION.**

No public improvement is to be financed in whole or in part by special assessment roll for the improvement.

(1993 Code, § 33.39)

### **DOWNTOWN DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN**

#### **§ 33.40 DOWNTOWN DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN; ESTABLISHED.**

(A) The city determines that the Downtown Development Plan and Tax Increment Financing Plan are necessary to make public improvements which will facilitate increased property tax valuation in the business district. It is determined that these public improvements constitute a public purpose which is in the best interest of the citizens of the city.

(B) The city hereby establishes the Tax Increment Financing Plan approved on April 18, 1988 by the City Council. The city affirms that this plan is in conformance with Public Act 197 of 1975, being M.C.L.A. §§ 125.1651 through 125.1657 and 125.1659 through 125.1680, and the Master Plan of the city.

(C) All amendments to the Tax Increment Financing Plan must be submitted by the Downtown Development Authority to the

City Commission for approval.

(D) Termination of this plan may be by repealing the ordinance upon which this section is based.

(1993 Code, § 33.45) (Ord. 88-2, passed 4-18-1988)

**Cross-reference:**

*Specific instances; plans adopted, see TSO II*

## TITLE V: PUBLIC WORKS

Chapter

50. REFUSE

51. WATER

52. WATER AND SEWER RATES

53. SEWER SYSTEM

54. SEWER USE REGULATIONS

### CHAPTER 50: REFUSE

Section

- 50.01 Definitions
- 50.02 Accumulation of solid waste
- 50.03 Unauthorized dumping and littering
- 50.04 Prohibited wastes
- 50.05 Anti-scavenging provisions
- 50.06 Precollection requirements — residential
- 50.07 Precollection requirements — commercial
- 50.08 Precollection requirements — other
- 50.09 City refuse bag and tag specifications
- 50.10 City compost refuse bag specifications
- 50.11 Commercial refuse container specifications
- 50.12 Authority, costs, notice to remove refuse
- 50.13 Material collection licenses
- 50.14 Collection service
- 50.15 Rules and regulations
  
- 50.99 Penalty

**Cross-reference:**

*For provisions on fire prevention and burning, see Ch. 92*

**§ 50.01 DEFINITIONS.**

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

**CITY COMPOST BAG.** A bag sold or designated for sale by the city as a suitable container for compost refuse.

**CITY-DESIGNATED DISPOSAL FACILITY.** A facility which the city has identified from time to time as an approved location for the disposal of refuse, leaves, yard waste, and/or recyclable materials.

**CITY REFUSE BAG.** A bag sold by the city as a suitable container for the purposes of residential refuse collection.

**CITY REFUSE TAG.** A tag sold by the city which may be attached to acceptable special refuse or compost for the purposes of collection.

**COMMERCIAL REFUSE.** Solid waste collected in commercial refuse collection that requires containers or receptacles.

**COMMERCIAL REFUSE COLLECTION.** Refuse pickup from all commercial, buildings, institutional, condominium development, and multi-unit residential establishments which regularly generate in excess of one cubic yard of solid waste per week.

**COMPOST REFUSE.** Grass clippings, weeds, leaves, hedge clippings, garden wastes, and twigs and brush no longer than four feet in length.

**CONTAINERS or RECEPTACLES, COMMERCIAL.** For the purposes of commercial refuse collection, **CONTAINERS** and **RECEPTACLES** shall mean durable, watertight metal containers or dumpsters with tight-fitting covers meeting National Solid Waste Management Association, American Standards Institute, and Consumer Products Safety Commission requirements as applicable to design, application, and safety.

**DEMOLITION or CONSTRUCTION DEBRIS.** Refuse that is incidental to construction, renovation, or demolition of buildings, other structures, or appurtenances on a premises.

**DESIGNATED COLLECTOR.** A licensed collector who has been awarded a contract within the city to collect refuse, leaves, yard waste, and/or recyclable materials.

**LICENSED COLLECTOR.** A collection agent who has received a material collection license from the city.

**RECYCLABLE MATERIAL.** These materials may include but are not limited to newspaper, corrugated cardboard, magazines, computer print-out paper, office paper, glass containers, plastics, tin cans, ferrous metal, and aluminum containers or articles separated for the express purpose of preparation for the delivery to a secondary market or other use.

**REFUSE.** Putrescible and vegetable waste resulting from handling, preparation, cooking, and consumption of food; normal waste material resulting from household or living conditions; it shall not include refuse from industrial plants or compost material; nor shall it include human body waste or any material that has been identified by state or federal regulation to be unsuitable for disposal in a Type II sanitary landfill.

**RESIDENTIAL REFUSE.** Solid waste collected in residential refuse collection.

**RESIDENTIAL REFUSE COLLECTION.** Weekly refuse pickup from residential buildings with no more than two dwelling units and from small commercial establishments which regularly generate less than one cubic yard of solid waste per week.

**SPECIAL REFUSE.** White goods, furniture, household appliances, and other bulky refuse items, with the exception of construction and demolition debris, that are unsuitable for regular refuse collection services.

**TYPE II SANITARY LANDFILL.** As defined in Public Act 641, being M.C.L.A. §§ 324.11501 *et seq.* (1993 Code, § 50.01) (Ord. 90-4, passed 8-20-1990)

## **§ 50.02 ACCUMULATION OF SOLID WASTE.**

(A) No commercial or residential refuse producer shall be allowed to accumulate refuse upon residential or commercial premises for a period in excess of six days, provided all refuse is stored in containers as defined in § 50.01.

(B) No residential refuse shall be permitted to accumulate in any alley or street right-of-way for a period of more than one day.

(C) Compost refuse may be stored for composting purposes in a manner which will not harbor rodents or become a public nuisance.

(1993 Code, § 50.02) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

## **§ 50.03 UNAUTHORIZED DUMPING AND LITTERING.**

No person shall throw or deposit any type of refuse upon or into any street right-of-way, alley, container, or other property on any premises, public or private, without the permission of the owner, proprietor, occupant, or agent in charge of that premises.

(1993 Code, § 50.03) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

## **§ 50.04 PROHIBITED WASTES.**

(A) No person shall place in any container or receptacle any material that might endanger the collection personnel or which would be detrimental to the normal operation of collection or incineration, for example gaseous, solid, or liquid poisons, dead animals, ammunition, explosives, concrete, dirt, appliances, furniture, auto or equipment parts, or any material that possesses heat sufficient to ignite any other collected materials.

(B) No person shall be permitted to place compost refuse in a refuse bag for the purposes of refuse collection, removal, or disposal.

(1993 Code, § 50.04) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

## **§ 50.05 ANTI-SCAVENGING PROVISIONS.**

No person shall take, collect, or transport any refuse, compost refuse, special refuse, or recyclable material from any street right-of-way, alley, or refuse dumpster of this city without a material collection license issued by the city authorizing the activity.

(1993 Code, § 50.05) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

#### **§ 50.06 PRECOLLECTION REQUIREMENTS — RESIDENTIAL.**

(A) For purposes of collection, those eligible for the city's residential refuse collection services must place all accumulated refuse in a city refuse bag or attach a refuse tag to special refuse or compost. Residential refuse not put in a prepaid city refuse bag or affixed with a city refuse tag shall not be picked up.

(B) The gross weight of city refuse bags, containers with city refuse tags, or city yard waste bags placed for collection shall not exceed 50 pounds.

(C) Compost refuse shall not be picked up unless it is bagged or bundled (with city-approved bags or tags), in a manner that will allow for easy handling.

(1993 Code, § 50.06) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

#### **§ 50.07 PRECOLLECTION REQUIREMENTS — COMMERCIAL.**

(A) Commercial establishments shall be responsible for securing an approved method of refuse collection and disposal. Approved methods shall be limited to:

- (1) Arrangements with a licensed contractor; or
- (2) Transport of an establishment's own wastes to a city-designated disposal facility.

(B) Commercial establishments shall be responsible for securing an approved method of yard waste collection and disposal. Approved methods shall be limited to:

- (1) Arrangements with a licensed contractor;
- (2) On-site composting of the materials in accordance with §50.02(C); or
- (3) Transport of an establishment's own material to a city-designated disposal facility.

(1993 Code, § 50.07) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

#### **§ 50.08 PRECOLLECTION REQUIREMENTS — OTHER.**

(A) All construction debris and demolition debris must be removed using an approved method. Approved methods shall be limited to:

- (1) Arrangements with a licensed contractor; and
- (2) Transport of an individual's or establishment's own material to a city-designated disposal facility.

(B) All special refuse must be removed using an approved method. Approved methods shall be limited to:

- (1) Arrangements with the licensed and contracted city refuse hauler, provided appropriate refuse tags are affixed;
- (2) Arrangements with a licensed contractor or refuse hauler; and
- (3) Transport of an individual's or establishment's own material to a city-designated disposal facility.

(1993 Code, § 50.08) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

#### **§ 50.09 CITY REFUSE BAG AND TAG SPECIFICATIONS.**

(A) City refuse bags shall be of a distinctive color or material and printed with the city seal or other appropriate words which indicate to the refuse collector that the refuse bags are intended for residential refuse collection service.

(B) City refuse tags shall be of a distinctive color and printed with the city seal or other appropriate words which indicate to refuse collectors that when the tag is affixed to compost or special refuse, it is intended for residential collection.

(C) Specifications for city refuse bags and tags and their use, and any future changes to those specifications shall be developed in accordance with § 50.15. These specifications shall include but shall not be limited to the materials used and the content of printed information.

(D) City refuse bags and tags shall be sold at a price determined by resolution of the City Commission.

(E) The city or its authorized representative may sell city refuse bags and tags to individuals and/or to retail sales establishments. Participating sales establishments shall sell city refuse bags and tags for not more than the maximum price specified by the City Commission. However, the appropriate sales tax may be charged by the retail establishment if so required by state or federal law.

(1993 Code, § 50.09) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

#### **§ 50.10 CITY COMPOST REFUSE BAG SPECIFICATIONS.**

(A) City compost refuse bags shall be of a distinctive color material and printed with the city seal or other appropriate words which indicate to yard waste collectors that the bags are intended for residential yard waste collection service.

(B) Specifications for city compost refuse bags and their use and any future changes to those specifications shall be developed in accordance with § 50.15. Those specifications shall include but shall not be limited to the materials used and the content of printed information.

(C) City compost refuse bags shall be sold at a price determined by resolution of the City Commission.

(D) The city or its authorized representative may sell city compost refuse bags to individuals and/or to retail sales establishments. Participating sales establishments shall sell city compost refuse bags for not more than the maximum price specified by the City Commission. However, the appropriate sales tax may be charged by the retail establishment if so required by state or federal law.

(1993 Code, § 50.10) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

#### **§ 50.11 COMMERCIAL REFUSE CONTAINER SPECIFICATIONS.**

(A) All container units used for commercial refuse collection shall be kept clean and in good repair.

(B) The property owner of each commercial establishment is responsible for maintaining sanitary conditions in and around the refuse container.

(C) The lid and side doors of all commercial refuse collection containers shall be kept closed. No refuse shall be placed beside or on top of a refuse container.

(1993 Code, § 50.11) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

#### **§ 50.12 AUTHORITY, COSTS, NOTICE TO REMOVE REFUSE.**

(A) The City Manager is authorized and empowered to notify, in writing, the owner and/or tenant(s) of any premises to remove refuse found to be not in compliance on the premises (unless the same is on the abutting public right-of-way, in which case no notice is required). The notice shall be by hand delivery or certified mail, addressed to the owner and/or tenant(s) at the last known address.

(B) If refuse is not removed from the premises within six days after the date of mailing the notice, or if the refuse is on abutting public right-of-way, the owner and/or tenant(s) of the premises shall be subject to penalties as set forth in § 50.99. The City Manager is also authorized and empowered to pay for the removal of the refuse or to order the removal by the city.

(C) When the city has effected the removal of the refuse or has paid for its removal, the actual cost thereof, plus accrued interest at a rate of 1% per month from the date of removal, shall be charged to the owner of the premises on the next regular tax bill forwarded to the owner by the city, and the charge shall be due and payable at the time of payment of the tax bill.

(D) When cost of removal is not paid by an owner within 60 days after the removal of the refuse as set forth in divisions (B) and (C) of this section, then the City Manager shall cause to be recorded in the Treasurer's office the date and premises on which removal was done. The recording of the statement shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest until final payment has been made and shall be collected in the manner provided by law for collection of taxes; further, the total amount shall be subject to a delinquent penalty of 1% per month in the event same is not paid in full on or before the date of the tax bill upon which the charge appears becomes delinquent; the sworn statements recorded in accordance with the provisions hereof shall be notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the premises described in the statement that the same is due.

(1993 Code, § 50.12) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

#### **§ 50.13 MATERIAL COLLECTION LICENSES.**

(A) No person or organization shall engage in the business or practice of collecting or disposing of refuse, compost refuse, special refuse, or recyclable material without first obtaining approval of the City Commission.

(B) No material collection license shall be issued except upon application to the City Clerk. At a minimum, the application must include the following information:

(1) A description of the methods and equipment which the applicant proposes to use for collecting refuse, compost refuse, and recyclables in the city;

(2) A description of the type of collection to be provided and the part of the city which it will affect;

(3) A plan for meeting the precollection requirements outlined in §§50.06 through § 50.09;

(4) Proof of liability insurance as required by city policy;

(5) A plan for meeting all collection and disposal requirements outlined in other relevant city, county, state, and federal regulations as appropriate; and

(6) The name and address of the city-designated site or sites to be used to dispose of each material collected.

(C) The City Clerk shall submit all these applications to the City Manager, who may approve the applications of the persons or organizations as deemed to be in the best interest of the city and its inhabitants.

(D) The City Commission may establish by resolution a license fee to be paid by the applicant upon receipt of the material collection license.

(E) Whenever an application made hereunder has been approved by the City Manager, the City Clerk shall, upon payment of any established fee by the applicant, issue a material collection license.

(F) Unless revoked under circumstances hereinafter provided, every material collection license shall expire on the next succeeding January 1 following its issuance.



(G) (1) The city may restrict the number of material collection licenses issued and the scope of service of the licenses, based on:

- (a) The geographic area to be served;
- (b) The population sector to be served (such as residential, commercial);
- (c) The type of material to be collected;
- (d) The points of collection (such as the curb, alley, or other location); and/or
- (e) The schedule of the collections.

(2) A license may only be used for the scope of services expressly stated in the material collection license.

(H) A material collection license issued under this chapter may be revoked if:

- (1) Any part of this chapter is violated; or
- (2) If the terms of the license are violated.

(I) No licensed collector shall dispose of refuse, compost material, and/or recyclable material at sites other than those specified in the terms of the collector's material collection license.

(1993 Code, § 50.14) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

#### **§ 50.14 COLLECTION SERVICE.**

(A) The city may undertake the general collection of garbage and refuse throughout the city, or it may let a contract or contracts to one or more persons for making the collections in whole or in part; in either event, all service charges, rules, and regulations for the collection of garbage and refuse shall be promulgated from time to time by the city.

(B) Except as provided in this section, it shall be unlawful for any person to engage in the business of collecting and disposing of garbage or refuse for hire in the city. However, no provision or stipulation herein contained shall prevent a citizen from disposing of the garbage and refuse from his or her own household or business establishment, provided that the disposal is in accordance with the health, sanitary, and fire regulations of the city.

(C) All vehicles used for the transportation of garbage or refuse shall have watertight bodies so constructed that no leakage can escape. The body of the vehicle shall be kept covered at all times except when being loaded or unloaded.

(D) All garbage and refuse intended for collection shall be deposited at the street curb or alley in receptacles as herein provided, ready for collection on the days designated. Empty receptacles shall be removed from the curb within the 12-hour period following the collection.

(E) It shall be unlawful for any person to place or cause to be placed in any garbage, refuse, or rubbish receptacle any explosive or highly flammable material. All these materials shall be disposed of under the direction of the Chief of the Fire Department or his or her authorized agent.

(1993 Code, § 50.15) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

#### **§ 50.15 RULES AND REGULATIONS.**

The City Manager shall promulgate rules and regulations to carry out the provisions of this chapter.

(1993 Code, § 50.16) (Ord. 90-4, passed 8-20-1990) Penalty, see §50.99

#### **§ 50.99 PENALTY.**

Any person, firm, or corporation violating any of the provisions of this chapter, or rules adopted pursuant thereto, shall be deemed guilty of a misdemeanor, and each person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted, and upon conviction of the violation, the person shall be punished by a fine of up to \$500, or by imprisonment of not more than 90 days, or both. For a first offense under this chapter, the fine shall be not less than \$100, and for second and subsequent offenses the fine shall be not less than \$250.

(1993 Code, § 50.99) (Ord. 90-4, passed 8-20-1990)

## **CHAPTER 51: WATER**

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Section

### ***Water Regulations Generally***

51.01 Definitions

51.02 Service connections

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- 51.04 Regulations
- 51.05 Turning on water service
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- 51.07 Meter location
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Appendix A: Restricted Groundwater Use Map

**WATER REGULATIONS GENERALLY**

**§ 51.01 DEFINITIONS.**

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

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

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

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

**SUPERINTENDENT.** The City Manager or his or her authorized representative.

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

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

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

(1993 Code, § 51.01)

**§ 51.02 SERVICE CONNECTIONS.**

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

(1993 Code, § 51.02)

**§ 51.03 METER INSTALLATION CHARGES.**

Meters will be installed and charges made therefor on the basis of time and material. All meters and water connections shall be the property of the city. Connection fees and meter installation charges shall not be less than the cost of materials, installation, and overhead attributable to the installations.

(1993 Code, § 51.03)

#### **§ 51.04 REGULATIONS.**

The following regulations shall apply in the installation of water connections.

(A) The city shall install that part of the water connection from the water main to and including the curb cock and shutoff box.

(B) The service pipe from the corporation cock on the water main to the buildings shall be the responsibility of the owner. The owner shall keep the stop box visible and in good repair, free from dirt, stones, or other substances.

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

(1993 Code, § 51.04) Penalty, see § 51.99

#### **§ 51.05 TURNING ON WATER SERVICE.**

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

(1993 Code, § 51.05) Penalty, see § 51.99

#### **§ 51.06 WATER METERS.**

All premises using water, except residential premises, shall be metered, except as otherwise provided in this code. No person except a Department employee shall break or injure the seal or change the location of, alter or interfere in any way with the water meter. The Superintendent, with the approval of the City Commission, may authorize service on flat rate charges where it is not practical to install a meter.

(1993 Code, § 51.06) Penalty, see § 51.99

#### **§ 51.07 METER LOCATION.**

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

(1993 Code, § 51.07) Penalty, see § 51.99

#### **§ 51.08 ACCESS TO METERS.**

The Department shall have the right to shut off the supply of water to any premises where the Department is not able to obtain access to the meter. Any qualified employee of the Department shall, at all reasonable hours, have the right to enter the premises where the meters are installed for the purpose of reading, testing, removing, or inspecting same, and no person shall hinder, obstruct, or interfere with the employee in the lawful discharge of his or her duties in relation to the care and maintenance of the water meter.

(1993 Code, § 51.08) Penalty, see § 51.99

#### **§ 51.09 REIMBURSEMENT FOR DAMAGE.**

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

(1993 Code, § 51.09) Penalty, see § 51.99

#### **§ 51.10 METER FAILURE.**

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

(1993 Code, § 51.10)

#### **§ 51.11 INACCURATE METERS.**

A consumer may require that the meter be tested at no charge. If the meter is found to be defective, it shall be repaired or an accurate meter installed and no charge shall be made.

(1993 Code, § 51.11)

**§ 51.12 ACCURACY REQUIRED.**

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

(1993 Code, § 51.12)

**§ 51.13 BILL ADJUSTMENT.**

If a meter has been tested at the request of a consumer and shall have been determined to register "fast," the city shall credit the consumer with a sum equal to the percent "fast" multiplied by the amount of all bills incurred by the consumer within the three months prior to the test, and if a meter so tested is determined to register "slow," the Department may collect from the consumer a sum equal to the percent "slow" multiplied by the amount of all the bills incurred by the consumer for the prior three months. When the Department on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than his or her paying the amount due the city for water used by him or her as above provided, if the meter is found to be "slow."

(1993 Code, § 51.13)

**§ 51.14 INJURY TO FACILITIES.**

No person, except an employee of the city in the performance of his or her duties, shall willfully or carelessly break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the City Water Distribution System.

(1993 Code, § 51.14) Penalty, see § 51.99

**§ 51.15 CROSS-CONNECTIONS.**

(A) The city adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Environmental Quality, being R 325.11401 to R 325.11407 of the Michigan Administrative Code.

(B) The city shall cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the city and as approved by the State Department of Environmental Quality.

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

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

(E) All testable backflow prevention assemblies shall be tested at the time of installation or relocation, and after any repair. Subsequent testing of devices shall be conducted at a time interval specified by the city and in accordance with Michigan Department of Environmental Quality requirements. Only individuals that hold an active ASSE 5110 certification shall perform such testing. Each tester shall also be approved by the city. Individuals performing assembly testing shall certify the results of her or her testing.

(F) 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, such as:

WATER UNSAFE FOR DRINKING
------------------------------

(G) This section does not supersede the state plumbing code or any city plumbing ordinance, but is supplemental to them.

(H) Any person or customer found guilty of violating any of the provisions of this section, or any written order of the city in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100, nor more than \$500 for each violation. Each day upon which a violation of the provisions of this section shall occur shall be deemed a separate and additional violation for the purpose of this section.

(1993 Code, § 51.15) (Ord. 2018-03, passed 11-5-2018) Penalty, see § 51.99

**§ 51.16 PROTECTION OF CITY WELLS AND WATER SYSTEM.**

(A) It shall be unlawful for any person to construct or maintain, or permit to be constructed or maintained, within a radius of 100

feet from any of the municipal water wells within the city from which the city draws its water supplies, any source of possible contamination or pollution of the wells.

(B) It shall be unlawful for any person to do any act, or to allow to be done any act, that may contaminate or pollute or contribute to the contamination or pollution of the water supply wells or water system of the city.

(C) Each day that any such source of pollution is used or maintained shall constitute a separate violation of this code, punishable as prescribed in § 51.99.

(1993 Code, § 51.16) Penalty, see § 51.99

## **GROUNDWATER WELLS; REGULATION AND RESTRICTION**

### **§ 51.30 DEFINITIONS.**

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

**RESTRICTED ZONE.** An area legally described and incorporated within this subchapter.

**WELL.** An opening in the surface of the earth for the purpose of removing water through non-mechanical or mechanical means for any purpose.

(Ord. 09-02, passed 8-17-2009)

### **§ 51.31 WATER WELL RESTRICTED ZONE.**

The herein described area is the restricted zone as defined under this subchapter. A scaled map illustrating the restricted zone, attached to Ordinance 2017-02 as Exhibit A, is codified as Appendix A to this chapter. A legal description of the area is attached to Ordinance 2017-02 as Exhibit B, which is hereby adopted by reference as if set out in full herein.

(Ord. 09-02, passed 8-17-2009; Ord. 2017-02, passed 7-17-2017) Penalty, see §51.99

### **§ 51.32 WELLS AFFECTING CONTAMINATED GROUNDWATER.**

No well may be used or installed at any place in the city if the use of the well will have the effect of causing the migration of contaminated groundwater or a contaminated groundwater plume to previously unimpacted groundwater, or adversely impacting any groundwater treatment system, unless the well is part of an MDEQ or United States Environmental Protection Agency approved groundwater monitoring or remediation system.

(Ord. 09-02, passed 8-17-2009) Penalty, see §51.99

### **§ 51.33 NONCONFORMING WELLS.**

Any existing well, the use of which is prohibited by this subchapter, shall be plugged or abandoned in conformance with all applicable laws, rules, regulations, permit and license requirements, orders, and directives of any governmental entity or agency of competent jurisdiction, or, in the absence of an applicable law, rule, regulation, requirement, order, or directive, in conformance with the protocol developed consistent with the American Standards for Testing and Materials standard #D5299-92.

(Ord. 09-02, passed 8-17-2009) Penalty, see §51.99

### **§ 51.34 EXCEPTIONS.**

(A) *Water service unavailable.* If city water service is unavailable to a premises in the restricted zone, any well on that premises shall annually be tested by the city by a laboratory that is acceptable to and for chemical parameters specified by the State Department of Environmental Quality Water Division (MDEQ). The results of that test shall be submitted to the MDEQ, or the County Health Department for review. If the MDEQ or the County Health Department determines that the well is safe and suitable for use, and proof of that determination is delivered annually to the city, that well may be used. No split or conveyance of property shall be effective to render city water services unavailable.

(B) *Construction of de-watering wells.* Wells in the restricted zone used for construction de-watering are not prohibited by this subchapter, provided that the water generated by that activity is properly handled and disposed in compliance with all applicable laws and regulations. Any exacerbation, caused by the use of wells under this exception, shall be the responsibility of the person operating the de-watering well, as provided in Part 201 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended, being M.C.L.A. §§ 324.11501 *et seq.*

(C) *Groundwater monitoring and remediation wells.* Wells used for groundwater monitoring and/or remediation as part of response activity approved by the State Department of Environmental Quality are not prohibited by this subchapter.

(Ord. 09-02, passed 8-17-2009)

### **§ 51.35 NOTIFICATION OF INTENT TO AMEND OR REPEAL.**

At least 30 days prior to any amendment or repeal in whole or in part of this subchapter, the city shall notify the State Department of Environmental Quality, or its successor agency, of its intent to so act.

(Ord. 09-02, passed 8-17-2009)

### **§ 51.36 EFFECTIVE DATE.**

This subchapter shall be in full force and effect ten days after its publication as provided by law.

(Ord. 09-02, passed 8-17-2009)

**§ 51.99 PENALTY.**

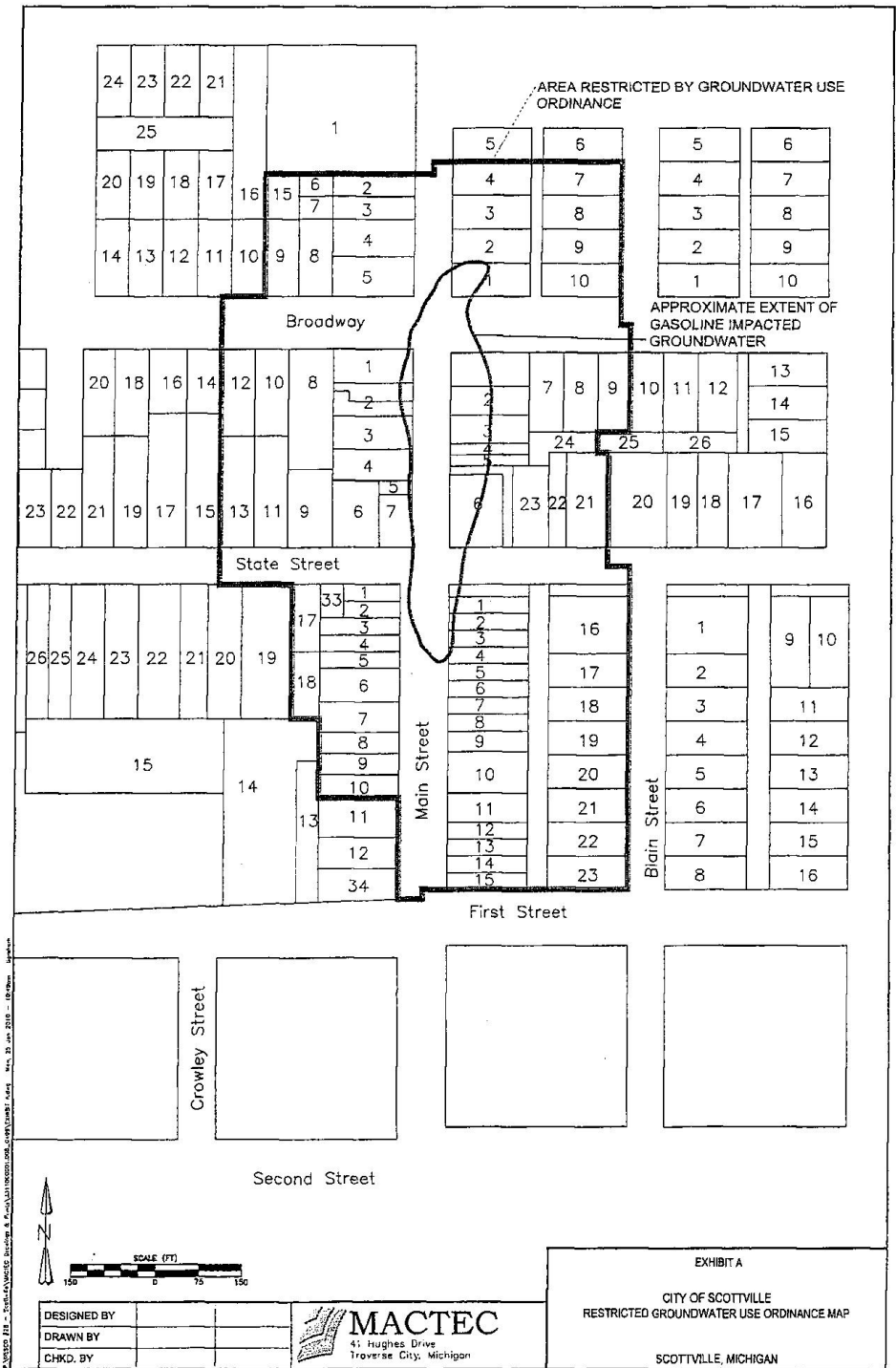
(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99.

(B) (1) Any person or legal entity who shall violate any provision of §§51.30 through 51.36 shall be deemed guilty of a misdemeanor offense punishable by imprisonment for not more than 90 days, by fine of not more than \$500, or both the fine and imprisonment in the discretion of the Court.

(2) In addition, the city may seek an order from a court of appropriate jurisdiction to restrain any person from violating this subchapter, including the collection of costs and attorney fees associated with the enforcement action. Any well in violation of §§ 51.30 through 51.36 shall also be declared and deemed a nuisance, subject to abatement, and shall be immediately taken out of service and lawfully abandoned consistent with all applicable state and local regulations. Any person found to be in violation is subject to being ordered by a court of appropriate jurisdiction to properly and lawfully remove or abandon the well.

(Ord. 09-02, passed 8-17-2009)

**APPENDIX A: RESTRICTED GROUNDWATER USE MAP**



## CHAPTER 52: WATER AND SEWER RATES

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### Section

- 52.01 Definitions
- 52.02 Basis of charges
- 52.03 Service to city
- 52.04 Water rates
- 52.05 Sewer rates
- 52.06 Connection fees
- 52.07 Billing
- 52.08 Collection
- 52.09 Discontinuance of service
- 52.10 Person responsible for payment
- 52.11 Revenue bond ordinances
- 52.12 Effective date

### § 52.01 DEFINITIONS.

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

**DEPARTMENT.** The City Water Department.

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

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

**SUPERINTENDENT.** The City Manager or his or her authorized representative.

(1993 Code, § 53.01) (Ord. 2008-03, passed 4-7-2008)

### § 52.02 BASIS OF CHARGES.

All water service shall be charged for on the basis of water consumed as determined by the meter installed in the premises of water or sewage disposal service customers by the Department. All sewage disposal service shall be charged for on the basis of water consumed. No free water service or sewage disposal service shall be furnished to any person.

(1993 Code, § 53.02) (Ord. 2008-03, passed 4-7-2008)

### § 52.03 SERVICE TO CITY.

The city shall pay for all water and sewer service used by it at the established rates. Charges against the city shall be payable in monthly installments from the current funds of the city or from the proceeds of taxes, which the city, within constitutional limitations, is hereby authorized and required to levy in an amount sufficient for that purpose.

(1993 Code, § 53.03) (Ord. 2008-03, passed 4-7-2008)

### § 52.04 WATER RATES.

(A) The rates to be charged for water service shall be set by the City Commission by resolution.

(B) The City Commission shall by resolution establish meter sizes for users of the city's water supply other than single-family residential users, and no connection to the Water System shall be permitted unless a properly sized water service and meter are installed. Any disputes with respect to application of the meter size schedule may be appealed to the City Commission for final determination.

(C) The City Manager shall have the authority to promulgate rules with respect to the use of and connection with the Water System of the city subject to the approval of the City Commission. The rules shall include but not be limited to inspection of connections, charges for service discontinuance and connection, proration of charges, and notice to be given in the event of delinquent payments.

(1993 Code, § 53.04) (Ord. 2008-03, passed 4-7-2008; Res. 2010-06, passed 1-5-2010)

## **§ 52.05 SEWER RATES.**

Charges for sewage disposal service shall be levied upon all premises having any sewer connection with the public sewers of the city. The rates to be charged for sewage disposal service shall be set by the City Commission by resolution.

(1993 Code, § 53.05) (Ord. 2008-03, passed 4-7-2008; Res. 2010-06, passed 1-5-2010)

## **§ 52.06 CONNECTION FEES.**

The city shall charge a connection fee for premises connecting to the Water System and to the Sewer System in an amount to be set by the City Commission by resolution.

(1993 Code, § 53.06) (Ord. 2008-03, passed 4-7-2008)

## **§ 52.07 BILLING.**

Charges for water service and sewage disposal service shall be billed and collected monthly. All meters shall be read every month, and bills tendered promptly thereafter, which bills shall be immediately due and payable and may be paid without penalty up to and including the tenth day of the month, but if not paid by that date a penalty of 10% will be added.

(1993 Code, § 53.07) (Ord. 2008-03, passed 4-7-2008)

## **§ 52.08 COLLECTION.**

(A) The Department of Water is authorized to enforce the payment of charges for water service to any premises by discontinuing water service to the premises, and the payment of charges for sewage disposal service to any premises may be enforced by discontinuing either the water service or the sewage disposal service to the premises, or both, and an action may be instituted by the city against the customer. The charges for water service and sewage disposal service are made a lien pursuant to statute on the premises to which furnished. The Superintendent of the Water Department shall certify all unpaid charges for the service furnished to any premises which have remained unpaid for a period of 60 days to the City Assessor, who shall place the same on the next tax roll of the city. These charges so assessed shall be collected in the same manner as general city taxes. In cases where the city is properly notified pursuant to statute that a tenant is responsible for water or sewer disposal service charges, no such service shall be commenced or continued on the premises until there has been deposited with the Water Department a sum to be set by the City Commission by resolution. Where the water service to any premises is turned off to enforce the payment of water service charges or sewage disposal service charges, the water service shall not be recommenced until all delinquent charges have been paid and a deposit as in the case of tenants is made, including a water turn-on charge to be set by the City Commission by resolution. In any other case where, in the discretion of the Superintendent, the collection of charges for water or sewage disposal may be difficult or uncertain, the Superintendent may require a similar deposit. The deposits may be applied against any delinquent water or sewage disposal service charges, and the application thereof shall not affect the right of the Water Department to turn off the water service and/or sewer service to any premises for any delinquency thereby satisfied. No deposit shall bear interest and the deposit, or any remaining balance thereof, shall be returned to the customer making the same when he or she shall discontinue receiving water and sewage disposal service.

(B) This section, as amended, is effective April 20, 2010.

(1993 Code, § 53.08) (Ord. 2008-03, passed 4-7-2008; Ord. 2010-02, passed 4-5-2010)

## **§ 52.09 DISCONTINUANCE OF SERVICE.**

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

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

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

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

(B) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified.

(C) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid and any deposit required has been made.

(1993 Code, § 53.09) (Ord. 2008-03, passed 4-7-2008)

## **§ 52.10 PERSON RESPONSIBLE FOR PAYMENT.**

The rates and charges herein established shall be collected from the owner(s) of the premises served or tenants or other users except as otherwise provided in § 52.08.



(1993 Code, § 53.10) (Ord. 2008-03, passed 4-7-2008)

### **§ 52.11 REVENUE BOND ORDINANCES.**

Nothing contained in this chapter shall be deemed to alter or repeal any of the provisions of an ordinance of the city adopted July 7, 1975, being an "Ordinance providing for the issuance of Water Supply System Revenue Bonds," with respect to the obligations of the city and the security of the bondholders thereunder.

(1993 Code, § 53.11) (Ord. 2008-03, passed 4-7-2008)

### **§ 52.12 EFFECTIVE DATE.**

The effective date of this chapter is April 22, 2008.

(Ord. 2008-03, passed 4-7-2008)

## **CHAPTER 53: SEWER SYSTEM**

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### Section

#### ***General Provisions***

- 53.01 Definitions
- 53.02 Water deposits
- 53.03 Water pollution
- 53.04 Privies and septic tanks
- 53.05 Sewer connection required

#### ***Private Sewage Disposal***

- 53.20 Private sewer systems
- 53.21 Discontinuance of system
- 53.22 Maintenance of system
- 53.23 Additional requirements

#### ***Building Sewers and Connections***

- 53.35 Permit required
- 53.36 Permit fee
- 53.37 Installation costs
- 53.38 Plans and specifications
- 53.39 Inspection
- 53.40 Repairs

#### ***Use of Public Sewers***

- 53.55 Unpolluted water
- 53.56 Protection from damage

#### ***Administration and Enforcement***

- 53.70 Inspectors
- 53.71 Violations
  
- 53.99 Penalty

#### ***Cross-reference:***

*Sewer Use Regulations, see Ch. 54*

## **GENERAL PROVISIONS**

### **§ 53.01 DEFINITIONS.**

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

**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 parts per million by weight.

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

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

**CITY ENGINEER**. The City Engineer or his or her authorized representative.

**COMBINATION SEWER** or **COMBINED SEWER**. A sewer receiving both surface runoff and sewage.

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

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

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

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

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

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

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

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

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

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

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

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

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

**SWRC**. The State Water Resources Commission.

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

(1993 Code, § 52.01)

### **§ 53.02 WATER DEPOSITS.**

It shall be unlawful for any person to place or deposit or permit to be deposited in an unsanitary manner upon any public or private property within the city any human or animal excrement, garbage, or other objectionable waste.

(1993 Code, § 52.02) Penalty, see § 53.99

### **§ 53.03 WATER POLLUTION.**

It shall be unlawful to discharge into any natural watercourse or any storm sewer within the city any sanitary sewage, industrial waste, or other polluted waters, except where suitable treatment has been provided in accordance with the standards established by the SWRC.

(1993 Code, § 52.03) Penalty, see § 53.99

### **§ 53.04 PRIVIES AND SEPTIC TANKS.**

Except as hereinafter provided in §§53.20 through 53.23, 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.

(1993 Code, § 52.04) Penalty, see § 53.99

### **§ 53.05 SEWER CONNECTION REQUIRED.**

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting any street, alley, right-of-way, or public utility easement in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is required at his or her own expense to install suitable toilet facilities therein and to connect the facilities directly to the public sewer in accordance with the provisions of this chapter within 90 days after the date of the official notice to do so has been issued by the City Engineer; provided that the public sewer is located within a public easement contiguous to and not further than 200 feet from the houses, buildings, structures, or properties.

(1993 Code, § 52.05) Penalty, see § 53.99

## PRIVATE SEWAGE DISPOSAL

### § 53.20 PRIVATE SEWER SYSTEMS.

Where a public sanitary sewer or combined sewer is not available under the provisions of §53.05, the building sewer shall be connected with a private disposal system complying with the regulations and orders of the SWRC, the city, and the provisions of this code.

(1993 Code, § 52.15) Penalty, see § 53.99

### § 53.21 DISCONTINUANCE OF SYSTEM.

At the time that a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 53.05, a direct connection shall be made to the public sewer in compliance with the provisions of this chapter, and any septic tank, privy, privy vault, cesspool, or similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(1993 Code, § 52.16) Penalty, see § 53.99

### § 53.22 MAINTENANCE OF SYSTEM.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the city.

(1993 Code, § 52.17) Penalty, see § 53.99

### § 53.23 ADDITIONAL REQUIREMENTS.

No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Health Officer or the SWRC with respect to private sewage disposal.

(1993 Code, § 52.18) Penalty, see § 53.99

## BUILDING SEWERS AND CONNECTIONS

### § 53.35 PERMIT REQUIRED.

No unauthorized person shall uncover, make any connections with or open into, use, alter, or disturb any public sewer or any appurtenance thereof without first obtaining a written permit from the City Clerk.

(1993 Code, § 52.25) Penalty, see § 53.99

### § 53.36 PERMIT FEE.

All connections with the sanitary or combined sewers of the city shall be made only on written authorization and permits issued by the city on forms and on payments of any fees as the City Commission shall, from time to time, prescribe by resolution.

(1993 Code, § 52.26) Penalty, see § 53.99

### § 53.37 INSTALLATION COSTS.

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

(1993 Code, § 52.27) Penalty, see § 53.99

### § 53.38 PLANS AND SPECIFICATIONS.

All applicants for sewer connection permits shall first submit plans and specifications of all plumbing construction within the building or premises, and the plans and specifications shall meet the requirements of the Plumbing Code of the city. When the plans and specifications have been approved by the City Engineer, a construction permit shall be issued, subject to final inspection and approval when construction is completed and ready for connection with the city sewer system.

(1993 Code, § 52.28) Penalty, see § 53.99

### § 53.39 INSPECTION.

The applicant for a building sewer permit shall notify the City Engineer when the building sewer is ready for inspection and connection to the public sewer. The Building Inspector shall then inspect the building and plumbing construction therein, and if the construction meets the previous requirements as approved in the construction permit, a sewer connection permit shall be issued, subject to the applicable provisions of other sections of this chapter.

(1993 Code, § 52.29) Penalty, see § 53.99

### § 53.40 REPAIRS.

The cost of all repairs, maintenance, and replacements of existing building sewers and their connection to public sewers shall be borne by the property owner. The owner shall make application to perform the work to the City Engineer.

(1993 Code, § 52.30) Penalty, see § 53.99

## USE OF PUBLIC SEWERS

### § 53.55 UNPOLLUTED WATER.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters into any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged into sewers as are specifically designated as combined or storm sewers, or to a natural outlet approved by the City Engineer and/or the SWRC. Industrial cooling water or unpolluted waters may be discharged, upon approval of the City Engineer, into a storm sewer, combined sewer, or natural outlet.

(1993 Code, § 52.40) Penalty, see § 53.99

### § 53.56 PROTECTION FROM DAMAGE.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage system or treatment plant. Any person violating this section shall be punished as provided in § 53.99.

(1993 Code, § 52.48) Penalty, see § 53.99

## ADMINISTRATION AND ENFORCEMENT

### § 53.70 INSPECTORS.

The City Engineer and other duly authorized officials or employees of the city and agents of the SWRC bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling, and testing, in accordance with the provisions of this chapter at any time during reasonable or usual business hours. Any person guilty of refusing or obstructing that entry shall be guilty of a violation of this code.

(1993 Code, § 52.60) Penalty, see § 53.99

### § 53.71 VIOLATIONS.

(A) *Notice to cease.* Any person found to be violating any provisions of this chapter except §§53.56 and 53.70 shall be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, take any corrective action as may be necessary.

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

(C) *Abatement.* Any continued violation, after due notice as provided in division (A) of this section, shall be deemed a public nuisance and may be abated by the city upon complaint in any court of competent jurisdiction. This remedy shall be in addition to those heretofore provided for.

(1993 Code, § 52.98) Penalty, see § 53.99

### § 53.99 PENALTY.

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

(B) Any person who violates any provision of §§53.56 and 53.70 shall be subject to the penalty provisions of §10.99.

(C) Any person who shall continue any violation beyond the time limit provided for in §53.71(A) shall, upon conviction thereof, be fined not less than \$25 nor more than \$500, or be imprisoned for not more than 90 days, or shall be penalized by both the fine and imprisonment at the discretion of the court. Each day or fraction of a day in which the violation shall continue shall be deemed a separate offense. Any officer, agent, or employee guilty of aiding or abetting the violation or, being responsible therefor, refuses or neglects to take corrective action, shall be guilty as a principal.

(1993 Code, § 52.99)

## CHAPTER 54: SEWER USE REGULATIONS

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**GENERAL PROVISIONS**

**§ 54.01 DEFINITIONS.**

For the purpose of this chapter, 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, 33 U.S.C. §§ 1251 *et seq.*

**APPROVAL AUTHORITY.** The Director of the State Department of Environmental Quality or other duly authorized official of that agency.

**AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER.** A person who may be:

- (1) A principal executive officer of at least the level of vice-president if the industrial user is a corporation;
- (2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or
- (3) A duly authorized representative of the individual designated in division (1) or (2) of this definition if the representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

**BIOCHEMICAL OXYGEN DEMAND (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in terms of weight and concentration (milligrams per liter or mg/l).

**BUILDING SEWER.** A sewer conveying wastewater from the premises of a user to the POTW.

**CATEGORICAL STANDARDS.** National categorical pretreatment standards or pretreatment standards.

**CONTROL AUTHORITY.** The approval authority.

**COOLING WATER.** The water discharged from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

**DIRECT DISCHARGE.** The discharge of treated or untreated wastewater directly to the waters of the state.

**ENVIRONMENTAL PROTECTION AGENCY or EPA.** The United States Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of that agency.

**GRAB SAMPLE.** A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

**HOLDING TANK WASTE.** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

**INDIRECT DISCHARGE.** The discharge or the introduction of nondomestic pollutants from any source regulated under § 307(b) or (c) of the Act (33 U.S.C. § 1317) into the POTW, including holding tank waste discharged into the system.

**INDUSTRIAL USER.** A source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to § 402 of the Act (33 U.S.C. § 1342).

**INTERFERENCE.** The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with § 405 of the Act (33 U.S.C. § 1345), or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA applicable to the method of disposal or use employed by the POTW.

**NATIONAL CATEGORICAL PRETREATMENT STANDARD or PRETREATMENT STANDARD.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

**NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES), NPDES PERMIT or NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT.** A permit issued pursuant to § 402 of the Act (33 U.S.C. § 1342).

**NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD.** Any regulation developed under the authority of § 307(b) of the Act and 40 C.F.R. § 403.5.

**NEW SOURCE.** Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Act, which will be applicable to that source if the standards are thereafter promulgated in accordance with that section.

**PERSON.** Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

**pH.** The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

**POLLUTANT.** Any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

**POLLUTION.** The human-made or human-induced alteration of the chemical, physical, biological, and radiological integrity of water.

**POTW TREATMENT PLANT.** The portion of the POTW designed to provide treatment to wastewater.

**PRETREATMENT or TREATMENT.** The reduction of the amount of pollutants, the elimination 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 these pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes by other means, except as prohibited by 40 C.F.R. § 403.6(d).

**PRETREATMENT REQUIREMENTS.** Any substantive or procedure requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

**PUBLICLY OWNED TREATMENT WORKS (POTW).** A treatment works, as defined by § 212 of the Act (33 U.S.C. § 1292),

which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the **POTW** treatment plant, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, **POTW** also includes any sewers that convey wastewater to the **POTW** from persons outside the city who are, by contract or agreement with the city, users of the city's **POTW**.

**SIGNIFICANT INDUSTRIAL USER.** Any industrial user of the city's wastewater disposal system who:

- (1) Has a discharge flow of 25,000 gallons or more per average workday;
- (2) Has a flow greater than 5% of the flow in the city's wastewater treatment system;
- (3) Has in its wastes toxic pollutants as defined pursuant to § 307 of the Act or state statutes and rules; or
- (4) Is found by the city, the state control agency, or the United States Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

**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, 1972.

**STORMWATER.** Any flow occurring during or following any form of natural precipitation and resulting therefrom.

**SUPERINTENDENT.** The person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his or her duly authorized representative. Until such time as the city shall, by resolution, designate a Superintendent, the DPW foreperson shall be **SUPERINTENDENT** for purposes of this chapter.

**SUSPENDED SOLIDS.** The total suspended matter that floats on the surface of, or is suspended in water, wastewater, or other liquids, and which is removable by laboratory filtering.

**TOXIC POLLUTANT.** Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA § 307(a) or other Acts.

**USER.** Any person who contributes, causes, or permits the contribution of wastewater into the city's POTW.

**WASTEWATER.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any infiltration or inflow which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

**WASTEWATER DISCHARGE PERMIT.** The permit as set forth in §§ 54.40 through 54.48.

**WATERS OF THE STATE.** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(Ord. 02-03, passed 7-15-2002)

## § 54.02 ABBREVIATIONS.

The following abbreviations shall have the designated meanings:

BOD	Biochemical oxygen demand
C.F.R.	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National pollutant discharge elimination system
POTW	Publicly owned treatment works
SIC	Standard industrial classification
SWDA	Solid Waste Disposal Act, 42 U.S.C. §§ 6901 <i>et seq.</i>
U.S.C.	United States Code
TSS	Total suspended solids

(Ord. 02-03, passed 7-15-2002)

## § 54.03 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the general pretreatment regulations (40 C.F.R. pt. 403).

(B) The objectives of this chapter are to:

(1) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) Improve the opportunity to recycle and reclaim wastewater and sludges from the system; and

(4) Provide for equitable distribution of the cost of the municipal wastewater system.

(C) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that an existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(D) This chapter shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city's POTW. Except as otherwise provided herein, the City Manager shall administer, implement, and enforce the provisions of this chapter.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.04 FALSIFYING INFORMATION.**

Any person who knowingly makes any false statements, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished as provided in § 10.99.

(Ord. 02-03, passed 7-15-2002) Penalty, see §54.99

#### **§ 54.05 RECOVERY OF COSTS.**

Any discharger violating any of the provisions of this chapter, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the authority's wastewater disposal system, shall be liable to the authority for any expense, loss, or damage caused by the violation or discharge. If the discharger shall neglect or refuse to pay the assessed costs, the city may commence legal proceedings to recover the costs, together with costs and attorney fees as allowed by law. This action shall be in addition to any other penalties or remedies provided in this chapter.

(Ord. 02-03, passed 7-15-2002) Penalty, see §54.99

#### **§ 54.06 WASTEWATER DISCHARGES.**

It shall be unlawful to discharge any wastewater without a city permit to any natural outlet within the city or in any other area under the jurisdiction of the city or to the POTW except as authorized by the Superintendent in accordance with the provisions of this chapter.

(Ord. 02-03, passed 7-15-2002) Penalty, see §54.99

#### **§ 54.07 FEES.**

(A) It is the purpose of this chapter to provide for the recovery of costs from users of the city's wastewater disposal system for the implementation of the program established in this chapter. The applicable charges or fees shall be set forth in the city's schedule of charges and fees. The city may adopt charges and fees which may include:

(1) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;

(2) Fees for monitoring, inspections, and surveillance procedures;

(3) Fees for reviewing accidental discharge procedures and construction;

(4) Fees for permit application;

(5) Fees for filing appeals;

(6) Fees for consistent removal, by the city, of pollutants otherwise subject to federal pretreatment standards; and

(7) Other fees as the city may deem necessary to carry out the requirements contained in this chapter.

(B) These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the city.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.08 EFFECTIVE DATE.**

This chapter is effective July 30, 2002.

(Ord. 02-03, passed 7-15-2002)

### **ADMINISTRATION AND ENFORCEMENT; IN GENERAL**



#### **§ 54.20 CONFIDENTIAL INFORMATION.**

(A) Under this subchapter, information and data on a user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of that information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes 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 chapter, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit, and the pretreatment programs. However, those portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(C) Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the user.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.21 RECORDS RETENTION.**

All dischargers subject to this chapter shall retain and preserve, for no less than three years, any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof relating to monitoring, sampling, and chemical analyses made by or in behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the authority pursuant to this chapter shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.22 MONITORING FACILITIES.**

(A) The city shall require to be provided and operated, at the user's own expense, monitoring facilities to allow the inspection, sampling, and flow measurement of the building sewer or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(B) There shall be ample room in or near the sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(C) Where constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.23 INSPECTION AND SAMPLING.**

The city shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination, or in the performance of any of his or her duties. The city shall have the right to request copies of records that relate to the quantity and quality of wastewater discharged. The city or approval authority shall have the right to set up on the user's property any devices as are necessary to conduct sampling inspection, compliance monitoring, and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into his or her premises, the user shall make necessary arrangements with his, her, or their security guards so that, upon presentation of suitable identification, personnel from the city or approval authority will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.24 HARMFUL CONTRIBUTIONS.**

(A) The city may suspend the wastewater treatment service and a wastewater discharge permit when the suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, which causes interference to the POTW, or which causes the city to violate any conditions of its NPDES permit.

(B) Any person notified of a suspension of the wastewater treatment service or the wastewater discharge permit shall immediately stop or eliminate the contribution. If the person fails to comply voluntarily with the suspension order, the city shall take any steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater discharge permit or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.25 NOTIFICATION OF VIOLATION.**

Whenever the city finds that any user has violated or is violating this chapter, wastewater discharge permit, or any prohibition limitation of requirements contained in this chapter, the city may serve upon the person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.26 SHOW CAUSE HEARING.**

(A) The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the City Commission why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Commission regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the City Commission why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(B) The City Commission may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the assigned department to:

(1) Issue in the name of the City Commission notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearings;

(2) Take the evidence; or

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Commission for action thereon.

(C) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(D) After the City Commission has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices, or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.27 LEGAL ACTION.**

(A) If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the City Attorney may commence an action for appropriate legal and equitable relief in the Circuit Court of the county.

(B) In addition to the penalties provided in this chapter, the city may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued under this chapter.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.28 RIGHT OF APPEAL.**

Any discharger or any interested party shall have the right to request, in writing, an interpretation or ruling by the authority on any matter covered by this chapter and shall be entitled to a prompt written reply. If the inquiry is by a discharger and deals with matters of performance or compliance with this chapter, or deals with a wastewater discharge permit issued pursuant to this chapter for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this chapter may be taken in accordance with local and state law.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.29 OPERATING UPSETS.**

Any discharger who experiences an upset in operations which places the discharger in a temporary state of noncompliance with this chapter or a wastewater discharge permit issued pursuant hereto shall comply with the notification and reporting procedures described in § 54.67 for accidental discharges. A documented and verified bona fide operating upset shall be an affirmative defense to any enforcement action brought by the authority against a discharger for any noncompliance with this chapter or any wastewater discharge permit issued pursuant to this chapter which arises out of violations alleged to have occurred during the period of the upset.

(Ord. 02-03, passed 7-15-2002)

## **WASTEWATER DISCHARGE PERMIT**

#### **§ 54.40 REQUIRED.**

(A) All significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing users connected to or contributing to the POTW shall obtain a wastewater discharge permit within 120 days after the effective date of this chapter.

(B) All discharges to the storm wastewater system or other natural outlets within the city with NPDES permits for discharge shall be exempt from applying for a city permit, provided copies of the NPDES permit, permit application, and permit monitoring reports are submitted to the city within ten days after submission to the state.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.41 APPLICATION.**

(A) Users required to obtain a wastewater discharge permit shall complete and file with the city an application in the form prescribed by the city. Existing users shall apply for a wastewater discharge permit within 30 days after the effective date of this chapter and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, if different from the address;
- (2) SIC number according to the *Standard Industrial Classification Manual*, Office of Management and Budget, 1972, as amended;
- (3) Wastewater constituents and characteristics, including but not limited to those mentioned in §§54.60 through 54.68, as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to § 304(g) of the Act and contained in 40 C.F.R. pt. 136, as amended;
- (4) Time and duration of contribution;
- (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly, and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation;
- (7) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged;
- (8) Where known, the nature and concentration of any pollutant in the discharge which are limited by any city, state, or federal pretreatment standards; and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O and M) or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or operation and maintenance (O and M) will be required to meet the pretreatment standards, the shortest schedule by which the user will provide the additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
  - (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and the like);
  - (b) No increment referred to in division (A)(9)(a) of this section shall exceed nine months; and
  - (c) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on that date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between the progress reports to the Superintendent.
- (10) Each product produced by type, amount, process or processes, and rate of production;
- (11) Type and amount of raw materials processes (average and maximum per day);
- (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system; and
- (13) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(B) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided in this subchapter.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.42 PERMIT MODIFICATIONS.**

Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to those standards shall be revised to require compliance with the standard within the time frame prescribed by the standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by § 54.41, the user shall apply for a wastewater discharge permit within 180 days after

the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the Superintendent within 180 days after promulgation of an applicable federal categorical pretreatment standard the information required by § 54.41(A)(8) and (9).

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.43 PERMIT CONDITIONS.**

(A) Wastewater discharge permits shall be expressly subject to all sections of this chapter and all other applicable regulations, users' charges, and fees established by the city.

(B) Permits may contain the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (2) Limits on the average and maximum wastewater constituents and characteristics;
- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs which may include sampling locations; frequency of sampling; number, types, and standards for tests; and reporting schedule;
- (6) Compliance schedules;
- (7) Requirements for submission of technical reports or discharge reports as required in §54.46;
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;
- (9) Requirements for notification of the city or any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (10) Requirements for notification of slug discharges as per §54.46; and
- (11) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.44 DURATION.**

Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for a permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements as identified in §§ 54.60 through 54.68 are modified or other just cause exists. The user shall be informed of any proposed changes in his or her permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.45 TRANSFERABILITY.**

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.46 REPORTING REQUIREMENTS FOR PERMITTEE; COMPLIANCE DATE REPORT.**

Within 90 days following the date for final compliance with applicable pretreatment standards or, for a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by the pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met in a consistent basis and, if not, what additional operation and maintenance (O and M) or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards and requirements. This statement shall be signed by an authorized representative of the industrial user and certified to by a qualified professional.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.47 PERIODIC COMPLIANCE REPORTS.**

(A) Any user subject to a pretreatment standard, after the compliance date of the pretreatment standard, or for a new source after commencement of the discharge into the POTW, shall submit to the Superintendent during the months of June and December, unless required more frequently in the pretreatment standards or by the Superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by the pretreatment standards. In addition, this report shall include

a record of all daily flows which during the reporting period exceed the average daily flow reported as required in this subchapter. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, and the like, the Superintendent may agree to alter the months during which the above reports are to be submitted.

(B) The Superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In these cases, the report required by division (A) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. All analyses shall be performed in accordance with procedures established by the Superintendent pursuant to § 304(g) of the Act and contained in 40 C.F.R. pt. 236 and amendments thereto or with any other test procedures approved by the Superintendent. Sampling shall be performed in accordance with the techniques approved by the Superintendent.

(Ord. 02-03, passed 7-15-2002)

#### **§ 54.48 REVOCATION.**

Any user who violates the following conditions or applicable state and federal regulations is subject to having his or her wastewater discharge permit revoked in accordance with the procedures of this subchapter:

- (A) Failure of a user to factually report the wastewater constituents and characteristics of his or her discharge;
- (B) Failure of the user to report significant changes in operation, or wastewater constituents and characteristics;
- (C) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (D) Violation of conditions of the permit.

(Ord. 02-03, passed 7-15-2002)

### **DISCHARGE RESTRICTIONS**

#### **§ 54.60 GENERAL PROHIBITIONS.**

(A) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all the users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(1) Any liquids, solids, or gases which, because of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall any single reading on an explosion hazards meter at the point of discharge into the system or at any point in the system be more 20% of the lower explosive limit (LEL) of the meter. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides, and any other substance which is a fire hazard or a hazard to the system;

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as but not limited to grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;

(3) Any wastewater having a pH less than 5.5 or greater than 9.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW;

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to § 307(a) of the Act;

(5) Any noxious or malodorous liquids, gases, or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;

(6) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. 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 § 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act; or state criteria applicable to the sludge management method being used;

(7) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards;

(8) Any wastewater with objectionable color not removed in the treatment process, such as but not limited to dye wastes and vegetable tanning solutions;

(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 the POTW which causes the treatment plant influent to exceed 104°F;

(10) Any pollutants, including oxygen demanding pollutants (BOD and the like) released at a flow rate or pollutant concentration that a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed, for any time period longer than 15 minutes, more than five times the user's average 24-hour concentration, quantities, or flow during normal operation;

(11) Any wastewater containing any radioactive wastes or isotopes of a half-life or concentration that may exceed limits established by the Superintendent in compliance with applicable state or federal regulations; or

(12) Any wastewater which causes a hazard to human life or creates a public nuisance.

(B) When the Superintendent determines that a user is contributing to the POTW any of the above substances enumerated in division (A) of this section in such amounts as to interfere with the operation of the POTW, the Superintendent shall:

- (1) Advise the user of the impact of the contribution on the POTW; and
- (2) Develop effluent limitations for the user to correct the interference with the POTW.

(Ord. 02-03, passed 7-15-2002)

**§ 54.61 FEDERAL CATEGORICAL PRETREATMENT STANDARDS.**

Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 C.F.R. § 403.12.

(Ord. 02-03, passed 7-15-2002)

**§ 54.62 MODIFICATION OF FEDERAL CATEGORICAL PRETREATMENT STANDARDS.**

Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards. **CONSISTENT REMOVAL** shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in 95% of the samples taken when measured according to the procedures set forth in 40 C.F.R. § 40.37(c)(2), general pretreatment regulations for existing and new sources of pollution, promulgated pursuant to the Act. The city may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 C.F.R. § 403.7 are fulfilled and prior approval from the approval authority is obtained.

(Ord. 02-03, passed 7-15-2002)

**§ 54.63 SPECIFIC POLLUTANT LIMITATIONS.**

No person shall discharge wastewater containing in excess of:

<b><i>Pollutant</i></b>	<b><i>Discharge Limit</i></b>
<b><i>Pollutant</i></b>	<b><i>Discharge Limit</i></b>
(1) Inorganics:	
Arsenic	0.92 mg/l
Cadmium	0.07 mg/l
Chromium (total)	1.71 mg/l
Copper	2.07 mg/l
Cyanide	0.65 mg/l
Lead	0.43 mg/l
Mercury	No detectable discharge
Nickel	2.38 mg/l
Silver	0.24 mg/l
Zinc	1.48 mg/l
(2) Organics:	
Phenols	0.30 mg/l
Total toxic organics (TTO)	2.13 mg/l
(3) General characteristics:	
5-day biochemical oxygen demand (BOD <sub>5</sub> )	Surcharge above 200 mg/l
	Upper limit 1,000 mg/l
Ammonia nitrogen (NH <sub>3</sub> as N)	Surcharge above 20 mg/l
	Upper limit 100 mg/l

Chemical oxygen demand (COD)	Surcharge above 450 mg/l
	Upper limit 2,000 mg/l
Chlorides	Surcharge above 800 mg/l
	Upper limit 4,000 mg/l
Chlorine demand	15.0 mg/l
Fats, oils, and grease	100 mg/l
pH	Lower limit 5.5
	Upper limit 9.5
Phosphorus (as P)	Surcharge above 10 mg/l
	Upper limit 100 mg/l
Suspended solids	Surcharge above 250 mg/l
	Upper limit 1,000 mg/l
Temperature	150°F maximum to sewer
	104° maximum at POTW treatment plant influent

(Ord. 02-03, passed 7-15-2002)

**§ 54.64 STATE REQUIREMENTS.**

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.

(Ord. 02-03, passed 7-15-2002)

**§ 54.65 CITY'S RIGHT OF REVISION.**

The city reserves the right to establish more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 54.03.

(Ord. 02-03, passed 7-15-2002)

**§ 54.66 EXCESSIVE DISCHARGE.**

Under this subchapter, no user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state. (Dilution may be an acceptable means of complying with some of the prohibitions set forth in § 54.60, e.g., the pH prohibition, at the discretion of the city.)

(Ord. 02-03, passed 7-15-2002)

**§ 54.67 ACCIDENTAL DISCHARGES.**

(A) *Protection required.* Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review and shall be approved by the city before construction of the facility. All users shall submit a plan along with their permit application. No user who commences contribution to the POTW after the effective date of the ordinance from which this chapter derives shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of these plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. If an accidental discharge or operations upset occurs, it is the responsibility of the user to immediately telephone and notify POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(B) *Written notice.* Within five days following an accidental discharge or operations upset, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. This notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property, nor shall the notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this subchapter or other applicable law.

(C) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call if an accidental discharge of prohibited materials or other substances regulated by this chapter occurs. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

(Ord. 02-03, passed 7-15-2002)

## § 54.68 PRETREATMENT; PUBLICATION OF VIOLATORS; RECORDS.

(A) Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review and shall be acceptable to the city before construction of the facility. The review of these plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under this chapter. Any subsequent changes in the pretreatment facilities or methods of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

(B) The city shall annually publish in the city newspaper a list of the users which were significantly violating pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the users during the same 12 months. Significant violations are violations which remain uncorrected 45 days after notice of noncompliance.

(C) All records relating to compliance with pretreatment standards shall be made available to the officials of the EPA or approval authority upon request.

(Ord. 02-03, passed 7-15-2002)

## § 54.99 PENALTY.

Any user who is found to have violated an order of the City Commission, which order has been made pursuant to this chapter, or who willfully or negligently failed to comply with any provisions of this chapter or the orders, rules, regulations, or permits issued hereunder shall be punished by a fine of not more than \$500 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

(Ord. 02-03, passed 7-15-2002)

# TITLE VII: TRAFFIC CODE

## Chapter

- 70. GENERAL PROVISIONS
- 71. TRAFFIC REGULATIONS
- 72. STANDING, STOPPING, AND PARKING
- 73. BICYCLES AND TOY VEHICLES
- 74. TRAFFIC SCHEDULES
- 75. PARKING SCHEDULES

## CHAPTER 70: GENERAL PROVISIONS

## Section

### *Adopted Codes*

- 70.01 Uniform Traffic Code and amendments and revisions adopted
- 70.02 References in code
- 70.03 Notice to be published
- 70.04 Penalties adopted
- 70.05 State Vehicle Code adopted

### *Existing Regulations*

- 70.20 Current regulations continue
- 70.21 Mason County Central school property
- 70.22 Removal of snow, ice, or slush
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### *Snowmobiles*

- 70.35 Definitions



- 70.36 Required equipment
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**Off Road Vehicles**

- 70.50 Definitions
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**ADOPTED CODES**

**§ 70.01 UNIFORM TRAFFIC CODE AND AMENDMENTS AND REVISIONS ADOPTED.**

The Uniform Traffic Code for Cities, Townships, and Villages, as promulgated by the Director of the State Department of State Police pursuant to the Administrative Procedures Act of 1969, Public Act 306 of 1969, being M.C.L.A. §§ 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated by reference.

(1993 Code, § 70.01) (Ord. 03-02, passed 9-2-2003)

**§ 70.02 REFERENCES IN CODE.**

References in the Uniform Traffic Code for Cities, Townships, and Villages to a “governmental unit” shall mean the “City of Scottville.”

(1993 Code, § 70.02) (Ord. 03-02, passed 9-2-2003)

**§ 70.03 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 Uniform Traffic Code for Cities, Townships, and Villages and the fact that a complete copy of the code is available to the public at the office of the Clerk for inspection.

(Ord. 03-02, passed 9-2-2003)

**§ 70.04 PENALTIES ADOPTED.**

The penalties provided by the Uniform Traffic Code for Cities, Townships, and Villages are adopted by reference.

(Ord. 03-02, passed 9-2-2003)

**§ 70.05 STATE VEHICLE CODE ADOPTED.**

(A) The State Vehicle Code, Public Act 300 of 1949, being M.C.L.A. §§ 257.1 to 257.923, in accordance with M.C.L.A. § 117.3(k), is hereby adopted by reference.

(B) The city shall not enforce as a violation of this section any provision of the State Vehicle Code adopted by reference for which the maximum period of imprisonment is greater than 93 days.

(Ord. 03-02, passed 9-2-2003)

**EXISTING REGULATIONS**

**§ 70.20 CURRENT REGULATIONS CONTINUE.**

All intersection stops and yield right-of-way requirements, regulations on stopping, standing, or parking; one-way streets, roadways, and alleys, crosswalks; restricted turns; through streets; play streets; angle parking zones; all-night parking restrictions; curb loading zones; public carrier stands; parking meter zones and spaces; weight restrictions; no passing zones; speed limits and traffic-control devices heretofore established and effective on the effective date of this chapter shall be deemed established hereunder and shall remain effective until rescinded or modified.

(Ord. 03-02, passed 9-2-2003)

**§ 70.21 MASON COUNTY CENTRAL SCHOOL PROPERTY.**

Any and all law enforcement agencies regularly enforcing traffic laws in the city are empowered to enforce the State Uniform Traffic Code and Motor Vehicle Code on all areas of school property open to motor vehicles that are a part of the Mason County Central School System and for the regulation of traffic flow and parking as traffic signs designate.

(Ord. 03-02, passed 9-2-2003)

#### **§ 70.22 REMOVAL OF SNOW, ICE, OR SLUSH.**

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

**PERSON.** Shall not include the state or a political subdivision of the state or an employee of the state or a political subdivision of the state operating within the scope of his or her duties.

**SAFETY VISION.** An unobstructed line of sight enabling a driver to travel upon, enter, or exit a roadway in a safe manner.

(B) A person shall not remove, or cause to be removed, snow, ice, or slush onto or across a roadway or the shoulder of the roadway in a manner which obstructs the safety vision of the driver of a motor vehicle other than off-road vehicles.

(C) A person shall not deposit, or cause to be deposited, snow, ice, or slush onto or across a roadway or the shoulder of the roadway in a manner which obstructs the safety vision of the driver of a motor vehicle.

(D) A person shall not deposit, or cause to be deposited, snow, ice, or slush on any roadway or highway.

(Ord. 03-02, passed 9-2-2003) Penalty, see §70.99

#### **§ 70.23 OPERATION OF COASTER TOYS AND BICYCLES.**

(A) No person shall ride a skateboard, bicycle, roller skates, coaster toy, toy vehicle, or similar device on any sidewalk or street in the business portion of the city from 100 South Main Street to 100 North Main Street, or upon any public property or sidewalk where it is prohibited by traffic-control order. The Traffic Engineer is authorized, subject to the approval of the ordinance-making body, to issue traffic-control orders prohibiting the riding of skateboards, roller skates, coaster toys, toy vehicles, bicycles, or similar devices, upon certain sidewalks and specified public property.

(B) No person shall, while operating, riding or using a skateboard, roller skates, coaster toy, toy vehicle, bicycle, or similar device, indulge or engage in any kind of trick or unsafe operating, riding, or use of the device.

(C) A person who violates this section or a traffic-control order issued pursuant to this section is responsible for a civil infraction.

(D) The Police Department may impound the skateboard, roller skates, coaster toy, bicycle, toy vehicle, or similar device of any violator of this section for a period not to exceed 30 days.

(Ord. 03-02, passed 9-2-2003) Penalty, see §70.99

#### **§ 70.24 BOAT RAMP PARKING LOT.**

(A) *Restrictions and enforcement.* No person shall park or cause to be parked any motor vehicle, mobile home, or travel trailer in violation of any special designated areas within the City Boat Ramp Parking Lot. Vehicles parked in violation of this section may be towed away at the owner's expense.

(B) *Posting.* All designated and prohibited parking areas will be adequately posted as such.

(Ord. 03-02, passed 9-2-2003) Penalty, see §70.99

### **SNOWMOBILES**

#### **§ 70.35 DEFINITIONS.**

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

**OPERATOR.** A person who operates or is in control, drives, or steers a snowmobile.

**SAFETY OR DEAD-MAN THROTTLE.** A device which, when the pressure is removed from the accelerator or throttle, causes the motor to be disengaged from the driving track and return to idling position.

(Ord. 03-02, passed 9-2-2003)

#### **§ 70.36 REQUIRED EQUIPMENT.**

All snowmobiles operated within the city shall have the following equipment:

(A) A muffler. No person shall use what is commonly known as a cut-out or by-pass or similar device which results in increased noise from the snowmobile; and

(B) Safety throttle or so-called dead-man throttle in good operating condition.

(Ord. 03-02, passed 9-2-2003)

#### **§ 70.37 OPERATING RESTRICTIONS.**

It shall be illegal and unlawful for any person to operate a snowmobile:

(A) On private property of another person without permission to do so by owner or occupant of the property;

(B) On public school grounds, park property, playgrounds, recreational areas, municipal and county grounds, without express provision or permission to do so by the proper public authority;

(C) In a manner so as to create a loud, unnecessary, or unusual noise so as to disturb or interfere with the peace and quiet of other persons, including the unnecessary revving or acceleration of the engine;

(D) In a careless, reckless, or negligent manner so as to endanger the health or safety of any person or property;

(E) At a speed greater than the minimum required to maintain forward motion;

(F) Between the hours of 10:00 p.m. and 8:30 a.m. except for the purpose of transporting the operator and passengers by the shortest possible route of the point of origin to and from the areas outside the city; and

(G) On the following streets, except to cross at a 90-degree angle:

(1) State Street in the city from High Street West to Reinberg Avenue; and

(2) Main Street in the city from Johnson Road South to the C&O Railroad tracks.

(Ord. 03-02, passed 9-2-2003) Penalty, see §70.99

### § 70.38 UNATTENDED.

It shall hereby be unlawful for the owner or operator of any snowmobile to leave or allow a snowmobile to remain unattended on public property:

(A) While the motor is running; or

(B) With the keys for starting the vehicle left in the ignition.

(Ord. 03-02, passed 9-2-2003) Penalty, see §70.99

### § 70.39 TRAFFIC REGULATIONS.

Each person operating a snowmobile shall strictly observe all traffic signs and all other traffic rules and regulations applicable thereto and shall obey the orders and directions of any police officer of the city authorized to direct and regulate traffic.

(Ord. 03-02, passed 9-2-2003) Penalty, see §70.99

### § 70.40 VIOLATIONS.

In a proceeding for a violation of this chapter where competent evidence demonstrates that a vehicle which is permitted to be operated on a highway pursuant to Public Act 300 of 1949, as amended, being M.C.L.A. §§ 257.1 to 257.923, is in collision with a snowmobile on a roadway, the driver of the snowmobile involved in the collision shall be considered prima facie negligent. Violation of this subchapter shall be a misdemeanor punishable pursuant to § 10.99.

(Ord. 03-02, passed 9-2-2003) Penalty, see §10.99

## OFF ROAD VEHICLES

### § 70.50 DEFINITIONS.

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

**CITY.** The City of Scottville, Mason County.

**DRIVER LICENSE.** An operator's or chauffeur's license or permit issued to an individual by the Secretary of State under Chapter III of the Michigan Vehicle Code, 1949 P.A. 300, M.C.L.A. §§ 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

**MAINTAINED PORTION.** That portion of a road improved, designated or ordinarily used for vehicular traffic, including the gravel shoulder or paved shoulder of the road.

**OPERATE.** To ride in or on, and be in actual physical control of the operation of an ORV.

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

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

**ROAD.** All public roads within the city.

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

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

(Ord. 2015-1, passed 4-20-2015)

#### **§ 70.51 OPERATION OF ORVS.**

An individual may operate an ORV on a road within the city provided that the ORV is operated only with the flow of traffic, on the far right of the maintained portion of the road, subject to the following additional regulations:

- (A) A person shall not operate an ORV at a speed greater than 25 miles per hour, or a lower posted ORV speed limit, or in a manner that interferes with traffic on the road;
- (B) ORVs shall travel single file, except when passing or being passed by another ORV;
- (C) All ORVs while operating must have a lighted headlight and taillight;
- (D) Unless a person possesses a drivers license, a person shall not operate an ORV on a road if the ORV is registered as a motor vehicle under the Michigan Vehicle Code and the ORV is either more than 60 inches wide or has three wheels;
- (E) A person under the age of 12 shall not operate an ORV on a road;
- (F) A person under the age of 18 shall not operate an ORV on a road unless the person is in possession of a valid driver's license or is under the direct supervision of a parent or guardian and the person has in his possession an ORV safety certificate issued by Michigan, another state, or a province of Canada;
- (G) All operators must, upon demand by a law enforcement officer, present either an ORV safety certificate or a drivers license;
- (H) An owner or person in charge of an ORV shall not allow an ORV to be operated by an individual who is incompetent to operate a vehicle because of mental or physical disability;
- (I) A child less than 16 years of age shall not operate a three-wheeled ATV;
- (J) A person shall not operate an ORV at a rate of speed greater than is reasonable and proper, or in a careless manner having undue regard for conditions;
- (K) A person shall not operate or ride on an ORV unless they are wearing on their head a helmet and protective eyewear approved by the United States Department of Transportation. This section does not apply if the vehicle is equipped with a roof that meets or exceeds the standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt;
- (L) A person shall not operate an ORV without a braking system;
- (M) A person shall not operate an ORV during the hours of one half hour after sunset and one half hour before sunrise;
- (N) All ORVs shall conform to the noise emission levels established by the United States Environmental Protection Agency under the Noise Control Act of 1972, 42 U.S.C. 4901 to 4918;
- (O) No person shall transport a passenger on an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers;
- (P) No person shall operate an ORV with an opened container of alcohol unless it is in a trunk, separate compartment or is encased or enclosed;
- (Q) No person shall operate an ORV unless it is equipped with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle;
- (R) No person shall operate an ORV unless it is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation;
- (S) An ORV shall otherwise be operated in full compliance with all applicable provisions of state law, including, but not limited to, Part 811 of the Natural Resources and Environmental Protection Act, M.C.L.A. §§ 324.81101 *et seq.*; and
- (T) An ORV shall not be operated on the road surface, roadway, shoulder or right-of-way of State Street (US-10).

(Ord. 2015-1, passed 4-20-2015)

#### **§ 70.52 ENFORCEMENT.**

A violation of this subchapter is a municipal civil infraction, and a responsible person shall pay a fine of not more than \$500. In addition a court may order the defendant to pay the cost of repairing any damage to the environment, a road, or public property damaged as a result of the violation.

(Ord. 2015-1, passed 4-20-2015)

#### **§ 70.99 PENALTY.**

(A) Any person violating any provision of this title for which no other penalty is set forth shall be responsible for a municipal civil infraction.

(B) Any person violating the provisions of § 70.24 shall be fined in the amount of \$50.

## CHAPTER 71: TRAFFIC REGULATIONS

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### Section

#### *Trucks and Commercial Vehicles*

- 71.01 Intent
- 71.02 Definitions
- 71.03 Exception; permit
- 71.04 Truck routes
- 71.05 Signs
- 71.06 State law restrictions
  
- 71.99 Penalty

#### **Cross-reference:**

*Truck parking regulations, see § 72.02*

*Truck routes, see Ch. 74, Sched. III*

### TRUCKS AND COMMERCIAL VEHICLES

#### **§ 71.01 INTENT.**

The intent and purpose of this subchapter is to protect the surfacing and pavements of the public streets, highways, and alleys in the city and to that end shall be liberally construed.

(1993 Code, § 71.15) (Ord. 80-1, passed 6-2-1980)

#### **Cross-reference:**

*Truck parking regulations, see § 72.02*

*Truck routes, see Ch. 74, Sched. III*

#### **§ 71.02 DEFINITIONS.**

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

**COMMERCIAL VEHICLE.** All motor vehicles used for the transportation of passengers for hire, or constructed or used for the transportation of goods, wares, or merchandise, and/or all motor vehicles designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

**TRUCK.** Every motor vehicle used or maintained primarily for the transportation of property.

(1993 Code, § 71.16) (Ord. 80-1, passed 6-2-1980)

#### **§ 71.03 EXCEPTION; PERMIT.**

The restrictions imposed upon the use of certain public streets, highways, and alleys in the city shall not apply to any vehicle the weight of which, loaded or unloaded, is 5,000 pounds or less, and shall not prevent the delivery of any person or property to any place within the city or prevent a vehicle from receiving any person or property within the city; provided, the Chief of Police, in his or her discretion, may issue a permit for the operation of any truck to use any street other than herein provided.

(1993 Code, § 71.17) (Ord. 80-1, passed 6-2-1980)

#### **§ 71.04 TRUCK ROUTES.**

No person shall operate, or cause to be operated, a commercial vehicle or truck on any of the public streets, highways, or alleys in the city, except as otherwise provided in Chapter 74, Schedule III.

(1993 Code, § 71.18) (Ord. 80-1, passed 6-2-1980) Penalty, see § 71.99

#### **§ 71.05 SIGNS.**

Notice of the aforesaid prohibitions and limitations set forth in Schedule III in Chapter 74 shall be given by the posting of appropriate and legible signs as may be seen by an ordinarily observant person upon or at the entrance to the highways or parts thereof affected by the provisions of this code.

(1993 Code, § 71.19) (Ord. 80-1, passed 6-2-1980)

#### **§ 71.06 STATE LAW RESTRICTIONS.**

The Chief of Police and other officers of the city shall enforce all weight, size and other vehicle and load limitations imposed by the Motor Vehicle Code, being Public Act 300 of 1949, as amended, being M.C.L.A. §§ 257.1 through 257.923, and as amended by Public Act 510 of 1978, being M.C.L.A. §§ 257.1 through 257.923.

(1993 Code, § 71.20) (Ord. 80-1, passed 6-2-1980)

#### **§ 71.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no other penalty is set forth shall be subject to the penalty provisions of § 70.99.

(B) A violation of §§ 71.04 and Chapter 74, Schedule III, referred to therein is classed as a civil infraction. If a person is determined, pursuant to Public Act 510 of 1978, §§ 741 through 750, being M.C.L.A. §§ 257.1 through 257.923, to be responsible or responsible "with explanation," the 79th District Court may order the person to pay a civil fine of not more than \$250 and costs as provided in Public Act 510 of 1978, § 907(3), the same being M.C.L.A. § 257.907(3).

(1993 Code, § 71.99) (Ord. 80-1, passed 6-2-1980)

## **CHAPTER 72: STANDING, STOPPING, AND PARKING**

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### Section

#### ***General Provisions***

72.01 No parking during snow emergency

72.02 Trucks and the like prohibited from parking; exception

#### ***Parking Violations Bureau***

72.15 Bureau established

72.16 Location

72.17 Disposition of violations

72.18 Procedure

72.19 Violation notices

72.20 City parking lots

72.21 Resident parking in city parking lots

72.22 Issuance of parking permits; fees

72.99 Penalty

#### ***Cross-reference:***

*Other truck regulations, see §§ 71.01 through 71.06*

*Truck routes, see Ch. 74, Sched. III*

### **GENERAL PROVISIONS**

#### **§ 72.01 NO PARKING DURING SNOW EMERGENCY.**

To facilitate the removal of snow, parking shall be prohibited on any street, in any alley, or in any city parking lot during the hours of 2:00 a.m. to 7:00 a.m. from November 1 to April 1.

(1993 Code, § 72.01) (Ord. 86-2, passed 10-17-1986; Ord. 2015-05, passed 12-7-2015) Penalty, see §72.99

#### **§ 72.02 TRUCKS AND THE LIKE PROHIBITED FROM PARKING; EXCEPTION.**

No person shall park, or cause to be parked, a semi, semi-tractor trailer, or vehicle with a gross weight of 10,000 pounds or more on any of the residential streets in the city, except for the purpose of loading and unloading goods, wares, or merchandise.

(1993 Code, § 72.02) (Ord. 90-2, passed - -1990) Penalty, see §72.99

### **PARKING VIOLATIONS BUREAU**

#### **§ 72.15 BUREAU ESTABLISHED.**

Pursuant to § 8395 of the Revised Judicature Act, State of Michigan, as amended by Public Act 154 of 1968, being M.C.L.A. § 600.8395, a Parking Violations Bureau, for the purpose of handling alleged parking violations within the city, is established. The Parking Violations Bureau shall be under the control of the City Manager.

(1993 Code, § 72.15)

**§ 72.16 LOCATION.**

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

(1993 Code, § 72.16)

**§ 72.17 DISPOSITION OF VIOLATIONS.**

No violation not scheduled in § 72.99(B) and (C) shall be disposed of by the Parking Violations Bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the Bureau and, in any case, the person in charge of the Bureau may refuse to dispose of the violation, in which case, any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.

(1993 Code, § 72.17)

**§ 72.18 PROCEDURE.**

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

(1993 Code, § 72.18)

**§ 72.19 VIOLATION NOTICES.**

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

(1993 Code, § 72.19)

**§ 72.20 CITY PARKING LOTS.**

The overnight storage of any recreational vehicle, trailer, or boat in any city public parking lot is prohibited, effective March 3, 2009.

(Ord. 09-01, passed 2-16-2009) Penalty, see §72.99

**§ 72.21 RESIDENT PARKING IN CITY PARKING LOTS.**

Residents in the 100 block of North and South Main Street may use a city parking lot in the Central Business District for the overnight parking of up to two vehicles per residence, but only pursuant to a parking permit issued by the city. For the west and east parking lots, the city will assign a designated area in which to park. Residents needing additional temporary parking may apply to the city for a temporary permit not to exceed seven days. For any disabled and/or abandoned vehicle, the city will revoke the parking permit for the vehicle, ticket the owner, and tow the vehicle at the owner's expense.

(Ord. 09-01, passed 2-16-2009)

**§ 72.22 ISSUANCE OF PARKING PERMITS; FEES.**

The City Commission shall set the fees by resolution for the issuance of parking permits. The city shall not issue a parking permit for a period longer than one year.

(Ord. 09-01, passed 2-16-2009)

**§ 72.99 PENALTY.**

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

(B) The following schedule of fines shall be imposed for violations covered by this chapter:

<b>Offense</b>	<b>Penalty</b>
<b>Offense</b>	<b>Penalty</b>

Abandoned vehicle	\$30
Angle parking violations	\$30
Between sidewalk and curb	\$30
Bicycle parking violations	\$30
Blocking snow removal	\$30
Bus, parking other than bus stop	\$30
Bus, taxicab stand violations	\$30
Disabled vehicle, failure to move	\$30
Failure to set brakes	\$30
Loading zone violation	\$30
Meters, not parked within space	\$30
Obstructing traffic	\$30
Parked on grade, wheels not turned to curb	\$30
Parked on wrong side of roadway facing traffic	\$30
Parking for prohibited purpose:	
(a) Displaying advertising	\$30
(b) Displaying vehicle for sale	\$30
(c) Selling merchandise	\$30
(d) Storage over 48 hours	\$30
(e) Working or repairing vehicle (except emergency)	\$30
Parking too far from curb	\$30
Prohibited parking (signs unnecessary):	
(a) Backing into metered stall	\$30
(b) Beside street excavation when traffic obstructed	\$30
(c) Blocking emergency exit	\$30
(d) Blocking fire escape	\$30
(e) Double parking	\$30
(f) Fire lane	\$30
(g) In front of drive (within 2 feet)	\$30
(h) On bridge or viaduct or within tunnel	\$30
(i) On crosswalk	\$30
(j) On sidewalk	\$30
(k) Tow away zone	\$30
(l) Truck standing	\$30
(m) Within intersection	\$30
(n) Within 15 feet of fire hydrant	\$30
(o) Within 20 feet of crosswalk or 15 feet of corner lot lines	\$30
(p) Within 30 feet of street side, traffic sign or signal	\$30
(q) Within 50 feet of railroad crossing	\$30
(r) Within 20 feet of fire station entrance	\$30
Prohibited zone (signs required) (includes police vehicle only, overtime parking and all other posted areas)	
(a) In front of theater (sign required)	\$30
(b) Within 75 feet of fire station entrance on opposite side of street (sign required)	\$30
(c) In handicapped parking zone	\$30

(C) Any person accused of a parking offense under this chapter may settle the claim against him or her by paying the stated fine to the city. Such payment shall be made within ten days of the date of the violation. Fines not paid within ten days from the date of the violation will increase by \$10.

(D) A violation of § 72.02 is classed as a civil infraction. If a person is determined, pursuant to Public Act 510 of 1978, §§ 741 through 750, to be responsible or responsible "with explanation," the 79th District Court may order the person to pay a civil fine of not more than \$250 and costs as provided in Public Act 510 of 1978, § 907(3), the same being M.C.L.A. § 257.907(3).

(1993 Code, § 72.99) (Ord. 90-2, passed - -1990; Ord. 2014-02, passed 11-3-2014)



## CHAPTER 73: BICYCLES AND TOY VEHICLES

### Section

- 73.01 Driver regulations applicable
- 73.02 Responsibility of parents
- 73.03 Impounding

#### § 73.01 DRIVER REGULATIONS APPLICABLE.

(A) Every person riding a bicycle upon a street or highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under this traffic code, except as to those provisions which by their nature can have no application.

(B) **BICYCLE** shall have the meaning prescribed in the Uniform Traffic Code adopted in §70.01.

(1993 Code, § 73.01) Penalty, see § 70.99

#### § 73.02 RESPONSIBILITY OF PARENTS.

No parent of any child, nor guardian of any ward, shall authorize or knowingly permit the child or ward to violate any of the provisions of this chapter.

(1993 Code, § 73.02) Penalty, see § 70.99

#### § 73.03 IMPOUNDING.

The bicycle of any person found violating this chapter or any other code provision regulating bicycles may be impounded. A storage fee of \$0.50 per day will be charged until the bicycle is in compliance with this code.

(1993 Code, § 73.06) Penalty, see § 70.99

## CHAPTER 74: TRAFFIC SCHEDULES

### Schedule

- I. Stop intersections
- II. Yield intersections
- III. Truck routes
- IV. Speed restrictions

#### SCHEDULE I. STOP INTERSECTIONS.

Pursuant to §§ 2.25, 2.26, 2.30, and 2.53 of the Uniform Traffic Code for Michigan Cities, Townships, and Villages, being duly adopted and made a part of this code, November 6, 1959, and the revisions and amendments, stop intersections are established and stop signs shall be erected as follows:

<b>Stop Street</b>	<b>Direction of Traffic</b>	<b>Intersecting at:</b>	<b>Ord. No.</b>	<b>Date Passed</b>
Alley	Eastbound	South Columbia	80-1	2-18-1980
Alley	Eastbound	South Main Street by Railroad tracks	80-1	2-18-1980
Alley	Northbound	East Beryl	80-1	2-18-1980
Alley	Northbound	East Broadway Avenue	80-1	2-18-1980
Alley	Northbound	James Street between Columbia and end of James	80-1	2-18-1980
Alley	Northbound	James Street between Main and Thomas	80-1	2-18-1980
Alley	Southbound	East Broadway Avenue	80-1	2-18-1980
Alley	Southbound	James Street between Main & Thomas	80-1	2-18-1980
Alley	Westbound	Blaine Street	80-1	2-18-1980
Alley	Westbound	Elm Street	80-1	2-18-1980

Alley	Westbound	South Main Street by Railroad tracks	80-1	2-18-1980
Bean Street	Both	Railroad tracks	85-1	3-18-1985
Bean Street	Northbound	East State Street	80-1	2-18-1980
Beryl Street	Eastbound	North Main	80-1	2-18-1980
Beryl Street	Eastbound	Reinberg Avenue	80-1	2-18-1980
Beryl Street	Eastbound	Thomas Street	80-1	2-18-1980
Beryl Street	Westbound	North Main	80-1	2-18-1980
Beryl Street	Westbound	Reinberg Avenue	80-1	2-18-1980
Blaine Street	Northbound	East State Street	80-1	2-18-1980
Blaine Street	Southbound	Railroad Alley	80-1	2-18-1980
Boat Ramp Drive	Eastbound	South Main Street	80-1	2-18-1980
Broadway Avenue, East	Eastbound	Columbia Avenue	80-1	2-18-1980
Broadway Avenue, East	Eastbound	North Main	80-1	2-18-1980
Broadway Avenue, East	Westbound	Columbia Avenue	80-1	2-18-1980
Broadway Avenue, East	Westbound	North Main	80-1	2-18-1980
Broadway Avenue, West	Eastbound	Reinberg Avenue	80-1	2-18-1980
Broadway Avenue, West	Westbound	Reinberg Avenue	80-1	2-18-1980
Clarke Street	Westbound	Loomis Street	80-1	2-18-1980
Columbia Avenue, North	Northbound	James Street	80-1	2-18-1980
Columbia Avenue, North	Southbound	East State Street	80-1	2-18-1980
Columbia Avenue, South	Northbound	East State Street	80-1	2-18-1980
Crowley Street	Northbound	First Street	80-1	2-18-1980
Crowley Street	Northbound	Second Street	80-1	2-18-1980
Crowley Street	Southbound	Fifth Street	80-1	2-18-1980
Crowley Street	Southbound	Second Street	80-1	2-18-1980
Elm Street	Northbound	East State Street	80-1	2-18-1980
Elm Street	Northbound	Second Street	80-1	2-18-1980
Evergreen Lane	Eastbound	Reinberg Avenue	80-1	2-18-1980
Evergreen Lane	Westbound	Reinberg Avenue	80-1	2-18-1980
Fifth Street	Eastbound	South Main Street	80-1	2-18-1980
Fifth Street	Westbound	South Main Street	80-1	2-18-1980
First Street	Eastbound	South Main Street	80-1	2-18-1980
Fourth Street	Eastbound	Crowley Street	80-1	2-18-1980
Fourth Street	Eastbound	Scott Street	80-1	2-18-1980
Fourth Street	Eastbound	South Main Street	80-1	2-18-1980
Fourth Street	Westbound	Crowley Street	80-1	2-18-1980
Fourth Street	Westbound	Scott Street	80-1	2-18-1980
Fourth Street	Westbound	South Main Street	80-1	2-18-1980
Gay Street	Northbound	Beryl Street	80-1	2-18-1980
Gay Street	Northbound	Broadway Avenue	80-1	2-18-1980
Gay Street	Northbound	Maple Avenue	80-1	2-18-1980
Gay Street	Southbound	Beryl Street	80-1	2-18-1980
Gay Street	Southbound	Broadway Avenue	80-1	2-18-1980
Gay Street	Southbound	Maple Avenue	80-1	2-18-1980
Green Street	Westbound	Elm Street	80-1	2-18-1980
High Street	Southbound	East State Street	80-1	2-18-1980

James Street	Eastbound	Thomas Street	80-1	2-18-1980
James Street	Westbound	South Main Street	80-1	2-18-1980
James Street	Westbound	Thomas Street	80-1	2-18-1980
Johnson Road	Eastbound	Main Street	80-1	2-18-1980
Johnson Road	Westbound	Main Street	80-1	2-18-1980
Loomis Street	Northbound	Beryl Street	80-1	2-18-1980
Loomis Street	Southbound	Beryl Street	80-1	2-18-1980
Loomis Street	Southbound	Maple Street	80-1	2-18-1980
Maple Avenue	Eastbound	North Main Street	80-1	2-18-1980
Maple Avenue	Eastbound	Reinberg Avenue	80-1	2-18-1980
Maple Avenue	Westbound	North Main Street	80-1	2-18-1980
Maple Avenue	Westbound	Reinberg Avenue	80-1	2-18-1980
Paul Street	Westbound	North Columbia Avenue	80-1	2-18-1980
Railroad Alley	Eastbound	South Columbia	80-1	2-18-1980
Reinberg	–	Beryl Street, SE and NW corners	00-10	9-17-2001
Reinberg Avenue	Northbound	Broadway Avenue	80-1	2-18-1980
Reinberg Avenue	Northbound	Johnson Road	80-1	2-18-1980
Reinberg Avenue	Northbound	Maple Street	80-1	2-18-1980
Reinberg Avenue	Northbound	State Street	80-1	2-18-1980
Reinberg Avenue	Southbound	Broadway Avenue	80-1	2-18-1980
Reinberg Avenue	Southbound	First Street	80-1	2-18-1980
Reinberg Avenue	Southbound	Maple Street	80-1	2-18-1980
Reinberg Avenue	Southbound	State Street	80-1	2-18-1980
River Park Drive	Westbound	South Main Street	80-1	2-18-1980
Scott Street	Northbound	First Street	80-1	2-18-1980
Scott Street	Northbound	Third Street	80-1	2-18-1980
Scott Street	Southbound	Third Street	80-1	2-18-1980
Second Street	Eastbound	Scott Street	80-1	2-18-1980
Second Street	Eastbound	South Main Street	80-1	2-18-1980
Second Street	Westbound	North Columbia Avenue	80-1	2-18-1980
Second Street	Westbound	Scott Street	80-1	2-18-1980
Second Street	Westbound	South Main Street	80-1	2-18-1980
South Bean Road	Northbound	Railroad tracks	11-01	7-18-2011
South Bean Road	Southbound	Railroad tracks	11-01	7-18-2011
South Columbia	Northbound	Railroad tracks	11-01	7-18-2011
South Columbia	Southbound	Railroad tracks	11-01	7-18-2011
Third Street	Eastbound	Crowley Street	80-1	2-18-1980
Third Street	Eastbound	South Main Street	80-1	2-18-1980
Third Street	Westbound	Crowley Street	80-1	2-18-1980
Third Street	Westbound	South Main Street	80-1	2-18-1980
Thomas Street	Southbound	Broadway Avenue	80-1	2-18-1980
West Parking Lot, 2 painted stop signs	–	–	00-09	11-6-2000

**SCHEDULE II. YIELD INTERSECTIONS.**

Pursuant to §§ 2.25, 2.26, 2.31, and 2.53 of the Uniform Traffic Code for Michigan Cities, Townships, and Villages, being duly adopted and made a part of this code, November 6, 1959, and the revisions and amendments, "Yield" intersections are hereby established and "Yield" signs shall be erected as follows:

<i>Yield Street</i>	<i>Intersecting at:</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Columbia Street, southbound	Second Street	00-09	11-6-2000
Maple Street	Thomas Street	80-1	2-18-1980
Railroad Street, eastbound traffic, at SW corner	Blaine Street	01-01	9-17-2001

(1993 Code, Ch. 74 Sched. II) Penalty, see § 70.99

**SCHEDULE III. TRUCK ROUTES.**

No person shall operate, or cause to be operated, a commercial vehicle or truck on any of the public streets, highways, or alleys in the city, except as otherwise provided for in the following schedule. The operation of commercial vehicles and trucks upon all other streets, highways, or alleys except as herein otherwise provided in the city is prohibited.

<i>Street</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
<i>Street</i>	<i>Location</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Beryl Street	North U.S. 31 to school entrance	—	--
Blaine Street	From State Street to C&O Railway	81-4	5-4-1981
Broadway Avenue	From North Main Street to Columbia Avenue	80-1	6-2-1980
Broadway Avenue	From Reinberg Avenue to North Main Street	80-1	6-2-1980
Columbia Avenue	From State Street to Broadway Avenue	80-1	6-2-1980
Columbia Avenue	From State Street to Second Street	80-1	6-2-1980
Elm Street	From State Street to Paul Street	80-1	6-2-1980
First Street	From west city limit to Main Street	80-1	6-2-1980
Main Street	From State Street to south city limit	80-1	6-2-1980
Main Street (U.S. 31)	From State Street to north city limit	80-1	6-2-1980
Paul Street	From Columbia Avenue to Elm Street	80-1	6-2-1980
Reinberg Avenue	From State Street to Beryl Street	80-1	6-2-1980
Reinberg Avenue	From State Street to First Street	80-1	6-2-1980
Second Street	From Main Street to Columbia Street	80-1	6-2-1980
State Street (U.S. 10)	From Main Street to east city limit	80-1	6-2-1980
State Street (U.S. 10-31)	From west city limit to Main Street	80-1	6-2-1980

(1993 Code, Ch. 74 Sched. III) Penalty, see § 71.99

**SCHEDULE IV. SPEED RESTRICTIONS.**

<i>Road</i>	<i>Direction</i>	<i>Location</i>	<i>Speed Limit (mph)</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Johnson Road	East and west	Between the north U.S. 31 bypass and North Main Street	35	00-09	11-6-2000
North Main Street	Northbound	30-mph zone extended to the intersection of Johnson Road	30	01-02	10-1-2001

North Main Street	Southbound	Beginning at intersection of North Main Street and Johnson Road	30	01-02	10-1-2001
First Street	East and west	West of Reinberg Avenue	35	15-02	11-2-2015
First Street	North and south		40	15-02	11-2-2015

Penalty, see § 70.99

## CHAPTER 75: PARKING SCHEDULES

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Schedule

- I. No parking
- II. Parking restricted to certain hours
- III. Parking restricted in handicap zones

**Cross-reference:**

*Parking during snow emergency prohibited, see §72.01*

*Truck parking regulated, see §72.02*

**SCHEDULE I. NO PARKING.**

(A) Pursuant to §§ 2.25, 2.26, 2.36, 2.43, 2.53, and 8.24 of the Uniform Traffic Code for Michigan Cities, Townships, and Villages, being duly adopted and made a part of this code, November 6, 1959, and the revisions and amendments, the following traffic-control order is hereby established.

(B) "No Parking at Any Time" signs shall be placed at the following locations:

<b>Street</b>	<b>Location</b>	<b>Curb Line</b>	<b>Ord. No.</b>	<b>Date Passed</b>
<b>Street</b>	<b>Location</b>	<b>Curb Line</b>	<b>Ord. No.</b>	<b>Date Passed</b>
Boat Ramp Drive	On South Main Street adjacent to the Pere Marquette River	South	80-1	2-18-1980
First Street	Between South Main and Reinberg Street	North	2014-1	6-16-2014
High Street	From State Street to Broadway	East	80-1	2-18-1980
Main Street, North	From the James Street intersection to 120 feet north of the Maple Street intersection	East	80-1	2-18-1980
Main Street, North	From the north city limits to the State Street intersection with metered area the only intersection	West	80-1	2-18-1980
Main Street, South	Between Fifth Street and the south city limits	East and west	80-1	2-18-1980
Maple Street	Between Gay and North Main	South	80-1	2-18-1980
State Street, East	From east city limits sign to the intersection of Main Street at the stoplight, with the parking meter area to be the only exception	Both	80-1	2-18-1980
State Street, West	From west city limits to the intersection of Main Street	Both	80-1	2-18-1980
Third Street, West	Between South Main and Scott Street	South	80-1	2-18-1980

(C) "No Parking at Any Time This Side of Sign" signs will be placed at the following locations:

<b>Street</b>	<b>Location</b>	<b>Curb Line</b>	<b>Ord. No.</b>	<b>Date Passed</b>
<b>Street</b>	<b>Location</b>	<b>Curb Line</b>	<b>Ord. No.</b>	<b>Date Passed</b>
Blaine Street	At State Street 15 feet south of intersection	East	80-1	2-18-1980
Broadway Avenue	At North Main 15 feet east of intersection	North	80-1	2-18-1980
Broadway Avenue	At Thomas Street 15 feet east of intersection	North	80-1	2-18-1980
Columbia Street, South	At Paul Street 15 feet north of the intersection	East	80-1	2-18-1980
James Street	At North Main 15 feet east of the intersection	South	80-1	2-18-1980
Main Street, South	At railroad track at the metered area	West	80-1	2-18-1980
Maple Street	30 feet west of Loomis Street	North	2014-1	6-16-2014
Reinberg Avenue	At State Street from State Street south to south driveway of church parking lot	West	80-1	2-18-1980
Second Street	To South Main Street 15 feet west of intersection	North	80-1	2-18-1980
Thomas Street	At Broadway 15 feet north of intersection	West	80-1	2-18-1980

(1993 Code, Ch. 75 Sched. I) Penalty, see § 72.99

**SCHEDULE II. PARKING RESTRICTED TO CERTAIN HOURS.**

Signs shall be posted at the following locations restricting parking to the time indicated on the signs:

<b>Street</b>	<b>Location</b>	<b>Restricted Time(s)</b>	<b>Ord. No.</b>	<b>Date Passed</b>
<b>Street</b>	<b>Location</b>	<b>Restricted Time(s)</b>	<b>Ord. No.</b>	<b>Date Passed</b>
Broadway Avenue	From a point 204 feet west of North Main Street to Gay Street on the north curb line	Two hours	80-1	2-18-1980
First Street	At west city limits, no parking on any city street	Between the hours of 2:00 a.m. to 7:00 a.m.	80-1	2-18-1980
Johnson Road	At the east and west city limits, no parking on any city street	Between the hours of 2:00 a.m. to 7:00 a.m.	80-1	2-18-1980
Main Street	At the north and south city limits, no parking on any city street	Between the hours of 2:00 a.m. to 7:00 a.m.	80-1	2-18-1980
Main Street	100 block north and south	2:00 a.m. to 6:00 a.m.	94-1	7-18-1994
Maple Street	North side between North Main and Gay streets	8:00 a.m. to 5:00 p.m., Mon. - Fri.	86-1	10-20-1986
Parking area	Located on the west side of South Main Street adjacent to the Pere Marquette River	No overnight parking	80-1	2-18-1980
Parking lot	On the south side of West State Street in spaces with signs that read "In yellow parking area only"	Two hours	80-1	2-18-1980

State Street	At the east and west city limits, no parking on any city street	Between the hours of 2:00 a.m. to 7:00 a.m.	80-1	2-18-1980
State Street	100 block east and west	2:00 a.m. to 6:00 a.m.	94-1	7-18-1994

(1993 Code, Ch. 75 Sched. II) Penalty, see § 72.99

**SCHEDULE III. PARKING RESTRICTED IN HANDICAP ZONES.**

Signs shall be posted at the following locations restricting parking to handicapped people only.

<i>Location</i>	<i>No. of Spaces</i>	<i>Ord. No.</i>	<i>Date Passed</i>
North Main Street, in front of 111 North Main Street	1	15-03	11-2-2015
West Parking Lot	8	08-02	3-17-2008

Penalty, see § 72.99

**TITLE IX: GENERAL REGULATIONS**

Chapter

- 90. NUISANCES
- 91. ANIMALS
- 92. FIRE PREVENTION
- 93. PARKS
- 94. CEMETERIES
- 95. STREETS AND SIDEWALKS
- 96. HOUSING DISCRIMINATION
- 97. TREES

**CHAPTER 90: NUISANCES**

Section

***Nuisance Regulations***

- 90.01 Public nuisances per se
- 90.02 Excessive noise
- 90.03 Abandoned refrigerators
- 90.04 Preventable radio or TV interference unlawful; exceptions
- 90.05 Notice to abate
- 90.06 Enforcement procedure
- 90.07 Abatement by city; collection of cost
- 90.08 Penalty additional

***Weed Control***

- 90.20 Weed growth unlawful
- 90.21 Height limit
- 90.22 Notice to abate
- 90.23 Abatement by city
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## **Litter**

90.35 Definitions

90.36 Littering prohibited

## **Abandoned Vehicles**

90.50 Definitions

90.51 Dismantled, abandoned, or inoperative motor vehicles declared a public nuisance

90.52 Abandoned automobiles

90.53 Prohibition on streets

90.54 Outdoor storage

## **NUISANCE REGULATIONS**

### **§ 90.01 PUBLIC NUISANCES PER SE.**

The following acts, services, apparatus, and structures are hereby declared to be public nuisances:

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

(B) The throwing, placing, depositing, or leaving in any street, highway, lane, alley, public place, square, or sidewalk, or in any private place or premises where the throwing, placing, depositing, or leaving is in the opinion of the Health Officer dangerous or detrimental to public health, or likely to cause sickness or attract flies, insects, rodents, and/or vermin, by any person, of any animal or vegetable substance, dead animal, fish, shell, tin cans, bottles, glass, or other rubbish, dirt, excrement, filth, rot, unclean or nauseous water, liquid, or gaseous fluids, hay, straw, soot, garbage, swill, animal bones, hides or horns, rotten soap, grease or tallow, offal, or any other offensive article or substance whatever;

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

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

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

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

(G) Betting, bookmaking, prize fighting, and all apparatus used in those occupations;

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

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

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

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

(L) Any use of the public streets and/or sidewalks which causes large crowds to gather, obstructing the free use of the streets and/or sidewalks;

(M) All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise, and all excavations remaining unfilled or uncovered for a period of 90 days or longer, and which are so situated so as to endanger the safety of the public;

(N) All dangerous, unguarded excavations or machinery in any public place, or so situated, left, or operated on private property as to attract the public; and

(O) The owning, driving, or moving upon the public streets and alleys of trucks or other motor vehicles which are constructed or loaded so as to permit any part of their load or contents to blow, fall, or be deposited upon any street, alley, sidewalk, or other public or private place, or which deposits from their wheels, tires, or other parts onto the street, alley, sidewalk, or other public or private place dirt, grease, sticky substances, or foreign matter of any kind; provided, however, that under circumstances determined by the City Manager to be in the public interest, he or she may grant persons temporary exemption from the provisions of this division (O), conditioned upon cleaning and correcting the violating condition at least once daily, and execution of an agreement by the person to reimburse the city for any extraordinary maintenance expense incurred by the city in connection with the violation.

(1993 Code, § 90.01) Penalty, see § 10.99

### **§ 90.02 EXCESSIVE NOISE.**

(A) *Declared a public nuisance.* All loud or unusual noises or sounds and annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities are hereby declared to be public nuisances.



(B) *Specific offenses.* Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive, namely:

(1) *Animal and bird noises.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person;

(2) *Construction noises.* The erection (including excavating therefor), demolition, alteration, or repair of any building, and the excavation of streets and highways, on Sundays, and other days, except between the hours of 7:00 p.m. to 7:00 a.m., unless a permit be first obtained from the City Manager;

(3) *Sound amplifiers.* Use of any loudspeaker, amplifier, or other instrument or device, whether stationary or mounted on a vehicle for any purpose except one which is noncommercial in character and when so used shall be subject to the following restrictions:

(a) The only sounds permitted are music or human speech;

(b) Operations are permitted for four hours each day, except on Sundays and legal holidays when no operations shall be authorized. The permitted four hours of operation shall be as designated by the Chief of Police;

(c) Sound amplifying equipment mounted on a vehicle shall not be operated unless the sound truck upon which the equipment is mounted is operated at a speed of at least ten mph except when the truck is stopped or impeded by traffic;

(d) Sound shall not be issued within 100 yards of hospitals, schools, or churches; and

(e) The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound amplifying equipment and so that the volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility.

(4) *Engine exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which effectively prevents loud or explosive noises therefrom;

(5) *Handling merchandise.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers;

(6) *Blowers.* The discharge into the open air of noise from a compressor, blower or power fan unless the noise from the compressor, blower, or fan is muffled sufficiently to deaden the noise;

(7) *Hawking.* The hawking of goods, merchandise, or newspapers in a loud and boisterous manner;

(8) *Horns and signal devices.* The sounding of any horns or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of these signal devices of any unreasonably loud or harsh sound, and the sounding of the device for an unnecessary and unreasonable period of time;

(9) *Radio and musical instruments.* The playing of any radio, television set, phonograph, or any musical instrument in such a manner, or with a volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity;

(10) *Shouting and whistling.* Yelling, shouting, hooting, whistling, or singing or the making of any other loud noise on the public streets between the hours of 11:00 p.m. and 7:00 a.m., or the making of this noise at any time so as to annoy or disturb the quiet, comfort, or repose of persons in any school, place of worship, or office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity; and

(11) *Whistle or siren.* The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger.

(C) *Exceptions.* None of the terms or prohibitions of division (B) above shall apply to or be enforced against:

(1) *Emergency vehicles.* Any police or fire vehicle or any ambulance, while engaged upon emergency business; or

(2) *Highway maintenance and construction.* Excavations or repairs of bridges, streets, or highways by or on behalf of the city or the state, during the night, when the public safety, welfare, and convenience renders it impossible to perform that work during the day.

(1993 Code, § 90.02) Penalty, see § 10.99

### **§ 90.03 ABANDONED REFRIGERATORS.**

No person shall have in his or her possession, either inside or outside of any building, structure, or dwelling, in a place accessible to children, any abandoned, unattended, or discarded icebox, refrigerator, or any other similar airtight container of any kind which has a snap latch or other locking device thereon, without first removing the snap latch or other locking device, or the doors, from the icebox, refrigerator, or other container.

(1993 Code, § 90.03) Penalty, see § 10.99

### **§ 90.04 PREVENTABLE RADIO OR TV INTERFERENCE UNLAWFUL; EXCEPTIONS.**

(A) It shall be unlawful for any person knowingly or wantonly to operate or cause to be operated any machine, device,

apparatus, or instrument of any kind whatsoever within the corporate limit of the city between the hours of 6:00 a.m. and 12:00 midnight, the operation of which shall cause reasonably preventable electrical interference with radio or television reception, within the municipal limits; provided, however, that X-ray pictures, examination, or treatments may be made at any time if the machine or apparatus used therefor are properly equipped to avoid all unnecessary or reasonably preventable interference with radio or television reception and are not negligently operated.

(B) This section shall not be held or construed to embrace or cover the regulation of any transmitting, broadcasting, or receiving instrument, apparatus, or device used or useful in interstate commerce or the operation of which instrument, apparatus, or device is licensed by or under the provisions of any act of the Congress of the United States.

(1993 Code, § 90.05) Penalty, see § 10.99

#### **§ 90.05 NOTICE TO ABATE.**

(A) *Notice.* Whenever any dangerous, unsanitary, or unsightly condition shall exist upon premises within the city, whether the same is created by dilapidated structures, obnoxious growths, obnoxious accumulation, or heaps of animal, vegetable, or mineral matter, offensive accumulations of junk in zones where junkyards are forbidden, or by the presence of other offensive material to the extent as to constitute a public nuisance within the meaning of the common law or state statutes as defined in this code, the city may serve written notice that the condition shall be abated.

(B) *Definition.* The word **JUNK** as used herein shall mean scrap iron, scrap metal, scrap wood, used or salvaged auto parts or any form of goods commonly considered as junk.

(1993 Code, § 90.06)

#### **§ 90.06 ENFORCEMENT PROCEDURE.**

In connection with the exercise of the city's authority under the general language of §90.05:

(A) Service of notice to abate shall be made pursuant to direction of the City Commission in a resolution specifying the legal description of the premises upon which the condition exists, the nature of the condition to be abated, the name or names of the owner or owners of the affected premises, the time within which the owner or owners shall abate the condition, and the manner of its abatement;

(B) Where name and address are known, a resident owner may be served with the notice personally, or by leaving it at his or her usual place of abode or business with some person of suitable age and discretion residing or employed therein, or by registered or certified mail; and where name and address are known, a nonresident owner shall be served with the notice by registered or certified mail;

(C) Where name and address are not known, an owner (resident or nonresident) shall be served with the notice by publishing a copy thereof once in a newspaper of general circulation in the city;

(D) Where premises subject hereto may be under the control of any legally appointed fiduciary, the fiduciary shall be considered the owner thereof for the purpose of receiving notice hereunder; and

(E) The specification in any resolution of the City Commission of an abatable condition relating to any premises shall be considered prima facie evidence of the existence of that condition; and the time fixed in the resolution within which the condition shall be abated by the owner or owners of the premises shall be considered as prima facie reasonable.

(1993 Code, § 90.07)

#### **§ 90.07 ABATEMENT BY CITY; COLLECTION OF COST.**

If, after service of the notice or notices prescribed in §90.06, the abating action required thereby shall not have been fully performed within the time limit therein specified, the failure to abate by the owner or owners shall be reported by the City Manager to the City Commission whereupon the City Commission may by further resolution direct that the specified work of abatement be performed at the city's expense by municipal employees or private contractors and the cost thereof be by the City Manager reported to the City Assessor for placement on the tax rolls to be and become a special assessment and lien upon the premises described in the notice or notices and as such to be collected in the manner provided in the City Charter.

(1993 Code, § 90.08)

#### **§ 90.08 PENALTY ADDITIONAL.**

No action taken hereunder by the city shall constitute a bar to prosecution for violation of this code or state statute.

(1993 Code, § 90.09)

### **WEED CONTROL**

#### **§ 90.20 WEED GROWTH UNLAWFUL.**

Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of a like kind, found growing in any lot or tract of land in the city, are hereby declared to be a nuisance, and it shall be unlawful to permit these weeds to grow or remain in that place.

(1993 Code, § 90.15) Penalty, see § 10.99

#### **§ 90.21 HEIGHT LIMIT.**

Effective June 22, 2004, it shall be unlawful for anyone to permit weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental or vegetable plants, to grow to a height exceeding six inches anywhere in the city; and any plants, grasses, or weeds exceeding that height are hereby declared to be a nuisance.

(1993 Code, § 90.16) (Ord. 04-01, passed 6-7-2004) Penalty, see §10.99

#### **§ 90.22 NOTICE TO ABATE.**

It shall be the duty of the City Manager and/or Code Enforcement Officer to serve or cause to be served one notice per year upon the owner or occupant of any premises on which weeds, plants, or grasses are permitted to grow in violation of the provisions of this subchapter and to demand the abatement of the nuisance.

(1993 Code, § 90.17) (Ord. 04-01, passed 6-7-2004)

#### **§ 90.23 ABATEMENT BY CITY.**

If the person so served does not abate the nuisance within five days of the first notice, or if the person subsequently fails to maintain the property in accordance with § 90.21, the city will proceed to abate the nuisance(s), keeping an account of the expenses of the abatement(s), and the expenses plus 25% overhead/administrative fee shall be charged and paid by the owner or occupant.

(1993 Code, § 90.18) (Ord. 04-01, passed 6-7-2004)

#### **§ 90.24 COLLECTION OF COSTS.**

Charges for these abatement(s) shall be a lien upon the premises. Whenever a bill for the charges remains unpaid for 60 days after it has been rendered, the City Manager shall notify the City Commission, and upon this notice the City Commission shall, by resolution, assess the charge against the property to which the bill is rendered. For the purpose of collection of these assessments, the adoption of the assessment shall be equivalent to the confirmation of a special assessment roll. The amount of the assessment shall become a debt to the city upon adoption of the resolution, be due at a time as the Commission shall prescribe, and shall be subject to a collection fee of \$25 and become a lien of the same character and effect as created by the City Charter for city taxes.

(1993 Code, § 90.19) (Ord. 04-01, passed 6-7-2004)

### **LITTER**

#### **§ 90.35 DEFINITIONS.**

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

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

**LITTER.** Garbage, refuse, and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.

**PUBLIC OR PRIVATE PROPERTY OR WATERS.** Includes but is not limited to the right-of-way of any road or highway, any body of water or watercourse, or the shores or beaches thereof and including the ice above the waters; any parks, playground, building, refuge, or conservation or recreation area; and any residential or farm properties or timberlands.

**REFUSE.** All decaying and nondecaying solid wastes including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, junk, and solid market and industrial wastes.

**RUBBISH.** Nondecaying solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials.

(1993 Code, § 90.30)

#### **§ 90.36 LITTERING PROHIBITED.**

It is unlawful, and a violation of this code:

(A) For any person knowingly, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw, or leave, or cause or permit the dumping, depositing, placing, throwing, or leaving of litter on any public or private property or waters other than property designated and set aside for those purposes; and

(B) For a person who removes a vehicle, wrecked or damaged in an accident on a highway, road, or street, to fail to remove all glass and other injurious substances dropped on the highway, road, or street as a result of the accident.

(1993 Code, § 90.31) Penalty, see § 10.99

### **ABANDONED VEHICLES**

#### **§ 90.50 DEFINITIONS.**

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

**ABANDONED MOTOR VEHICLE.** Any vehicle that has remained on private property for a period of 48 continuous hours or

more, without the consent of the owner or occupant of the property, or for a period of 48 continuous hours or more after the consent of the owner or occupant has been revoked.

**DISMANTLED MOTOR VEHICLE.** Any dismantled and partially dismantled motor vehicle, from which some part or parts that are ordinarily a component of the motor vehicle have been removed or is or are missing.

**INOPERATIVE MOTOR VEHICLE.** Any motor vehicle that, by reason of dismantling, disrepair, or other cause, is incapable of being propelled under its own power; or any motor vehicle not licensed or insured for use upon the highways of the state, excepting an unlicensed but operative vehicle that is kept as a stock-in-trade of a regularly licensed and established new or used car dealer, or licensed recycling/salvage dealers.

**MOTOR VEHICLE.** Any wheeled vehicle which is self-propelled, or intended to be self-propelled.

(1993 Code, § 90.40)

#### **§ 90.51 DISMANTLED, ABANDONED, OR INOPERATIVE MOTOR VEHICLES DECLARED A PUBLIC NUISANCE.**

The presence of a dismantled, abandoned, or inoperative motor vehicle or parts of a motor vehicle on any platted or unplatted parcel of land in violation of this subchapter is declared to be a public nuisance.

(1993 Code, § 90.41) Penalty, see § 10.99

#### **§ 90.52 ABANDONED AUTOMOBILES.**

No person shall abandon any motor vehicle in the rights-of-way of streets, alleys, or highways within the city, nor upon any public or private property within the limits of the city.

(1993 Code, § 90.42) Penalty, see § 10.99

#### **§ 90.53 PROHIBITION ON STREETS.**

Dismantled or inoperative motor vehicles shall not be permitted in the right-of-way of streets, alleys, or highways within the city; provided, however, this shall not apply to towing or similar transporting of the vehicles; and further provided, that reasonable time (not to exceed 48 hours from the time of disability in the case of inoperative vehicles) shall be permitted for the removal or servicing of a disabled vehicle in an emergency caused by accident or sudden breakdown of the vehicle.

(1993 Code, § 90.43) Penalty, see § 10.99

#### **§ 90.54 OUTDOOR STORAGE.**

(A) It shall be unlawful for any person to institute, start, or engage in the business of conducting a junkyard, storage lot, or automobile wrecking lot without first having made an application and securing the consent of the City Commission to do so, and complying with the following requirements:

(1) It shall be necessary for the proprietor or owner of any junkyard, storage lot, or automobile wrecking lot to construct and maintain in good repair a solid fence at least seven feet in height, enclosing the lot and/or yard in such a manner that the junk or stored vehicles are not exposed to the public view.

(2) It shall further be necessary for the proprietor of any junkyard, storage lot, or automobile wrecking lot to keep the same in an orderly and neat condition, removing therefrom, at regular intervals, all waste, garbage, filth, and accumulation in order to prevent the yard or lot from becoming a breeding place for insects and rodents.

(B) The outdoor storage of dismantled, abandoned, or inoperative motor vehicles shall not be permitted or allowed in any platted or unplatted parcel of land in the city unless the motor vehicle shall be kept in a wholly enclosed garage or fenced enclosure as provided for in division (A) of this section; provided, however, that any bona fide owner, co-owner, tenant, or co-tenant may store, permit to be stored, or allow to remain on the premises of which he or she is the owner, co-owner, tenant, or co-tenant any dismantled or inoperative motor vehicle for a period of not to exceed one week, if the motor vehicle is registered in his, her, or its name; and provided further, that the owner, co-owner, tenant, or co-tenant may, in the event of hardship, secure a permit from the Chief of Police, or any agent that he or she shall appoint, to extend the period for an additional period, but not to exceed one week for any dismantled or inoperative motor vehicle, if the motor vehicle is registered in the name of the applicant. No permit shall be granted or construed to allow parking of the dismantled or inoperative vehicle on any street, alley, or highway within the city.

(1993 Code, § 90.44) Penalty, see § 10.99

## **CHAPTER 91: ANIMALS**

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### Section

#### ***General Provisions***

91.01 Cruelty to animals

91.02 Poisoning animals

91.03 Birds and birds' nests

## ***Keeping Animals***

- 91.15 Definitions
- 91.16 Permit
- 91.17 Sanitation
- 91.18 Running at large

## ***Dogs***

- 91.30 Definitions
- 91.31 State license required
- 91.32 Impounding
- 91.33 Female dog in heat
- 91.34 Running
- 91.35 Barking
- 91.36 Vicious dogs
- 91.37 Keeping of dogs
- 91.38 Kennels

## **GENERAL PROVISIONS**

### **§ 91.01 CRUELTY TO ANIMALS.**

No person shall cruelly treat or abuse any animal or bird.

(1993 Code, § 91.01) Penalty, see § 10.99

### **§ 91.02 POISONING ANIMALS.**

No person shall throw or deposit any poisonous substance on any exposed public or private place where it endangers, or is likely to endanger, any animal or bird.

(1993 Code, § 91.02) Penalty, see § 10.99

### **§ 91.03 BIRDS AND BIRDS' NESTS.**

No person, except a public officer acting in his or her official capacity, shall molest, injure, kill, or capture any wild bird, or molest or disturb any wild bird's nest or the contents thereof.

(1993 Code, § 91.03) Penalty, see § 10.99

## **KEEPING ANIMALS**

### **§ 91.15 DEFINITIONS.**

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

**DOMESTIC ANIMAL** or **FOWL**. Any horse, cattle, swine, sheep, pony, goat, rabbit, or other animal or fowl, except dogs, cats, birds, or animals commonly classified as pets.

(1993 Code, § 91.15)

### **§ 91.16 PERMIT.**

(A) *Permit required.* No domestic animal or fowl shall be kept within the city, except by permission of the City Commission.

(B) *Application.* Any person desiring to keep domestic animals or fowl within the city shall make application to the City Commission in writing for permission so to do, describing particularly the place where the applicant proposes to keep the animals or fowl, the number thereof, the distance from that place to the public streets on each side, and the distance to the dwelling houses upon the lands adjoining the proposed place.

(C) *City Manager report.*

(1) All applications shall be referred to the City Manager who shall make a report and recommendation to the City Commission. If it shall appear to the City Commission that it will not be detrimental to the health, safety, and welfare of any of the inhabitants of the city, the City Commission shall grant a permit to the persons applying therefor, to keep domestic animals and fowl within the city.

(2) The permit shall specify the place where the domestic animals and fowl may be kept, and the number thereof shall be reasonable as determined by the City Commission. No person shall keep any domestic animal or fowl in the city contrary to the terms and conditions of the permit. The City Commission may revoke the permit whenever it may deem it fit and proper to do so,

upon good cause shown.

(1993 Code, § 91.16) Penalty, see § 10.99

#### **§ 91.17 SANITATION.**

All persons keeping any domestic animal or fowl shall keep the places wherein they are kept in a clean and sanitary condition and in accordance with rules and regulations as may be made from time to time by the Health Officer of the city. Upon failure to comply with these rules and regulations, the City Commission may revoke the permit to keep the domestic animals and fowl.

(1993 Code, § 91.17) Penalty, see § 10.99

#### **§ 91.18 RUNNING AT LARGE.**

The owner or custodian of any domestic animal or fowl shall not permit the domestic animal or fowl to run at large within the city.

(1993 Code, § 91.18) Penalty, see § 10.99

## **DOGS**

#### **§ 91.30 DEFINITIONS.**

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

**OWNER.** When applied to the proprietorship of a dog, includes every person having a right of property in the dog, and every person who keeps or harbors the dog or has it in his or her care, and every person who permits the dog to remain in or about any premises occupied by him or her.

**REASONABLE CONTROL.** Keeping a dog on suitable leash or under the oral control of the owner or custodian or some other person with the permission of the owner or custodian, in all cases other than while upon private property, or unless the dog is confined in a closed automobile or shipping receptacle.

(1993 Code, § 91.30)

#### **§ 91.31 STATE LICENSE REQUIRED.**

It shall be unlawful for any person to own, maintain, keep, or harbor any dog within the city without first procuring a license therefor as prescribed by state law. Application for a license shall be made as provided by law and shall state the breed, sex, age, color, and markings of the dog, and the name and address of the applicant and the last known previous owner.

(1993 Code, § 91.31) Penalty, see § 10.99

#### **§ 91.32 IMPOUNDING.**

(A) It shall be the duty of the County Dog Warden and the City Police Department to seize and impound any dog found anywhere in the city contrary to the provisions of this subchapter. Any dog so impounded may be placed in an animal shelter designated by the Chief of Police.

(B) The Police Department or Dog Warden shall maintain a complete record of all dogs impounded under the provisions of this subchapter and the disposition of same.

(1993 Code, § 91.32)

#### **§ 91.33 FEMALE DOG IN HEAT.**

It shall be unlawful for the owner or custodian of any female dog to permit the dog off the premises of the owner or custodian when in heat.

(1993 Code, § 91.33) Penalty, see § 10.99

#### **§ 91.34 RUNNING.**

It shall be unlawful for any person owning or having the custody, control, or possession of any dog to allow the animal to run at large or stray beyond his or her premises within the city unless the same be under the reasonable control of a responsible person. Any dog found running at large within the city unaccompanied by a responsible person or not under the reasonable control of the person is hereby declared to be a public nuisance, and the dog may be killed by a police officer or any other employee of the city properly authorized so to do.

(1993 Code, § 91.34) Penalty, see § 10.99

#### **§ 91.35 BARKING.**

It shall be unlawful for any person to own, harbor, or keep any dog which shall cause annoyance or disturbance to persons by frequent and habitual barking, howling, or yelping.

(1993 Code, § 91.35) Penalty, see § 10.99

#### **§ 91.36 VICIOUS DOGS.**

It shall be unlawful for any person to harbor a vicious, fierce, or dangerous dog.

(1993 Code, § 91.36) Penalty, see § 10.99

### § 91.37 KEEPING OF DOGS.

The keeping of dogs is allowed in any zoning district, subject to the following conditions.

(A) The keeping of one or two dogs, four months old or older, is generally considered to have minimal nuisance value, and no site improvement or method of housing the pets is required.

(B) The keeping of three dogs, four months old or older, requires the following site improvements and housing requirements:

(1) In the event the dogs are housed outside the principal structure on the site, an approved structure must be constructed to house the dogs. The structure housing the dogs shall be located no less than 25 feet from any lot line. In the event a fence is not located around the perimeter of the site, a fence shall be constructed around the structure housing the pets; and

(2) The height of the required fence shall be adequate to prevent any pet from getting beyond the boundaries of the fenced enclosure. The fence shall be adequately secured to the ground to prevent tunneling beneath the fence.

(C) A violation of this section shall be a civil infraction with the penalties and procedures as set out in §10.99, which is incorporated herein by reference.

(Ord. 07-01, passed 1-8-2007)

### § 91.38 KENNELS.

(A) A **KENNEL** shall be defined as any lot or premises on which four or more dogs, four months or older, are kept either temporarily or permanently, for any purpose whatsoever.

(B) A kennel shall be on a lot with a minimum lot size of five acres for the first 11 animals and an additional one-third acre for each animal thereafter.

(C) Accessory buildings where animals are kept, runs, and exercise areas shall not be located nearer than 100 feet to any adjacent residential lot line.

(D) All kennels shall be operated in conformance with all applicable county, state, and federal regulations.

(E) The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.

(F) The intensity level of sounds shall not exceed 75 decibels at the lot line of industrial uses, 65 decibels at the lot line of commercial uses, and 55 decibels at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.

(G) Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 7:00 a.m.

(H) During the hours between 7:00 a.m. until 10:00 p.m., dogs shall be permitted in outdoor runs or pens. Dogs shall be kept confined and not allowed to run at large on the property, except as part of supervised training.

(I) Runs and/or exercise areas and buildings where the dogs are maintained shall be located in the rear yard only.

(J) The kennel area shall be screened from view by appropriate screening.

(K) The outside perimeter of the run and/or exercise area shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top having to prohibit the escape of dogs.

(L) All dogs must be licensed and maintained in a healthful and careful manner.

(M) Outdoor runs and breeding areas shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.

(N) The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease, or offensive odor.

(O) Animal odor shall not be detectable beyond the lot lines of the property in which the kennel is located.

(P) Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.

(Q) A violation of this section shall be a civil infraction with the penalties and procedures as set out in §10.99, which is incorporated herein by reference.

(Ord. 07-01, passed 1-8-2007)

## CHAPTER 92: FIRE PREVENTION

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### Section

92.01 Fires

92.02 Incinerators

- 92.03 Downtown business area
- 92.04 Freestanding outdoor wood burning furnaces
- 92.05 Effective date
  
- 92.99 Penalty

**Cross-reference:**

*Open fires in parks, see §93.05*

**§ 92.01 FIRES.**

- (A) No person shall burn any stumps, leaves, lawn clippings, rubbish, trash, wood, garbage, food containers, paper, or other combustible material in any street, alley, private, or public place, except in an approved incinerator.
- (B) This section does not apply to the use of indoor fireplaces, or outdoor campfires in designated areas in public parks.
- (C) Outdoor campfires are permitted on private property, so long as they do not burn any material that endangers surrounding property, create a nuisance or are a hazard as determined by the City Manager, Fire Chief, or their designees, and conform to the other regulations of this section. Campfires must be in contained above-ground fire pits that are 36 inches or less in diameter and must meet other reasonable specifications as set by the Fire Chief. Flames must not exceed three feet in height. The campfire shall be not less than 15 feet from any wood-frame structure and not less than ten feet from any fence, tree, hedge, or property line, and adequate provision must be made to prevent fire from spreading with all combustible material removed from the area. All campfires shall be under the direct and constant supervision and control of a person at least 18 years of age.
- (D) If a city police officer, Fire Department personnel, City Manager, or designee requests that a fire be extinguished on public or private property for an alleged violation of this chapter, the person shall promptly extinguish the fire.
- (E) The City Commission may establish a permit system and fee schedule by resolution for the regulation of outdoor campfires on private property.

(Ord. 06-02, passed 5-15-2006) Penalty, see §92.99

**§ 92.02 INCINERATORS.**

No incinerator shall be installed without a permit from the City Commission.

(Ord. 06-02, passed 5-15-2006) Penalty, see §92.99

**§ 92.03 DOWNTOWN BUSINESS AREA.**

- (A) The burning of trash, garbage, or other debris of any nature whatsoever is prohibited in the downtown business area of the city.
- (B) This section shall not prohibit the burning of trash, garbage, or other debris in furnaces or approved incinerators contained in the dwelling units in the business.
- (C) The **BUSINESS DISTRICT** shall be defined for the purposes of this section as the area lying between a point 100 feet south of Second Street to a point 200 feet north of Broadway Avenue, and from a point 440 feet west of Main Street to a point 320 feet east of Main Street.
- (D) This section shall be deemed to be enacted for the health, safety, and welfare of the citizens and property owners in this congested business area, and bears no relation to zoning areas.

(Ord. 06-02, passed 5-15-2006) Penalty, see §92.99

**§ 92.04 FREESTANDING OUTDOOR WOOD BURNING FURNACES.**

(A) *Definition.*

(1) For the purpose of this section, the term **FREESTANDING WOOD BURNING FURNACE** shall mean any device or structure that:

- (a) Is designed, intended, or used to provide heat and/or hot water to any residence or other structure;
- (b) Operates by burning wood or other solid fuel; and
- (c) Is not located within a residential structure.

(2) Excluded from the definition of a **FREESTANDING WOOD BURNING FURNACE** is any device which is not designed or used to heat a structure other than the structure in which it is located.

(B) *Prohibition.* It shall be unlawful to install or operate a freestanding wood burning furnace, and to cause or permit the installation or operation of a freestanding wood burning furnace, within the city.

(C) *Declaration of nuisance.* Any freestanding wood burning furnace installed or operated in violation of this section is hereby declared a nuisance per se.



(D) *Effective date.* The effective date of this section is May 30, 2006.

(Ord. 06-03, passed 5-15-2006) Penalty, see §92.99

#### **§ 92.05 EFFECTIVE DATE.**

This chapter, except § 92.04, is effective May 30, 2006.

(Ord. 06-02, passed 5-15-2006)

#### **§ 92.99 PENALTY.**

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

(B) Violation of §92.01 is a municipal civil infraction.

(C) In addition to any other remedies the city may have, whoever violates any provision of §92.04 is responsible for a municipal civil infraction, and shall be subject to the payment of a civil fine of not less than \$100, plus costs and other sanctions for each infraction. Each day that a violation exists or continues shall constitute a separate and additional violation.

(Ord. 06-02, passed 5-15-2006; Ord. 06-03, passed 5-15-2006)

## **CHAPTER 93: PARKS**

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### Section

93.01 Injury to park property

93.02 Waste containers

93.03 Ball games

93.04 Picnics

93.05 Open fires

93.06 Vehicles in parks

93.07 Additional rules

#### **Cross-reference:**

*Fires generally, see Ch. 92*

#### **§ 93.01 INJURY TO PARK PROPERTY.**

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

(1993 Code, § 93.01) Penalty, see § 10.99

#### **§ 93.02 WASTE CONTAINERS.**

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

(1993 Code, § 93.02) Penalty, see § 10.99

#### **§ 93.03 BALL GAMES.**

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

(1993 Code, § 93.03) Penalty, see § 10.99

#### **§ 93.04 PICNICS.**

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

(1993 Code, § 93.04) Penalty, see § 10.99

#### **§ 93.05 OPEN FIRES.**

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

(1993 Code, § 93.05) Penalty, see § 10.99

## **§ 93.06 VEHICLES IN PARKS.**

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

(1993 Code, § 93.06) Penalty, see § 10.99

## **§ 93.07 ADDITIONAL RULES.**

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

(1993 Code, § 93.07)

# **CHAPTER 94: CEMETERIES**

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## Section

- 94.01 Burials
- 94.02 Brookside Cemetery
- 94.03 Cemetery rules
- 94.04 Manager's duties; Sexton
- 94.05 Charges
- 94.06 Funds
- 94.07 Perpetual care

## **§ 94.01 BURIALS.**

All cemeteries now owned or which may hereafter be acquired by the city are declared to be public burying grounds, and no person shall establish any other cemetery within the limits of the city; nor shall any body be buried within the city limits of the city in any other place than a cemetery, without special permission of the City Commission.

(1993 Code, § 94.01) Penalty, see § 10.99

## **§ 94.02 BROOKSIDE CEMETERY.**

The cemetery now owned by the city shall be known as Brookside Cemetery.

(1993 Code, § 94.02)

## **§ 94.03 CEMETERY RULES.**

The City Commission shall constitute the Cemetery Board and may adopt any rules and regulations governing the cemeteries as may from time to time be necessary, and the rules and regulations, when adopted and public notice thereof given, shall have the same force and effect as if the same were specifically set forth in this chapter.

(1993 Code, § 94.03)

## **§ 94.04 MANAGER'S DUTIES; SEXTON.**

(A) The City Manager shall be responsible for seeing that the rules and regulations as set forth by the Commission are carried out.

(B) The City Cemetery Sexton, subject to the approval of, and under the direction of the City Manager, shall have charge of the city cemeteries, and make complaints for every violation of this chapter, and for violation in city-owned cemeteries of any other provision of this code. He or she shall supervise all workers, visitors, and drivers, and shall qualify and be appointed a special police officer in the city-owned cemeteries.

(1993 Code, § 94.04)

## **§ 94.05 CHARGES.**

(A) The price for lots and services shall be provided for in the "Rules and Regulations of the Brookside Cemetery."

(B) Disinterment and reinterment charges shall each be at the same rate as interment charges.

(1993 Code, § 94.05)

## § 94.06 FUNDS.

The City Treasurer shall be the bonded agent of the city for the collection of cemetery fees, and therefore all moneys shall be received by the City Treasurer for relating to the sale of property or services in the operation of city-owned cemeteries.

(1993 Code, § 94.06)

## § 94.07 PERPETUAL CARE.

(A) The prices charged for sites shall include the necessary fee to provide for the perpetual care of sites sold. No sites shall be sold without perpetual care, and the portion of site charges to be set aside for perpetual care shall be \$75 of the total site charge, effective October 6, 1998.

(B) Moneys collected for perpetual care shall be set aside in a separate bank account and subsequently invested in government bonds, or other types of investments approved by state statutes, or may, at the discretion of the City Commission, be temporarily borrowed by the city for public improvement projects, provided that the city pays a rate of interest on the money so borrowed at least equal to the prevailing bank rate. Only the income from the investment of perpetual care moneys may be spent.

(1993 Code, § 94.07) (Ord. 98-01, passed 9-21-1998)

# CHAPTER 95: STREETS AND SIDEWALKS

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## Section

### *Streets*

- 95.01 Definitions
- 95.02 Damage and obstruction
- 95.03 Permits and bonds
- 95.04 Street openings
- 95.05 Emergency openings
- 95.06 Backfilling
- 95.07 Utility poles
- 95.08 Maintenance of installations in streets
- 95.09 Curb cuts
- 95.10 Pedestrian passage
- 95.11 Safeguards
- 95.12 Shoring excavations
- 95.13 Moving of buildings, and the like
- 95.14 Removal of encroachment
- 95.15 Temporary street closings

### *Sidewalks*

- 95.30 Definitions
- 95.31 Specifications and permits
- 95.32 Line and grade stakes
- 95.33 Sidewalk specifications
- 95.34 Permit revocation
- 95.35 Construction of sidewalk
- 95.36 Sidewalks to be cleared
- 95.37 Notice to abate
- 95.38 Abatement by city
- 95.39 Collection of costs
- 95.40 Central Business District sidewalk regulations
- 95.41 Construction and repairs

- 95.42 Snow removal
- 95.43 Merchandise and sales
- 95.44 Signs
- 95.45 Outdoor dining
  
- 95.99 Penalty

## STREETS

### § 95.01 DEFINITIONS.

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

**MANAGER.** The City Manager or his or her duly authorized assistant or deputy.

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

(1993 Code, § 95.01)

### § 95.02 DAMAGE AND OBSTRUCTION.

(A) No person shall make any excavation in, or cause any damage to, any street in the city, except under the conditions and in the manner permitted in this subchapter. No person shall place any article, thing, or obstruction in any street, except under the conditions and in the manner permitted in this code.

(B) This section shall not be deemed to prohibit any temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises, the lawful parking of vehicles within the part of the street reserved for vehicular traffic, or the installation of traffic or directional signs by the city or other authorized governmental agency.

(C) No person shall occupy any street with any materials or machinery incidental to the construction, demolition, or repair of any building adjacent to the street, or for any other purpose, without first obtaining a permit from the City Manager. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by § 95.03.

(1993 Code, § 95.02)

### § 95.03 PERMITS AND BONDS.

(A) Where permits are authorized in this chapter, they shall be obtained upon application to the City Manager, upon forms as he or she shall prescribe. This permit shall be revocable by the City Manager for failure to comply with this subchapter, rules and regulations adopted pursuant hereto, and the lawful orders of the City Manager or his or her duly authorized representative, and shall be valid only for the period of time endorsed thereon. Application for a permit under the provisions of this subchapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the city in connection therewith, repair all damage done to the street surface and installations on, over or within the street, including trees, and protect and save harmless the city from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith. Where liability insurance policies are required to be filed in making application for a permit, they shall be in not less than the following amounts, except as otherwise specified in this subchapter:

- (1) On account of injury to, or death of, any person in any one accident, \$50,000;
- (2) On account of any one accident resulting in injury to, or death of, more than one person, \$100,000; and
- (3) On account of damage to property in any one accident, \$5,000.

(B) A duplicate executed copy or photostatic copy of the original of the insurance policy shall be filed with the City Clerk. Where cash deposits are required with the application for any permit hereunder, the deposit shall be in the amount of \$50, except as otherwise specified in this subchapter, and the deposit shall be used to defray all expenses to the city arising out of the granting of the permit and the work done under the permit or in connection therewith. Six months after the completion of the work done under the permit, any balance of the cash deposit unexpended, shall be refunded. In any case where the deposit does not cover all costs and expenses of the city, the deficit shall be paid by the applicant.

(1993 Code, § 95.03)

### § 95.04 STREET OPENINGS.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the City Manager. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by § 95.03.

(1993 Code, § 95.04) Penalty, see § 95.99

### § 95.05 EMERGENCY OPENINGS.

The City Manager may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this subchapter shall be complied with.

(1993 Code, § 95.05) Penalty, see § 95.99

#### **§ 95.06 BACKFILLING.**

All trenches in a public street or other public place, except by special permission, shall be backfilled in accordance with regulations adopted pursuant to this subchapter. Any settlement shall be corrected within four hours after notification to do so.

(1993 Code, § 95.06) Penalty, see § 95.99

#### **§ 95.07 UTILITY POLES.**

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

(1993 Code, § 95.07) Penalty, see § 95.99

#### **§ 95.08 MAINTENANCE OF INSTALLATIONS IN STREETS.**

Every owner of, and every person in control of, any estate hereafter maintaining a sidewalk vault, coal hole, manhole, or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit, or other structure in, under, over, or upon any street which is adjacent to or a part of his or her estate, shall do so only on condition that the maintenance shall be considered as an agreement on his or her part with the city to keep the same and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his or her ownership or control thereof, and to indemnify and save harmless the city against all damages or actions at law that may arise or be brought by reason of the excavation or structure being under, over, in, or upon the street, or being unfastened, out of repair, or defective during the ownership and control.

(1993 Code, § 95.08) Penalty, see § 95.99

#### **§ 95.09 CURB CUTS.**

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

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

- (1) No single curb cut shall exceed 25 feet nor be less than ten feet;
- (2) The minimum distance between any curb cut and a public crosswalk shall be five feet;
- (3) The minimum distance between curb cuts, except those serving residential property, shall be 25 feet;

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

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

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

(1993 Code, § 95.09) Penalty, see § 95.99

#### **§ 95.10 PEDESTRIAN PASSAGE.**

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

(1993 Code, § 95.10) Penalty, see § 95.99

#### **§ 95.11 SAFEGUARDS.**

All openings, excavations, and obstructions shall be properly and substantially barricaded and railed off, and at night shall be provided with approved warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three feet apart, and parallel to the flow of traffic not over 15 feet apart.

(1993 Code, § 95.11) Penalty, see § 95.99

#### **§ 95.12 SHORING EXCAVATIONS.**

All openings and excavations shall be properly and substantially sheeted and braced as a safeguard to workers and to prevent cave-ins or washouts which would tend to injure the thoroughfare or subsurface structure of the street.

(1993 Code, § 95.12) Penalty, see § 95.99

#### **§ 95.13 MOVING OF BUILDINGS, AND THE LIKE.**

No person shall move, transport, or convey any building, machinery, truck, or trailer more than eight feet, eight inches wide or higher than 13 feet, six inches above the surface of the roadway, into, across, or along any street or other public place in the city, without first obtaining a permit from the City Manager. The applicant shall file written clearances from the light, telephone, gas, and water utilities, stating that all connections have been properly cut off and, where necessary, all obstructions along proposed route of moving will be removed without delaying moving operations. In addition, clearance shall be obtained from the Police Department, approving the proposed route through the city streets and the time of moving, together with an estimated cost to the Police Department due to the moving operations. The applicant shall deposit with the city the total estimated cost to the city plus a cash deposit and shall file an insurance policy as required by § 95.03.

(1993 Code, § 95.13) Penalty, see § 95.99

#### **§ 95.14 REMOVAL OF ENCROACHMENT.**

Encroachments and obstructions in the street may be removed and excavations refilled and the expenses of the removal or refilling charged to the abutting land owner when made or permitted by him or her or suffered to remain by him or her, otherwise than in accordance with the terms and conditions of this subchapter. The procedure for collection of these expenses shall be as prescribed in § 13.9 of the Charter.

(1993 Code, § 95.14) Penalty, see § 95.99

#### **§ 95.15 TEMPORARY STREET CLOSINGS.**

The City Manager shall have authority to temporarily close any street, or portion thereof, when he or she shall deem the street to be unsafe or temporarily unsuitable for use for any reason. He or she shall cause suitable barriers and signs to be erected on the street, indicating that the same is closed to public travel. When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over the street except as the same may be necessary incidentally to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the City Manager.

(1993 Code, § 95.15) Penalty, see § 95.99

## **SIDEWALKS**

#### **§ 95.30 DEFINITIONS.**

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

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

(1993 Code, § 95.25)

#### **§ 95.31 SPECIFICATIONS AND PERMITS.**

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

(1993 Code, § 95.26) Penalty, see § 95.99

#### **§ 95.32 LINE AND GRADE STAKES.**

The City Manager shall furnish line and grade stakes as may be necessary for proper control of the work, but this shall not relieve the owner of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the City Manager.

(1993 Code, § 95.27) Penalty, see § 95.99

#### **§ 95.33 SIDEWALK SPECIFICATIONS.**

Sidewalks shall not be less than four inches in thickness, and bituminous expansion paper three-eighths inch thick shall be placed in the joints and where other walks, drives, and curbs join. All concrete used in sidewalk construction shall, 28 days after placement, be capable of resisting a pressure of 2,500 pounds per square inch without failure. The concrete shall be a #5 bag mix with Grade A aggregate or equal. The subbase shall be of four-inch tamped sand. Residential walks shall be five feet wide with a slope of one-fourth inch per foot toward the street unless otherwise authorized by the City Manager.

(1993 Code, § 95.28)

#### **§ 95.34 PERMIT REVOCATION.**

The City Manager may revoke any permit issued under the terms of this subchapter for incompetency or failure to comply with the terms of this subchapter, or the rules, regulations, plans, and specifications established by the city.

(1993 Code, § 95.29) Penalty, see § 95.99

#### **§ 95.35 CONSTRUCTION OF SIDEWALK.**

(A) *Ordering construction; notice.* Pursuant to § 2.3(f) of the City Charter, the City Commission may, by resolution, require the

owners of lots and premises to build sidewalks in the public streets adjacent to and abutting upon the lots and premises. When the resolution shall be adopted, the City Clerk shall give notice thereof, in accordance with § 10.24 of this code, to the owner of the lot or premises requiring him or her to construct or rebuild the sidewalk within 30 days from the date of the notice.

(B) *Construction by city.* If the owner of any lot or premises shall fail to build any particular sidewalk as ordered in the notice described in division (A) of this section, and within the time and in the manner required thereby, the City Manager is hereby authorized and required, immediately after the expiration of the time limit for the construction or rebuilding by the owner, to cause the sidewalk to be constructed, and the expense thereof shall be charged to the premises and the owner thereof, and collected as provided in § 13.9 of the Charter.

(1993 Code, § 95.30) Penalty, see § 95.99

#### **§ 95.36 SIDEWALKS TO BE CLEARED.**

The occupant of every lot or premises adjoining any street, or the owner of the lot or premises, if same are not occupied, shall clear and keep cleared all sidewalks adjoining the lot or premises from snow, ice, filth, and other obstructions. Violation of this section shall be a municipal civil infraction, as set forth in § 95.99. With respect to a violation of this section that is continuous with respect to time, each day that the violation continues is a separate offense, and is also a public nuisance that may be abated by the city. The Building Administrator, Zoning Administrator, Chief of Police, and any duly appointed police officer or any other city officer or employee designated in writing by the City Manager are authorized to issue citations for any violation of this section.

(1993 Code, § 95.31) (Ord. 08-01, passed - -2008) Penalty, see § 95.99

#### **§ 95.37 NOTICE TO ABATE.**

The City Manager and/or Code Enforcement Officer may serve or cause to be served one notice per year upon the owner or occupant who is in violation of § 95.36 to demand the abatement of the nuisance.

(Ord. 08-01, passed - -2008)

#### **§ 95.38 ABATEMENT BY CITY.**

If the person so served does not abate the nuisance within five days of the first notice, or if the person subsequently fails to maintain the property in accordance with § 95.36, the city may proceed to abate the nuisance, keeping an account of the expenses of the abatement, and the expenses plus a 25% overhead/administrative fee shall be charged and paid by the owner or occupant.

(Ord. 08-01, passed - -2008)

#### **§ 95.39 COLLECTION OF COSTS.**

Charges for the abatement shall be a lien upon the lot or premises. Whenever a bill for the charges remains unpaid for 60 days after it has been rendered, the City Manager shall notify the City Commission, and upon this notice the City Commission shall, by resolution, assess the charge against the property to which the bill is rendered. For the purpose of collection of these assessments, the adoption of the assessment shall be equivalent to the confirmation of a special assessment roll. The amount of the assessment shall become a debt to the city upon adoption of the resolution, be due at the time as the Commission shall prescribe, and shall be subject to a collection fee of \$25 and become a lien of the same character and effect as created by the City Charter for city taxes.

(Ord. 08-01, passed - -2008)

#### **§ 95.40 CENTRAL BUSINESS DISTRICT SIDEWALK REGULATIONS.**

Sections 95.41 through 95.45 shall only apply to the portion of the city that is zoned Central Business District. The regulations contained in these sections are in addition to any other regulations that govern these matters in the Central Business District.

(Ord. 15-04, passed 12-7-2015)

#### **§ 95.41 CONSTRUCTION AND REPAIRS.**

(A) *Determination of repair.* The city has the authority to determine when a sidewalk in the Central Business District is in need of repair. Sidewalk repairs will be made when a sidewalk has reached a state of deterioration that is no longer safe for regular foot travel or is no longer accessible under the standards of the Americans with Disabilities Act.

(B) *Notice of repairs.* The city will give at least 30 days written notice to the owner of the lot adjacent to and abutting the sidewalk when the sidewalk is scheduled for repair, with the exception of a repair that requires immediate attention.

(C) *Funding.* The city will pay one-half of the cost of such repairs, and the owner shall pay the other half. The owner may enter into an agreement with the city prior to construction to spread such payment over two years at an interest rate of 6% and have such amounts included on the tax bill each year, or the owner may pay the owner's share in cash prior to construction. In the event the owner does not pay or agree to pay their one-half share prior to construction, then the full cost of repair shall be a lien upon the property and may be added to the tax roll in the same manner as special assessments.

(Ord. 15-04, passed 12-7-2015)

#### **§ 95.42 SNOW REMOVAL.**

The occupant of any lot adjacent to and abutting a sidewalk shall clear and keep clear the sidewalk from snow and ice so that less than one inch of snow and ice remain the entire width of the sidewalk within 24 hours following a snow event, and the use of

an ice solvent is also required. Any remaining snow on the sidewalk shall be of an even surface that is safe for pedestrians and wheeled devices like wheelchairs and strollers. Snow shall be moved into the street in a manner that does not impede traffic (i.e., moved into parking zones). Violation of this section shall be a municipal civil infraction as set forth in § 95.99.

(Ord. 15-04, passed 12-7-2015)

#### **§ 95.43 MERCHANDISE AND SALES.**

It shall be unlawful for a person to display or sell merchandise on a sidewalk unless the merchandise:

(A) Does not occupy more than 40% of the sidewalk. In the case of a sidewalk less than eight feet in width, the display shall not impede the free movement of pedestrians and wheeled devices like wheelchairs and strollers;

(B) Is displayed on the sidewalk immediately adjacent and closest to the building that contains the person or business selling the merchandise; and

(C) Is displayed during the hours of operation of the person or business selling the merchandise.

Violation of this section shall be a municipal civil infraction as set forth in § 95.99.

(Ord. 15-04, passed 12-7-2015)

#### **§ 95.44 SIGNS.**

(A) It shall be unlawful for a person to place a sign on a sidewalk except in compliance with all of the following:

(1) Permanent signs are not allowed;

(2) Temporary moveable signs are allowed, but only with prior written approval of the city; and

(3) The sign shall only be displayed in front of the business to which the sign refers during the hours of operation of the business, and shall not impede the free movement of pedestrians and wheeled devices like wheelchairs and strollers.

(B) Violation of this section shall be a municipal civil infraction as set forth in §95.99.

(Ord. 15-04, passed 12-7-2015)

#### **§ 95.45 OUTDOOR DINING.**

(A) It shall be unlawful for a person to serve food at a dining facility such as a table or chair on a sidewalk except in compliance with all of the following:

(1) The dining facility shall not occupy more than 40% of the sidewalk. In the case of a sidewalk less than eight feet in width, the dining facility shall not impede the free movement of pedestrians and wheeled devices like wheelchairs and strollers;

(2) The dining facility shall be located on the sidewalk immediately adjacent and closest to the building that contains the person or business selling the food;

(3) The dining facility shall be enclosed by a temporary fence between 36 inches and 48 inches in height and not more than 50% solid;

(4) The dining facility shall not operate between November 1 and March 31; and

(5) An establishment that serves alcohol must receive written permission from the city in order to do so on a sidewalk. The fencing for the sidewalk dining facility must be partitioned off on three of four corners, with the accessible corner nearest the establishment's interior entrance. All alcohol must remain within the partitioned area except when being transported to and from indoors.

(B) Violation of this section shall be a municipal civil infraction as set forth in § 95.99.

(Ord. 15-04, passed 12-7-2015)

#### **§ 95.99 PENALTY.**

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

(B) Violation of § 95.35 shall be a municipal civil infraction, the sanction for which shall be a civil fine of not less than \$50 for each infraction, plus costs, damages, expenses, or other sanctions as authorized by M.C.L.A. §§ 600.8701 *et seq.*

(Ord. 08-01, passed - -2008)

## **CHAPTER 96: HOUSING DISCRIMINATION**

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### Section

96.01 Definitions

96.02 Person engaged in real estate transaction, broker, or salesperson; prohibited acts

96.03 Housing accommodations; exceptions



96.04 Financial institution; discrimination; exemption

96.05 Use or occupancy of real property; condition, restriction, or prohibition void; exception for religious or charitable institution

96.06 Representation of change in composition, value, behavior, or quality of schools to induce real estate transaction for financial benefit

## § 96.01 DEFINITIONS.

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

**HOUSING ACCOMMODATIONS.** Improved or unimproved real property or a part thereof that is used or occupied, or is intended, arranged, or designed to be used or occupied as the home or residence of one or more persons.

**REAL ESTATE BROKER OR SALESPERSON.** A person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property; who negotiates or attempts to negotiate any of those activities; who holds himself or herself out as engaged in those activities; who negotiates or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon real property; who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of a **REAL ESTATE BROKER OR SALESPERSON**.

**REAL ESTATE TRANSACTION.** The sale, exchange, rental, or lease of real property or an interest therein.

**REAL PROPERTY.** A building, structure, mobile home, real estate, land, mobile home park, trailer park, tenement, leasehold, or an interest in a real estate cooperative or condominium.

(1993 Code, § 96.01)

## § 96.02 PERSON ENGAGED IN REAL ESTATE TRANSACTION, BROKER, OR SALESPERSON; PROHIBITED ACTS.

(A) A person engaging in a real estate transaction, or a real estate broker or salesperson, shall not, on the basis of religion, race, color, national origin, age, sex, marital status, or handicap of a person or a person residing with that person, do any of the following:

- (1) Refuse to engage in a real estate transaction with a person;
- (2) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (3) Refuse to receive from a person or transmit to a person a bona fide offer to engage in a real estate transaction;
- (4) Refuse to negotiate for a real estate transaction with a person;
- (5) Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or knowingly fail to bring a property listing to a person's attention, or refuse to permit a person to inspect real property;
- (6) Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a preference, limitation, specification, or discrimination with respect thereto; or
- (7) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith.

(B) This section is subject to § 96.03.

(1993 Code, § 96.02) Penalty, see § 10.99

## § 96.03 HOUSING ACCOMMODATIONS; EXCEPTIONS.

(A) Section 96.02 shall not apply:

- (1) To the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or a member of the owner's immediate family resides in one of the housing accommodations, or to the rental of a room or rooms in a single-family dwelling by a person if the lessor or a member of the lessor's immediate family resides therein;
- (2) To the rental of a housing accommodation for not more than 12 months by the owner or lessor where it was occupied by him or her and maintained as his or her home for at least three months immediately preceding occupancy by the tenant and is temporarily vacated while maintaining legal residence; or
- (3) With respect to the age provision only, to the sale, rental, or lease of housing accommodations meeting the requirements of federal, state, or local housing programs for senior citizens, or accommodations otherwise intended, advertised, designed, or operated, bona fide, for the purpose of providing housing accommodations for persons 50 years of age or older.

(B) As used in this section, **IMMEDIATE FAMILY** means a spouse, parent, child, or sibling.

(C) Information relative to the marital status of an individual may be obtained when necessary for the preparation of a deed or other instrument of conveyance.

(1993 Code, § 96.03) Penalty, see § 10.99

## **§ 96.04 FINANCIAL INSTITUTION; DISCRIMINATION; EXEMPTION.**

(A) A person to whom application is made for financial assistance or financing in connection with a real estate transaction or in connection with the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of that person, shall not:

(1) Discriminate against the applicant because of the religion, race, color, national origin, age, sex, marital status, or handicap of the applicant or a person residing with the applicant; or

(2) Use a form of application for financial assistance or financing or make or keep a record or inquiry in connection with an application for financial assistance or financing which indicates, directly or indirectly, a preference, limitation, specification, or discrimination as to the religion, race, color, national origin, age, sex, marital status, or handicap of the applicant or a person residing with the applicant.

(B) Division (A)(2) shall not apply to a form of application for financial assistance prescribed for the use of a lender regulated as a mortgagee under the National Housing Act, as amended, being 12 U.S.C. §§ 1701 to 1750G (Supp. 1973), or by a regulatory board or officer acting under the statutory authority of this state or the United States.

(1993 Code, § 96.04) Penalty, see § 10.99

## **§ 96.05 USE OR OCCUPANCY OF REAL PROPERTY; CONDITION, RESTRICTION, OR PROHIBITION VOID; EXCEPTION FOR RELIGIOUS OR CHARITABLE INSTITUTION.**

(A) A condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of religion, race, color, national origin, age, sex, marital status, or handicap is void, except a limitation of use on the basis of religion relating to real property held by a religious institution or organization, or by a religious or charitable organization operated, supervised, or controlled by a religious institution or organization, and used for religious or charitable purposes.

(B) A person shall not insert in a written instrument relating to real property a provision that is void under this section or honor such a provision in the chain of title.

(1993 Code, § 96.05) Penalty, see § 10.99

## **§ 96.06 REPRESENTATION OF CHANGE IN COMPOSITION, VALUE, BEHAVIOR, OR QUALITY OF SCHOOLS TO INDUCE REAL ESTATE TRANSACTION FOR FINANCIAL BENEFIT.**

A person shall not represent, for the purpose of inducing a real estate transaction from which the person may benefit financially, that a change has occurred or will or may occur in the composition with respect to religion, race, color, national origin, age, sex, marital status, or handicap of the owners or occupants in the block, neighborhood, or area in which the real property is located, or represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

(1993 Code, § 96.06) Penalty, see § 10.99

## **CHAPTER 97: TREES**

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### Section

- 97.01 Definitions
- 97.02 Creation and establishment of a Tree Board
- 97.03 Term of office
- 97.04 Compensation
- 97.05 Duties and responsibilities
- 97.06 Operation
- 97.07 Street trees
- 97.08 Spacing
- 97.09 Distance from curb and sidewalk
- 97.10 Distance from street corners and fire hydrants
- 97.11 Utilities; street trees
- 97.12 Trees on private property
- 97.13 Street tree and park tree care
- 97.14 Tree topping
- 97.15 Pruning, corner clearance

- 97.16 Dead or diseased tree removal on private property
- 97.17 Removal of stumps
- 97.18 Interference with Tree Board
- 97.19 Recovery of value of lost street trees or park trees
- 97.20 Arborist license and bond
- 97.21 Appeal process

97.99 Penalty

#### **§ 97.01 DEFINITIONS.**

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

**LARGE TREES.** Trees obtaining a height of 30 feet or more.

**MEDIUM TREES.** Trees obtaining a height of 25 to 30 feet.

**PARK TREES.** Trees, shrubs, bushes, and all other woody vegetation in public parks, on public property, and on all areas owned by the city or to which the public has free access as a park.

**SMALL TREES.** Trees obtaining a height of 15 to 25 feet.

**STREET TREES.** Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or rights-of-way within the city.

(1993 Code, § 97.01) (Ord. 94-5, passed 11-21-1994)

#### **§ 97.02 CREATION AND ESTABLISHMENT OF A TREE BOARD.**

There is hereby created and established a Tree Board which shall consist of the City Commission.

(1993 Code, § 97.02) (Ord. 94-5, passed 11-21-1994)

#### **§ 97.03 TERM OF OFFICE.**

Members of the Tree Board shall serve until the end of their terms of office.

(1993 Code, § 97.03) (Ord. 94-5, passed 11-21-1994)

#### **§ 97.04 COMPENSATION.**

Members of the Tree Board shall serve without compensation.

(1993 Code, § 97.04) (Ord. 94-5, passed 11-21-1994)

#### **§ 97.05 DUTIES AND RESPONSIBILITIES.**

It shall be the responsibility of the Tree Board to study, investigate, counsel, develop, update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of street trees and park trees. The plan shall be developed annually and shall constitute the Official Tree Plan of the city.

(1993 Code, § 97.05) (Ord. 94-5, passed 11-21-1994)

#### **§ 97.06 OPERATION.**

The Mayor shall act as Chairperson, and the City Clerk shall record a journal of proceedings.

(1993 Code, § 97.06) (Ord. 94-5, passed 11-21-1994)

#### **§ 97.07 STREET TREES.**

Written permission must be received from the City Manager's office before any street trees can be planted. The city will maintain a list of street trees recommended for planting and a list of street trees that will not be allowed to be planted.

(1993 Code, § 97.07) (Ord. 94-5, passed 11-21-1994) Penalty, see §97.99

#### **§ 97.08 SPACING.**

The spacing of street trees will be in accordance with species size and no trees may be planted closer together than the following: small trees – 30 feet; medium trees – 40 feet; large trees – 50 feet; except as approved in writing by the Tree Board.

(1993 Code, § 97.08) (Ord. 94-5, passed 11-21-1994) Penalty, see §97.99

#### **§ 97.09 DISTANCE FROM CURB AND SIDEWALK.**

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species sizes, and no trees may be planted closer to any curb or sidewalk than the following: small trees – three feet; medium trees – three feet; and large trees – four feet.

(1993 Code, § 97.09) (Ord. 94-5, passed 11-21-1994) Penalty, see §97.99

#### **§ 97.10 DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS.**

No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet to any fire hydrant.

(1993 Code, § 97.10) (Ord. 94-5, passed 11-21-1994) Penalty, see §97.99

#### **§ 97.11 UTILITIES; STREET TREES.**

No street trees other than small trees may be planted under or within ten lateral feet of any overhead utility wire and no tree shall be planted within five lateral feet of any underground water line, sewer line, transmission line, or other utility.

(1993 Code, § 97.11) (Ord. 94-5, passed 11-21-1994) Penalty, see §97.99

#### **§ 97.12 TREES ON PRIVATE PROPERTY.**

No person shall plant any tree on private property within the city unless the distance from the center of the trunk of each tree to the nearest street right-of-way line measures six feet or more.

(1993 Code, § 97.12) (Ord. 94-5, passed 11-21-1994) Penalty, see §97.99

#### **§ 97.13 STREET TREE AND PARK TREE CARE.**

The city shall have the right to plant, prune, maintain, and remove street trees, park trees, plants, and other vegetation within the lines of all streets, alleys, avenues, lanes, squares, rights-of-way, and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of the public grounds. The Tree Board may remove, or cause or order to be removed, any tree or part thereof which is in unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, cable lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. This section shall not prohibit the planting of trees by adjacent property owners, provided that the selection and location of the trees is in accordance with §§ 97.01 through 97.11.

(1993 Code, § 97.13) (Ord. 94-5, passed 11-21-1994)

#### **§ 97.14 TREE TOPPING.**

It shall be unlawful for any person or entity to top any street tree or park tree without the written consent of the Tree Board. **TOPPING** is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from the provisions of this section by a determination of the Tree Board.

(1993 Code, § 97.14) (Ord. 94-5, passed 11-21-1994) Penalty, see §97.99

#### **§ 97.15 PRUNING, CORNER CLEARANCE.**

Every owner of any tree overhanging any street right-of-way within the city shall prune the branches so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clean space of eight feet above the surface of the street or sidewalk. The owner shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of any traffic-control device or sign.

(1993 Code, § 97.15) (Ord. 94-5, passed 11-21-1994) Penalty, see §97.99

#### **§ 97.16 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.**

The city shall have the right to cause the removal of any dead or diseased trees thereof on private property within the city, when the trees or parts thereof constitute a hazard to life and property, or harbor insects or disease that constitute a potential threat to other trees within the city. The Tree Board shall send notice by first class mail to the owner of the private property as appears from the assessment records, with a copy of the notice sent by first class mail to the occupant. Removal shall be done by the owner or occupants at their own expense within 60 days after the date of mailing of notice. In the event of failure of owners or occupants to comply with these provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice. In addition, the city may elect to recover the amount through court action.

(1993 Code, § 97.16) (Ord. 94-5, passed 11-21-1994)

#### **§ 97.17 REMOVAL OF STUMPS.**

All stumps of street trees and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(1993 Code, § 97.17) (Ord. 94-5, passed 11-21-1994) Penalty, see §97.99

## **§ 97.18 INTERFERENCE WITH TREE BOARD.**

It shall be unlawful for any person to prevent, delay, or interfere with the Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this chapter.

(1993 Code, § 97.18) (Ord. 94-5, passed 11-21-1994) Penalty, see §97.99

## **§ 97.19 RECOVERY OF VALUE OF LOST STREET TREES OR PARK TREES.**

(A) Whenever the Tree Board shall determine that any street tree or park tree has been impaired, damaged or broken in a manner which will cause immediate or future removal of the tree and that the removal is deemed premature and untimely based on the condition, vigor, location, kind, and age of the tree, and the Board shall have knowledge of the person causing the damage, the Board shall assess against the responsible person the value of the tree as determined by use of the State Forestry and Parks Association Shade Tree Evaluation Chart or, at the election of the Board, by appraisal.

(B) Whenever the Tree Board shall determine that any street tree or park tree has been severed, destroyed, or removed, and that the severing, destruction, or removal is deemed premature and untimely based on the condition, vigor, location, kind, and age of the tree, and the Board shall have knowledge of the person causing the damage, the Board shall assess against the responsible person the value of the tree as determined by the State Forestry and Parks Association Shade Tree Evaluation Chart or, at the election of the Board, by appraisal.

(C) This section shall not be construed in such a way that the value received by the city shall be less than the actual cost of the removal of the tree and replacement with a tree determined comparable by the Tree Board, which replacement tree to be not less than three inches in diameter measured at the height of six inches above the ground. The Tree Board shall not be restricted in its choice as to the replacement planting site.

(D) It shall be the duty of the Police Department having knowledge of the damage or destruction to street trees or park trees and having knowledge of the person or persons causing the damage to immediately report this information to the Tree Board.

(1993 Code, § 97.19) (Ord. 94-5, passed 11-21-1994)

## **§ 97.20 ARBORIST LICENSE AND BOND.**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street trees or park trees within the city, without first applying for and procuring a permit. The permit fee shall be set by the Tree Board and paid in advance; provided, however, that no permit shall be required of any public service company or city employee doing the work in the pursuit of their public service endeavors. Before any permit shall be issued, each applicant shall first file evidence with the City Clerk of possession of liability insurance in the minimum amounts of \$500,000 for bodily injury and \$500,000 property damages, indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described. After receipt of the required permit fee and acceptable insurance information, the permit shall be issued by the City Clerk.

(1993 Code, § 97.20) (Ord. 94-5, passed 11-21-1994) Penalty, see §97.99

## **§ 97.21 APPEAL PROCESS.**

Any land owner aggrieved by any final decision by the Tree Board may appeal the decision to the City Commission within 14 days from the date of the decision. Hearings before the City Commission shall be commenced within a reasonable time after any challenged decision made by the Tree Board, and the petitioner shall be notified at least seven days prior to the hearing. At the hearing, the petitioner shall be entitled to appear in person or by his or her attorney to show cause why the decision should be modified or withdrawn. The failure of the petitioner or representative to appear shall constitute an abandonment of the petition. After a hearing, the City Commission shall sustain, modify, or withdraw any notice and order appealed from, depending on its finds. If it clearly appears that, by reason of special conditions, undue hardship would result from the strict application of any section of this chapter, the City Commission may permit a variance from the mandatory provisions in such a manner that the public safety shall be secured, substantial justice done, and the spirit of the provisions of this chapter upheld. Any decision to permit a variance under this section shall be by a majority vote of the total membership of the City Commission. An owner aggrieved by any final decision or order of the City Commission may appeal the decision or order to the Circuit Court within 21 days of the date of the decision.

(1993 Code, § 97.21) (Ord. 94-5, passed 11-21-1994)

## **§ 97.99 PENALTY.**

Any person, firm, or corporation who shall violate any provision of this chapter shall be considered to have committed a civil infraction and, upon conviction thereof, be subject to a fine of not less than \$100 nor more than \$500, or imprisonment for a term not to exceed 90 days, or both, at the discretion of the Court.

(1993 Code, § 97.99) (Ord. 94-5, passed 11-21-1994)

# **TITLE XI: BUSINESS REGULATIONS**

## Chapter

### **110. BUSINESS LICENSING; FEES AND BONDS**

- 111. STREET VENDORS, PEDDLERS, AND SOLICITORS
- 112. AUCTIONS
- 113. CARNIVALS AND CIRCUSES
- 114. OIL AND GAS WELLS
- 115. GARAGE SALES

## CHAPTER 110: BUSINESS LICENSING; FEES AND BONDS

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Section

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- 110.01 Licenses required
- 110.02 Multiple businesses
- 110.03 State licensed businesses
- 110.04 License application
- 110.05 License year
- 110.06 Conditions for issuance
- 110.07 Where certification required
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### *Fees and Bonds*

- 110.35 Schedule established
- 110.36 Fees for licenses

**Cross-reference:**

*Sexually oriented businesses, see Ch. 153*

## GENERAL PROVISIONS

### § 110.01 LICENSES REQUIRED.

No person shall engage, or be engaged, in the operation, conduct, or carrying on of any trade, profession, business, or privilege for which any license is required by any provision of this code without first obtaining a license from the city in the manner provided for in this chapter. Any person duly licensed on the effective date of this code shall be deemed licensed hereunder for the balance of the current license year.

(1993 Code, § 110.01) Penalty, see § 10.99

## **§ 110.02 MULTIPLE BUSINESSES.**

The granting of a license or permit to any person operating, conducting, or carrying on any trade, profession, business, or privilege which contains within itself or is composed of trades, professions, businesses, or privileges which are required by this code to be licensed, shall not relieve the person to whom the license or permit is granted from the necessity of securing individual licenses or permits for each trade, profession, business, or privilege.

(1993 Code, § 110.02) Penalty, see § 10.99

## **§ 110.03 STATE LICENSED BUSINESSES.**

The fact that a license or permit has been granted to any person by the state to engage in the operation, conduct, or carrying on of any trade, profession, business, or privilege shall not exempt the person from the necessity of securing a license or permit from the city if the license or permit is required by this code.

(1993 Code, § 110.03) Penalty, see § 10.99

## **§ 110.04 LICENSE APPLICATION.**

Unless otherwise provided in this code, every person required to obtain a license from the city to engage in the operation, conduct, or carrying on of any trade, profession, business, or privilege shall make application for the license to the City Clerk upon forms provided by the City Clerk and shall state under oath or affirmation any facts as may be required for, or applicable to, the granting of the license.

(1993 Code, § 110.04) Penalty, see § 10.99

## **§ 110.05 LICENSE YEAR.**

Except as otherwise herein provided as to certain licenses, the license year shall begin January 1 of each year and shall terminate at 12:00 midnight on December 31 of that year. Original licenses shall be issued for the balance of the license year at the full license fee. License applications for license renewals shall be accepted and licenses issued for a period of 15 days prior to the annual expiration date. In all cases where the provisions of this code permit the issuance of licenses for periods of less than one year, the effective date of the licenses shall commence with the date of issuance thereof.

(1993 Code, § 110.05)

## **§ 110.06 CONDITIONS FOR ISSUANCE.**

No license or permit required by this code shall be issued to any person who is required to have a license or permit from the state, until the person shall submit evidence of the state license or permit and proof that all fees appertaining thereto have been paid. No license shall be granted to any applicant therefor until the applicant has complied with all the provisions of this code applicable to the trade, profession, business, or privilege for which application for license is made.

(1993 Code, § 110.06) Penalty, see § 10.99

## **§ 110.07 WHERE CERTIFICATION REQUIRED.**

No license shall be granted where the certification of any officer of the city is required prior to the issuance thereof, until the certification is made.

(1993 Code, § 110.07)

## **§ 110.08 HEALTH OFFICER'S CERTIFICATE.**

In all cases where the certification of the Health Officer is required prior to the issuance of any license by the City Clerk, that certification shall be based upon an actual inspection and a finding that the person making application and the premises in which he or she proposes to conduct or is conducting the trade, profession, business, or privilege comply with all the sanitary requirements of the state and of the city.

(1993 Code, § 110.08)

## **§ 110.09 FIRE CHIEF'S CERTIFICATE.**

In all cases where the certification of the Fire Chief is required prior to the issuance of any license by the City Clerk, the certification shall be based upon an actual inspection and a finding that the premises in which the person making application for the license proposes to conduct, or is conducting the trade, profession, business, or privilege comply with all the fire regulations of the state and of the city.

(1993 Code, § 110.09)

## **§ 110.10 POLICE CHIEF'S CERTIFICATE.**

In all cases where the certification of the Chief of Police is required prior to the issuance of any license by the City Clerk, the certification shall be based upon a finding that the person making application for the license is of good moral character.

(1993 Code, § 110.10)

## **§ 110.11 BUILDING INSPECTOR'S CERTIFICATE.**

In all cases where the carrying on of the trade, profession, business, or privilege involves the use of any structure or land, a license therefor shall not be issued until the Building Inspector shall certify that the proposed use is not prohibited by Chapter 150.

(1993 Code, § 110.11)

#### **§ 110.12 BONDS.**

Where the provisions of this code require that the applicant for any license or permit furnish a bond, the bond shall be furnished in an amount deemed adequate by the proper city officer, or, where the amount thereof is specified in the schedule of fees and bonds set out in § 110.36 or elsewhere in this code, in the amount so required; the form of the bond shall be acceptable to the City Attorney. In lieu of a bond, an applicant for a license or permit may furnish one or more policies of insurance in the same amounts and providing the same protection as called for in the bond; any policies of insurance shall be approved as to substance by the city official issuing the license or permit and as to form by the City Attorney.

(1993 Code, § 110.12)

#### **§ 110.13 LATE RENEWALS.**

All fees for the renewal of any license, which are not paid at the time the fees shall be due, may be paid without penalty for the first 30 days that the license fee remains unpaid, and thereafter the license fee shall be that stipulated for the licenses under § 110.36 plus 50% of the fee.

(1993 Code, § 110.13)

#### **§ 110.14 RIGHT TO ISSUANCE.**

If the application for any license is approved by the proper officers of the city, as provided in this code, the license shall be granted and shall serve as a receipt for payment of the fee prescribed for the license.

(1993 Code, § 110.14)

#### **§ 110.15 FEES; WHEN PAID.**

The fee required by this code for any license or permit shall be paid at the office of the City Treasurer upon or before the granting of the license or permit.

(1993 Code, § 110.15)

#### **§ 110.16 LICENSES, DENIAL, REVOCATION, SUSPENSION; CAUSES ENUMERATED.**

The issuance of licenses applied for under this code may be denied by the City Clerk, and licenses issued may be revoked or suspended by the City Manager at any time, for any of the following reasons:

- (A) Fraud, misrepresentation, or any false statement made in the application for license;
- (B) Fraud, misrepresentation, or any false statement made in the operation of a business;
- (C) Any violation of this code pertaining to the licensed business;
- (D) Conducting a business in an unlawful manner or in a manner as to constitute a breach of the peace or to constitute a menace to the health, morals, safety, or welfare of the public; or
- (E) Failure or inability of an applicant to meet and satisfy the requirements and provisions of this code.

(1993 Code, § 110.16) Penalty, see § 10.99

#### **§ 110.17 NOTICE OF SUSPENSION OR REVOCATION.**

Written notice of suspension or revocation, stating the cause or causes therefor, shall be delivered to the licensee personally or mailed to his or her address as shown in his or her application for license.

(1993 Code, § 110.17)

#### **§ 110.18 RIGHT TO HEARING.**

Any person whose license is revoked or suspended, or any person whose application for a license is denied, shall have the right to a hearing before the City Commission, provided a written request therefor is filed with the City Clerk within ten days following the delivery or mailing of the notice of revocation or suspension, or within ten days following the denial of the application for a license. The City Commission may reverse any determination to issue or to deny the issuance of a license or any revocation of a license, and the City Commission may grant or reinstate any license. No person shall operate any business during any time when his or her license therefor has been suspended, revoked, or cancelled.

(1993 Code, § 110.18)

#### **§ 110.19 LICENSE RENEWAL.**

Unless otherwise provided in this code, an application for renewal of a license shall be considered in the same manner as an original application.

(1993 Code, § 110.19)



### § 110.20 EXHIBITION OF LICENSE.

No licensee shall fail to carry any license issued in accordance with the provisions of this chapter upon his or her person at all times when engaged in the operation, conduct, or carrying on of any trade, profession, business, or privilege for which the license was granted; except that where the trade, profession, business, or privilege is operated, conducted, or carried on at a fixed place or establishment, the license shall be exhibited at all times in some conspicuous place in the place of business. Every licensee shall produce his or her license for examination when applying for a renewal thereof or when requested to do so by any city police officer or by any person representing the issuing authority.

(1993 Code, § 110.20) Penalty, see § 10.99

### § 110.21 EXHIBITION ON VEHICLE AND MACHINE.

No licensee shall fail to display conspicuously on each vehicle or mechanical device or machine required to be licensed by this code the tags or stickers that are furnished by the City Clerk for that purpose.

(1993 Code, § 110.21) Penalty, see § 10.99

### § 110.22 DISPLAYING INVALID LICENSE.

No person shall display any expired license or any license for which a duplicate has been issued.

(1993 Code, § 110.22) Penalty, see § 10.99

### § 110.23 TRANSFERABILITY; MISUSE.

No license or permit issued under the provisions of this code shall be transferable unless specifically authorized by the provisions of this code. No licensee or permittee shall, unless specifically authorized by the provisions of this code, transfer or attempt to transfer his or her license, or permit another to nor shall he or she make any improper use of the same.

(1993 Code, § 110.23)

## FEES AND BONDS

### § 110.35 SCHEDULE ESTABLISHED.

The fee required to be paid and the amount of any bond required to be posted, or insurance required to be carried, to obtain any license to engage in the operation, conduct, or carrying on of any trade, profession, business, or privilege for which a license is required by the provisions of this code shall be as hereinafter provided in this chapter. No license shall be issued to any applicant unless he or she first pays to the City Clerk the fee and posts a bond or evidence of insurance coverage in the amount required for the type of license desired.

(1993 Code, § 110.35) Penalty, see § 10.99

### § 110.36 FEES FOR LICENSES.

Fees for licenses shall be as prescribed in the following schedule under the business, trade, occupation or privilege to be licensed. Bonds or insurance coverage, where required, shall be in the amounts listed beneath the license fee prescribed for the business.

<b>Type of Trade or Business</b>	<b>Fee</b>
<b>Type of Trade or Business</b>	<b>Fee</b>
Auction (Ch. 112)	\$25
Carnival or circus (Ch. 113)	
Per day	\$50
Liability insurance — personal injury or death	
1 person	\$500,000
1 occurrence	\$1,000,000
Street vendor, peddler, solicitor (Ch. 111)	
For vending on foot by hand cart:	
Per day, not exceeding:	
10 days	\$10
Six months	\$100
One year	\$200
For vending from or with a wagon or other vehicle:	
Per day, not exceeding:	
10 days	\$50
Six months	\$150
One year	\$250

For each helper to vend with vehicle:	
Per day, not exceeding:	
10 days	\$10
Six months	\$40
One year	\$70
Street vendors who travel from house to house for the purpose of selling, offering for sale, or soliciting orders by sample or otherwise, for clothing of any kind, patterns, linens, laces, embroideries, yard goods, draperies, rugs, curtains, furs, jewelry, the sum of \$10 per day for each day not exceeding ten days, and for any period of time exceeding ten days and not exceeding one year, the sum of \$175	
Street vendors selling, in the same manner as specified above any other goods, wares, merchandise, or services, the sum of \$4 per day, not exceeding ten days, and for any period of time exceeding ten days and not exceeding one year, the sum of \$60	
Any street vendor not specifically covered in any other provision of this schedule shall pay a fee of \$7 per day for each day not exceeding ten days and for any period of time exceeding ten days and not exceeding one year, the sum of \$100	

(1993 Code, § 110.36)

## **CHAPTER 111: STREET VENDORS, PEDDLERS, AND SOLICITORS**

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### Section

- 111.01 Intent
- 111.02 Definitions
- 111.03 Permit required
- 111.04 Duration; non-transferability
- 111.05 Application
- 111.06 Insurance
- 111.07 Hold harmless
- 111.08 Fees
- 111.09 Nonprofit corporations and associations exempt
- 111.10 Issuance of a permit
- 111.11 Right to appeal
- 111.12 Permit and badge
- 111.13 Requirements
- 111.14 Restricted area
- 111.15 Use of streets
- 111.16 Parking beyond limits allowed by city ordinance and order
- 111.17 Impoundment
- 111.18 Duty of police to enforce
- 111.19 Records
- 111.20 Other permits
- 111.21 Revocation
- 111.22 Civil infraction

### **§ 111.01 INTENT.**

This chapter is established to provide a framework under which street vendors, peddlers and solicitors may operate within the city.

(Ord. 17-01, passed 6-19-2017)

### **§ 111.02 DEFINITIONS.**

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

**BUSINESS OF STREET VENDING.** Selling or offering for sale at retail any goods, wares, merchandise, fruits, vegetables, foodstuffs, or services or solicitation of donations from door to door, or from or upon the streets and public places, on foot or with a pushcart or vehicle, either by sample or taking orders, for delivery then or in the future. It shall include those who travel about the city, during the conduct of business mentioned above, on foot or with a pushcart or vehicle and those who sell from (temporary) stands in or on the public streets, except stalls in public curb or public farmers markets for which daily, weekly or seasonal rentals are charged.

**MOBILE FOOD VENDING.** A specific type of business of street vending which involves vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a Food Service Establishment under Public Act 92 of 2000, which may include the ancillary sales of branded items consistent with the food, such as a tee shirt that bears the name of the organization engaged in mobile food vending.

**MOBILE FOOD VENDING UNIT.** Any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which food is vended, served or offered for sale.

**OPERATE.** All activities associated with the conduct of business, including set up and take down and/or actual hours where the mobile food vending unit is open for business.

**VENDOR.** Any individual engaged in the business of street vending; if more than one individual is operating a single stand, cart or other means of conveyance, then Vendor shall mean all individuals operating such single stand, cart or other means of conveyance.

(Ord. 17-01, passed 6-19-2017)

### **§ 111.03 PERMIT REQUIRED.**

No person shall engage in the business of street vending without a permit from the City Manager authorizing such activity. The City Manager shall prescribe the form of such permits and application for such permit. All permits shall be prominently displayed on the mobile vending unit or, if no mobile vending unit is being used, shall be carried by the vendor. No vending through a mobile food vending unit of food and/or other human consumables shall be permitted unless it meets the definition of mobile food vending as defined by this chapter.

(Ord. 17-01, passed 6-19-2017)

### **§ 111.04 DURATION; NONTRANSFERABILITY.**

Permits may be issued by the City Manager for a calendar year from the date of issuance. Any permit issued under this chapter is non-transferable.

(Ord. 17-01, passed 6-19-2017)

### **§ 111.05 APPLICATION.**

Every person desiring to engage in the business of street vending shall make a written application to the City Manager for a permit under this chapter. The applicant shall truthfully state, in full, all information requested by the City Manager and the applicant shall provide all documentation required by the city. The application shall be accompanied by a fee established by resolution of the City Commission. The application for a permit shall include the following items, together with any additional information the City Manager may require:

(A) The full name, permanent address, business address, local address, the age, and occupation of the applicant at the time of filing the application;

(B) The criminal history of the applicant;

(C) The name of the person, firm, or corporation represented, if any, together with the address of the central or district office;

(D) A list or general description of the article or articles to be sold, or offered for sale;

(E) The length of time for which the permit is desired;

(F) The proposed method of delivery to buyers, whether by weight, measure, package, or otherwise;

(G) The proposed method of hawking, peddling or vending, whether on foot by handcart, pushcart, or vehicle;

(H) If a vehicle is being used, the applicant shall produce a valid driver's license;

(I) If a vehicle is to be used, the applicant shall furnish a description, including license number and registration data, together with name and address of the owner and a certificate of insurance from a company licensed to do business in the State of Michigan showing that the applicant is carrying the following minimum amounts of insurance: public liability insurance of \$1,000,000 for injuries, including those resulting in death from any one occurrence and on account of any one accident, and property damage insurance of \$1,000,000 for damages on account of any one accident or occurrence. The policy shall list the city as an additional insured and shall provide 30 days prior written notice of revocation, cancellation or amendment to the city;

(J) The applicant shall furnish with his or her application a photograph taken within 60 days, showing head and shoulders, and of a size of two by two inches;

(K) An affidavit of the applicant to the truth of the information given in the application, signed by the applicant;

(L) Each applicant who proposes to vend anything used for food shall file a health certificate stating that the applicant is free from communicable, contagious, infectious, loathsome, or dangerous disease. The certificate shall be granted only after a careful examination by a physician licensed in the state. The examination shall include all tests and other measures necessary to establish the fact that the individual is free from disease and the certificate shall bear a date within six months of the date of filing the application;

(M) If the applicant proposes to sell articles by weight or measures, he or she shall present with his or her application a certificate of inspection from the state, stating that the weights and measures to be used by the applicant have been approved and inspected.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.06 INSURANCE.**

All vendors must obtain and maintain a policy of liability insurance by a company licensed to do business in the State of Michigan. Insurance coverage must be in the minimum amount of \$1,000,000 for personal injury and property damage arising out of the licensed operation, including operation by employees, agents or independent contractors. Proof of insurance must be provided to the City Manager before a permit can be granted and thereafter upon reasonable request. The insurance policy for vendors operating on public property shall directly protect the city, its officers, employees and agents as additional named insureds, and shall provide that the insurance be primary. The policy shall provide 30 days prior written notice of revocation, cancellation or amendment to the city.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.07 HOLD HARMLESS.**

All vendors shall agree to hold harmless and protect the city, its officers, employees and agents from any liability, claims, costs, expense or attorney fees arising out of the licensed operation that is not covered by the vendor's required insurance.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.08 FEES.**

An application for a permit under this chapter shall be accompanied by a fee in the amount established by resolution of the City Commission. There shall be no proration of fees. Fees are non-refundable even if a permit is not granted. If operating on non-city property, no fee shall be charged to a business which is on the city's tax rolls whose normal business includes the sale of food and/or beverages, however, such business must still comply with the remaining requirements to obtain a permit. No one shall hire or subcontract such vendors in an attempt to evade the provisions of this chapter.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.09 NONPROFIT CORPORATIONS AND ASSOCIATIONS EXEMPT.**

Nonprofit corporations and nonprofit associations may be exempted from the provisions of this chapter upon application to the City Manager, which application shall set forth the date or dates of their solicitation; the products, if any, to be sold or given to donors in exchange for their contribution, the names of persons in charge of the solicitation; the purpose of the drive, the percentage of the funds to be used for charitable purposes and the percentage of collections to be paid out to solicitors, if any, for services rendered. The City Manager shall maintain a record of dates granted to organizations for the solicitations. On or before 30 days from the date of filing the application, the City Manager shall grant approval or denial of the application. The determination shall be based upon the application and any further information as shall be obtained by the City Manager and determination that solicitation shall in fact be for a charitable purpose, that substantially all of the collected funds shall be used for that purpose and not for payment of salaries or commissions to solicitors; and upon determination that the dates proposed do not conflict with the date or dates approved for any other organization. Upon granting the exemption, the City Manager shall issue unto the organization identification badges to be worn by solicitors or vendors, which badge shall bear the name of the city and the name of the organization and shall be worn conspicuously during the time that he or she shall be engaged in the solicitation or vending. The identification badge shall be returned to the City Manager upon completion of the solicitation.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.10 ISSUANCE OF A PERMIT.**

(A) Upon receipt of the application, the City Manager shall initiate the appropriate action to process the application. The City Manager shall make an appropriate investigation of the applicant, including but not limited to, an inspection of the vehicle, stand or cart and location to insure compliance with this chapter. The City Manager shall issue a permit to the applicant within 30 days after the receipt of the application, unless the City Manager finds one or more of the following to be true:

- (1) The applicant is under 18 years of age;
- (2) The applicant is overdue in payment of city taxes, fees, fines or penalties assessed or imposed upon the applicant;
- (3) The applicant has failed to answer or falsely answered a question or request for information on the application;
- (4) The applicant has failed to provide proof of a license, insurance or a permit, or any other information, as required by this chapter or by State law for the operation of the proposed business;
- (5) The required permit fee has not been paid;
- (6) The applicant has failed to comply with or the proposed business will violate any applicable law, ordinance or regulation

of the city; or

(7) The applicant's business or method of doing business will interfere with traffic flow on public streets or sidewalks.

(B) If the City Manager finds any of the items listed above to be true, the City Manager shall deny the application and send to the applicant by first class mail to the address indicated on the application a written statement setting forth the reason or reasons for the denial and notifying the applicant of his or her right to appeal.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.11 RIGHT TO APPEAL.**

A denied applicant may request a hearing on the denied application before the City Commission at its next regular meeting; provided, however, the request must be made at least four days before the meeting to allow the Commission to schedule the hearing. The applicant at the hearing may present evidence and the City Manager shall present evidence unto the Commission as to the reasons for his or her disapproval. The Commission shall, at the hearing, or any adjourned date, approve or disapprove the application based upon the facts presented, and based upon applicant's business responsibility, character of applicant, and his or her compliance with the requirements of this chapter.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.12 PERMIT AND BADGE.**

(A) (1) Each permit issued shall be in a form as to contain on its face the name of the vendor; his or her permanent address, local address, if different; the physical description of the vendor; name of the company, if any, he or she represents; the type of permit, date of issuance and expiration; and the number of the permit, which number shall be identical to the identification badge to be issued to the vendor by the city.

(2) The permit shall bear the name of the city.

(B) The badge, which will bear the photograph the vendor submitted with his or her application, shall be worn on the front of his or her outer garment to be conspicuous during the time he or she is engaged in vending.

(C) The vendor shall display the permit on or in the window of any vehicle or cart, which permit shall in that instance bear the vehicle license number and/or other identification of the vehicle used. The permit is valid for one vehicle only and shall not be transferred between vehicles. In all other cases the permit shall be carried by the vendor and will be presented to any police officer or potential customer upon request.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.13 REQUIREMENTS.**

Any vendor engaging in mobile food vending shall also comply with the following requirements:

(A) Provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other waste attributable to the vendor on a daily basis;

(B) If operating on city-owned or controlled property, may only locate on such property as established in a specific resolution adopted by the City Commission. If parked on public streets, vendor shall conform to all applicable parking regulations;

(C) Not operate on public property within 500 feet of a city-authorized street fair, public festival, farmers market or event being conducted without authorization from the event sponsor;

(D) Shall not park within 500 feet of an existing brick and mortar restaurant during hours when the restaurant is open to the public for business, unless specifically authorized by the city;

(E) Not use any flashing or blinking lights or strobe lights; all exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward;

(F) Not shout, make any cry-out, blow a horn, or use any sound device, including any loudspeaker, radio or sound amplifying system, upon any of the streets, alleys, parks, or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares of merchandise which the permit holder proposes to sell, unless it creates a decibel level of less than 60 decibels at a distance of 50 feet;

(G) Comply with all city ordinances;

(H) Comply with applicable federal, state and county regulations, including but not limited to obtaining all required Health Department permits for food vending;

(I) Within residential areas, a mobile food vendor may only operate between the hours of 9 a.m. and 10 p.m.; and in commercial areas, a mobile food vendor may only operate between the hours of 8 a.m. and 8 p.m. On private property within the commercial district, a mobile food vendor may only operate between the hours of 8 a.m. and 8 p.m. Other restrictions regarding hours of operation may be established by resolution of the City Commission;

(J) No mobile food vending unit may be left unattended for more than two hours; and any mobile food vending unit not in operation shall be removed between the hours of 9 p.m. and 7 a.m. in commercial areas and 9 p.m. to 8 a.m. in residential areas. This subsection applies to mobile food vending units operating on city-controlled property only;

(K) Not represent the granting of a permit under this chapter as an endorsement by the city;

(L) Not use any electricity or power without the prior written authorization of the power customer; no power cable or similar device shall be extended at or across any city street, alley, or sidewalk.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.14 RESTRICTED AREA.**

No vendor, unless given prior written authorization from the City Manager, shall operate within the central business district of the city, herein defined to include State Street between a point 400 feet west of the west line of Main Street and a point 210 feet east of the east line of Main Street, and Main Street from Second Street to a point 200 feet north of Broadway Street, nor within the confines of McPhail Field, the Boat Launch Area, or Riverside Park.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.15 USE OF STREETS.**

No vendor shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location, nor shall he or she be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. For purposes of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.16 PARKING BEYOND LIMITS ALLOWED BY CITY ORDINANCE AND ORDER.**

Vendors with a valid mobile food vending permit may park in a city-controlled parking space for durations as authorized by the permit; and such mobile food vending unit shall not be restricted to the hours where parking would otherwise be allowed in the particular parking space. Provided, however, that no mobile food vending unit shall park in a city-controlled parking space if parking is prohibited altogether.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.17 IMPOUNDMENT.**

Any equipment associated with food vending that is not in compliance with this chapter and left on public property may be impounded by the city at the owner's expense.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.18 DUTY OF POLICE TO ENFORCE**

It shall be the duty of any police officer of the city to require any person seen street vending, and who is not known by the officer to be duly permitted, to produce his or her street vending permit, and to enforce the provisions of this chapter against any person found to be violating the same.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.19 RECORDS.**

The Chief of Police shall report to the City Manager all convictions for violation of this chapter and the City Manager shall maintain a record of each permit issued and record the reports of violation therein.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.20 OTHER PERMITS.**

A permit obtained under this chapter shall not relieve any vendor of the responsibility for obtaining any other permit, or authorization required by any other ordinance, statute or administrative rule.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.21 REVOCATION.**

(A) The City Manager shall revoke the permit of any vendor engaged in mobile food vending who ceases to meet any requirement of this chapter or violates any other federal, state or local regulation, makes a false statement on his or her application, or conducts activity in a manner that is adverse to the protection of the public health, safety and welfare.

(B) Immediately upon such revocation, the City Manager shall provide written notice to the vendor by first class mail to the address indicated on the application. Immediately upon such revocation, the permit shall become null and void.

(Ord. 17-01, passed 6-19-2017)

#### **§ 111.22 CIVIL INFRACTION.**

A vendor who violates this chapter is responsible for a municipal civil infraction and subject to a fine of not less than \$50 for each infraction, plus costs and other sanctions, for each infraction, and each day that a violation continues is a separate offense and is a public nuisance that may be abated by injunctive relief or civil or quasi-judicial enforcement.

(Ord. 17-01, passed 6-19-2017)

## CHAPTER 112: AUCTIONS

### Section

- 112.01 Definitions
- 112.02 License required
- 112.03 Application
- 112.04 Bond
- 112.05 Fee
- 112.06 Issuance
- 112.07 Report of sales
- 112.08 Prohibited practices
- 112.09 Exempt auctions

### **Cross-reference:**

*License fee schedule, see §110.36*

### **§ 112.01 DEFINITIONS.**

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

**AUCTION SALE.** The offering for sale or selling of personal property to the highest bidder or offering for sale at a high price and then offering the same at successive lower prices until a buyer is secured.

**NEW MERCHANDISE.** All merchandise not previously sold at retail.

(1993 Code, § 112.01)

### **§ 112.02 LICENSE REQUIRED.**

It shall be unlawful for any person to sell, dispose of, or offer for sale at public auction at any place within the city, unless the person and the owners of the merchandise, if it is not owned by the vendors, shall have first secured a license as herein provided and shall have complied with the regulations hereinafter set forth.

(1993 Code, § 112.02) Penalty, see § 10.99

### **§ 112.03 APPLICATION.**

Any person desiring a license shall, at least ten days prior to the proposed auction sale, file with the City Clerk an application in writing duly verified by the person proposing to sell, dispose of, or offer for sale any new merchandise at public auction, which application shall state the following facts:

- (A) The name, residence, and post office address of the person, firm, or corporation making the application; and if a firm or corporation, the name and address of the members of the firm or officers of the corporation, as the case may be;
- (B) The name, residence, and post office address of the auctioneer who will conduct the auction sale;
- (C) A detailed inventory and description of all the new merchandise to be offered for sale at the auction and a valuation thereof; and
- (D) A statement as to whether or not the sale at public auction shall be with or without reservation.

(1993 Code, § 112.03) Penalty, see § 10.99

### **§ 112.04 BOND.**

(A) At the time of filing the application, and as a part thereof, the applicant shall file and deposit with the City Clerk a bond, with sureties to be approved by the City Commission, in the penal sum of two times the value of the merchandise proposed to be offered for sale at the auction as shown by the inventory filed, running to the state and for the use and benefit of any purchaser of any merchandise at the auction who might have a cause for action of any nature arising from or out of the auction sale against the auctioneer or applicant; the bond to be further conditioned on the payment by the applicant of all taxes that may be payable by, or due from, the applicant to the state, or any department or subdivision thereof, the payment of any fines that may be assessed by any court against the applicant or auctioneer for violation of the provisions of this chapter, and the satisfaction of all causes of action commenced within one year from date of the auction sale and arising therefrom; provided, however, that the aggregate liability of the surety for all taxes, fines, and causes of action shall in no event exceed the amount of the bond.

(B) In the bond, the applicant and the surety shall appoint the City Clerk of the city, the agent of the applicant, and the surety for the service of process. In the event of this service, the agent on whom the service is made shall, within five days after the service, mail by ordinary mail a true copy of the process served upon him or her to each party for whom he or she is served, addressed to the last known address of the party. Failure to so mail the copy shall not, however, affect the court's jurisdiction.

(C) The bond shall contain the consent of the applicant and surety that the Circuit Court of the county or the District Court of the city wherein the application and bond is filed shall have jurisdiction of all actions within the jurisdiction of the respective courts against the applicant or surety, or both, arising out of the sale.

(D) The state or any subdivision thereof, or any person having a cause of action against the applicant arising out of the sale of the new merchandise, may join the applicant and the surety on the bond in the same section, or may in the action sue either the applicant or the surety alone.

(1993 Code, § 112.04) Penalty, see § 10.99

#### **§ 112.05 FEE.**

At the time of filing the application and bond, the applicant shall pay to the City Clerk a license fee in a sum set forth in §10.36 for each day it is proposed to hold the auction sale as shown by the application for the license.

(1993 Code, § 112.05) Penalty, see § 10.99

#### **§ 112.06 ISSUANCE.**

Upon the filing of the application and after the applicant has fully complied with all the provisions hereof, the City Commission by the City Clerk, shall issue to the applicant a license authorizing the holding of the auction sale as proposed in the application. The license shall not be transferable, and shall be valid in only the city where issued.

(1993 Code, § 112.06)

#### **§ 112.07 REPORT OF SALES.**

Within ten days after the last day of the auction, the applicant shall file in duplicate with the City Clerk a listing of all merchandise sold at the auction and the prices received therefor, together with a detailed inventory of all merchandise unsold at the close of the auction sale. The City Clerk shall, immediately after receiving the listing of sales, forward a copy thereof to the Department of Revenue.

(1993 Code, § 112.07) Penalty, see § 10.99

#### **§ 112.08 PROHIBITED PRACTICES.**

At any sale by auction, no person shall act as "bidder" or what is commonly known as a "capper," "booster" or "shiller," or offer or make any false bid, or offer any false bid or pretend to buy any article sold or offered for sale at any sale by auction.

(1993 Code, § 112.08) Penalty, see § 10.99

#### **§ 112.09 EXEMPT AUCTIONS.**

The provisions of this chapter shall not extend to the sale at public auction of livestock, farm machinery or farm produce, used homestead goods, or other items commonly sold at farm or homestead sales, or to auction sales by individuals of new merchandise, which was assessed personal property tax in the state or is replacement stock of merchandise inventory which was assessed personal property tax, and to auction sales under a mortgage foreclosure or under the direction of a court or court officers of the sales as may be required by law. The owner of the personal property specified in this section may furnish the person conducting the public auction with a statement that the property set forth in the statement has been assessed as personal property in the state or that it has been purchased as replacement for property that has been assessed, and the possession of such a statement shall absolve the person or persons to whom it is given from all liability under the provisions of this chapter.

(1993 Code, § 112.09)

## **CHAPTER 113: CARNIVALS AND CIRCUSES**

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### Section

- 113.01 License required
- 113.02 Application
- 113.03 License fee
- 113.04 Approval

### **Cross-reference:**

*License fee schedule, see § 110.36*

#### **§ 113.01 LICENSE REQUIRED.**

It shall be unlawful for any person to operate or maintain within the city a carnival or circus, unless the owner, licensee, or person in possession thereof has obtained from the city a license to operate the same and has displayed the license in a prominent place on the premises.

(1993 Code, § 113.01) Penalty, see § 10.99



## § 113.02 APPLICATION.

Application shall be made on a form furnished by the City Clerk which shall set forth the owner's name, address, and the type and amount of liability insurance carried and the name of the insurance carrier. The applicant shall also state the place within the city where the applicant proposes to carry on his or her entertainment.

(1993 Code, § 113.02) Penalty, see § 10.99

## § 113.03 LICENSE FEE.

Every licensee hereunder shall pay the license fee as established in §110.36.

(1993 Code, § 113.03)

## § 113.04 APPROVAL.

No license hereunder shall be issued except on certification by the Chief of Police. Location of any carnival or circus type of entertainment shall be subject to the approval of the City Manager.

(1993 Code, § 113.04) Penalty, see § 10.99

# CHAPTER 114: OIL AND GAS WELLS

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## Section

### *General Provisions*

- 114.01 Occupation deemed hazardous
- 114.02 Permit required
- 114.03 Application
- 114.04 Duration
- 114.05 Grant or denial
- 114.06 Hearing
- 114.07 Permit suspension or revocation
- 114.08 Permit fee
- 114.09 Renewal
- 114.10 Posting permit
- 114.11 Location of wells
- 114.12 Production and operation
- 114.13 Streets and rights-of-way; oil rights
- 114.14 Restoration; abandonment
- 114.15 Ceasing operation

### *Administration and Enforcement*

- 114.30 Supervisor of Wells; inspection
- 114.31 Compliance and abatement
- 114.32 Violations
  
- 114.99 Penalty

## GENERAL PROVISIONS

### § 114.01 OCCUPATION DEEMED HAZARDOUS.

The business and occupation of drilling and exploring for, producing, obtaining, transporting, gathering, and storing of crude oil, raw gas, unrefined petroleum, and hydrocarbons within the corporate limits of the city is a hazardous and dangerous business and occupation, and it is necessary that the business and occupation be regulated, controlled, and limited for the purpose of providing protection for the lives, health, safety, and welfare of the residents of the city and of the public generally and for the protection of property from the danger of fire, explosion, gas, leaks, nuisances, and other hazards.

(1993 Code, § 114.01) Penalty, see § 114.99

#### **§ 114.02 PERMIT REQUIRED.**

It shall be unlawful for any person, organization, or estate to engage in the businesses and occupations deemed hazardous in § 114.01 within the corporate limits of the city without first having obtained a permit therefor by authority of the City Commission in accordance with the terms of this chapter.

(1993 Code, § 114.02) Penalty, see § 114.99

#### **§ 114.03 APPLICATION.**

Any person, organization, or estate engaged in or desiring to engage in the business or occupation regulated and controlled by this chapter shall complete an application form furnished by the City Clerk and shall file the form, accompanied by a filing fee of \$250, a copy of the application for a permit from the state, a statement in writing of any information the Clerk may require in addition to that called for by the form, and when requested, a certificate of liability insurance.

(1993 Code, § 114.03) Penalty, see § 114.99

#### **§ 114.04 DURATION.**

The permit shall be in force for a term of one year from the date of issue.

(1993 Code, § 114.04)

#### **§ 114.05 GRANT OR DENIAL.**

If it shall appear to the satisfaction of the City Commission that the operation is being or will be performed in compliance with all of the provisions of this chapter, the Commission may then grant the permit without further notice.

(1993 Code, § 114.05)

#### **§ 114.06 HEARING.**

(A) If it shall appear to the City Commission that the operation is not or will not be conducted in compliance with all of the provisions of this chapter, the Commission shall then fix a time and place for a public hearing to determine whether or not the permit be issued and shall enter the same on record. The applicant shall thereupon cause notice of the hearing on forms to be furnished by the City Clerk to be published in a public newspaper published in the city at least seven days prior to the hearing and shall post notices thereof in not less than three places in the city not less than seven days prior to the hearing.

(B) At the hearing all interested persons may be heard, and the Commission shall determine whether or not the applicant shall be granted a permit after due consideration of all evidence and arguments presented, and shall instruct the Clerk according to its findings and conclusions.

(C) The Commission may direct the Fire Chief of the city to investigate any operation for which a permit is requested and to report his or her findings and conclusions which it may consider in making its decision.

(D) If in the opinion of the Commission, upon conclusion of the hearing, the applicant has or will comply with all of the provisions of this chapter, it shall grant the permit requested. Otherwise the Commission shall deny the permit.

(E) In any case where it shall appear to the Commission upon conclusion of a hearing that the operation for which a permit is applied for or has been issued is being or will be conducted in such a manner as to be dangerous or hazardous to the health, safety, welfare, or property of the residents of the city or as to create a nuisance, the Commission may deny, suspend, or revoke the permit.

(1993 Code, § 114.06)

#### **§ 114.07 PERMIT SUSPENSION OR REVOCATION.**

In all cases where it shall appear to the Commission that a permittee has ceased for any reason to comply with the provisions of this chapter, it shall order him or her to show cause why his or her permit should not be suspended or revoked and shall order a public hearing therefor. The hearing shall be conducted and notices shall be published in the same manner as hereinbefore provided in the case of one applying for a permit. Any permit revoked or suspended may be reinstated where it is proven to the satisfaction of the Commission that the permittee is capable of and will comply with the provisions of this chapter.

(1993 Code, § 114.07)

#### **§ 114.08 PERMIT FEE.**

All applicants for a permit shall at the time of making application pay to the City Clerk the sum of \$250 as an application fee to apply on the cost and expenses of administration of this chapter, of which amount \$200 shall be refunded if the application is not granted.

(1993 Code, § 114.08)

#### **§ 114.09 RENEWAL.**

At the expiration of the term of each permit granted, it may be renewed by the Commission on the same terms and conditions as provided for in the case of an original application, excepting that a copy of the application for a permit from the state need not be furnished unless requested.

(1993 Code, § 114.09)

#### **§ 114.10 POSTING PERMIT.**

A copy of any permit granted shall be posted in a conspicuous place at the location of the operation.

(1993 Code, § 114.10) Penalty, see § 114.99

#### **§ 114.11 LOCATION OF WELLS.**

No well shall be situated, and no operation shall be conducted, in such a manner as to appreciably impair the use and enjoyment of existing buildings and residences and/or endanger the health and safety of the occupants thereof. The minimum distance from the buildings shall be determined by the Commission in each individual case.

(1993 Code, § 114.11) Penalty, see § 114.99

#### **§ 114.12 PRODUCTION AND OPERATION.**

(A) In the drilling for crude oil and raw gas, unrefined petroleum, and other hydrocarbons, and the production and storage thereof, every reasonable precaution shall be taken for prevention of damage to the property of the residents of the city, property of the city, and other private or public property situated therein and for the prevention of injury to any person. All equipment used shall be modern and in good repair, and only approved methods of operations shall be employed. All usual and customary safety devices shall be employed along with any additional safety devices ordered by the City Commission.

(B) In each individual case the Commission shall determine whether all or any part of the operation shall be fenced and what type of fencing shall be used. The Commission shall direct the permittee or applicant to erect, maintain, or repair fencing in accord with its determination.

(C) All flares erected within the corporate limits of the city shall be at safe distance from any building or structure and shall extend at least 20 feet above the surface of the ground. All flares shall be approved construction and shall be installed in a pit of sufficient depth and area to provide adequate drainage and safety precautions. All the flares shall be enclosed by adequate fencing.

(D) The Commission in its discretion may order portable slush pits to be used in any operation and may order any or all slush pits to be within the corporate limits to be fenced adequately to ensure the public safety. No open pits for the disposal of slush, brine, or salt water shall be permitted at any time after the completion of the drilling operation in any area of the city.

(E) The Commission may require sound mufflers to be used on any machine or machinery which it believes is creating excessive noise.

(F) All pipes or pipe lines leading to or from a well location shall be buried underground at a minimum depth of 24 inches below normal surface of the ground, and before a pipe line is laid in, down or along a street, the City Manager shall be consulted and the line laid only in those locations as he or she shall designate. The permittee laying the pipe lines or line shall repair all damage caused by reason of the laying of the lines, and upon completion shall at his or her own expense restore the street or streets to the same condition as they were prior thereto.

(G) No heavy machinery shall be moved over the city streets without the permission and supervision of the City Manager.

(H) Whenever the City Manager shall deem any phase of any operation imminently dangerous, he or she is hereby authorized to order immediate cessation of the operation until conditions can be corrected to eliminate or minimize the danger. Whenever any phase of any operation known to the business or occupation to be extremely hazardous to the public safety is to be performed, the permittee shall notify the City Manager at least eight hours beforehand so that he or she may issue whatever orders and take whatever precautions he or she deems necessary to minimize or eliminate the hazard. Failure to give notice and/or to obey the order or orders is hereby deemed a violation of this code.

(I) No operation shall be conducted or performed at any time in such a manner as to create a nuisance, public or private.

(1993 Code, § 114.12) Penalty, see § 114.99

#### **§ 114.13 STREETS AND RIGHTS-OF-WAY; OIL RIGHTS.**

(A) Prior to drilling of any wells, all city property in the form of dedicated streets and rights-of-way that is contiguous to the drilling unit shall be leased on the standard lease form, wherein provisions are made for lease money as well as royalties and/or any other income from the drilling operation shall be payable under the lease to the city.

(B) In the event that a city street or other right-of-way divides two drilling units, then the centerline of the right-of-way shall be determined to be the dividing line between the drilling units.

(C) It is the purpose of this section that the city is to receive adequate compensation of all oil rights found under city streets and other rights-of-way, including but not limited to city parking lots, city garage, city-owned easements and alleys.

(1993 Code, § 114.13) Penalty, see § 114.99

#### **§ 114.14 RESTORATION; ABANDONMENT.**

(A) Upon the discontinuance of the drilling or operations or the production of any crude oil or raw gas from any working well, the well shall be abandoned and plugged under the supervision of the Supervisor of Wells of the state.

(B) All plugging operations on all dry or abandoned wells shall commence within 60 days after drilling or production operations

shall have ceased and shall be carried through forthwith to completion.

(C) The permittee shall fill all pits and cellars with dirt and level off the surface and restore the same as nearly as possible to its condition prior to the commencement of drilling operations. All equipment shall be removed from the location promptly and all machinery, tanks, pipes, and tools shall be transported from the well site, embankments leveled, and the surface of the land restored to its former condition.

(D) The permittee shall not permit any undue accumulation of slush, saltwater, or crude oil, or any other offensive or dangerous substances to accumulate, and upon the completion of the well shall remove and eliminate all debris and eliminate all conditions and circumstances contributing to the hazard of fire or pollution.

(1993 Code, § 114.14) Penalty, see § 114.99

#### **§ 114.15 CEASING OPERATION.**

Whenever a permit shall have been issued, it shall become inoperative and void unless the operation for which the permit was granted shall be commenced within 60 days of the date of issue; or if the operation shall cease for a period of 60 consecutive days, the permit shall also become inoperative and void.

(1993 Code, § 114.15)

### **ADMINISTRATION AND ENFORCEMENT**

#### **§ 114.30 SUPERVISOR OF WELLS; INSPECTION.**

The Chief of the Fire Department, or any other person as the Commission shall from time to time designate as the Supervisor of Wells, is granted authority to inspect all operations for which permits shall be required; to report to the City Commission all violations of this chapter and any conditions for which he or she believes permits shall be denied, suspended, or revoked; to make recommendations to the Commission concerning the granting, denying, and suspending of permits; to investigate complaints of hazardous or dangerous conditions created by the operations, and to make reports of the investigations to the Commission along with his or her recommendations; and to make recommendations to applicants and permittees concerning any action necessary by them to qualify for permits and continuation of permits.

(1993 Code, § 114.25)

#### **§ 114.31 COMPLIANCE AND ABATEMENT.**

(A) The Chief of the Fire Department, or City Manager, or any employee of the city as shall be designated for that purpose by the City Manager, shall have the right and privilege at any time to enter upon the premises covered by any permit issued under this chapter for the purpose of making inspections thereof to determine if the requirements of this chapter or the requirements of any other code provision relating to the health, welfare, and safety of persons within the city are complied with.

(B) All drilling operations for the discovery of crude oil, raw gas, unrefined petroleum, or other hydrocarbons; equipping of wells; producing and marketing of crude oil, raw gas, unrefined petroleum, and hydrocarbons; plugging of wells; and all material used and work done in connection with the exploring for producing and marketing petroleum products shall be in conformity with all state and federal laws and statutes, and rules and regulations pertaining thereto, and particularly with state statutes and regulations of the Supervisor of Wells of the state.

(C) If any part of this chapter or any requirement made shall be held to be invalid in any court of competent jurisdiction, the invalidity shall not affect the validity of any other part or section or requirement hereof.

(1993 Code, § 114.26) Penalty, see § 114.99

#### **§ 114.32 VIOLATIONS.**

Each and every violation of this chapter denominated as unlawful or an offense, or not, is declared to be a public nuisance per se and may be abated by appropriate procedures provided by law.

(1993 Code, § 114.98) Penalty, see § 114.99

#### **Cross-reference:**

*Nuisances, see Ch. 90*

#### **§ 114.99 PENALTY.**

Any violation of the terms of this chapter, whether denominated as unlawful or as an offense, or not, shall likewise be a violation of this code, and any person, either for himself, herself, or by an agent, servant, or employee who shall violate any provision of this chapter, or who shall be engaged in any work or the erection of any structure, derrick, drilling rig, tank, or pipe line in violation hereof, shall, upon conviction, be punished as prescribed in § 10.99.

(1993 Code, § 114.99)

## **CHAPTER 115: GARAGE SALES**

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- 115.01 Purpose
- 115.02 Definitions
- 115.03 Limitations on number and length of sales
- 115.04 Signs
- 115.05 Persons and sales excepted
- 115.06 Effective date
  
- 115.99 Penalty

#### **§ 115.01 PURPOSE.**

It is the intent of this chapter to regulate the term and frequency of garage sales within residential areas so that the residential environment of the areas is not disturbed or disrupted, and to prohibit the infringement of any businesses into the established areas.

(Ord. 99-04, passed 12-6-1999)

#### **§ 115.02 DEFINITIONS.**

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

**GARAGE SALE.** Any casual sale of tangible personal property, whether used, secondhand, damaged, or discarded, not otherwise regulated in the code, advertised by any means whereby the public at large is or can be aware of the sale, and shall include all similar sales, however labeled, including **YARD SALE, BASEMENT SALE, RUMMAGE SALE, ATTIC SALE, LAWN SALE, FLEA MARKET SALE,** and the like.

(Ord. 99-04, passed 12-6-1999)

#### **§ 115.03 LIMITATIONS ON NUMBER AND LENGTH OF SALES.**

It shall be unlawful for any person, organization, corporation, partnership, or association of whatever description to conduct more than three garage sales in any calendar year. It shall also be unlawful to conduct more than three garage sales on any particular lot in any calendar year. No garage sale shall exceed two consecutive days. All materials from the sales shall be removed from the exterior of the premises within 24 hours after the completion of the sale.

(Ord. 99-04, passed 12-6-1999) Penalty, see §115.99

#### **§ 115.04 SIGNS.**

(A) One sign may be erected advertising a garage sale on the premises of the sale and must be removed immediately at the end of the sale.

(B) One sign may be erected upon a main thoroughfare of the city and remain only during the duration of the sale, provided that the adjacent property owner consents to the placement of the sign.

(C) The signs shall not be in excess of six square feet and shall not be illuminated in any manner whatsoever, except incidentally by street lights or house lights.

(D) Under no circumstances shall any signs be attached to any tree within the city easements or rights-of-way, or to any city building or fixture.

(Ord. 99-04, passed 12-6-1999)

#### **§ 115.05 PERSONS AND SALES EXCEPTED.**

The provisions of this chapter shall not apply to or affect the following persons or sales:

(A) Persons selling goods pursuant to an order or process of a court of competent jurisdiction; or

(B) Persons selling or advertising for sale an item or items of personal property specifically named or described in the advertisement and which separate items do not exceed five in number.

(Ord. 99-04, passed 12-6-1999)

#### **§ 115.06 EFFECTIVE DATE.**

The effective date of this chapter is December 21, 1999.

(Ord. 99-04, passed 12-6-1999)

#### **§ 115.99 PENALTY.**

Violation of this chapter shall be a municipal civil infraction the sanction for which shall be a civil fine as follows, plus costs, damages, expenses, or other sanctions as authorized by M.C.L.A. §§ 600.8701 *et seq.*:

(A) A civil fine of not less than \$50, plus costs and other sanctions, for each infraction;

(B) Increased civil fines shall be imposed for repeat offenses. The term **REPEAT OFFENSE** means a second or any subsequent violation of this chapter:

(1) Committed by a person within any two-year period, unless some other period is specifically provided by this code or any ordinance; and

(2) For which the person admits responsibility or is determined to be responsible.

(C) The increased fine for a repeat offense shall be as follows:

(1) The fine for any offense which is a second offense shall be no less than \$150, plus costs; and

(2) The fine for any offense which is a third offense or any subsequent repeat offense shall be no less than \$250, plus costs.

(D) The imposition of a penalty pursuant to division (C) or (D) of this section does not prevent suspension or revocation of a license, permit, or franchise or other administrative sanctions;

(E) With respect to a violation of this chapter that is continuous with respect to time, each day that the violation continues is a separate offense and is a public nuisance that may be abated by injunctive relief or civil or quasi-judicial enforcement; and

(F) The Building Administrator, Zoning Administrator, Chief of Police, and any duly appointed police officer or any other city officer or employee designated in writing by the City Manager are authorized to issue citations and complaints for any violation of this chapter.

(Ord. 99-04, passed 12-6-1999)

## TITLE XIII: GENERAL OFFENSES

Chapter

**130. GENERAL OFFENSES**

**131. CURFEW**

**132. ALCOHOLIC LIQUOR**

**133. SEX OFFENDER RESIDENCY**

### CHAPTER 130: GENERAL OFFENSES

Section

130.01 Definitions

130.02 Offenses relating to persons

130.03 Offenses relating to property

130.04 Public peace

130.05 Loitering

130.06 Fraud and deception

130.07 Illegal operations

130.08 Presumption

130.09 Fireworks, sale, possession, and the like prohibited; exceptions

130.10 Indecent or obscene conduct

130.11 Weapons

130.12 Ball playing in street or alley

130.13 Larceny, up to \$200

130.14 Spitting, urinating, or defecating in public

#### § 130.01 DEFINITIONS.

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

**DISORDERLY CONDUCT.** The performance of any act which disturbs the peace, threatens to disturb the peace, or endangers life or property.

**PUBLIC PLACE.** Any street, alley, park, public building, any place of business or assembly open to or frequented by the public, in any other place which is open to the public view, or to which the public has access.

(1993 Code, § 130.01)

#### **§ 130.02 OFFENSES RELATING TO PERSONS.**

It shall be unlawful for any person to:

- (A) Commit an assault and battery on any person;
- (B) Roughly jostle, push, shove, or crowd persons in any public place;
- (C) Throw or propel any snowball, missile, or object toward any person or automobile in any public place or on the private property of another person, or from any moving vehicle;
- (D) Have or carry a pistol, knife, dirk, knuckles, airgun, sling shot, or other dangerous weapon, concealed on his or her person; or
- (E) Obstruct, resist, hinder, or oppose any member of the police force or any peace officer in the discharge of his or her duties as such.

(1993 Code, § 130.02) Penalty, see § 10.99

#### **§ 130.03 OFFENSES RELATING TO PROPERTY.**

It shall be unlawful for any person to:

- (A) Willfully destroy, remove, damage, alter, or in any manner deface any public building, school, bridge, fire hydrant, alarm box, street light, street sign, traffic-control device, railroad sign or signal, parking meter, park bench or tree, or any other public property or property not his or her own;
- (B) Move any property belonging to the city or the public or remove the same from the building or place where it may be kept, placed, or stored without proper authority; or
- (C) Destroy, damage, remove, or in any manner deface any drinking fountain or deposit any substances therein, or in any manner pollute the water in the basin, fount, or bubbler of any fountain, or detach the cups or other parts of the drinking fountain.

(1993 Code, § 130.03) Penalty, see § 10.99

#### **§ 130.04 PUBLIC PEACE.**

It shall be unlawful for any person to:

- (A) Solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act;
- (B) Disturb the public peace and quiet by loud, boisterous, or vulgar conduct;
- (C) Permit or suffer any dwelling, building, vehicle, or premises occupied or controlled by him or her to be a place of noisy, boisterous, or disorderly persons;
- (D) Trespass or remain upon the premises of another to the annoyance or disturbance of the lawful occupants; or
- (E) Engage in peeping in the windows of any inhabited place.

(1993 Code, § 130.04) Penalty, see § 10.99

#### **§ 130.05 LOITERING.**

(A) A person commits a violation if he or she loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstances makes it impractical, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting the person to identify himself or herself and to explain his or her presence or conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if it had been believed by the police officer at the time, would have dispelled the alarm. Any police officer may arrest any person suspected of being a loiterer or prowler without a warrant if it reasonably appears that the delay in arresting the suspect caused by obtaining a warrant would result in the suspect's escape.

(B) It shall be unlawful for any person, after first being warned by a police officer, or where a "no loitering" sign or signs have been posted, to loiter, stand, sit, or lie in or upon any public or quasi-public sidewalk, street, curb, cross-walk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians or vehicles thereon. It shall be unlawful for any person to block, obstruct, or prevent free access to the entrance to any building open to the public.

(C) For the purpose of this section, **PUBLIC PLACE** has the following definition unless the context clearly indicates or requires a different meaning: an area generally visible to public view, including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which

serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

Penalty, see § 10.99

### **§ 130.06 FRAUD AND DECEPTION.**

It shall be unlawful for any person to:

(A) Serve upon any person any notice or demand for the payment of money on behalf of any creditors, which in form or substance simulates any legal process issued out of the courts purporting to have jurisdiction in the city or the state;

(B) Receive or accept compensation with the agreement or understanding that compensation will be paid or delivered to any person where the payment or delivery is or will be contingent upon the result of any race, contest, game, mechanical device, or upon the happening of any event not known by the parties to be certain. **COMPENSATION**, as used herein, shall include everything having value, whether intrinsic or not, and it shall be specifically construed to include the furnishing of amusement when the amount of amusement furnished will be contingent upon the happening of any event not known by the parties to be certain;

(C) Engage in fortune telling or pretending to tell fortunes for hire, gain, or reward;

(D) Willfully make to the Police Department any false, misleading, or unfounded report for the purpose of interfering with its operation or with the intention of misleading any police officer or other officers of this city; or

(E) Willfully make to the Fire Department any false, misleading, or unfounded report for the purpose of interfering with its operation or with the intention of misleading any firefighter of this city.

(1993 Code, § 130.06) Penalty, see § 10.99

### **§ 130.07 ILLEGAL OPERATIONS.**

It shall be unlawful for any person to:

(A) *Prostitution*. Engage in any act of prostitution or to attend, frequent, operate, or be an occupant, inmate, or customer of any place where prostitution is permitted or conducted;

(B) *Gambling*. Engage in gambling or attend, frequent, operate, or be an occupant of any place where gambling is permitted or conducted; or to keep or maintain a gaming room, gaming tables, or any policy or pool tickets used for gaming; or knowingly allow a gaming room, gaming tables, or any policy or pool tickets to be kept, maintained, played, or sold on any premises occupied or controlled by him or her; or

(C) *Illegal sale of liquor; frequenting immoral business*. Engage in the illegal sale of intoxicating liquor or attend, frequent, operate, or be an occupant of any place where an illegal or immoral business is permitted or conducted.

(1993 Code, § 130.07) Penalty, see § 10.99

### **§ 130.08 PRESUMPTION.**

Proof of recent reputation of engaging in prostitution, gambling, illegal sale of intoxicating liquor, or other illegal or immoral occupation or business shall be prima facie evidence of being engaged or occupied therein.

(1993 Code, § 130.08)

### **§ 130.09 FIREWORKS, SALE, POSSESSION, AND THE LIKE PROHIBITED; EXCEPTIONS.**

A person shall not ignite, discharge, or use consumer fireworks on all days except for a national holiday. National holidays shall include only the following federal holidays, including the day preceding and the day following the federal holiday: New Year's Day, the birthday of Martin Luther King, Jr., Washington's birthday (President's Day), Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day. On these national holidays, an individual shall not ignite, discharge, or use consumer fireworks between the hours of 1:00 a.m. and 8:00 a.m. A person who violates this section is responsible for a municipal civil infraction punishable by a fine of up to \$500.

(1993 Code, § 130.09) (Ord. 2013-2, passed 9-9-2013) Penalty, see §10.99

### **§ 130.10 INDECENT OR OBSCENE CONDUCT.**

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

**OBSCENE, INDECENT, or IMMORAL MATTER or CONDUCT.** Any word, symbol, language, conduct, or representation, if:

(a) The average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest;

(b) The average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions, or lewd exhibition of the genitals; and

(c) Taken as a whole, it lacks serious literary, artistic, political, or scientific value.



(B) It shall be unlawful for any person to:

- (1) Engage in any indecent, insulting, immoral, or obscene conduct in any public place;
- (2) Swim or bathe in any public place without wearing proper apparel;
- (3) Utter vile, profane, or obscene language in any public place;
- (4) Make any immoral exhibition or indecent exposure of his or her person;
- (5) Annoy, molest, or make or extend offensive advances or invitation by word or act to any person; or

(6) Print, engrave, sell, offer for sale, give away, exhibit or publish, or have in his or her possession for those purposes any obscene, lewd, lascivious, indecent, or immodest book, pamphlet, paper, picture, cast statuary, image, or representation, or other article of an indecent or immoral nature, or any book, paper, print, circular, or writing made up principally of pictures or stories of immodest deeds, lust, or crime, or exhibit any article within the view of any passerby.

(1993 Code, § 130.10) Penalty, see § 10.99

#### **§ 130.11 WEAPONS.**

No person shall discharge any firearm, air rifle, air pistol or slingshot, or bow and arrow in the city, except when lawfully acting in the defense of persons or property or the enforcement of law or at a duly established range, the operation of which has been approved by the City Commission.

(1993 Code, § 130.11) Penalty, see § 10.99

#### **§ 130.12 BALL PLAYING IN STREET OR ALLEY.**

No person shall play or engage in playing ball or any other game or sport in or on any street or alley in the city.

(1993 Code, § 130.12) Penalty, see § 10.99

#### **§ 130.13 LARCENY, UP TO \$200.**

It shall be unlawful for any person to commit the offense of larceny, by stealing of the property of another, any money, goods, or chattels, if the property stolen shall be of the value of \$200 or less.

(1993 Code, § 130.13) Penalty, see § 10.99

#### **§ 130.14 SPITTING, URINATING, OR DEFECATING IN PUBLIC.**

No person shall spit, urinate, defecate, or perform any other act which creates a hazardous or deleterious condition in any public place or any other place not specifically designated for that purpose or upon the property of any other person.

(Ord. 01-03, passed 11-19-2001) Penalty, see § 10.99

## **CHAPTER 131: CURFEW**

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Section

131.01 Curfew for minors

#### **§ 131.01 CURFEW FOR MINORS.**

(A) No minor under the age of 14 years shall loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, public buildings, etc., between the hours of 10:00 p.m., and 6:00 a.m. of the following day. No minor between the age of 14 years and under the age of 17 years shall loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 p.m. and 6:00 a.m.

(B) Division (A) above shall not apply when a child is:

- (1) Accompanied by a parent, guardian or other adult person having the lawful care and custody of the child;
- (2) Upon an emergency errand directed by a parent or guardian or other adult person having the lawful care and custody of the child;
- (3) Returning directly home by the most direct and efficient route, from a school activity, entertainment, recreational activity or dance;
- (4) Returning directly home, by the most direct and efficient route, from lawful employment that makes it necessary to be in the places referenced in division (B)(3) above during the prescribed period of time;
- (5) On the sidewalk abutting the child's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police officer about the child's presence;
- (6) Attending or traveling directly to or from an activity-involving the exercise of first amendment rights of free speech, freedom of assembly or free exercise of religion; and

(7) In interstate travel through the city.

(C) No parent, guardian or person having the care and custody of a child shall permit, whether knowingly or through ineffective control or supervision, a minor to violate this section.

Penalty, see § 10.99

**Statutory reference:**

*Similar law, see M.C.L.A. §§ 722.751 et seq.*

## CHAPTER 132: ALCOHOLIC LIQUOR

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Section

- 132.01 Definitions
- 132.02 Construction of chapter
- 132.03 Violation of chapter
- 132.04 Fraudulent identification
- 132.05 License sanction
- 132.06 Chemical breath analysis
- 132.07 Notification of parent, custodian, or guardian
- 132.08 Exceptions to chapter
- 132.09 Effective date
  
- 132.99 Penalty

### § 132.01 DEFINITIONS.

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

**PROBATE COURT DISPOSITION.** An order of disposition of the Probate Court or the family division of the Circuit Court for a child found to be within the provisions of Chapter XIIA of Public Act 288 of 1939, being M.C.L.A. §§ 712A.1 *et seq.*

**WORK LOCATION.** As applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both.

(Ord. 99-02, passed 10-4-1999)

### § 132.02 CONSTRUCTION OF CHAPTER.

This chapter shall not be construed to limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this chapter.

(Ord. 99-02, passed 10-4-1999)

### § 132.03 VIOLATION OF CHAPTER.

(A) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section.

(B) The court may order the person convicted of violating division (A) above to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in § 6103 of the Public Health Code, Public Act 368 of 1978, being M.C.L.A. § 333.6103, in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.

(Ord. 99-02, passed 10-4-1999) Penalty, see § 132.99

### § 132.04 FRAUDULENT IDENTIFICATION.

A person who furnishes fraudulent identification to a minor, or a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable as set forth in § 132.99.

(Ord. 99-02, passed 10-4-1999) Penalty, see § 132.99

### § 132.05 LICENSE SANCTION.

The Secretary of State shall suspend the operator's or chauffeur's license of an individual convicted of violating § 132.03 or § 132.04 as provided in the State Vehicle Code, Public Act 300 of 1949, § 319, being M.C.L.A. § 257.319.

(Ord. 99-02, passed 10-4-1999)

### **§ 132.06 CHEMICAL BREATH ANALYSIS.**

(A) A peace officer who has reasonable cause to believe a person less than 21 years of age has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the person less than 21 years of age has consumed or possessed alcoholic liquor.

(B) A person less than 21 years of age who refuses to submit to a preliminary chemical breath test analysis as required in this section is responsible for a state civil infraction and may be ordered to pay a civil fine as set forth in § 132.99.

(Ord. 99-02, passed 10-4-1999) Penalty, see § 132.99

### **§ 132.07 NOTIFICATION OF PARENT, CUSTODIAN, OR GUARDIAN.**

A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated pursuant to Public Act 293 of 1966, being M.C.L.A. §§ 722.1 *et seq.*, allegedly consumed, possessed, purchased, or attempted to consume, possess, or purchase alcoholic liquor in violation of § 132.03(A) shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this section shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated § 132.03(A) is less than 18 years of age and not emancipated pursuant to Public Act 293 of 1966, being M.C.L.A. §§ 722.1 *et seq.* The notice may be made by any means reasonably calculated to give prompt actual notice, including but not limited to notice in person, by telephone or by first class mail. If a person less than 17 years of age is incarcerated for violating § 132.03(A), his or her parents or legal guardian shall be notified immediately as provided in this section.

(Ord. 99-02, passed 10-4-1999)

### **§ 132.08 EXCEPTIONS TO CHAPTER.**

(A) This section does not prohibit a person less than 21 years of age from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this act, by the Commission, or by an agent of the Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(B) The consumption of alcoholic liquor by a person less than 21 years of age 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 act if the purpose of the consumption is solely educational and is a necessary ingredient of the course.

(C) The consumption by a person less than 21 years of age of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this chapter.

(D) Section 132.03(A) does not apply to a person less than 21 years of age who participates in either or both of the following:

(1) An undercover operation in which the person less than 21 years of age purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action; or

(2) An undercover operation in which the person less than 21 years of age purchases or receives alcoholic liquor under the direction of the state police, the Commission, or a local police agency as part of an enforcement action; except that any initial or contemporaneous purchase or receipt of alcoholic liquor by the person less than 21 years of age is under the direction of the state police, the Commission, or the local police agency and is part of the undercover operation.

(Ord. 99-02, passed 10-4-1999)

### **§ 132.09 EFFECTIVE DATE.**

This chapter is an emergency ordinance pursuant to § 7.12 of the City Charter and shall be effective 15 days after enactment on October 19, 1999.

(Ord. 99-02, passed 10-4-1999)

### **§ 132.99 PENALTY.**

(A) A minor who violates § 132.03(A) is guilty of a misdemeanor punishable by the following fines and sanctions:

(1) For the first violation, a fine of not more than \$100, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in § 6107 of the Public Health Code, Public Act 368 of 1978, being M.C.L.A. § 333.6107, and designated by the Administrator of Substance Abuse Services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in § 132.03(B);

(2) For a violation of § 132.03(A) following a prior violation of that division or Public Act 58 of 1998, § 703, being M.C.L.A. § 436.1703 or former Public Act 8 of 1933 (Extra Session), a fine of not more than \$200, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in § 6107 of the Public Health Code, Public Act 368 of 1978, being M.C.L.A. § 333.6107, and designated by the 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 § 132.03(B); and

(3) For a violation of § 132.03(A) following two or more prior violations of that division or Public Act 58 of 1998, § 703, being M.C.L.A. § 436.1703, a fine of not more than \$500, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in § 6107 of the Public Health Code, Public Act 368 of 1978, being M.C.L.A. § 333.6107, and designated by the 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 § 132.03(B).

(B) A person who violates the provisions of §132.04 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) A person less than 21 years of age who violates §132.06 may be ordered to pay a civil fine of not more than \$100.

(Ord. 99-02, passed 10-4-1999)

## CHAPTER 133: SEX OFFENDER RESIDENCY

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### Section

- 133.01 Definitions
- 133.02 Landlord responsibilities
- 133.03 Prohibitions
- 133.04 Effective date
  
- 133.99 Penalty

### § 133.01 DEFINITIONS.

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

**LANDLORD.** Owner, manager, or designated employee having authority to rent to a tenant.

**RENTAL PROPERTY.** Property in this city which a landlord rents that is within 1,000 feet of any school property.

**RESIDENCE.** The place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than one **RESIDENCE**, or if a wife has a **RESIDENCE** separate from that of the husband, the place at which the person resides the greater part of the time.

**SCHOOL.** A public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from one through 12. **SCHOOL** does not include a home school.

**SCHOOL PROPERTY.** A building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

- (1) It is used to impart educational instruction; or
- (2) It is for use by students not more than 19 years of age for sports or other recreational activities.

**SCHOOL SAFETY ZONE.** The area that lies 1,000 feet or less from school property.

**SEX OFFENDER.** A person who is required to be registered with the State Public Sex Offender Registry or a similar registry in another state.

(Ord. 12-01, passed 1-16-2012)

### § 133.02 LANDLORD RESPONSIBILITIES.

A landlord who rents property as a residence that is located within a school safety zone shall:

(A) Have prospective tenants sign a form that indicates whether the tenant or any member of the tenant's household who will reside in the rental property is or is not a registered sex offender, or required to be registered with the State Public Sex Offender Registry or other similar state sex offender registry;

(B) Prior to this rental, check the State Public Sex Offender Registry to determine if the prospective tenant is a registered sex offender. If the landlord does not have access to the internet, the landlord may fill out a form provided by the City Police Department requesting the Police Department to check the registry to determine whether the prospective tenant is registered;

(C) Sign a form provided by the City Police Department, for the landlord's file, verifying that the landlord has asked the tenant if he or she or any member of the tenant's household who will reside in the rental property is a registered sex offender and confirming whether or not the prospective tenant was listed on the State Public Sex Offender Registry; and

(D) The landlord must retain the forms required by divisions (A) and (C) above while the tenant occupies the rental property, and must make the forms available to the City Police Department if requested.

(Ord. 12-01, passed 1-16-2012)

### **§ 133.03 PROHIBITIONS.**

A landlord shall not rent rental property located within a school safety zone as a residence to a person if the person:

(A) Admits that he or she or any member of his or her household who will reside in the rented property is a registered sex offender;

(B) Is found to be registered on the State Public Sex Offender Registry; or

(C) Fails to sign the form described in §133.02.

(Ord. 12-01, passed 1-16-2012) Penalty, see §133.99

### **§ 133.04 EFFECTIVE DATE.**

The effective date of this chapter is January 31, 2012.

(Ord. 12-01, passed 1-16-2012)

### **§ 133.99 PENALTY.**

(A) If a landlord violates the provisions of this chapter, for the first violation only, the City Police Department will send a letter to the landlord informing the landlord of the violation.

(B) After a landlord has been given a letter from the City Police Department under division (A) above, if at any time thereafter the landlord shall violate this chapter, then the landlord shall be liable for a municipal civil infraction, the sanction for which shall be a civil fine as follows plus costs, damages, expenses, or other sanctions as authorized by M.C.L.A. §§ 600.8701 *et seq.*:

(1) A civil fine of not less than \$150, plus costs and other sanctions, for each infraction;

(2) Increased civil fines shall be imposed for repeat offenses. The term **REPEAT OFFENSE** means a second or any subsequent violation of this chapter committed by a person within any two-year period and for which the person admits responsibility or is determined to be responsible; and

(3) The increased fine for a repeat offense which is a second offense shall be not less than \$250, plus costs. The fine for any repeat offense which is a third offense or any subsequent repeat offense shall be \$500, plus costs.

(C) The imposition of a penalty pursuant to division (A) or (B) of this section does not prevent suspension or revocation of a license, permit, or franchise or other administrative sanctions.

(D) With respect to a violation of this chapter that is continuous with respect to time, each day that the violation continues is a separate offense and is a public nuisance that may be abated by injunctive relief or civil or quasi-judicial enforcement.

(E) A landlord will not be in violation of this chapter if a tenant is not required to be registered at the time the landlord rents to the tenant, but the tenant is subsequently required to register with the State Public Sex Offender Registry after the commencement of the lease or rental.

(Ord. 12-01, passed 1-16-2012)

## **TITLE XV: LAND USAGE**

Chapter

**150. BUILDING REGULATIONS**

**151. PROPERTY MAINTENANCE CODE**

**152. SUBDIVISION REGULATIONS**

**153. ZONING**

**154. RESIDENTIAL RENTAL PROPERTY REGULATIONS**

### **CHAPTER 150: BUILDING REGULATIONS**

Section

150.01 State Construction Code; enforcement agency

#### **§ 150.01 STATE CONSTRUCTION CODE; ENFORCEMENT AGENCY.**

(A) Pursuant to the provisions of M.C.L.A. § 125.1509, the County Building Department is designated as the enforcing agency to discharge the responsibilities of the city under the state statute.

(B) Plumbing regulations shall be enforced by the state.

(1993 Code, § 150.01)

## **CHAPTER 151: PROPERTY MAINTENANCE CODE**

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Section

151.01 Adoption by reference

151.02 Revisions to code

### **§ 151.01 ADOPTION BY REFERENCE.**

The International Property Maintenance Code, 2018 edition, as published by the International Code Council, for regulating and governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said Property Maintenance Code are hereby adopted as the Property Maintenance Code of the city, and made a part hereof as if fully set out herein, with the additions, insertions, deletions and changes prescribed in § 151.02. Three copies of said code are on file in the office of the City Clerk.

(Ord. 2018-01, passed 7-2-2018)

### **§ 151.02 REVISIONS TO CODE.**

The following sections of the International Property Maintenance Code are hereby revised.

(A) Section 101.1. Insert: "the City of Scottville."

(B) Section 103.5. Insert: "Any fees for services and activities associated with enforcement of this code shall be established by resolution of the Scottville City Commission."

(C) Section 112.4. Insert: "A fine of not less than \$100, nor more than \$500."

(D) Section 302.4. Insert: "Six inches."

(E) Section 304.14. Insert: "April 1 - November 1."

(F) Section 602.3. Insert: "September 1 - May 31."

(G) Section 602.4. Insert: "September 1 - May 31."

(Ord. 2018-01, passed 7-2-2018)

## **CHAPTER 152: SUBDIVISION REGULATIONS**

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Section

### ***General Provisions***

152.001 Title

152.002 Authority for enactment

152.003 Purpose

152.004 Jurisdiction

152.005 Definitions

152.006 Compliance standards

152.007 Interpretation

152.008 Fees

152.009 Variances

### ***Subdivision Procedure and Data***

152.020 Pre-application sketch

152.021 Preliminary plat — tentative approval

152.022 Preliminary plat — final approval

- 152.023 Final plat approval — data and preparation
- 152.024 Further partitions of lots, outlots, or other parcels of land and recorded lots

***Design Standards***

- 152.035 Traffic ways — streets, roads, and crosswalks and pedestrian walkways
- 152.036 Easements
- 152.037 Blocks
- 152.038 Lots
- 152.039 Floodplains
- 152.040 Natural features

***Subdivision Improvements***

- 152.055 Purpose
- 152.056 Responsibility for plans
- 152.057 Procedure for submittal
- 152.058 Required utilities and improvements
- 152.059 Sanitary sewer system
- 152.060 Water system
- 152.061 Street signs
- 152.062 Storm drainage system
- 152.063 Street pavement
- 152.064 Trees
- 152.065 Sidewalks
- 152.066 Underground utilities
- 152.067 Construction inspection
- 152.068 Formal acceptance of improvement

***Enforcement***

- 152.080 Violations
  
- 152.999 Penalty

**GENERAL PROVISIONS**

**§ 152.001 TITLE.**

This chapter shall be known and may be cited as the “Subdivision Control Ordinance” of the city.

(1993 Code, § 153.01)

**§ 152.002 AUTHORITY FOR ENACTMENT.**

This chapter is enacted and is to be interpreted and enforced by the Planning Commission and the City Commission of the city pursuant to and under the authority of Public Act 33 of 2008, being M.C.L.A. §§ 125.3801 *et seq.*, and Public Act 288 of 1967, as amended, being M.C.L.A. §§ 560.101 through 560.293.

(1993 Code, § 153.02)

**§ 152.003 PURPOSE.**

The purpose of this chapter is to regulate the subdivision of land within the city in order to:

- (A) Promote the safety and public health and welfare of the community;
- (B) Plan for the provision of adequate recreation areas;
- (C) Ensure adequate provisions for water, sanitary sewers, and drainage;
- (D) Provide procedure to be followed by subdividers prior to recording and filing of plats within the city;
- (E) Secure adequate traffic circulation through an integrated street system with proper relation to major thoroughfares and adjoining subdivisions;

(F) Require that land be suitable for building sites and require certain minimal public improvements;

(G) Provide for the orderly growth and harmonious development of the community; and

(H) Provide for and regulate the further partitioning of lots and recorded plats.

(1993 Code, § 153.03)

#### **§ 152.004 JURISDICTION.**

The rules and regulations governing plats and subdivisions of land contained herein shall apply within the corporate limits of the city.

(1993 Code, § 153.04)

#### **§ 152.005 DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this chapter unless otherwise specifically stated. All terms as defined in the 1967 Subdivision Control Act, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, shall control in this chapter unless indicated to the contrary.

**ARTERIAL STREETS.** Those streets of considerable continuity which are used or may be used primarily for heavy vehicle loads, large volumes of traffic, fast moving traffic, or through traffic.

**BLOCK.** Property abutting one side of the street and lying between the two nearest intersecting streets (crossing and terminating), or between the nearest the street and railroad right-of-way, unsubdivided acreage, river, or stream; or between any of the foregoing and any other barrier to the continuity of the development, or corporate boundaries of the city.

**BUILDING LINE** or **SETBACK LINE.** A line parallel to a boundary of a lot or parcel established on the lot or parcel for the purpose of prohibiting construction or projection of a building between the line and the boundary.

**CITY ENGINEER.** The Engineer of the city or the City Manager.

**COLLECTOR STREETS.** Those streets used to carry traffic from minor streets to arterial streets, including principal entrance streets to large residential and commercial developments

**COMPREHENSIVE DEVELOPMENT PLAN** or **MASTER PLAN.** A unified document of text, charts, graphs, and maps, or any combination thereof, designed to portray general long-range proposals for the arrangement for land uses and which is intended primarily to guide government policy toward achieving orderly and coordinated development of the entire community, and any amendments to the plan or parts thereof duly adopted by the Planning Commission.

**CROSSWALK** or **PEDESTRIAN WALKWAY.** Right-of-way dedicated to the public use, which crosses a block, or extends between lots, and is intended to facilitate pedestrian access to adjacent streets and properties.

**CUL-DE-SAC.** A minor street of short length having one end terminated by a vehicular turn-around.

**DEDICATION.** The intentional appropriation of land by the owners to the public use.

**FINAL PLAT.** A map of all or part of a subdivision prepared by, and the accuracy of which is certified by, a registered civil engineer or land surveyor in accordance with the requirements of the Subdivision Control Act, Public Act 288 of 1967, as amended, being M.C.L.A. §§ 560.101 through 560.293, and this chapter, and suitable for recordation with the County Register of Deeds.

**GOVERNING BODY.** The City Commission of the city.

**GREENBELT** or **BUFFER PARKS.** A strip or parcel of land privately restricted or publicly dedicated as open space located between incompatible uses for the purpose of protecting and enhancing the residential environment.

**HEALTH DEPARTMENT.** The city or the County Health Department.

**IMPROVEMENT.** Any addition or modification incidental to servicing or furnishing facilities for a subdivision, such as but not limited to grading, curb and gutter, paving, driveways, approaches, sidewalks, crosswalks, water mains, storm and sanitary sewer lines, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals, and any other appropriate items with appurtenant construction.

**LOT.** A measured portion of a parcel or tract of land which is described and fixed in a recorded plat.

**LOT DEPTH.** The mean horizontal distance from street line to the rear lot line.

**LOT WIDTH.** The horizontal distance between the side lot line measured at the setback line.

**MARGINAL ACCESS STREET.** A minor street which is parallel and adjacent to an arterial street and which provides access to abutting properties and protection from through traffic, and not carrying substantial volumes of through traffic.

**MINOR STREET.** A street which is intended primarily for access to abutting properties, that is, a local street for residential and other local access use.

**PLANNING COMMISSION.** The Planning Commission of the city as directed by the City Charter, §5.17, and Public Act 33 of 2008, as amended, being M.C.L.A. §§ 125.3801 *et seq.*, and Chapter 153.

**PLANS "AS BUILT."** Revised construction plans with all approved field changes. Copies for permanent public record shall be on Mylar, or approved equal.



**PLAT.** A map or chart of a subdivision of land.

**PRELIMINARY PLAT.** A map showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration.

**PRE-PRELIMINARY PLAT** or **PRE-APPLICATION SKETCH.** A plan, map, or sketch drawn to scale, showing the existing features of the site and surroundings and a general layout of the proposed subdivision. Sufficient details to provide adequate basis for review and to meet the requirements and procedures set forth in this chapter shall be provided.

**PROPRIETOR.** A natural person, firm, association, partnership, corporation, or combination of any of them which may hold any recorded or unrecorded ownership interest in the land. The **PROPRIETOR** is also commonly referred to as the **OWNER, SUBDIVIDER, or DEVELOPER.**

**PUBLIC UTILITY.** Any person, firm, corporation, copartnership, municipal corporation, or other public authority providing gas, electricity, water, steam, telephone or telegraph service, cable television service, sewers, transportation, or any other service of a similar nature.

**RIGHT-OF-WAY.** Land reserved, used, or to be used for a street, alley, walkway, or public utility; those properties shown on the plat which are usually public and are dedicated to the use of the public.

**STREET.** Any street, avenue, boulevard, road, lane, parkway, viaduct, alley, or other way which is an existing state, county, or municipal roadway, or any of the foregoing included in a plat heretofore approved pursuant to law or approved by official action. A **STREET** includes the land between the right-of-way lines, whether improved or unimproved, and may comprise pavements, shoulders, gutters, sidewalks, parking areas, and lawns, and any other area within the right-of-way lines.

**SUBDIVISION.** The division of a tract or parcel of land into two or more lots, plots, sites, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development, including all changes in street or lot lines.

**SUBDIVISION CONTROL ACT.** Public Act 288 of 1967, as amended, being M.C.L.A. §§ 560.101 through 560.293.

**ZONING ORDINANCE.** The zoning ordinance of the city, which is set forth in Chapter 153 of this code.

(1993 Code, § 153.05)

#### **§ 152.006 COMPLIANCE STANDARDS.**

The approvals required under the provisions of this chapter shall be obtained prior to the installation of any subdivision or project improvements within the city in public streets, public alleys, public rights-of-way, and public easements, and/or under the ultimate jurisdiction of the city. All subdivision or project improvements within the city installed in public streets, public alleys, public rights-of-way, or public easements and/or under the ultimate jurisdiction of the city shall comply with all of the provisions and requirements of this or any other related code or ordinance provision of the city.

(1993 Code, § 153.06) Penalty, see § 152.999

#### **§ 152.007 INTERPRETATION.**

The provisions of these regulations shall be held to be the minimum requirements adopted for the promotion and preservation of the public health, safety, and general welfare of the city. These regulations are not intended to repeal, abrogate, annul, or in any manner interfere with existing regulations or laws of the city, nor conflict with any statutes of the state or the county, except that these regulations shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws, or regulations.

(1993 Code, § 153.07)

#### **§ 152.008 FEES.**

(A) *Plan review fees.* Fees for subdividing land shall be in accordance with a schedule as recommended by the Planning Commission and adopted by the City Commission as published and amended from time to time.

(B) *Construction inspection fee.* Prior to the approval of the city for the proprietor to proceed with installation of the required utilities, a deposit in the amount of 4% of the contract costs of the utilities proposed for construction shall be received to guarantee any construction inspection expense of the city. Upon completion of the project, actual expenses shall be itemized and accounted for, based on payroll cost plus 35%, the excess, if any, shall be returned to the depositor, and if the deposit is insufficient to cover the expenses, the depositor will be billed for the deficiency.

(C) *Final plat approval fee.* The final plat approval fee shall be \$20.

(1993 Code, § 153.08)

#### **§ 152.009 VARIANCES.**

(A) The governing body may authorize a variance from these regulations when in its opinion undue hardship may result from strict compliance. In granting any variance, the City Commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required hereinbelow, the City Commission shall take into account the nature of the proposed use of the land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

(B) No variance shall be granted unless the City Commission finds that:

(1) There are special circumstances or conditions affecting the property, such that the strict application of the provisions of

this chapter would deprive the applicant of the reasonable use of his or her land;

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and/or

(3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

(1993 Code, § 153.09)

## **SUBDIVISION PROCEDURE AND DATA**

### **§ 152.020 PRE-APPLICATION SKETCH.**

(A) Unless waived in writing by the City Engineer or City Manager, the proprietor shall submit ten copies of the sketch of the proposed subdivision to the City Clerk. The sketch plan shall show the entire development scheme of the subdivision in a schematic form, including the area for immediate development. The existing conditions and characteristics of the land and all pertinent features therein and adjacent to the site shall be noted. The general layout of streets, alleys, blocks, and lots, and any general area set aside for public open space shall be noted. The scale shall not be less than one inch = 100 feet.

(B) A letter or report from the proprietor's engineer or a surveyor concerning the general feasibility of the land for subdividing shall be submitted unless waived by the City Engineer or City Manager.

(C) The City Clerk shall promptly transmit copies of the pre-preliminary plat to affected city administrative officials.

(D) The Planning Commission and city administration will review the plans with the proprietor or his or her agent. If requested, the Planning Commission shall inform the proprietor or his or her agent of the policies of the city regarding the type of development proposed. Appropriate comments and suggestions concerning the proposed development scheme will be discussed. In the event of a disagreement regarding design and layout, the proprietor shall be requested to revise his or her plans according to the recommendations of the Planning Commission.

(E) When the pre-preliminary sketch is satisfactory to the Planning Commission, the proprietor may submit his or her preliminary plat. Acceptance of the sketch does not ensure acceptance of the preliminary plat.

(F) No commitments can be made by the City Engineer, the City Manager, or the Planning Commission at this stage as to the official acceptance or rejection of the preliminary plat.

(1993 Code, § 153.15)

### **§ 152.021 PRELIMINARY PLAT — TENTATIVE APPROVAL.**

(A) *Information and data required.* The following shall be shown on the preliminary plat or submitted with it:

(1) Proposed name of the subdivision by which it shall legally and commonly be known. The name shall not closely approximate or duplicate any other subdivision on record in the city, the state or its immediate vicinity;

(2) Name and address of the proprietor. Name, address, registration number, and official seal impression on the preliminary plat of the engineer or surveyor who designed the preliminary plat. The scale shall not be smaller than one inch = 100 feet. A north arrow shall be shown. Total acreage within the subdivision shall be indicated;

(3) Layout of all proposed lots with approximate dimensions and lot numbers. All lots shall be designated by consecutive numbers. Building setback lines, parallel to proposed streets, shall show the pertinent dimensions;

(4) Preliminary engineering and general descriptions and drawings showing proposed improvements. The engineering plan shall contain enough information and detail to enable the city to make a preliminary determination as to the conformance of the proposed improvements to applicable city requirements;

(5) Location of section lines, city limit lines, existing previously platted lots within the area to be platted and in areas immediately adjacent thereto. Existing streets, alleys, easements, railroads, utility rights-of-way, parks, public open space, buildings, structures, and any other existing improvements shall be shown;

(6) A description of the boundaries of the proposed subdivision acceptable to the City Engineer or the City Manager;

(7) Drawings indicating the existing and proposed contours at intervals not to exceed two feet, subject to the approval of the City Engineer or City Manager. Elevations shall be based on the city datum and geological survey datum. Other engineering data as may be required by the city related to street crossings, sewer elevations, water elevations, and similar conditions shall be submitted;

(8) Existing water mains, storm sewers, sanitary sewers, gas lines, power lines, telephone lines, or other existing facilities, together with any ditches, culverts, or natural watercourses, including data on general size, types, and elevations of these existing utilities, which are within or adjacent to the area to be subdivided;

(9) Location of floodplain areas, rivers, streams, creeks, lakes, county drains, lagoons, slips, waterways, bays, canals, and any artificial impoundments, either existing or proposed, within or adjacent to the area to be platted;

(10) A map of the entire area scheduled for development, if the proposed plat is a portion of a larger holding intended for subsequent development;

(11) A description of the type of residential buildings and the number of dwelling units contemplated, unless specifically waived by the city. In addition, the proprietor shall furnish a draft of his or her proposed protective covenants or deed restrictions, if any, whereby he or she proposes to regulate land use in the subdivision and otherwise protect the proposed developments;

(12) A statement of the intended uses of the proposed plat, such as residential single-family, two-family, multiple-housing, commercial, industrial, or recreation;

(13) A general description of any site proposed for parks, playgrounds, schools, or any parcel of land within the subdivision intended to be dedicated or reserved for public use or set aside for use by the property owners within the subdivision;

(14) The existing land use and zoning of the proposed subdivision and adjacent properties and intersecting boundaries thereof. Tax numbers of adjacent unplatted parcels, or lot numbers if the adjacent land is subdivided;

(15) Layout of all proposed streets, alleys, and easements showing general course, widths, lengths, and proposed street names;

(16) A description of all land owned by the proprietor adjacent to the land in the preliminary plat, together with a statement of present plans for the development of that adjacent land;

(17) An affidavit setting forth the names and addresses of all property owners within 300 feet of the property proposed for any subdivision or plat; and

(18) Subsurface conditions on the tract, if required by the Planning Commission; location and results of tests made to ascertain subsurface soil, rock, and groundwater conditions; depth to groundwater unless test pits are dry at a depth of five feet; location and results of soil percolation tests, if requested.

*(B) Planning Commission — tentative approval.*

(1) *Application.* The proprietor shall submit one brown-line sepia and ten copies of the preliminary plat; and one original and ten copies of the documents containing all of the information required by division (A) of this section to the City Clerk at least 26 calendar days before the next regular meeting of the Planning Commission, at which time the request for tentative approval of the preliminary plat is first to be considered.

*(2) Action required.*

(a) The Planning Commission shall hold a public hearing on the preliminary plat and accompanying information and shall review the same for compliance with law and the recommendations of the city.

(b) It shall be the duty of the Secretary of the Planning Commission publicly to advertise the hearing in the official newspaper of the city and send notice thereof by mail to all owners of land immediately adjoining or within 300 feet of the property proposed to be platted. The time and place of the meeting of the Planning Commission to consider the preliminary plat and accompanying information shall be given.

(c) The Planning Commission may, immediately following the public hearing, but shall within 60 days after the preliminary plat is first submitted to it, unless the proprietor agrees to an extension in writing, grant tentative approval; tentative approval subject to certain modifications, and/or written conditions; or disapproval of the proposed plat. Otherwise, the plat shall be deemed to have been approved. A certificate to that effect shall be issued by the Planning Commission on demand.

(d) If approved with modifications and/or conditions by the Planning Commission, the reasons therefor shall be specified in writing. In approving a plat, with or without modifications or conditions, the Planning Commission may grant variances from the regulations in this chapter but only in accordance with the standards set out in § 152.009 and must state its reasons therefor in writing.

(e) If approved conditionally, the conditions and reasons therefor shall be stated in writing. For any conditional approval requiring a change in the plat, the Planning Commission may require the proprietor to submit a revised preliminary plat to the governing body.

(f) If disapproved, the reasons for that action shall be stated in writing. The Planning Commission shall in writing recommend any modifications that would, if made, render the plat acceptable to the Planning Commission.

(g) One copy of the preliminary plat as acted on by the Planning Commission and signed by its Secretary and noting the action taken shall be retained in its records. One signed copy shall be delivered to the proprietor.

(h) Tentative approval of the preliminary plat by the Planning Commission shall be effective for one year from date of approval. Following this approval, the general terms and conditions of the approval shall not be changed; provided, however that, in the event there is a change in zoning classification of the land contained within a proposed plat, any approval given shall be null and void. No zoning change within the proposed plat shall be considered unless the change is consented to by the proprietor in writing filed with the city.

(i) A resolution containing the action of the Planning Commission together with five copies of the plat and accompanying documents shall be forwarded to the City Commission for consideration of tentative approval of the preliminary plat.

*(C) City Commission — tentative approval.*

(1) Within 30 days from the date of the Planning Commission's action, unless the proprietor agrees to an extension in writing, the City Commission shall give tentative approval; tentative approval subject to certain modifications and/or written conditions; or disapproval of the proposed plat. Any approval shall be effective for one year. After the approval, the general terms and conditions of that approval shall not be changed. The City Commission may, but need not, hold a public hearing on the proposed preliminary plat.

(2) No installation or construction of any improvements shall be made before final approval of the preliminary plat by the City Commission, and only after the engineering plans have been approved by the City Engineer or City Manager.

(3) If approved conditionally, any and all conditions must be met prior to any consideration by the City Commission for final

preliminary plat approval.

(4) In the event a preliminary plat is disapproved at this tentative approval stage by the City Commission, it shall not be again considered by the City Commission until it shall have been again considered and acted upon by the Planning Commission.

(5) No person, firm, or corporation proposing to make or have made a subdivision or a resubdivision within the jurisdictional limits of these regulations shall enter into any contract for the sale of or shall offer for sale the subdivision or any part thereof, or shall proceed with any construction work on the proposed subdivision, including grading, until he, she, or it has attained from the Planning Commission the tentative approval of the preliminary plat of the proposed subdivision.

(1993 Code, § 153.16) Penalty, see § 152.999

#### **§ 152.022 PRELIMINARY PLAT — FINAL APPROVAL.**

(A) The proprietor shall submit to the City Clerk:

(1) Written approval of the preliminary plat by all authorities whose approval is required under §§ 112 and 119 of the 1967 Subdivision Control Act, being M.C.L.A. §§ 560.101 through 560.293;

(2) A written statement from the City Treasurer that there are no special assessments or ad valorem taxes outstanding against the property;

(3) Written approval of the preliminary plat by all public utility companies proposed to service the area to be subdivided; and

(4) Copies of the plat bearing the written approval of authorities, boards, and utility companies as may be designated by the city.

(B) Upon receipt of the above requested information, the City Commission, at its next regular meeting or within 20 days, shall grant preliminary plat approval if the proprietor has met all the conditions, if any, of tentative approval. The City Commission shall instruct the City Clerk to notify the proprietor in writing of approval or rejection. If the plat is rejected, the reasons for the action shall also be noted. The proprietor may revise the rejected plat and resubmit the same to the City Commission at any time within one year from the granting of the tentative approval by the City Commission.

(C) Final approval of the preliminary plat under this section shall confer upon the proprietor for a period of two years from the date of approval, the conditional right that any variances or any other general terms or conditions under which approval was granted will not be changed. The two-year period may be extended by the City Commission if applied for by the proprietor in writing. Written notices of the extension shall be sent by the governing body to the other approving authorities. Failure on the part of the proprietor to proceed in accordance with this chapter with final plat procedures within the period specified shall result in automatic withdrawal of the approval of the preliminary plat. In order to regain the approval, the proprietor must again apply and proceed through the pre-application sketch and preliminary plat stages in accordance with this subchapter.

(1993 Code, § 153.17) Penalty, see § 152.999

#### **§ 152.023 FINAL PLAT APPROVAL — DATA AND PREPARATION.**

(A) *Submittal and required data and preparation.* The proprietor shall submit the final plat to the City Clerk.

(1) The final plat shall comply with the provisions of the Subdivision Control Act.

(2) The final plat shall conform substantially to the preliminary plat as approved, except that it may constitute only that portion of the approved preliminary plat which the proprietor proposes to record and develop at the time.

(3) The proprietor shall submit to the City Clerk, as evidence of title, an abstract of title certified to date and a policy of title insurance or copy thereof for examination in order to ascertain whether or not the proper parties have signed the plat.

(4) The final plat shall be accompanied by one set of the approved proposed construction plans and specifications for the improvements, and necessary surety, or if the improvements have been satisfactorily completed and accepted by the city, plans as-built shall be submitted and any other plans as may be required by the city.

(B) *Review of the plat.* The city shall review the final plat for conformance with the preliminary plat and may prepare a set of recommendations to be submitted to the Planning Commission.

(C) *Action required — Planning Commission.* The Planning Commission shall examine the final plat and shall approve the plat, with or without modifications or conditions, or reject it. If the final plat is approved with modifications and/or conditions, the Planning Commission shall specify in writing the reasons therefor. In approving a plat, the Planning Commission may grant variances from the regulations in this chapter, but only in accordance with the standards set out in § 152.009, and must state its reasons therefor in writing. If the final plat is rejected, the grounds for rejection, including citation to the applicable regulations shall be stated on the record of the Planning Commission. The Planning Commission shall transmit written report of its action to the City Commission.

(D) *Action required — City Commission.*

(1) No final plat shall be approved by the City Commission without the prior approval of the Planning Commission.

(2) The City Commission shall approve the final plat with or without modifications or conditions, or reject it, within a period of 20 days after the filing with the City Clerk of the written report of the Planning Commission as noted above.

(3) Rejected plats may be referred back to the Planning Commission for further study and review and required correction.

(4) One Mylar copy and three paper prints of the final plat shall be filed by the proprietor with the City Clerk, and the

proprietor shall deposit any sums of money as the City Commission may require under the provisions of this code. Upon approval by the City Commission, the City Clerk shall sign the plat attesting to the action.

(1993 Code, § 153.18) Penalty, see § 152.999

#### **§ 152.024 FURTHER PARTITIONS OF LOTS, OUTLOTS, OR OTHER PARCELS OF LAND AND RECORDED LOTS.**

(A) Any lot, outlot, or other parcel of land in a recorded plat may be further partitioned into not more than four parts.

(B) Notwithstanding anything contained in this chapter, this code, or any other ordinances of the city to the contrary, no building permit shall be issued for any construction on any lot, outlot, or other parcel in a recorded plat, which lot, outlot, or other parcel has been partitioned, or for construction on a lot (as defined in Chapter 153), comprised in whole or in part of a partitioned, platted lot, outlot, or parcel unless and until the City Commission, by resolution, consents to the partitioning.

(C) An application for partitioning of any lot, outlot, or parcel of land for building sites, in a recorded plat, signed by the owner thereof, shall be filed with the City Clerk. The application shall be made on a form prescribed by the city and obtainable at the office of the City Clerk.

(1) The Planning Commission shall consider the application and forward its written comments and recommendations to the City Commission.

(2) Upon receipt of the comments and recommendations of the Planning Commission, the City Commission may at its discretion, hold a public hearing on the matter and shall take action thereon as it deems appropriate.

(3) The actions of the Planning Commission and the City Commission shall be subject to and governed by provisions of Public Act 288 of 1967, § 263, being M.C.L.A. §§ 560.101 through 560.293.

(4) If the application for partitioning is approved, a copy of the resolution of the City Commission approving same, certified by the Clerk, and containing a copy of the plot plan and a complete legal description of the lot, outlot, or parcel being partitioned and of the parcels being created by the partitioning shall be given to the City Assessor who shall cause same to be recorded in the office of the Register of Deeds for the county. A copy of the resolution shall be forwarded by the Clerk to the applicant.

(1993 Code, § 153.19) Penalty, see § 152.999

### **DESIGN STANDARDS**

#### **§ 152.035 TRAFFIC WAYS — STREETS, ROADS, AND CROSSWALKS AND PEDESTRIAN WALKWAYS.**

(A) *Intent.* The standards set forth in this subchapter shall be considered the minimum standards for streets, roads, and intersections.

(B) *Street location and arrangement.*

(1) *Street Plan.* The subdivision of land for the dedication of land for streets, highways, and alleys shall conform to the Major Street Plan as adopted by the Planning Commission.

(2) *Local or minor streets.* The streets shall be so arranged as to discourage their use by through traffic. Nevertheless, dead-end streets are prohibited except those designed as cul-de-sacs and those required for future access to adjacent unplatted properties. Temporary turn-around arrangements for stubbed dead-end streets to unplatted properties may be required.

(3) *Street continuation and extension.* The arrangement of streets shall provide for continuation of existing streets from adjoining areas into the new subdivision, unless otherwise approved. Streets shall be arranged with respect to topography so as to result in usable lots, safe streets, and reasonable gradients.

(4) *Alleys.* Alleys shall not be permitted in plats in areas intended for single- or two-family residential development. Alleys may be provided in commercial subdivisions. Dead-end alleys shall be prohibited.

(5) *Marginal access streets.* Where a subdivision abuts or contains an arterial street, the city may require a marginal access street approximately parallel to the arterial streets, or other treatment as it deems necessary for adequate protection for residential properties and local access, and to afford separation of through and local traffic.

(6) *Cul-de-sac streets.* Cul-de-sac streets shall not extend more than 700 feet from the centerline of the nearest intersecting street. Special consideration shall be given to longer cul-de-sacs under unfavorable topographical conditions or other unusual circumstances. Cul-de-sac streets shall terminate with an adequate turn-around with a minimum right-of-way diameter of 120 feet.

(7) *Half streets.* Half streets shall be prohibited, except where unusual circumstances make it essential to the reasonable development of a tract in conformance with these regulations and where satisfactory assurance for dedication of the remaining part of the street is provided. Whenever a tract to be subdivided borders on an existing street or partial street, the other part of the street shall be dedicated within the plat.

(8) *Shape.* In an attempt to provide a more pleasing appearance and an attractive vista and to discourage excessive vehicular speeds, residential streets shall be curvilinear.

(9) *Compliance.* All proposed plats shall be in general conformance with the city's Street Plan and Master Plan.

(C) *Specifications.*

(1) *ROW width.* Right-of-way widths shall conform to the adopted Major Street Plan and shall not be less than the following:

(a) Arterial streets, 66 feet;

- (b) Collector streets, 60 feet;
- (c) Local streets, 60 feet;
- (d) Cul-de-sac streets, 60 feet; and
- (e) Alleys, 20 feet.

(2) *Inadequate width.* If a subdivision abuts or contains an existing right-of-way of inadequate width, the city may require that the proprietor dedicate additional right-of-way for the widening of the right-of-way.

(3) *Increased width.* The city may require right-of-way greater than that provided for above, to assure public safety with regard to subdivision access, traffic circulation, and parking in the subdivision.

(4) *Railroad ROW.* Whenever a subdivision abuts or contains a railroad right-of-way, a parallel street bordering on or parallel to the railroad right-of-way shall be provided to serve as an interceptor street for minor streets, as determined by the city. Between the street and the railroad there shall be a strip of land of width not less than the depth of one lot which may be used in residential districts as a park, but may be used for business or industrial purposes in appropriate districts.

(5) *Street gradients.* Local streets shall have minimum and maximum grades of 0.3% and 8%, respectively, and collector and arterial streets shall have minimum and maximum grades of 0.49% and 5%, respectively; provided, however, that the gradient standards may be modified in individual cases by the city.

(6) *Street curvature.* The minimum horizontal centerline radii of curved local streets shall be 200 feet. Greater radii may be required for collector or principal streets having through traffic. A minimum tangent of 75 feet shall be introduced between reversed curves of streets of 66 feet right-of-way. Greater tangent widths may be required based on the functional classification of the street.

(7) *Street intersections.* Multiple intersections involving the junction of more than two streets are prohibited. Curved streets, intersecting with major thoroughfares and collector streets shall do so with a tangent section of centerline not less than 50 feet in length, measured from the right-of-way line of the major or collector street.

(8) *Horizontal alignment.* Centerline of pavement shall coincide with the centerline of the right-of-way, except for irregular right-of-way widths, or as otherwise allowed by the city.

(D) *Intersections.* Streets shall intersect at 90 degrees, or as closely thereto as feasible but in no case at less than 80 degrees; provided, however, that this standard may be modified in individual cases by the city.

(E) *Sight distances.* A subdivision street which intersects with primary highways must make provision for adequate and safe sight distances.

(F) *Centerline offsets.* Street jogs at intersections shall be avoided. Where jogs are unavoidable, street centerlines shall be offset by a distance of 150 feet or more.

(G) *Crosswalks and pedestrian walkways.* Rights-of-way for crosswalks and pedestrian walkways shall be required where necessary to obtain convenient pedestrian circulation, and shall extend through the blocks in question, unless otherwise allowed by the city. The city may require the proprietor to pave and fence the crosswalk area.

(1993 Code, § 153.30) Penalty, see § 152.999

#### **§ 152.036 EASEMENTS.**

Easements shall be provided along the front lot lines and also along side and rear lot lines when necessary for utilities and/or drainage. The total width on any given lot shall not be less than ten feet along the front lot line. Rear easements shall be seven and one-half feet wide, or a total of 15 feet for adjoining lots. An easement of varying width adjusted to the needs of the public, shall be provided as may be required along waterfronts.

(1993 Code, § 153.31) Penalty, see § 152.999

#### **§ 152.037 BLOCKS.**

(A) A block shall be so designed as to provide two tiers of lots, except where lots back onto an arterial street, natural feature, railroad, subdivision boundary, or barriers of a similar nature.

(B) Block length shall be not less than 500 feet nor greater than 1,320 feet, centerline to centerline. The width of a block shall normally be equal to the total depth of the two tiers of lots and shall not be less than 200 feet unless unusual conditions exist. Blocks intended for purposes other than residential shall be designed to provide adequate provisions for off-street parking and loading in accordance with the requirements of Chapter 153.

(1993 Code, § 153.32) Penalty, see § 152.999

#### **§ 152.038 LOTS.**

(A) Lot sizes, widths, depths, and area shall not be less than the particular district requirements for building sites or lots in that zoning district as contained in Chapter 153. Outlots are excepted from the provisions of this section.

(B) Side lot lines shall be essentially at right angles to the straight street and radial to curved streets.

(C) The depth of a lot generally shall not exceed three times the width as measured at the building line.

(D) Corner lots in residential plats shall have sufficient extra width to permit appropriate building setbacks for both front and

side streets. Corner lots in residential plats and whose rear yards abut rear yards shall have a minimum width of 80 feet. All corner lots in residential plats and whose rear yards abut a side yard shall have a minimum width of 80 feet.

(E) Should a proposed subdivision border on or contain an existing or proposed major thoroughfare, shopping center, industrial property, or other high-intensity use, the city may require marginal access streets, reverse frontage, or any other treatment as may be necessary to adequately protect residential properties and to afford separation from, and reduction of, traffic hazards and nuisances. The requirements may include landscaped easements and extra depths in lots.

(F) All lots shall front upon a dedicated public or private street, or an approved place or way. All lots in a residential plat shall have frontage of not less than 80 feet on at least one street or approved place or way, unless otherwise allowed by the city.

(G) Where parcels of land are subdivided into unusually large lots or tracts, the parcels shall be divided, where feasible, so as to allow for resubdividing into smaller parcels in a logical fashion.

(H) Lots shall be so arranged as to not be cut by a city boundary line.

(I) Business or commercial lots shall have a width of not less than 50 feet. Lot areas shall be sufficient as to provide for off-street parking and loading in accordance with the requirements of Chapter 153.

(J) Lots fronting on arterial streets shall have a depth of not less than 125 feet.

(1993 Code, § 153.33) Penalty, see § 152.999

### **§ 152.039 FLOODPLAINS.**

Land subject to flooding or inundation by storm water shall clearly be shown on the final plat. The land shall not be platted for residential purposes, or for uses that may in the judgment of the city increase the danger to health, life, or property, or increase the flood hazard. Such lands within a plat shall be set aside for other uses, such as parks, or open spaces.

(1993 Code, § 153.34) Penalty, see § 152.999

### **§ 152.040 NATURAL FEATURES.**

The natural features and character of lands must 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 proprietor, and the dedication and provision of adequate barriers, where appropriate, shall be required.

(1993 Code, § 153.35) Penalty, see § 152.999

## **SUBDIVISION IMPROVEMENTS**

### **§ 152.055 PURPOSE.**

It is the purpose of this subchapter to establish and define the public improvements which must be constructed by the proprietor, or for the construction of which a bond must be posted, as conditions for final plat approval and also to outline the procedures and responsibilities of the proprietor and the various public officials and agencies concerned with the administration, design, construction, and financing of public facilities, and further to establish procedures for assuring compliance with these requirements.

(1993 Code, § 153.45) Penalty, see § 152.999

### **§ 152.056 RESPONSIBILITY FOR PLANS.**

It shall be the responsibility of the proprietor of every proposed plat to have prepared by a registered engineer a complete set of construction plans, including profiles, cross-sections, specifications, and other supporting data, for the public streets, utilities, and other facilities required by this chapter. The construction plans shall be based on preliminary plans which have been approved with the preliminary plat. All construction plans shall be prepared in general accordance with city standards and specifications, and shall be approved prior to final plat approval. All costs for preparation of the necessary plans shall be paid by the proprietor.

(1993 Code, § 153.46) Penalty, see § 152.999

### **§ 152.057 PROCEDURE FOR SUBMITTAL.**

(A) When construction has been completed at the time of filing the final plat, one complete copy of acceptable plans as-built of each required public improvement shall be filed with the City Clerk before approval of the final plat is given.

(B) Other requirements and procedures in the submittal of final plats shall be as provided in §§152.020 through 152.024.

(1993 Code, § 153.47) Penalty, see § 152.999

### **§ 152.058 REQUIRED UTILITIES AND IMPROVEMENTS.**

(A) In order to promote healthful, clean, and desirable living conditions, the proprietor shall be responsible for installing the following site improvements, or shall, prior to approval of the final plat, deposit with the City Clerk cash, a certified check, or an irrevocable bank letter of credit running to the city, or a surety bond as hereinafter described, acceptable to the city and executed by a reputable insurance company authorized to do business in this state, all in a sufficient amount and form to permit the completion by the city of all contemplated improvements within 20 months, if the developer fails satisfactorily to complete the improvements. The city reserves the right to demand a specific type of surety and to reject all others. All costs for the following

required improvements shall be borne by the developer. Any special assessment district of the city shall not be applicable for these improvements unless otherwise provided by the City Commission. Prior to the acceptance by the city of the improvements, a two-year maintenance and guarantee bond in an amount set by and in form acceptable to the city, shall be posted by the proprietor.

(B) Improvements set forth under this subchapter are the minimum acceptable, and other improvements may be required by the city. Improvements shall be provided by the proprietor in accordance with standards and requirements established herein and/or any standards, specifications, or details as may from time to time be established by ordinance or published or adopted by the city.

(1993 Code, § 153.48) Penalty, see § 152.999

#### **§ 152.059 SANITARY SEWER SYSTEM.**

The location and design of all trunk lines and lateral sanitary sewers and any other necessary appurtenances such as pumping stations shall be first reviewed and approved by the City Engineer or City Manager and all public agencies having jurisdiction. All work shall be carried out under the direct supervision of the proprietor's registered professional engineer. The proprietor shall not enter into any agreement with any adjacent property owners which shall require him or her to provide them with sewer services, without prior approval of the City Commission. Installation of sanitary sewers shall be required if a usable trunk sewer is located within 1,000 feet of any boundary of the proposed plat.

(1993 Code, § 153.49) Penalty, see § 152.999

#### **§ 152.060 WATER SYSTEM.**

The location and design of water mains, the installation of fire hydrants and other necessary appurtenances shall first be reviewed and approved by the City Engineer or City Manager and all public agencies having jurisdiction as to suitability and all work shall be carried out under the direct supervision of the proprietor's registered professional engineer. The proprietor shall not enter into any agreement with any adjacent property owner which requires him or her to provide him or her with water service, without prior approval by the City Commission. The installation of water mains and their connection with the city system shall be required in all new subdivisions.

(1993 Code, § 153.50) Penalty, see § 152.999

#### **§ 152.061 STREET SIGNS.**

Street signs shall be of the same type and design as those in general use within the community.

(1993 Code, § 153.51) Penalty, see § 152.999

#### **§ 152.062 STORM DRAINAGE SYSTEM.**

A storm drainage system shall include all necessary storm sewer pipe, street and yard drainage inlets and catch basins, manholes, culverts, bridges, and any other appurtenances necessary for the adequate drainage of the subdivision, unless otherwise provided by the city in accordance with the following sentence: if the City Commission decides that curb and gutter streets and/or storm sewer system are not desirable in the proposed subdivision, it shall direct the proprietor to install, as a minimum, a 24-foot bituminous mat and adequate ditches.

(1993 Code, § 153.52) Penalty, see § 152.999

#### **§ 152.063 STREET PAVEMENT.**

All minor or local access streets shall be a minimum of 32 feet in width, face of curb to face of curb. Streets shall be paved with bituminous concrete and have reinforced concrete curb and gutter, or as approved by the City Engineer or City Manager. Collector streets shall be a minimum of 36 feet in width, face of curb to face of curb. All alleys shall be paved, 20 feet in width. If the City Commission decides that curb and gutter streets and/or storm sewer system are not desirable in the proposed subdivision, it shall direct the proprietor to install, as a minimum, a 24-foot wide bituminous mat and adequate ditches. Plans for enclosed storm sewers and/or open ditches, curb and gutter and/or mats shall be reviewed and approved by the City Engineer or City Manager and all public agencies having jurisdiction, before construction is begun. All work shall be carried out under the direct supervision of the proprietor's registered engineer. Previously dedicated but unimproved street rights-of-way or existing streets not improved as required by this subchapter for new streets, which abut or are contained in the proposed plat, shall be improved with paving and curb and gutter, or as directed by the City Commission.

(1993 Code, § 153.53) Penalty, see § 152.999

#### **§ 152.064 TREES.**

The City Commission may require that not more than one tree per lot be planted by the proprietor within the city right-of-way, and that the proprietor maintain the trees for a period of at least one year from the time of planting. The trees shall be of a variety and size as specified by the city.

(1993 Code, § 153.54) Penalty, see § 152.999

#### **Cross-reference:**

*Trees, see Ch. 97*

#### **§ 152.065 SIDEWALKS.**



(A) The city may require the construction of sidewalks.

(B) If so required, they shall be five feet wide, constructed of concrete, located 18 inches from the property line on each side of the roadway and shall, at the ends of blocks, extend to the roadway.

(1993 Code, § 153.55) Penalty, see § 152.999

**§ 152.066 UNDERGROUND UTILITIES.**

All public utility facilities in residential subdivisions, exclusive of main supply lines and necessary surface facilities, shall be placed underground within utility easements provided by the proprietor for this purpose, or in dedicated public streets or ways, and shall be planned so as not to be in conflict with the other underground utilities.

(1993 Code, § 153.56)

**§ 152.067 CONSTRUCTION INSPECTION.**

(A) (1) In order to help assure construction in accordance with the approved plans and specifications, all improvements herein mentioned may be inspected by any engineering department of the city.

(2) In addition, the proprietor’s registered engineer shall provide a signed statement that all facilities were installed in accordance with the approved plan, or any other acceptable assurances as may be acceptable to the City Engineer or the City Manager.

(B) The city may require that all work and inspection, or portions thereof, be carried out under the supervision of the City Engineer or City Manager. In these cases, the proprietor’s engineer is relieved of the responsibility.

(1993 Code, § 153.57)

**§ 152.068 FORMAL ACCEPTANCE OF IMPROVEMENT.**

No streets, water facilities, sanitary sewer facilities, or storm drainage systems required by this subchapter shall be considered part of the public system, or accepted for maintenance purposes, or become operative and functional as a part of the public system until the improvement is accepted by the city.

(1993 Code, § 153.58)

**ENFORCEMENT**

**§ 152.080 VIOLATIONS.**

Subdivision or use of land in violation of any of the provisions of this chapter is hereby declared to be a nuisance per se, and any court of competent jurisdiction may order the nuisances abated, and any person so violating the provisions of this chapter shall be adjudged guilty of maintaining a nuisance per se.

(1993 Code, § 153.98) Penalty, see § 152.999

**§ 152.999 PENALTY.**

Every person convicted of a violation of any of the provisions of this chapter shall be punishable by a fine of not more than \$500 or by imprisonment for not more than 90 days, or both the fine and imprisonment in the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate violation.

(1993 Code, § 153.99)

**CHAPTER 153: ZONING**

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**Cross-reference:**

*Planning Commission, see §§ 31.055 through 31.064*

**Editor's note:**

*The following zoning regulations are based on Ordinance 84-1, passed January 3, 1984. The effective date of Ordinance 84-1 and this chapter is 15 days after its enactment, i.e., January 18, 1984.*

## **PART I GENERAL PROVISIONS**

**§ 153.001 ESTABLISHMENT; AUTHORITY.**

(A) The revised and amended text, maps, and tables described herein shall establish zoning regulations governing the location, construction, and use of buildings and structures, and the use of land within the city; and for these purposes, dividing the incorporated city into districts.

(B) The City Commission, under the authority of the Zoning Enabling Act, also known as Public Act 110 of 2006, as amended, being M.C.L.A. §§ 125.3101 *et seq.*, hereby ordains, enacts, and publishes this chapter.

(1993 Code, § 154.001) (Ord. 84-1, passed 1-3-1984)

**§ 153.002 SHORT TITLE.**

This chapter shall be known as the "Scottville Zoning Ordinance."

(1993 Code, § 154.002) (Ord. 84-1, passed 1-3-1984)

**§ 153.003 PURPOSES.**

(A) This chapter is established in accordance with the needs of the city.

(B) The text, map, and tables contained herein are adopted for the following purposes:

- (1) To protect and promote the public health, safety, and general welfare of the city;
- (2) To guide and protect the future of the city in an orderly manner and in accordance with the growth and development goals of the Land Use Plan. The following is a narrative summary of goals:
  - (a) To enhance the environmental quality of life in the city;
  - (b) To promote the growth of tax ratables and expansion of employment;
  - (c) To provide an environment conducive for more commercial activity in the Central Business District;
  - (d) To accommodate growth in an orderly manner;
  - (e) To provide housing opportunities for people of all ages and incomes; and

- (f) To preserve the city's character and identity as a small residential city amidst a rural setting.
- (3) To discourage sprawl development and conflicts between incompatible land uses;
- (4) To protect and preserve the value of land throughout the city and the value of buildings appropriate to the various districts established by this chapter;
- (5) To assure that the residential housing environment of the city is safe, healthful, and free of blighting appearances;
- (6) To protect the natural environment from the pollution of air, streams, and ponds; and to encourage the wise development and sound management of all natural resources throughout the city; and
- (7) To effectuate those purposes as specified in Public Act 110 of 2006, as amended, being M.C.L.A. § 125.3101 *et seq.* (1993 Code, § 154.003) (Ord. 84-1, passed 1-3-1984)

#### § 153.004 DEFINITIONS.

##### (A) Usage.

(1) For the purposes of this chapter, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.

(2) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural number include the singular; the word **HEREIN** means in this chapter; the word **REGULATION** means the regulations of this chapter; and the words **THIS CHAPTER** shall mean the chapter text, tables, and maps included herein, as enacted or subsequently amended.

(3) **PERSON** includes a corporation, firm, partnership, as well as an individual, or an unincorporated association of persons such as a club or any other entity; **SHALL** is always mandatory; a **LOT** includes a plot or parcel; a **BUILDING** includes a structure; a **BUILDING** or **STRUCTURE** includes any part thereof; **USED** or **OCCUPIED** as applied to any land or building shall be construed to include the words **INTENDED, ARRANGED, OR DESIGNED TO BE USED OR OCCUPIED**

(4) The **CITY** is the City of Scottville in the County of Mason, State of Michigan; the **CITY COMMISSION, BOARD OF APPEALS**, and **PLANNING COMMISSION** are respectively the City Commission, Board of Appeals, and Planning Commission of the city.

(5) Any word not herein defined shall be construed, as defined in the Housing Code of Michigan, Public Act 167 of 1917, as amended, being M.C.L.A. §§ 324.32101 *et seq.*

(6) Other terms, phrases, and words not herein defined shall have the meaning customarily assigned to them by general usage in the English language.

##### (B) Words and terms defined.

**ACCESSORY BUILDING.** A building or structure located on the same lot with the principal or main building. An **ACCESSORY BUILDING** is detached from the main building. Where a structure is attached to a main building in a manner by a wall or roof, it shall be considered a part of the main building.

**ACCESSORY USE.** A use subordinate to the main use of a lot and uses for purposes customarily incidental to those of the main use.

**ALLEY.** A public thoroughfare affording only a secondary means of access to abutting property, the thoroughfare being not less than ten feet in width and not more than 30 feet in width.

**ALTERATIONS.** Any change, addition, or modification in the construction of the external walls, roof, or foundation, excluding openings to a building, or its grade of occupancy.

**APARTMENT HOUSE.** See "Dwelling, Multiple-Family."

**BOARDING HOUSE.** A building other than a hotel where lodgings and meals for five or more persons are served for compensation.

**BUILDING.** A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattels; when separated by division walls from the ground up, and without openings, that portion of the **BUILDING** shall be deemed a separate **BUILDING**.

**BUILDING LINE.** A line parallel to the street line drawn through that exterior building wall which is nearest to the street line and at the finish grade or surface of the ground.

**COMMERCIAL USE.** The engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise, or service; and the maintenance or operation of office, recreational, or amusement enterprises.

**DWELLING UNIT.** A building or a portion of a building occupied as the home residence and sleeping place of one or more human beings.

**DWELLING, MULTIPLE-FAMILY (APARTMENT).** A dwelling occupied otherwise than as one-family or two-family dwelling, except hotels according to the definition contained in this chapter.

**DWELLING, ONE-FAMILY.** A building occupied as a dwelling unit by not more than one family.

**DWELLING, TWO-FAMILY.** A building containing two dwelling units and occupied by not more than two families.

**EFFICIENCY UNIT (STUDIO).** A dwelling unit for one individual or small family consisting of one room, exclusive of bathroom, hallway, closets, and the like.

**ESSENTIAL PUBLIC SERVICES.** The erection, construction, alteration, or maintenance of public utilities by municipal departments or commissions of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems (including towers, structures, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, telephone exchanges and/or repeater buildings, electric substations, gas regulators, stations, and other similar equipment and accessories in connection therewith) reasonably necessary for the furnishing of adequate service by the public utilities or municipal departments or commissions for the public health, safety, or general welfare. This does not include sanitary landfills and sewage treatment facility.

**FAMILY.** Any number of individuals living and cooking together on the premises as a single housekeeping unit.

**FLOOR AREA.** The sum of the gross horizontal areas of the several floors of the building measured from the interior faces of the exterior walls from the centerline of walls separating two buildings. **FLOOR AREA** shall not include elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment) open or enclosed located on the roof, attic space having headroom of seven feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in **FLOOR AREA**. Areas of basements, utility rooms, breezeways, porches, or attached garages are not included, except, however, that the floor area of a building shall include the basement floor area when more than one-half of the basement height is above the established curb level, or finished lot grade, whichever is higher.

**GARAGE, COMMUNITY.** A space or structure or series of structures for the storage of motor vehicles having no public shop or service in connection therewith for the use of two or more owners or occupants of property in the vicinity.

**GARAGE, PRIVATE.** A space or accessory structure for the storage of not more than three vehicles having no public shop or service in connection therewith, for the use solely by the owner or occupant of the principal building or a lot or of his or her family or domestic employees.

**GARAGE, PUBLIC.** Any building or premises used for housing or care of more than three motor-driven vehicles where the vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

**HEIGHT OF BUILDING.** The vertical distance measured from the mean sidewalk level to the highest point of the building. Where a building is situated on a terrace above the sidewalk level, the building shall be measured from the level of the adjoining ground.

**HOTEL.** A building occupied as a more or less temporary abiding place of individuals who are lodged with or without meals, and rooms are occupied singly for hire, in which provision is not made for cooking on any individual plan and in which there are more than ten sleeping rooms, a public dining room for the accommodation of at least 20 guests, and a general kitchen.

**LODGING HOUSE.** A building other than a hotel, where lodging for five or more persons is provided for compensation.

**LOT.** A plat, plot, or parcel of land including open spaces as are arranged and designed to be used in connection with the buildings. A **LOT** may or may not be the land shown on duly recorded plat. If more than one **LOT OF RECORD** is held in common ownership and the lots are contiguous, undeveloped and substandard in size to the minimum lot size in the zoning districts, they shall, for the purpose of this chapter, be held as one **LOT** or as many lots as shall leave no lot substandard.

**LOT AREA.** Area of a lot bounded by lot lines.

**LOT, CORNER.** A lot in which lot lines form an interior angle of less than 135 degrees at the intersection of two street lines. A lot abutting on a curved street or streets shall be deemed a **CORNER LOT** if the tangents to the curve (measured at the points of intersection of the side lot lines with the street lines) intersect at an interior angle of less than 135 degrees.

**LOT COVERAGE.** The amount of a lot, stated in terms of percentage, that is covered by all roofed buildings and/or structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio roofs, and the like, whether open box-type and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, or swimming pools.

**LOT LINE, FRONT.** The exterior line or right-of-way of a road on which a lot fronts or abuts.

**LOT LINE, REAR.** Any lot line, other than a front lot line, which is parallel or nearly parallel to the front lot line.

**LOT LINE, SIDE.** Any lot line not a front or rear lot line.

**LOT LINES.** A boundary line of a lot.

**LOT OF RECORD.** A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOT WIDTH.** The minimum distance between side lot lines measured at all points and measured at right angles to the side lot lines.

**MOBILE HOME.** A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

**MOBILE HOME PARK.** A parcel or tract of land, 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 for use incident to the occupancy of a mobile home.

**MODULAR.** A structure which meets the requirements of the BOCA Building and Construction Code, and which is transported in one or more sections on a removable chassis, and is designed to be used on a permanent foundation, and when connected to the required utilities, such as plumbing, heating, and electrical systems. Pursuant to BOCA, the characteristics of a **MODULAR** are:

- (a) A pitched roof of heavy truss construction able to support a dead weight of at least 40 pounds, and having roof shingling of five-inch exposure;
- (b) A heavy deck flooring of wood on two-by-eight floor joists;
- (c) A drain ventilation size of three inches in diameter extending 12 inches above the roof; and
- (d) Establishment on a poured wall or cement block and mortar foundation.

**MOTEL, HOTEL, or MOTOR HOTEL.** A building or a series of attached, semi-detached, or detached rental units providing long-term or transient lodging with motor vehicle parking in an area contiguous to the building. No kitchen or cooking facilities are to be provided in units except for use by the Manager and/or caretaker and a specific area under care of the Manager.

**NET BUILDING AREA.** Contiguous land excluding land subject to flooding six months of the year, poor drainage, steep slopes, rock outcrops, and land encumbered by easements.

**NONCONFORMING LOT OF RECORD (SUBSTANDARD LOT).** A lot lawfully existing at the effective date of this chapter or affecting amendment, and which fails to meet the minimum area requirements of the zoning district in which it is located.

**NONCONFORMING STRUCTURE.** A structure, or portion thereof, lawfully existing at the effective date of this chapter or affecting amendment, and which fails to meet the minimum yard setback requirements of the zoning district in which it is located.

**NONCONFORMING USE.** A use lawfully existing in a building or on land at the effective date of this chapter or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located.

**PRINCIPAL USE.** The main use to which the premises are devoted and the principal purpose for which the premises exist.

**RECREATIONAL VEHICLE.** A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

**ROAD FRONTAGE.** The length of the lot line which borders a public road.

**ROAD or STREET, PRIVATE.** An irrevocable easement running with land to one or more owners of adjacent properties which provides access to those adjacent properties and which is not dedicated for general public use.

**ROAD or STREET, PUBLIC.** Any public right-of-way which provides vehicular access to adjacent properties.

**SETBACK.** The horizontal distance from a lot line inward toward the part of the building nearest to that lot line.

**SIDEWALK LEVEL.** The mean level of the established public sidewalk in front of the building. Where no one sidewalk has been established, the City Engineer shall establish the **SIDEWALK LEVEL** for the purpose of these regulations.

**SITE PLAN REVIEW.** The submission of plans for review, as part of the process of securing zoning approval.

**SPECIAL USE PERMIT.** A permit for a use that would not be appropriate generally or without restriction throughout the zoning district; but which, if controlled as to the number, area, location, or relation to the city, would not adversely affect the public health, safety, order, comfort, convenience, appearance, prosperity, and general welfare. These uses shall be permitted when the specific review criteria provided in this chapter for them are met.

**STORY.** The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above, then the space between the floor and the ceiling next above it.

**STORY, HALF.** The portion of a building included between the eaves and the ridge lines of a pitched roof, which may or may not be used for tenant purposes.

**STREET.** A public thoroughfare 30 feet or more in width, providing the principal means of access to abutting property.

**STRUCTURAL CHANGES or ALTERATIONS.** Any change in the supporting member of a building, such as bearing walls, columns, beams, or girders, or any substantial change in the roof.

**TEMPORARY BUILDING or USE.** A structure or use permitted by the Zoning Administrator to exist during periods of construction of the main use or for special events, as may be permitted herein, not to exceed six months.

**UNDERGROUND HOME.** A residence, the roof of which is covered with earth, and which on at least three sides does not extend upward more than the surrounding grade levels within 50 feet.

**VARIANCE.** A varying or relaxation of any of the requirements of this zoning chapter by the Zoning Board of Appeals; and where the **VARIANCE** will not be contrary to the public interest.

**YARD.** An open space on a lot, unoccupied and unobstructed from the ground upward; except as otherwise permitted in this chapter.

**YARD, REQUIRED FRONT.** The minimum required yard measured from the front lot line into the interior lot area.

**YARD, REQUIRED REAR.** The minimum required yard measured from the rear lot line into the interior lot area.

**YARD, REQUIRED SIDE.** The minimum required yard measured from the side lot line into the interior lot area.



**ZONING BOARD OF APPEALS.** The Zoning Board of Appeals (ZBA) of the city, constituted as provided in this chapter, and which is authorized as a body to interpret, hear appeals, and grant variances only in accordance with the provisions of this chapter.

(1993 Code, § 154.004) (Ord. 84-1, passed 1-3-1984)

**Statutory reference:**

*Mobile homes, mobile home parks, and recreational vehicles, see M.C.L.A. § 125.2301 et seq.*

**§ 153.005 INTERPRETATION OF CHAPTER.**

(A) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, and general welfare.

(B) Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive or higher standards shall control.

(C) This chapter shall not abridge the provisions of a validly adopted code, mobile home ordinance, subdivision, or other regulation.

(1993 Code, § 154.005) (Ord. 84-1, passed 1-3-1984)

**ESTABLISHMENT OF DISTRICTS**

**§ 153.020 ESTABLISHMENT OF DISTRICTS.**

The city is divided into the following districts:

R-1	Low Density Residential
R-2	Low/Medium Density Residential (One- and Two-Family)
R-3	Medium Density Residential (Multiple-Family)
R-4	Mobile Home Park
CBD	Central Business District
HC	Highway Commercial
I-1	Light Industrial
I-2	Heavy Industrial

(1993 Code, § 154.015) (Ord. 84-1, passed 1-3-1984)

**§ 153.021 ZONING MAP.**

(A) The areas and boundaries of the districts in §153.020 are established to scale as shown on a map entitled “City of Scottville Zoning Map,” and referred to herein as the “Zoning Map.” The Zoning Map, together with everything shown thereon, is hereby adopted by reference and declared to be a part of this chapter.

(B) Regardless of the existence of copies of the Zoning Map which may be made or published, the official Zoning Map shall be located at the City Office and shall be the final authority as to the current zoning status in the city.

(1993 Code, § 154.016) (Ord. 84-1, passed 1-3-1984)

**Cross-reference:**

*Zoning map changes, see TSO III*

**§ 153.022 INTERPRETATION OF DISTRICT BOUNDARIES.**

When uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerline of rivers, waterways, roads, streets, highways, or alleys shall be construed to follow those centerlines;

(B) Boundaries indicated as approximately following platted or unplatted lot lines shall be construed to follow the lot lines;

(C) Boundaries indicated as approximately following city boundaries shall be construed to follow city boundaries;

(D) Boundaries indicated as following shorelines, stream beds, or the perimeter of a waterbody or watercourse shall be construed to follow the general established seasonal high water limit of the shoreline or stream bed, and in the event of a more than temporary or seasonal change in shoreline or stream bed, shall be construed as moving with the newly formed/established seasonal high water limit;

(E) Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (D) above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the official Zoning Map; and

(F) Where physical or cultural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered by divisions (A) through (E) above, the Zoning Administrator shall interpret the district boundaries.

Upon appeal, the Zoning Board of Appeals reserves the right to review and uphold or override the interpretation of the Zoning Administrator.

(1993 Code, § 154.017) (Ord. 84-1, passed 1-3-1984)

### **§ 153.023 DISTRICT CLASSIFICATIONS.**

(A) *R-1, Low Density Residential.* This is a single-family housing area. While all of the city is serviced with utilities, the low density status is intended to preserve and protect that character which typifies a conventional single-family neighborhood. No further subdividing of existing single-family lots shall be permitted which creates lots substandard to the minimum required lot area.

(B) *R-2, Low/Medium Density Residential (One- and Two-Family).* The character and living environment of this district is somewhat similar to the R-1 District; however, the housing density shall be slightly higher. Two alternative forms of housing are permitted:

- (1) Single-family dwellings on smaller lots; and
- (2) Duplex dwellings on sufficiently sized lots.

(C) *R-3, Medium Density Residential (Multiple-Family).* The R-3 District is intended for multiple-family uses and structures such as apartment buildings of three or more dwelling units, specialized housing for seven or more unrelated individuals, and senior citizen housing. Compliance with site design standards and requirements shall be required in order to safeguard against any potentially adverse impacts.

(D) *R-4, Mobile Home Park.* The Mobile Home Park District is intended for those who prefer mobile home living. Although a single-family unit, the Mobile Home Park has essentially a higher density impact than the conventional single-family development. In order not to adversely affect other areas of the city, certain land areas to be designated by the City Commission shall be deemed as appropriate for mobile home development. All site design standards and requirements shall be met.

(E) *CBD, Central Business District.*

(1) This district refers to the commercial pattern presently encompassing the intersection of U.S. 10 and U.S. 31, and which extends along Main Street both north and south of the intersection. Parts of U.S. 10 just east and west of the intersection are also part of the CBD.

(2) This district is identified as the hub of the city's daily activity through which major traffic passes and where people shop for everyday needs. The prevailing appearance of the city as a small rural city situated at an important crossroads is dominant for this district. It is the intent of the city to promote, preserve, and protect this city character in accordance with city land use goals and policies.

(3) The kinds of CBD uses permitted are general, retailing, personal services, offices, and uses which are supportive of a "pedestrian scale with store windows and sidewalk shopping."

(F) *HC, Highway Commercial.* The HC District is intended to provide limited highway oriented services to through traffic beyond the Central Business District. This highway oriented district shall be limited in scale in order not to detract from the CBD District. The kinds of uses permitted here are generally characterized as automobile oriented, and they have a high impact on through traffic in terms of access and egress into a heavily used roadway.

(G) *I-1, Light Industrial.*

(1) This district is intended to include light manufacturing, assembling, and finishing activities which have minimal or no nuisance potential to the surrounding areas.

(2) Available for use in this district would be the "industrial park" concept. The overall character may be a combination of light industrial uses supplemented by office complexes. Local, state, and federal environmental regulations and constraints, however, would have to be observed.

(H) *I-2, Heavy Industrial.* This district is in contrast to the I-1 District and is intended to provide for heavier, more intense industrial uses which are primarily of a manufacturing, assembling, and fabricating character, including the processing of raw materials, junkyards, and specialized industrial processing which may require special sites, facilities, and services.

(1993 Code, § 154.018) (Ord. 84-1, passed 1-3-1984)

## **GENERAL REGULATIONS**

### **§ 153.035 EFFECT OF ZONING.**

(A) Zoning affects every structure and use. Except as hereinafter specified, no building, structure, or premises shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except when in conformity with the regulations herein specified for the zoning district in which it is located.

(B) In case any building or part thereof is used, erected, altered, or occupied contrary to law or to the provisions of this chapter, the building shall be declared a nuisance and may be required to be vacated, torn down, or abated by any legal means and shall not be used or occupied until it has been brought into conformance.

(1993 Code, § 154.025) (Ord. 84-1, passed 1-3-1984)

### **§ 153.036 APPLICATION OF REGULATIONS.**

The regulations set by this chapter throughout the city and within each district shall be minimum regulations and shall apply

uniformly to each class or kind of structure or land.

(A) *Compliance.* All buildings, structures, or land may hereafter be used, constructed, altered, or occupied only when in conformity with all of the regulations herein specified for the district in which they are located.

(B) *Alterations.* No building or other structure shall hereafter be altered:

- (1) To accommodate or house a greater number of persons or families than permitted by the zoning district; or
- (2) To have narrower or smaller rear yards, front yards, or other side yards, other than permitted.

(C) *Minimum yard and lot requirements.* No yard or lot existing at the time of passage of this chapter (January 3, 1984) shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards and lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(D) *City functions.* No provisions of this chapter shall deprive or be construed as depriving the city of the power to construct or maintain within the city any building or structure required for the performance of its governmental or proprietary functions; provided that the building, structure, or function shall conform to the provisions of the district in which it is located and of this chapter, and be built so as to conform with the surrounding conforming uses insofar as possible.

(1993 Code, § 154.026) (Ord. 84-1, passed 1-3-1984)

### **§ 153.037 SCHEDULE OF DISTRICT REGULATIONS.**

Regulations affecting the use of buildings and land, and the bulk arrangement of buildings, materials, and equipment occupying the land for each of the districts are hereby established as set forth in this subchapter and the supplemental use regulations in § 153.135.

(A) *Use Table.* The table entitled "Table of Use Regulations" is referred to herein as "Use Table." It is set forth in Appendix A to this chapter.

(B) *Bulk Table.* The table entitled "Table of General Bulk Regulations" is referred to herein as the "Bulk Table." It is set forth in Appendix B to this chapter.

(C) *Unclassified uses.*

(1) Where a proposed use of land or use of building is not contemplated or specified in the Use Table or where the Zoning Administrator has a question as to the appropriateness of a use which, although basically permitted, involves other features which were not contemplated or specified by this chapter, the Zoning Administrator shall request a determination by the Planning Commission.

(2) If the Planning Commission determines that the use is not contemplated or specified by this chapter, or that it involves features which were not contemplated or specified herein, then the Planning Commission may permit that use as a special use only after it determines that it will have no adverse effect upon adjacent property, that the use is similar to other uses in the district in which it is proposed to be placed, and the spirit, purpose, and intent of this chapter and the Land Use Plan are not impaired by permitting the use at the proposed location.

(1993 Code, § 154.027) (Ord. 84-1, passed 1-3-1984)

### **§ 153.038 CERTIFICATE OF ZONING COMPLIANCE REQUIRED BEFORE ISSUANCE OF A COUNTY BUILDING PERMIT (CONFORMANCE TO ZONING).**

In accordance with other city ordinances and regulations duly adopted by the City Commission, and in accordance with this chapter, no building or land use activity shall hereafter be erected, relocated, altered, moved, or expanded in its exterior dimension or use, and no excavation for any building shall be begun until a county building permit has been issued. However, with respect to this chapter, eligibility for a building permit shall first require a local certificate of zoning compliance, special use permit, or variance.

(1993 Code, § 154.030) (Ord. 84-1, passed 1-3-1984)

### **§ 153.039 CERTIFICATE OF OCCUPANCY REQUIRED.**

(A) No new building, dwelling, or other structure subject to the provisions of this chapter shall be occupied, inhabited, or used until a county certificate of occupancy is issued.

(B) No land, platted or unplatted, subject to the provisions of this chapter, shall be occupied, inhabited, or used until a permit is issued by the Zoning Administrator.

(1993 Code, § 154.031) (Ord. 84-1, passed 1-3-1984)

### **§ 153.040 STRUCTURES.**

(A) *Restoring unsafe buildings.* Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building Inspector or the County Health Department.

(B) *Minimum floor area for dwelling units.* As shown in the Bulk Table in Appendix B, each new dwelling unit shall have a minimum floor area in accordance with the following standards.

(1) *Single-family detached.* Each new dwelling unit shall have a minimum total floor area of 750 square feet. In addition, for units of more than one story, a minimum of 750 square feet of floor area is required for the first floor.

(2) *Attached single-family, or two-family.* Each new dwelling unit shall have a minimum floor area of 750 square feet. In addition, for units of more than one story, a minimum of 750 square feet of floor area is required for the first floor.

(3) *Multiple-family dwellings.*

<b>For:</b>	<b>Floor Area/Unit (sq. ft.)</b>
Efficiency	375
1 bedroom	600
2 bedroom	800
3 bedroom	1,000
In excess of 3 bedrooms	1,000 + 80 for each additional bedroom

(C) *Sewage disposal.* Each dwelling unit and principal structure shall be equipped with adequate sewage disposal facilities to comply with the Mason-Manistee County Sanitary Code in effect at the time of the erection of the dwelling or principal structure. Where public utilities exist within 500 feet, the owner or developer shall be required to hook up with the system.

(D) *Structures to have access.* Every principal structure hereafter erected or moved shall be on a lot adjacent to a public street or alley.

(E) *Erection of more than one principal structure prohibited.* In any district, not more than one structure housing a permitted or permissible principal use may be erected on a single lot; and further, not more than one principal use shall be conducted upon any lot or parcel of property, and only uses accessory to the principal use shall be permitted thereon.

(F) *Accessory buildings and uses.* No accessory building or use shall be erected in any required front yard and no separate accessory building shall be erected within ten feet of any other building or within five feet of any property line. Except as specified in this chapter, no accessory building or structure shall be occupied as a dwelling unit.

(G) *Exceptions to height regulations.* The height limitations contained in the Bulk Table (Appendix B) do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances, usually required to be placed above the roof level and not intended for human occupancy. However, height limitations shall apply to the above-mentioned structures and to all other structures located within the airport overlay zone.

(H) *Exceptions to yard setback regulations.* The setback limitations contained in the Bulk Table do not apply to steps, awnings, or similar facilities which may project into a minimum required yard area; provided, however, that the facilities may not extend more than five feet into the minimum required yard area.

(1993 Code, § 154.032) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.041 STRUCTURES — MOBILE HOMES.**

No person shall use or permit the use of any mobile home as a permanent residence or any other use on any site, lot, field, or tract of land not specifically zoned R-4 Mobile Home Park, except as follows.

(A) Mobile homes may be placed in a licensed mobile home dealership for sale but not for occupancy.

(B) Mobile home structures may be used temporarily while constructing a permanent nonresidential structure for a period of one year. Two extension periods of six months each are permitted upon application to the Zoning Administrator.

(C) A mobile home may be used outside of a mobile home park as a single-family dwelling within any residential zoning district, provided the following conditions are met:

(1) There shall be a minimum square feet of living area equal to that required for a site-built residence or dwelling in the zoning district in which it is placed;

(2) There shall be a minimum floor-to-ceiling height of seven and one-half feet;

(3) There shall be a minimum width throughout the entire length of the mobile home of 22 feet measured between the exterior part of the walls having the greatest length;

(4) There shall be a foundation around the entire exterior perimeter of the mobile home of concrete or block of a minimum depth of 42 inches below grade with a maximum height of 16 inches of exposed foundation and a minimum of eight inches of exposed foundation above grade of the same design as required by the Construction Code as adopted by the city in § 150.01 for single-family residences;

(5) There shall be a crawl space below the entire bottom of the mobile home of two feet with a vapor barrier;

(6) The mobile home shall be firmly attached to the foundation so as to be watertight in such a way that water will not enter;

(7) All wheels, towing mechanisms and tongues shall be removed and none of the undercarriage shall be visible from outside the mobile home;

(8) There shall be connected to the mobile home a well and septic system approved by the County Health Department, or public sewer and water if it is located within 500 feet of the site or lot;

(9) No storage of any personal property except legally operable vehicles shall occur outside the interior of the mobile home

or a garage or other accessory building as may be allowed;

(10) There shall be permanently attached to the foundation steps and/or porch areas where an elevation differential exists between any door and surrounding grade;

(11) (a) There shall be a minimum of a double pitched roof of not less than three feet of rise for each 12 feet of run and the roof shall be covered by either asphalt or shake shingles.

(b) If 20% of the residences, excluding mobile homes, within one-half mile have double pitched roofs of less than three feet of rise for each 12 feet of run, then the mobile home's double pitched roof can be less than the specified in division (C)(11)(a) above but not less than the average of the 20%.

(12) There shall be exterior siding consisting of horizontal lap siding or other siding of the same materials and attached in the same manner as required under the Construction Code as adopted by the city;

(13) There shall be no addition to the living space of the mobile home unless it meets all the requirements hereof and is built according to the same standard as the mobile home or unless allowed as a special use by the Zoning Administrator. All sections making up the mobile home shall be securely attached to each other;

(14) There shall be a minimum of two doors to provide means of ingress and egress from the mobile home;

(15) The mobile home shall be maintained against deterioration and/or damage from the elements or otherwise by prompt and appropriate, repairs, surface coating, and other protective measures;

(16) Plans, floor plan layouts, and certification of meeting HUD mobile home standards (of the mobile home and foundation) shall be presented, along with a site plan showing compliance herewith and with all other requirements of this chapter, including but not limited to the requirement of the district in which it is to be located, to the Zoning Administrator prior to the issuance of a building permit; and

(17) The mobile home must meet standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) *Regulations and Title Mobile Home Construction and Safety Standards*, effective June 15, 1976, as amended.

(1993 Code, § 154.033) (Ord. 84-1, passed 1-3-1984)

**Cross-reference:**

*Additional mobile home regulations, see §§ 153.150 through 153.152*

**§ 153.042 LOTS.**

**(A) New lots.**

(1) All newly created lots shall have buildable area. The net buildable area of a lot shall be a contiguous piece of land, excluding land subject to flooding six months of the year, poor drainage, steep slopes, rock outcrops, and land encumbered by easements preventing the use of the land.

(2) No new lot shall be created which does not meet the minimum lot size regulations of this chapter.

**(B) Corner lots.** On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. The owner shall elect, and so designate in his or her application for permit, which of the remaining two required yards shall be the required side yard and which the required rear yard.

(1993 Code, § 154.034) (Ord. 84-1, passed 1-3-1984)

**§ 153.043 UTILITIES.**

**(A)** The installation of all electrical work, including equipment, shall in every case be done in a safe and workmanlike manner. The regulations of the current State Electric Code as enforced by the county shall be considered as good standard practice by the Zoning Administrator. Installation shall comply with the requirement of the electrical utility company servicing the area.

**(B)** The installation of all interior plumbing work shall comply with Articles I through XI, inclusive, of the State Plumbing Code.

(1993 Code, § 154.035) (Ord. 84-1, passed 1-3-1984)

**§ 153.044 PARKING.**

**(A) Off-street parking.** All buildings located in the city shall provide off-street parking adequate for the use intended, as specified in the Use Table of Appendix A. A parking space shall be ten feet by 20 feet or 200 square feet. Parking lots shall include aisle space of 25 feet in width if two-way, and 12 feet if one-way.

**(B) Inoperable vehicles/unlicensed vehicles.** No inoperable or unlicensed vehicle shall be parked or stored except when in a completely enclosed structure.

(1993 Code, § 154.036) (Ord. 84-1, passed 1-3-1984)

**§ 153.045 ANIMALS, LIVESTOCK, AND FOWL — USE, SHELTER, AND STORAGE.**

**(A)** No animals, livestock, or fowl, other than common household pets, shall be permitted to be used, sheltered, or stored in any residential district.

(B) Where animals, livestock, and fowl, other than common household pets, are permitted to be used, sheltered, or stored either by right, or by special use permit, or as any accessory use, all structures used for shelter and storage shall be set back a minimum of 100 feet from any front lot line or zoning district boundary.

(1993 Code, § 154.037) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.046 TRANSITION ZONING.**

(A) A residentially zoned lot having its side yard abutting a commercial or industrial zoning district boundary that is located within the city may be used as a special use in accordance with the least restrictive residential district requirements for new residential structures. A transition lot cannot be construed to extend for more than 150 feet from the commercial or industrial zoning district boundary. In addition, the land may be used for offices for doctors, dentists, architects, and similar professions.

(B) For approval of these uses on a transitional lot, a detailed site development plan and an architectural profile of all structures to be erected shall be submitted to the Zoning Administrator to determine that site development meets the following requirements:

- (1) Yard and area requirements of the zoning district;
- (2) Adequate parking areas and access drives;
- (3) Landscaping and screening to safeguard adjacent residential uses; and
- (4) That the proposed building has a residential appearance in keeping with the character of the adjacent neighborhood.

(1993 Code, § 154.038) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.047 GENERAL LIGHTING AND SCREENING REQUIREMENTS.**

(A) *Lighting.* All lighting upon any premises, regardless of zone, shall be so arranged that the lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or to the traveling public or public highways.

(B) *Screening of nonresidential uses which abut transitional and residentially zoned lots* Except as otherwise provided in this chapter, all premises used for business, commercial, or industrial purposes shall be screened from all abutting residential districts or uses. Screening shall be any of the following and shall apply to side yards and rear yards:

(1) A natural buffer ten feet wide measured at the property line and planted with evergreens or shrubbery which maintains their density and screening effect throughout the calendar year, not less than four feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining residential district; or

(2) An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants of adjoining premises, not less than five feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district. No wall or fence shall terminate closer than ten feet from any adjoining street right-of-way line.

(C) *Front yard screening.* Unless specifically provided for elsewhere in this chapter, a front yard fence in a residential zone may not exceed a height of four feet and shall not be more than 50% solid.

(D) *Right-of-way.* It is unlawful to construct any private fence or barrier within a public right-of-way.

(E) *Corner lot screening.* In all districts, the frontage for corner lots shall follow the same limitations as provided for residential front yard screening.

(F) *Barbed wire.* Barbed wire fences are prohibited in all "R" zoning districts. Barbed wire strands may be used to enclose storage areas or other similar agricultural, industrial, and commercial uses. The strands shall be restricted to the uppermost portion of the fence and shall not extend lower than a height of six feet from the nearest ground level.

(G) *Electric fence.* It shall be unlawful to install, construct, or maintain an electric fence within a platted subdivision.

(H) *Interpretation.* In the event of any controversy as to the adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting, the Zoning Board of Appeals shall have the right and is hereby given the authority to interpret and determine the screening and lighting provisions and the purpose herein sought to be accomplished.

(1993 Code, § 154.039) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

### **NONCONFORMITIES**

#### **§ 153.060 NONCONFORMING BUILDING AND USES.**

(A) Except as herein provided, no building, structure, or land or part thereof, shall be used, altered, constructed, or reconstructed except in conformity with the provisions of this chapter which apply to the district in which it is located.

(B) The lawful use of a building, structure, or land existing at the time of the adoption of this chapter (January 3, 1984) may be continued although the use does not conform with the provisions hereof, and the use may be extended throughout a building, provided no structural alterations or changes are made therein, except those required by law or ordinance, or any as may be required for safety. If a nonconforming use is discontinued for a period of one year or more, any further use of the building, structure, or land shall be in conformity with the provisions of this chapter; provided, however, that this division shall not apply to the discontinuance of a use which arises as a result of the existence of a state of war and in that event, a discontinuance of use not to exceed one year from termination of hostilities shall be permitted without working a forfeiture of the use.

(C) If no structural alterations are made, a nonconforming use of a building may be changed to a use of the same or higher classification according to the provisions of this chapter. Whenever a nonconforming use of a building has been changed to a higher classification or to a conforming use, the use shall not revert or be changed to a use of a lower classification.

(D) Whenever a district shall hereafter be changed, any then existing nonconforming use in the changed district may be continued or changed to a use of a similar or higher classification, provided in any case all other regulations governing the new use are complied with.

(E) No building which has been damaged by fire or other causes to the extent of more than 75% of its value shall be repaired or rebuilt except in conformity with the regulations of the district in which it is located.

(1993 Code, § 154.050)

(F) When a building or structure is nonconforming solely because it did not meet the front yard setback requirement at the time of the adoption of this chapter, it shall be lawful to make structural alterations or changes therein, provided that the structural alterations or changes are in conformity with all other provisions of this chapter, including any structural alterations or changes [that] do not further infringe upon the front yard setback requirement.

(Ord. 84-1, passed 1-3-1984; Ord. 99-05, passed 12-6-1999)

#### **§ 153.061 CONDEMNATION OF NONCONFORMING USES.**

The City Commission may acquire by purchase, condemnation, or otherwise private property for the removal of nonconforming uses and structures. The City Commission shall have the authority to institute and prosecute proceedings for the condemnation of nonconforming uses and structures under the power of eminent domain in accordance with the laws of the state relative to condemnation. The City Commission may in its discretion and by proper resolution provide that the whole or any part of the cost and expenses of acquiring the private property be paid from the General Funds or be assessed to a special district.

(1993 Code, § 154.051) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.062 NONCONFORMING LOT OF RECORD (SUBSTANDARD LOTS).**

(A) (1) In any district, a structure and accessory building may be erected on a lot which fails to meet the district requirements for bulk regulations, provided that the lot existed at the effective date of this chapter or an affecting amendment. In these instances, requirements for each yard in a substandard lot may be reduced proportionally, by the ratio of the actual lot size to the minimum lot size specified for the district. However, in no case shall the required yard be less than the following:

- (a) Front yard, 25 feet;
- (b) Side yard, five feet each; and
- (c) Rear yard, 25 feet.

(2) The lots must be in separate ownership at the time of application, undeveloped, and certified by the applicant as not being contiguous with other lots under the same ownership, and shall meet all current minimum space requirements for a legal health disposal system.

(B) Substandard lots which are contiguous and under the same ownership will henceforth be required to conform to the area requirements of this chapter in a manner which shall leave no lot substandard.

(1993 Code, § 154.052) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.063 EXPANSION.**

(A) Nonconforming uses shall not be extended, added to, or enlarged beyond the structure or enclosure in which they are located or housed.

(B) Nonconforming structures shall not be extended, added to, or enlarged, unless each extension, alteration, or addition is intended to bring the structure into conformity with the provisions of this chapter.

(1993 Code, § 154.053) (Ord. 84-1, passed 1-3-1984)

### **SITE PLAN REVIEW**

#### **§ 153.075 PURPOSE.**

It is recognized that land uses and their location may possess distinct characteristics which may affect the community, its residents, and its thoroughfares. It is, therefore, necessary to require submission of a site plan for review and approval in accordance with the guidelines and criteria set forth herein in order to ensure safe development and to avoid adverse impacts to the city and its citizens.

(1993 Code, § 154.060) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.076 SITE PLAN REVIEW AND APPROVAL.**

(A) *Site plan review by Zoning Administrator.* All applications for certificates of zoning compliance, special use permits, rezoning, and variances, as governed in this chapter, shall first require site plan review by the Zoning Administrator.

(B) *Site plan approval.* Unless otherwise noted herein, all requests for certificates of zoning compliance must have site plan approval by the Zoning Administrator. All requests for special use permits must have site plan approval by the City Planning

Commission.

(1993 Code, § 154.061) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.077 STANDARDS FOR REVIEW OF SITE PLANS.**

The site plan is to be reviewed in order to determine that:

- (A) The proposed use conforms to the uses permitted either by right or by special use permit in the respective zoning district;
- (B) The dimensional arrangement of buildings and structures conforms to the required yards, setbacks, and height restrictions of this chapter, unless waived by variance granted by the Zoning Board of Appeals (ZBA);
- (C) The proposed use conforms to all use and design provisions and requirements (if any) as found in this chapter for certain specific uses, unless waived by variance granted by ZBA;
- (D) There is a proper relationship between the existing and proposed streets and highways within the vicinity in order to assure the safety and convenience of pedestrian and vehicular traffic;
- (E) The proposed on-site buildings, structures, and entryways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of access/egress, interior/exterior circulation, storm drainage, erosion, grading, lighting, and parking, as specified by this chapter or any county or state law;
- (F) As many natural features of the landscape shall be retained as possible where they can be useful to the development on the site or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes or where they assist in preserving the general safety, health, and appearance of the neighborhood, i.e., controlling erosion or the discharge of storm waters, and the like;
- (G) Any adverse effects of the proposed developments and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing, or landscaping as provided or required in this chapter;
- (H) In the case where the current use is not publicly sewered, and the application is to change, convert, add, or expand the commercial or industrial use, a statement from the County Health Department must be submitted certifying that the present on-site disposal system is adequate to meet the needs of the changed, converted, added, or expanded use after development;
- (I) All buildings and structures are accessible to emergency vehicles; and
- (J) The site plan as approved is consistent with the intent and purpose of zoning which is to promote the public health, safety, and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards of life and property; and to facilitate the Land Use Plan of the city.

(1993 Code, § 154.062) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.078 CONDITIONAL APPROVAL.**

(A) Reasonable conditions may be required by the Zoning Administrator for building permits or by the Planning Commission for special use permits with the approval of a site plan. The conditions may include but are not limited to 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 meet all of the following requirements:

- (1) Be designed to protect natural resources, the health, safety, and welfare, and 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; and
- (3) Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(B) The conditions imposed with respect to the approval of a site plan shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the designated site plan approval body and the landowner. A record of conditions which are changed shall be maintained by the respective approval body. Upon approval of the plan, the designated site plan approval body shall sign three copies thereof. Two copies shall be kept by the city, and third shall be returned to the applicant. All subsequent actions relating to the activity authorized by the approved site development plan shall be consistent with the plan unless a change conforming with this chapter receives mutual agreement with the landowner and the respective site plan approval body. For special uses, refer to § 153.097(C).

(C) Compliance with performance standards for certain uses enumerated in this chapter is required.

(1993 Code, § 154.063) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.079 FINAL APPROVED SITE PLAN ON FILE.**

A copy of the final approved site plan (and all revised, final approved site plans) shall be so marked and placed on file as the officially approved document of the applicant, along with copies of any and all permits requested for the property in question. Approval of revised final site plans can be made only by the designated body or officials who first gave initial approval.



(1993 Code, § 154.064) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.080 CONFORMITY TO APPROVED SITE PLAN.**

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan, and with any revisions, amendments, or modifications made thereto. If construction and development do not conform with the approved plan, the approval thereof shall be revoked by the Zoning Administrator by written notice of the revocation posted upon the premises involved and mailed to the developer at his or her last known address. Upon revocation of the approval, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation.

(1993 Code, § 154.065) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.081 SITE PLAN SPECIFICATIONS.**

The information to be submitted as part of the site plan document must include the following:

(A) A vicinity area map at a convenient scale, showing proximity to any railroads, streams, streets, and street intersections; the location of the nearest public roads on all sides; and all public facilities or amenities such as schools, firehouses, houses of worship, recreational areas, and the like;

(B) A map of the applicant's entire subject property and all surrounding properties at a designated scale; and which shall display:

- (1) The names of all owners of record of adjacent property;
- (2) Existing fire, school, and other special district boundaries within 500 feet of the tract, if any;
- (3) Boundaries of property and existing lot lines as shown on the existing plat or tax map;
- (4) Existing public streets, easements, or other reservations of lands;
- (5) Location of all existing structures on the site, as well as those of adjacent properties within 100 feet of subject lot line;
- (6) The proposed location and use of any building or structure;
- (7) The proposed location of any use not requiring a structure, including walkway, benches, fences, and recreational facilities;
- (8) Location and design of all driveways, parking, and loading areas, if any;
- (9) Location of all existing and proposed water lines, valves, and hydrants, and all sewer lines, if any;
- (10) Proposed fencing, screening, and landscaping; and
- (11) Location of existing watercourses, wooded areas, and rock outcrops, if any.

(C) A copy of any covenants or deed restrictions that are intended to cover all or any part of the tract;

(D) Where the applicant wishes to develop the project in stages, a site plan indicating total development shall be presented for approval of the entire parcel; and

(E) The Zoning Administrator (for certificates of zoning compliance) and the Planning Commission (for special use permits) may require additional data where it is warranted due to special conditions of the site or complexity of the proposed development.

(1993 Code, § 154.066) (Ord. 84-1, passed 1-3-1984)

### **SPECIAL USES**

#### **§ 153.095 SPECIAL USE PERMIT.**

In order that this chapter be flexible and reasonable, special uses are provided for in Appendix A and require special use permits by the Planning Commission. Conformance to special use standards is required, in addition to all other requirements of this chapter. All these uses are hereby declared to possess characteristics of a unique and distinct form that each specific use shall be considered on an individual basis. The granting of a special use permit does not negate the requirement for any other required permit(s).

(1993 Code, § 154.075) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.096 STANDARDS FOR THE CONSIDERATION OF SPECIAL USES.**

The following standards shall be met:

(A) The special use in combination with the location proposed for the use shall not impair the general health, safety, and welfare of the community at large. In general, there must be:

- (1) Safe access to the property in question and adjacent properties to fire and police protection;
- (2) No dangerous or hazardous area traffic circulation on and off the site, which either now exists or will be created by the proposed use;
- (3) Transportation design proposals by the applicant, if necessary, which will be needed to mitigate any potential traffic impact by the proposed use; and

(4) An appropriate relationship, similarity, and compatibility between the location and scale of the proposed use to the size and type of uses, structures, and buildings currently existing in the immediate vicinity, and which collectively comprise the overall character of the area.

(B) The special use shall not decrease the market value of adjacent buildings, uses, and structures which are permitted by right under current zoning, if the proposed use is granted;

(C) The special use shall be in harmony with the Land Use Plan of the city. This considers whether the location and size of the proposed use, the nature and intensity of the activities involved, the size of the site with respect to existing and future streets giving access to it, parks and drainage systems will be in harmony with the Land Use Plan and the character of land use which is intended by the plan for the area or district in question;

(D) The applicant's proposed use, its location and intensity, and the height of its buildings, walls, fences, and other structures shall not adversely impact the appropriate character of development intended for the area as deemed desirable by the Land Use Plan;

(E) The special use shall not cause any hazards arising from storage and use of flammable fluids; and

(F) The special use shall not be environmentally objectionable to nearby properties by reason of noise, fumes, pollution, vibration, or lights to an extent which is more than would be the operations of any use permitted by right for that district wherein the special use is proposed.

(1993 Code, § 154.076) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.097 CONDITIONAL APPROVAL.**

(A) Reasonable conditions may be required with the approval of a special land use by the Planning Commission. The conditions may include but are not limited to 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 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 meet all of the following requirements:

(1) Be designed to protect natural resources, the health, safety, and welfare, and 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; and

(3) Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(B) The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The approving Planning Commission shall maintain a record of conditions which are changed.

(C) Before granting a special land use permit in addition to finding that it meets all of the previously stated requirements, the Planning Commission must find that:

(1) The proposed use will not adversely affect existing adjacent uses within 500 feet; and

(2) There will be no adverse effect upon public health, safety, or general welfare, and that it will not impair the intent of this chapter.

(D) Compliance with performance standards for certain uses enumerated in this chapter is required.

(E) Site plan approval by the Planning Commission is required for all special use permits. Site plans may be initially reviewed by the Zoning Administrator for content.

(1993 Code, § 154.077) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.098 TIME LIMITATION.**

A special use permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease to function for more than 12 months for any reasons, or has not begun within 12 months from the date of issue.

(1993 Code, § 154.078) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.099 EXISTING VIOLATIONS.**

No permit shall be issued for a special use for a property where there is an existing violation of this chapter.

(1993 Code, § 154.079) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.100 BASIS FOR DECISION IN WRITING.**

It is further provided that in granting or denying a special use permit, the Planning Commission shall specify in the written decision the particular reason relied upon and its relation to the proposed use.

(1993 Code, § 154.080) (Ord. 84-1, passed 1-3-1984)

## UNPLATTED LAND DIVISION

### § 153.115 TITLE.

This subchapter shall be known and cited as the “City Unplatted Land Division Ordinance.”

(Ord. 02-01, passed 1-7-2002)

### § 153.116 PURPOSE.

The purpose of this subchapter is to carry out the provisions of the State 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 Act, to minimize potential boundary disputes, to maintain 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 within the city.

(Ord. 02-01, passed 1-7-2002)

### § 153.117 DEFINITIONS.

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

**APPLICANT.** A natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land, whether recorded or not.

**BUILDABLE.** Having sufficient upland area outside of regulated wetlands, wetland/watercourse setbacks, floodplains, and protected woodlands to meet minimum structure setbacks, floor area, parking, sewage disposal, and accessory building and use requirements unless, prior to submitting the land division request, the appropriate use permit is obtained allowing construction in the regulated wetland, wetland/watercourse setbacks, floodplains, or protected woodlands. **BUILDABLE** further means having sufficient area to meet minimum parcel size requirements under this chapter.

**DIVIDED LOT.** A lot or outlot in a recorded plat that is partitioned or divided.

**GOVERNING BODY.** The City Commission of the City of Scottville.

**OWNER.** A natural person, firm, association, partnership, corporation, or combination of any of them which may hold any ownership interest in land, whether recorded or not.

**PARCEL.** A continuous area or acreage of land including lot(s).

**SUBDIVIDE or SUBDIVISION.** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of a building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of the State Land Division Act. **SUBDIVIDE or SUBDIVISION** does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel, provided all resulting parcels conform to the requirements of the State Land Division Act and the requirements of this subchapter and this City Zoning Ordinance.

(Ord. 02-01, passed 1-7-2002)

### § 153.118 PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS.

Land in the city shall not be divided without the prior review and approval of the Zoning Administrator in accordance with this subchapter and the State Land Division Act.

(Ord. 02-01, passed 1-7-2002)

### § 153.119 APPLICATION FOR LAND DIVISION APPROVAL.

An applicant shall file all of the following with the Zoning Administrator for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for a building development:

(A) A completed application form signed by all persons who have any legal or equitable interest in the parcel to be divided. In cases where a parcel is combined with an adjoining parcel, the application shall also be signed by all persons having an interest in the adjoining parcels. Requirements for division shall be detailed in the previously mentioned application;

(B) A fee as established by resolution of the governing body of the city for land division reviews;

(C) Proof of fee ownership of the land to be divided;

(D) A parcel map meeting the requirements that are detailed in the previously mentioned application. An accurate legal description of all proposed divisions shall be required. Prior to application, the applicant may submit a tentative preliminary parcel map to be reviewed for conceptual purposes by the Zoning Administrator. The tentative preliminary parcel map shall include an accurate legal description for each proposed division, and shall show the boundary lines, dimensions, and accessibility of each proposed division from existing or proposed public roads and public utilities. When submitting a tentative preliminary parcel map, the applicant shall waive the 45-day statutory requirement for a decision and shall include a fee that is set by resolution of the governing body. The Zoning Administrator's decision regarding the feasibility of the proposed land division(s) is not binding upon the application or the Zoning Administrator;

(E) Proof that all standards of the State Land Division Act and this subchapter have been met;

(F) Sufficient history and specifications of the land to be divided in order to establish that the proposed division complies with § 108 of the State Land Division Act. Specifically, the application shall state that the land proposed to be divided is a parent parcel, or if not a parent parcel, then it shall provide the history of the land proposed to be divided from the parent parcel to present, including all leases, land contracts, and conveyances; and

(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.

(Ord. 02-01, passed 1-7-2002)

#### **§ 153.120 PROCEDURE FOR REVIEW OF LAND DIVISION APPLICATION.**

A proposed land division shall be approved if the following criteria are met:

(A) The Zoning Administrator shall review the application for completeness and shall, when deemed necessary, refer the application to the various departments of the city for review and approval. If the application package does not conform to this subchapter's requirements and the State Land Division Act, and other applicable ordinances and statutes, the Zoning Administrator shall return the application package to the applicant for completion and refiling in accordance with this subchapter. The applicant shall not be entitled to a refund of any portion of fee;

(B) All the parcels to be created by the proposed land division(s) shall fully comply with the applicable lot, yard, and area requirements of pertinent ordinances, including but not limited to minimum lot frontage/width, minimum road frontage, minimum lot area, maximum lot coverage, minimum setbacks for existing buildings/structures, and depth-to-width ratios or have received a variance from these requirement(s) from the Zoning Board of Appeals;

(C) All divisions shall result in buildable parcels with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, approved on-site sewage disposal and water well locations (where public water and sewer service is not available), access to existing public utilities and public roads, and maximum allowed area coverage of buildings and structures on the site;

(D) There must be adequate storm drainage and public utilities to serve the parcels created by the division or combination, 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 proposed division or combination shall not cause any existing building or structure to become nonconforming;

(G) 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, or an alternate street layout meeting the city standards. Installation of the proposed cul-de-sac or street extension must be completed prior to the approval of the land division;

(H) Approval of a land division does not grant approval for any specific uses of the divided lot or parcel. Any lot or parcel proposed for division must comply with the requirements of the zoning ordinance;

(I) Land division approvals shall be valid for a period of one year from the date of approval. If the lots or parcels proposed by the land division are not properly recorded and accepted by the County Register of Deeds within this period, the land division approval shall be considered null and void and a new application shall be submitted in compliance with the requirements of this subchapter; and

(J) The proposed land division(s) shall comply with all requirements of the State Land Division Act and this subchapter.

(Ord. 02-01, passed 1-7-2002)

#### **§ 153.121 APPEAL FROM ZONING ADMINISTRATOR'S DETERMINATION.**

(A) The Zoning Administrator shall approve or deny a land division application within 45 days after receipt of an application package. For a denial, the Zoning Administrator shall promptly notify the applicant of the decision in writing by first class mail giving all of the reasons for denial.

(B) Any person or entity aggrieved by the decision of the Zoning Administrator may, within 20 days of the mailing of the decision, appeal the denial to the Zoning Board of Appeals by contacting the City Clerk and securing an appointment on the next available agenda. The appellant shall pay a fee for an appeal equal to the fee charged for the initial application. Notice of the date, time, and location of the appointment shall be mailed to the persons adjacent to the property to be divided. The mailing shall be sent to the persons as they appear on the assessment roll.

(C) The Zoning Board of Appeals shall, whenever possible, resolve the appeal by a majority vote at its next regular meeting or session. The Zoning Board of Appeals shall have jurisdiction over appeals and shall conduct a de novo review of the application and determine whether permission to divide shall be granted.

(Ord. 02-01, passed 1-7-2002)

#### **§ 153.122 CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT.**

Any division or combination of land in violation of any provisions of this subchapter 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 subchapter.

(Ord. 02-01, passed 1-7-2002) Penalty, see §153.999

### **§ 153.123 EFFECTIVE DATE.**

The provisions of this subchapter shall become effective 15 days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the city, stating the date of enactment and the effective date of this subchapter, a brief statement as to the subject matter of this subchapter and any other facts as the Clerk shall deem pertinent, and that a copy of this subchapter is available for public use and inspection at the office of the City Clerk.

(Ord. 02-01, passed 1-7-2002)

## **PART II SUPPLEMENTAL USE REGULATIONS**

### **§ 153.135 PURPOSE.**

In addition to the regulations set forth in Part I of this chapter, the following are specific regulations and design standards for uses listed in this chapter, and shall be the minimum governing requirements for the protection of the public health, safety, and general welfare of the community.

(1993 Code, § 154.090) (Ord. 84-1, passed 1-3-1984)

## **MOBILE HOME PARKS**

### **§ 153.150 PURPOSE.**

In recognition of the growing trend toward mobile home parks and the need for well-located and properly developed areas to accommodate them, mobile home park regulations are hereby prescribed for the use with appropriate construction and site development standards to promote the health, safety, and general welfare of the residents of those areas as well as the residents of adjoining and neighboring premises.

(1993 Code, § 154.105) (Ord. 84-1, passed 1-3-1984)

### **§ 153.151 ELIGIBILITY.**

The site of a mobile home park must be in accordance with the following site standards:

(A) The site must be within an R-4, Mobile Home Park Zoning District; and

(B) The site must be a minimum of 15 acres in land area and contiguous. However, an owner of a proposed site which has less than the minimum required area may apply if the subject land is adjacent to a lawfully approved or constructed mobile home park.

(1993 Code, § 154.106) (Ord. 84-1, passed 1-3-1984)

### **§ 153.152 SPECIAL CONDITIONS AND LIMITATIONS.**

(A) All mobile home parks shall comply with the requirements imposed by M.C.L.A. §§ 125.2301*et seq.*, except as those provisions are modified herein, together with any regulations promulgated by the State Mobile Home Commission.

(B) A ten-foot wide buffer zone shall be provided along all exterior boundaries of the mobile home park that abut another residential district or residential use. The buffer shall be measured from the park property line inward. The buffer shall be planted with evergreens and shrubs not less than four feet in height at the time of planting and which contain foliage throughout the calendar year sufficiently compact in nature to form a natural buffer or screening between the mobile homes and adjoining premises. In lieu of the foregoing, an artificial fence which cannot be seen through may be constructed not less than five feet in height along the perimeter of the buffer zone. The fencing shall be commensurate with the character of the adjoining development, and shall be maintained at all times in a neat and attractive manner. No fence or plantings are required where existing plantings equal the density as specified above.

(C) Drainage for surface water leaving the mobile home park shall be approved by the County Drain Commissioner.

(D) No mobile home shall be located nearer than 50 feet to any abutting residential zoning district, nor nearer than 50 feet to the edge of the right-of-way line of any dedicated public road or highway right-of-way.

(E) (1) The mobile home park shall be developed with sites having 5,500 square feet per mobile home unit being served. This 5,500 square feet 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 the reduction of the site below 5,500 square feet, at least an equal amount of additional land shall be dedicated as open space. Not more than one mobile home shall be located on any individual mobile home site. Each mobile home space shall be supplied with concrete piers to a minimum depth of 42 inches below grade, or a concrete slab in suitable soils, upon which the mobile home shall be parked.

(2) The mobile home site shall be landscaped with either natural or artificial improvements of a dust-free and attractive nature to prevent erosion.

(F) No mobile home nor any appurtenances connected thereto shall be located on a mobile home site closer than 20 feet to any adjoining mobile home or 50 feet from any permanent building, nor closer than ten feet to the front and rear line at each individual

mobile home site. No accessory building shall be closer than ten feet to a mobile home not located on the same individual mobile home site.

(G) All mobile home spaces shall abut an internal park road of not less than 24 feet in width as measured from back to back of curb, which shall be constructed of a bituminous concrete or concrete constructed according to A.A.S.H.T.O. standards, 1974 edition, and shall have unobstructed and safe access to a public street or highway. Where sidewalks are provided paralleling the drive, the same shall be in addition to the foregoing driveway width.

(H) Not less than two paved parking spaces for automobiles ten feet by 20 feet each in size shall be provided within the mobile home park for every mobile home site located therein.

(I) All vehicular and pedestrian circulation systems within a mobile home park shall be illuminated as follows:

(1) Access points to public thoroughfares shall be lighted. If the public thoroughfare is lighted, the illuminated level shall not exceed the average illumination level of an adjacent illuminated thoroughfare;

(2) At all street intersections and designated pedestrian crosswalks, the minimum illumination shall be not less than 0.25 foot-candle;

(3) Roads, parking bays, and pedestrian walkways shall be illuminated at no less than 0.15 foot-candle;

(4) If a central park mail box area or park directories, or both, are provided, they shall be illuminated at not less than ten horizontal foot-candles on any box or any entry on the directory; and

(5) Outdoor recreational facilities shall be adequately lighted, when in use.

(J) Each mobile home space shall be provided with electric services as required under rules promulgated by the Mobile Home Commission.

(K) No garbage or other wastes shall be burned within a mobile home park but shall be disposed of either through appropriate disposal services furnished by the proprietor of the park or through mechanical garbage disposal equipment connected to the sewer facilities located within the park.

(L) (1) All water supply and sanitary sewage systems shall be located underground and in such a manner as to prevent freezing during the winter months. Connections to the same shall be provided at each mobile home space by a frostproof water tap above grade level as to water, and by an approved sanitary connection to a trapped sewer at least four inches in diameter as to sanitary sewers. All these connections shall be adequate to furnish all normal required water within the mobile home and to receive all normal water from all plumbing facilities therein.

(2) The trapped sewer in each space shall be connected to discharge the mobile home waste into a public sewer system, if available, or into a private sewer and disposal plant of a septic tank quality or better and in such a manner as will present no health hazard.

(3) An approved type of sewer connection shall be used for each mobile home which shall be odor-tight and free from leakage.

(4) Sewer connections on unoccupied sites shall be closed in a proper manner as will prevent the emanation of odor or any unsanitary condition therefrom.

(5) All sanitary sewage facilities within the mobile home park, including those of a semi-public nature and those pertaining to individual self-contained trailers, shall be constructed and maintained in compliance with the requirements of M.C.L.A. §§ 125.2301 *et seq.*

(M) No mobile home shall be located within a mobile home park unless the same is a self-contained living unit and is connected to the water and sanitary sewer facilities required at each mobile home site.

(N) No animal or car washing or other activities involving quantities of water shall be carried on in any mobile home park unless within an area specifically set aside for the activities containing adequate drainage facilities.

(O) No domestic house pets shall be allowed to run at large or commit any nuisance within the limits of a mobile home park.

(P) All grass and shrubbery within a mobile home park shall be kept mowed and landscaped in a neat and attractive manner.

(Q) Each mobile home park shall be provided with a park office where each mobile home entering the park shall be assigned to a location, and each owner shall be given a copy of the mobile home park regulations and registered according to the prescribed form.

(R) No mobile home park shall be developed or operated with less than 25 mobile home sites.

(S) All mobile homes shall be securely fastened to the site as required under the rules of the Mobile Home Commission.

(T) All mobile homes shall be skirted within 60 days, weather permitting, following their placement within the mobile home park, with standard skirting material or material of equal quality for both aesthetic purposes and to lessen heat loss, and should meet all requirements of Rule 604 being R 125-1605 of the State Mobile Home Commission.

(U) No retail sales of mobile homes shall be permitted from a mobile home park except for mobile homes that are located within the park on a developed mobile home site meeting all or the requirements set forth herein.

(1993 Code, § 154.107) (Ord. 84-1, passed 1-3-1984)

## PLANNED RESIDENTIAL DEVELOPMENTS

**§ 153.165 INTENT AND PURPOSE.**

(A) Planned developments are provided herein by special use permit in order to allow for some degree of flexibility and innovation in the design of developing areas, as well as to allow for the economic usage of land and the conservation of sensitive physical and environmental features in a viable way. Based upon the standards and criteria contained in §§ 153.075 through 153.081, 153.095 through 153.100, and 153.165 through 153.170, the Planning Commission may review and permit with conditions, a modification in bulk requirements in order to allow certain forms of development containing both privately owned sites and common property, and which are planned collectively as a single unit.

(B) The planned development subchapter is also provided in order that the growing demands for housing by young married couples, senior citizens, and existing residents may be met by a greater variety of innovative housing types, and by planning and design of structures with the benefit of cost-effective land utilization in these developments.

(1993 Code, § 154.120) (Ord. 84-1, passed 1-3-1984)

**§ 153.166 CLUSTERED RESIDENTIAL DEVELOPMENT (SUBDIVISION).**

(A) *Use by right.* In any R-1 and R-2a District in which single-family detached dwellings are a use permitted by right, the minimum required lot areas for that use, as set forth in the Table of General Bulk Regulations in Appendix B, may be reduced by an amount not to exceed 50%; provided that a quantity of land at least equivalent to the total amount deducted from all lots shall be dedicated for open space so that the overall gross density for the entire area shall not exceed that permitted in the applicable zoning district.

(B) *Permit; compliance.* Any subdivision plan wherein the clustered residential development concept is proposed shall require special use permit approval with site plan approval by the Planning Commission and must be in accordance with all standard procedures and provisions set forth in §§ 153.075 through 153.081, 153.095 through 153.100, and 153.165 through 153.170 and in the subdivision regulations of the city set forth in Chapter 152.

(C) *Site eligibility.* The minimum area necessary to qualify as a cluster development shall not be less than ten contiguous acres of land.

(1993 Code, § 154.121) (Ord. 84-1, passed 1-3-1984)

**§ 153.167 PLANNED UNIT DEVELOPMENT.**

(A) *Districts permitted.* A planned unit development (PUD) shall be permitted in the following zoning districts: R-1, R-2a, and R-3.

(B) *Special use permit.* A planned unit development (PUD) shall require a special use permit with site plan approval by the Planning Commission and must be in accordance with all standards, procedures, and provisions set forth in §§ 153.075 through 153.081, 153.095 through 153.100, and 153.165 through 153.170.

(C) *Site eligibility.* The minimum area necessary to qualify as a PUD shall not be less than ten contiguous acres of land. However, an owner of land less than the minimum required area may apply if the subject land is adjacent to a lawfully approved or constructed PUD which is similar in character to the one proposed.

(D) *Density and open space requirements for PUDs.* As a planned single unit, a PUD may be constructed in any combination of residential uses and structures (except mobile homes), provided that:

(1) The PUD may not exceed a net residential density of one and one-half times the maximum number of units allowed per acre under conventional single-family lot sizes as shown in the Bulk Table for the particular district in which the PUD is proposed (see Appendix B). The number of dwelling units shall be rounded to the nearest whole number;

(2) At least 25% of the total area is reserved for open space. **OPEN SPACE** is defined as an area which may consist of land included as part of the required yard setbacks, roads, greenbelt areas, drainage easements, open space, or any outdoor recreational amenity; but shall not include any area used for structures, or off-street parking and loading; and

(3) Full compliance with the provisions of this chapter and the tables/schedules contained herein, shall be met, unless waived by the Planning Commission serving as the special use review and approval body.

(E) *Residential density bonuses.* Bonuses in net residential density for PUD development are permitted by the Planning Commission, provided that additional land is reserved and dedicated for open space (as defined above) as follows:

<b>IF:</b>	<b>. . . Then the density multiplier for determining the maximum number of units allowed shall be:</b>
25% of total area devoted to residences is reserved for open space . . .	1.50 × conventional single-family density
30% of total area devoted to residences is reserved for open space . . .	2.00 × conventional single-family density
35% of total area devoted to residences is reserved for open space . . .	2.50 × conventional single-family density

40% of total area devoted to residences is reserved for open space . . .	3.00 × conventional single-family density
45% of total area devoted to residences is reserved for open space . . .	3.50 × conventional single-family density

(1993 Code, § 154.122) (Ord. 84-1, passed 1-3-1984)

**§ 153.168 PREAPPLICATION CONFERENCE WITH PLANNING COMMISSION FOR CONCEPT REVIEW.**

Prior to formal application submission for a special use permit for a proposed planned development, the developer/applicant shall be required to make a presentation to the Planning Commission in order to discuss initial design concepts and the application of the concepts to the land in question.

(1993 Code, § 154.123) (Ord. 84-1, passed 1-3-1984)

**§ 153.169 STANDARDS AND CONSIDERATIONS.**

In addition to complying with the standards for special use permits, the following special standards for a clustered residential development or PUD must be met.

(A) *Ownership.* The tract of land may be owned, or controlled by a single person, partnership, corporation, cooperative association, or association of individual owners (condominium). An application may be filed by the owner, jointly by the owners of all property to be included, or by a person, persons, corporation, or corporations, with an option to buy the property. A plan once approved, shall be binding.

(B) *Utilities.* A clustered residential development and a PUD shall have on-site community water and sewer provided by the developer, and must be approved by all legal state, county, and local agencies (health, conservation, and the like) who are in authority and have jurisdiction.

(C) *For PUD only: permitted housing types and uses.* The following are eligible for inclusion in a PUD application:

- (1) *Principal uses.*
  - (a) Single-family detached homes (excluding mobile homes);
  - (b) Two-family attached homes;
  - (c) Single-family attached homes; and
  - (d) Multiple-family structures.
- (2) *Accessory uses, structures, and amenities.*

<b>Accessory Uses, Structures, and Amenities</b>	<b>Maximum Percentage (%) of Total Land Coverage Permitted</b>
<b>Accessory Uses, Structures, and Amenities</b>	<b>Maximum Percentage (%) of Total Land Coverage Permitted</b>
Carports	No limit
Community buildings and meeting halls	10%
Indoor recreation facilities	10%
On-premises laundry facilities	5% if detached
Open space-development and undeveloped	See § 153.122(D) and (E)
Outdoor recreation facilities	No limit
Small scale "neighborhood retail" to serve PUD premises only	10%

(D) *Site design standards.* Unless modified or waived by the Planning Commission in writing at the time of application approval, compliance with the following design standards is required to be shown on the site plan.

- (1) Minimum yard requirements and building setbacks from all exterior property lines shall be 30 feet.
- (2) Maximum building height shall be two and one-half stories or 35 feet (excludes antennas, steeples, spires, and the like).
- (3) Minimum spacing between detached buildings shall not be less than the height of the higher building as measured from the lowest first floor elevation.
- (4) All sensitive natural features such as drainageways, streams, wetlands, lands within the 100-year floodplains, land on slopes of 12% or greater, and stream or river banks, which by virtue of soil and slope may create highly erodible hazards to the public health and safety, shall remain unencumbered by residential buildings and structures.
- (5) Access and egress opening from the development onto a public and private road shall be limited to one per 500 feet.
- (6) Planted and maintained landscaped buffer areas of 100 feet in width are required along all exterior boundaries of the



property to be developed.

(7) Drainageways and streams shall be protected by a public easement measured 25 feet from the centerline of the drainageways or streams.

(8) Off-street parking is required at the rate of two parking spaces per dwelling unit.

(E) *Facility site standards.* The site standards for all individual uses and facilities as provided in this chapter must be observed.

(F) *Common property which is privately owned.* Common property is a parcel or parcels of land, a privately owned road or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of the common property shall be private. When privately owned, arrangements must be made for the improvement, operation, and maintenance of the common property and facilities, including private streets, drives, service parking, and recreational areas.

(G) *Public easements on common property which is privately owned.* When common property exists in private ownership, the owners shall grant easements, over, under, and through the property to the city, as may be required for public purposes.

(H) *Revision of plan.* After approval of a cluster development or a PUD under this subchapter, a site plan may be revised upon approval by the Planning Commission.

(1993 Code, § 154.124) (Ord. 84-1, passed 1-3-1984)

### **§ 153.170 PUBLIC HEARING.**

A public hearing by the body delegated to grant special use permits is required for all planned developments.

(1993 Code, § 154.125) (Ord. 84-1, passed 1-3-1984)

## **HOME OCCUPATIONS**

### **§ 153.185 HOME OCCUPATIONS.**

Home occupations as defined in this chapter are permitted as an accessory use as provided in Appendix A, Use Table, provided that the following regulations shall control:

(A) No other than members of the family, shall be engaged in connection with the home occupation at the same time;

(B) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation;

(C) There shall be no change in the outside appearance of the building, no variation from the residential character of the dwelling, and no visible evidence of the conduct of the home occupation other than one sign, not exceeding two square feet in area, non-illuminated and mounted flat against the wall of the main building;

(D) No home occupation shall be conducted in any accessory building;

(E) There shall be no sale of products or services except as are produced on the premises by the home occupation;

(F) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met off the street and other than in a required front yard;

(G) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises if the occupation is conducted in a single-family dwelling. If conducted in other than a single-family dwelling, the nuisance shall not be detectable outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage of the premises; and

(H) In particular, a home occupation can be but is not limited to: art studio, dressmaking; teacher, with musical or dancing instruction limited to four to six pupils at a time; contractor's office; professional office or studio of a physician, dentist, author, artist, musician, lawyer, barbershop, beauty parlor, engineer, architect, community planner, realtor, accountant, or similar use; but shall not include animal hospital, automotive repair service, restaurant, tearoom, tavern, or similar use.

(1993 Code, § 154.135) (Ord. 84-1, passed 1-3-1984)

## **DESIGN STANDARDS AND CONDITIONS FOR CERTAIN USES**

### **§ 153.200 RESEARCH AND DEVELOPMENT FACILITIES.**

(A) The following site facility and design standards with respect to certain uses, herein specified, shall control a research and development facility, which is permitted by special use permit.

(B) The Planning Commission shall require the following design standards.

(1) The parcel of property for the proposed use is at least five acres in size.

(2) The ratio of total floor space counting all floors of all buildings to land area shall not exceed 1:10, but total floor area shall not exceed 100,000 square feet and floor area in any one building shall not exceed 200,000 square feet; but these requirements shall not apply to existing buildings as of the time adoption of this chapter that are authorized for purposes allowed by this section,

save the maximum limitation.

(3) All parking and loading docks shall be within enclosed building(s) or placed or screened with trees, shrubbery, or buildings so that cars or trucks parked there cannot be seen from any adjoining property or street.

(4) All activities shall be conducted within enclosed structures.

(5) Property must be maintained, sprayed, and traps placed so as to prevent any adverse effect upon surrounding property from any type of insect or disease.

(6) No noise, odor, gas, dust, vibration, glare, smoke, or other substance of any degree shall emanate beyond the property lines of the property upon which it is located.

(7) There will be no adverse effect upon property values to adjacent property.

(8) All new utilities shall be placed underground.

(9) On-site signs, see § 153.231.

(10) Once permission is granted as provided herein, the research and development facility cannot be changed or used in any manner than would be contrary to any conditions made as part of the special use permit approval, nor contrary to the approved site plan.

(1993 Code, § 154.150) (Ord. 84-1, passed 1-3-1984)

### **§ 153.201 NEW GASOLINE SERVICE STATIONS (FILLING STATIONS) AND AUTOMOBILE REPAIR SHOP.**

#### *(A) General conditions.*

(1) All permanent storage of material, merchandise, and equipment other than liquid fuel shall be within the building.

(2) All lubrication, repair, and servicing equipment shall be within the building.

(3) No floor drains shall be connected to the sanitary sewer system.

#### *(B) Design requirements.*

(1) *Relation to certain land uses.* No new service station other than replacement of one existing at time of adoption of this chapter (January 3, 1984) shall be erected within 25 feet of any residential area; and not within 300 feet of any of the following uses or structures:

(a) Public or private school;

(b) Church or other place of worship;

(c) Hospital;

(d) Public library;

(e) Public art museum or other public building;

(f) Theater or other building or structure used or intended to be used for motion picture, theatrical, or operatic productions, or for public entertainment;

(g) Public playground or civic center; or

(h) Fire house or fire station.

(2) *Lighting and screening (fences).* All lighting and screening shall comply with the requirements of § 153.047.

(3) *Minimum frontage and area.* The minimum acceptable frontage shall be 100 feet and the average lot depth shall be at least 100 feet.

(4) *Minimum setback.* The building shall be set back a minimum of 40 feet from the street right-of-way, and not less than 25 feet from any side or rear lot line adjoining a residential district or use.

(5) *Driveway location.* Driveways shall be a minimum of 20 feet from street intersections; the distance to be measured from the point of intersection of intersecting street rights-of-way. No driveway shall be located nearer than ten feet to any abutting properties.

(6) *Pump islands.* Pump islands shall be located a minimum of 25 feet from any public right-of-way and five feet from any side or rear lot line.

(7) *Driveways, service areas, and parking areas.* Driveways, service areas, and parking areas shall be provided with pavement having an asphaltic or cement binder so as to provide a permanent, durable, and dustless surface and shall be so graded and drained as to dispose of all surface water accumulated within the area.

(8) *Signs.* All signs shall conform to the requirements of §§153.230 through 153.234.

(1993 Code, § 154.151) (Ord. 84-1, passed 1-3-1984)

### **§ 153.202 DRIVE-IN THEATER.**

(A) The lot location shall be such that at least one property line abuts a major thoroughfare and shall be at least 1,000 feet from any residentially zoned district.

(B) The premises shall be enclosed with a solid screen fence, seven feet in height minimum.

(C) All points of entrance and exit shall be located no closer than 250 feet to any intersection (as measured to the nearest intersection right-of-way line).

(D) The interior of the premises shall be designed with respect to lighting, drainage, and the like, to the satisfaction of the approval body or official, as designated by this chapter.

(E) Space shall be provided, on-premises, for a reasonable amount of waiting vehicles to stand at the entrance to the facility.

(F) The theater screen shall not face directly, or obliquely by less than 75 degrees, toward a major thoroughfare.

(G) Acceleration and deceleration lanes shall be provided at points of public ingress and egress to the site.

(1993 Code, § 154.152) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.203 HOTEL, MOTEL, OR MOTOR COURT.**

(A) *Public access.* Public access to the principal business shall be located so as not to conflict with access to adjacent uses or not adversely affect traffic flow on adjacent streets. No more than two driveway openings from a major thoroughfare shall be permitted.

(B) *Greenbelt.* Where the front yard is used to provide access, a 25-foot wide greenbelt shall be provided within the front yard, except for driveway openings.

(C) *Commercial units.* Each unit of commercial occupancy shall contain a minimum of 250 square feet of gross floor area.

(D) *Lighting and screening.* Where adjacent to a residential district, refer to §153.047.

(1993 Code, § 154.153) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.204 DRIVE-IN RESTAURANT.**

(A) The main and accessory buildings shall be set back a minimum of 60 feet from any adjacent right-of-way line or residential property line.

(B) Driveway openings to the site shall be located at least 75 feet from any intersection as measured from the intersecting street right-of-way lines to the edge of the driveway.

(C) Screening as required in § 153.047 shall control where lot lines abut any residential district.

(D) Parking may be located in the front, but not within the required front yard.

(1993 Code, § 154.154) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.205 CHILD CARE, NURSERY SCHOOL, OR DAY NURSERIES.**

(A) No dormitory facilities permitted on premises.

(B) For each child cared for, there shall be provided, equipped, and maintained on the premises a minimum of 150 square feet of usable outdoor play area with a minimum total area of 5,000 square feet per facility.

(C) The outdoor play area shall be fenced in or screened by a heavily planted greenbelt from any abutting residential uses. See § 153.047.

(1993 Code, § 154.155) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.206 BOWLING ALLEY, INDOOR SKATING, AND SIMILAR USES.**

(A) Driveway openings to the site shall be located at least 75 feet from any intersection as measured from the intersecting street right-of-way lines to the edge of the driveway.

(B) The main and accessory buildings shall be located a minimum of 100 feet from any residential use.

(1993 Code, § 154.156) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.207 PRIVATE OPEN-AIR BUSINESSES (PERMANENT AND TEMPORARY).**

(A) Minimum lot area shall be one acre.

(B) Minimum lot width shall be 200 feet.

(C) A five-foot fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises, except as provided otherwise in this chapter.

(D) All open-air businesses shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.

(E) Unless specifically waived by the approval body or as designated by this chapter, a building of not less than 500 square feet of gross floor area shall be constructed on the premises for office use in connection with the subject open-air business.

(F) The Planning Commission may, to ensure strict compliance with any regulation contained herein and required as a condition of the issuance of a permit for an open-air business use, require the permittee to furnish a surety bond executed by a reputable surety company authorized to do business in the state, in the sole discretion of the Planning Commission, a cash bond in the amount determined by the Commission to be reasonable and necessary to ensure compliance hereunder. In fixing the amount of the bond, the Planning Commission shall take into account the size and scope of the proposed open-air business use, current prevailing cost of rehabilitating the premises upon default of the operator of the use, estimated expenses to compel the operator to comply by court decree, and any other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.

(G) In the case of indoor-outdoor garden nurseries:

(1) The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district;

(2) All loading activity and parking areas shall be provided on the same premises (off-street); and

(3) The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse affect upon adjacent properties.

(1993 Code, § 154.157) (Ord. 84-1, passed 1-3-1984)

### **§ 153.208 PRIVATE SWIMMING POOLS.**

(A) The provisions of this section shall apply to any basin or other structure for the holding of water for use by the possessor, his or her family, or guests, for swimming, diving, and other aquatic sports and recreation; provided, however, that these regulations do not apply to any plastic, canvas, or rubber pool temporarily erected above the ground, holding less than 500 gallons of water.

(B) Private swimming pools other than those exempt above are permitted in all residential districts, provided all of the following regulations are complied with.

(1) The pool shall be equipped with filtration, circulation, clarification, and chlorination system adequate to maintain the water in a clean and healthful condition in accordance with the health requirements of the city.

(2) The discharge pipe leading from any private swimming pool shall not exceed two inches in diameter, and the discharge pipe of all pools which may hereafter be constructed shall be composed of galvanized iron, or any other standard and durable material as may be approved by the City Engineer. No private swimming pool shall be wholly or partially emptied in any manner that will cause water to flow upon the premises of another, and no private swimming pool shall be wholly or partially accessible to the premises on which the pool is located. No private swimming pool shall be wholly or partially emptied into any sanitary system.

(3) No public water shall be used in connection with the operation of any private swimming pool during any time when restrictions are imposed upon the use of public water.

(4) Every private swimming pool shall be completely enclosed with a permanent substantial fence with gate or gates, no less than six feet in height above the ground level. No opening in the fence or gate shall be so designed, constructed, and maintained as to permit access to the pool at any time except when the pool is in use under the supervision of the possessor of the pool or by his or her permission.

(5) The swimming pool shall not be closer than 15 feet to any side or rear lot line of the premises; provided, on corner lots, no part of any pool shall be constructed within the front yard of either street.

(6) No artificial lights above the surface off the water shall be used or maintained in connection with a private swimming pool.

(1993 Code, § 154.158) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

### **§ 153.209 CAR WASH ESTABLISHMENT.**

(A) All washing activities must be carried on within a building.

(B) Vacuuming activities may be carried out only in the rear yard and at least 50 feet distant from any adjoining residential use.

(C) The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. An alley shall not be used as maneuvering or parking space for vehicles being serviced by the subject facility.

(1993 Code, § 154.159) (Ord. 84-1, passed 1-3-1984)

### **§ 153.210 HOUSING FOR THE ELDERLY.**

(A) Minimum lot size shall be five acres.

(B) Accessory services in common use may include but are not limited to the provisions of central dining facilities, indoor and outdoor recreational facilities, lounge areas, and workshops.

(C) Each dwelling unit shall contain at least 350 square feet of area, not including kitchen and sanitary facilities.

(D) Development of site and structures shall be in accordance with the United States Department of Housing and Development Minimum Property Standards, Multi-Family Housing, as it applies to housing for the elderly.

(1993 Code, § 154.160) (Ord. 84-1, passed 1-3-1984)

### **§ 153.211 CHURCHES.**

(A) Minimum lot width shall be 150 feet.

(B) Minimum lot area shall be one acre.

(C) For every foot of height by which the building, exclusive of spire, exceeds the maximum height limitation for the district, an additional (to the minimum) foot of front, side, or rear yard setback shall be provided.

(D) The lot location shall be such that at least one property line abuts a collector street, secondary thoroughfare, or major thoroughfare.

(1993 Code, § 154.161) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.212 AUTOMOBILE DISPOSAL AND JUNKYARDS.**

(A) For this use, the following more restrictive provisions shall take precedence above all other provisions which may relate to setbacks, screening, and the like. All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this section are less than those in applicable state statutes, the state requirements shall prevail.

(B) (1) The site shall be a minimum of five acres in size.

(2) There shall be a required yard setback of at least 100 feet from any public street at any lot line. The front yard setback shall be planted with trees, grass, and shrubs to minimize the appearance of the installation. Nothing shall be piled, stored, or accumulated in any required yard area.

(3) A solid fence or wall at least eight feet in height shall be provided along the setback lines of the entire site in order to screen the site from surrounding property. The fence or wall shall be of sound construction, painted, or otherwise finished neatly and inconspicuously.

(4) All activities shall be confined within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs, or lighting shall be used or stored outside the fenced-in area.

(5) No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.

(6) Wherever a side or rear lot line of the use abuts a residential use or a residential zoning district, the required yard shall be doubled and shall contain plant materials, grass, and structural screens to effectively minimize the appearance of the installation.

(1993 Code, § 154.162) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.213 RADIO AND TELEVISION TOWERS.**

(A) In nonresidential districts, the minimum lot size shall be three acres.

(B) The lot shall be so located that at least one property line abuts a major thoroughfare of not less than 120 feet or right-of-way, and the ingress and egress shall be directly upon the thoroughfare.

(C) The setbacks for each tower from adjacent right-of-way and/or property lines shall be not less than one and one-half times the height of each tower above the ground.

(D) In residential districts, these towers shall not exceed 40 feet in height.

(E) Unless specifically waived by the Planning Commission, an open-air fence between four and six feet in height shall be constructed on the boundary property lines.

(1993 Code, § 154.163) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.214 MEDICAL OR DENTAL CLINICS.**

Maximum building coverage shall be 35%.

(1993 Code, § 154.164) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.215 OFFICE DEVELOPMENTS (TWO OR MORE STRUCTURES).**

(A) A special use permit is required with site plan approval by the Planning Commission.

(B) In order to facilitate innovative and attractive design of office uses, office developments shall be subject to the requirements of Appendices A and B of this chapter and the following:

(1) Exterior walls of opposite or adjacent buildings shall be located no closer than one and one-half times the height of the higher building wall, but in no case closer than 50 feet;

(2) Buildings shall be so located and arranged that all structures have access to emergency vehicles; and

(3) Maximum lot coverage upon lot shall not exceed 60%, including accessory uses and structures (off-street parking, and the like).

(1993 Code, § 154.165) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.216 SHOPPING CENTER AND DEPARTMENT STORE DEVELOPMENTS (GROSS SALES FLOOR AREA 70,000 SQUARE FEET OR MORE).**

(A) In order to provide for and encourage the development of long-term grouped retail sales and service establishments at logical and sound locations within the city, planned shopping centers and department store developments may be permitted by special use permit with site plan approval by the Planning Commission in the CBD and HC Districts.

(B) **SHOPPING CENTER** and **DEPARTMENT STORE DEVELOPMENTS** are defined as a retail commercial establishment, or group of retail commercial establishments, with a total gross sales floor area of 70,000 square feet or more, and which is planned, developed, owned, and managed as a unit, with off-street parking provided on the property, and related in its location, size, and type of shops to the trade area which the unit serves.

(C) Shopping center developments are subject to the requirements of Appendices A and B and the following:

(1) (a) Applicant shall furnish a statement of economic justification and need for the establishment of a development of the type and size proposed by the applicant; to be submitted in a market analysis report by a recognized, reputable market analyst. The statement and report shall be based upon but not limited to such factors as the trade area of the community, travel time from various parts thereof to the proposed site, general development trends, economic trends, and disposable income characteristics of the area, anticipated sales volume to be captured, impact upon existing competing commercial facilities, and other data and analysis related to the need for and feasible success and stability of the proposed center.

(b) This requirement is intended to protect the community and its present area merchants from the untimely and over-development of retail sales and service establishments which could prove highly injurious to the community welfare.

(2) A traffic study and analysis prepared by qualified experts indicating the circulation impact of the proposed development on adjacent streets and roads shall accompany the required site plan;

(3) Interior circulation and parking layout shall be shown on the site plan, along with the locations of traffic safety signs and accessory lighting structures;

(4) Architectural profiles of the development showing ground level perspectives, scale, and massing from all road frontages shall be submitted;

(5) Proposed site shall derive access from a major thoroughfare only;

(6) Maximum lot coverage upon a lot shall not exceed 70%, including accessory uses and structures (off-street parking, and the like);

(7) The ratio of total floor area to lot area shall not exceed .30; and

(8) A performance guarantee is required.

(1993 Code, § 154.166) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.217 PLANNED INDUSTRIAL PARKS.**

(A) In order to facilitate the growth of employment to ensure a viable tax base for the city and to prevent the conflicts of incompatible industrial uses, planned industrial parks are permitted by special use with site plan approval by the Planning Commission in the I-1 and I-2 Districts.

(B) An **INDUSTRIAL PARK** is defined as a tract of land laid out in accordance with an overall plan which is designed and equipped to accommodate a cluster of wholesale commercial and industrial activities, providing them with all necessary facilities and services in an attractive, park-like surrounding.

(C) Planned industrial parks shall be subject to the requirements of Appendices A and B and the following:

(1) In addition to a required site plan, all proposed planned industrial parks (public and private) shall first have an overall plan detailing the development concept, the spatial arrangement of site and structures, and phased implementation and development thereof;

(2) Exterior walls of adjacent buildings shall be located no closer than one and one-half times the height of the higher building wall, but in no case closer than 50 feet;

(3) The regulations of industrial performance standards set forth in §§153.245 through 153.257 shall be observed;

(4) The floor area of any one building shall not exceed 45,000 square feet;

(5) Maximum lot coverage shall not exceed 50%;

(6) The ratio of total floor area to lot area shall not exceed 1.0; and

(7) A performance guarantee is required.

(1993 Code, § 154.167) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.218 SATELLITE DISH ANTENNA.**

(A) *Definition.* A **SATELLITE DISH ANTENNA** shall mean an earth-based station whose purpose is to receive communications or other signals from orbiting satellites or extraterrestrial sources, together with other equipment related to those purposes.

(B) *Criteria for approval.* Prior to installation of a satellite dish antenna, a building permit shall be required pursuant to the application procedures outlined in this chapter. The application for the building permit must include construction drawings, method of installation, including details on anchoring, fencing, and screening.

(C) *Considered accessory building.* A satellite dish antenna shall be considered an accessory building as outlined in this chapter. No accessory building may be built upon any lot in single ownership upon which there is no principal building. This condition shall apply to accessory buildings in any district.

(D) *Front yard prohibited.* Any satellite dish antenna covered by this section is prohibited from the front yard.

(E) *Height.* The height of any satellite dish antenna, when installed, shall not exceed 18 feet above ground level.

(F) *Placement.* The placement of any satellite dish antenna shall satisfy all lot line setback requirements.

(G) *Satellite signals.* If a usable signal cannot be obtained by installation within the requirements of this chapter, the unit may be installed upon a roof or raised platform if the antenna is installed to withstand stresses caused by weight and wind. A usable satellite signal is one which, when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

(H) *Writing and images prohibited.* No part of the satellite dish antenna shall exhibit any name, message, symbol, graphic representation, or other writing visible from adjoining properties.

(I) *Compliance.* The satellite dish antenna, any equipment or devices used in conjunction with the antenna for the transmission of signals and the construction, installation, maintenance, and operation thereof, shall comply with all applicable laws, statutes, codes, ordinances, rules, and regulations.

(1993 Code, § 154.168) (Ord. 84-1, passed 1-3-1984)

## SIGNS

### § 153.230 SIGNS AND BILLBOARDS.

No sign shall be erected or used in any zone except those which meet the following requirements set forth in this subchapter.

(1993 Code, § 154.180) (Ord. 84-1, passed 1-3-1984)

### § 153.231 ALL ZONES.

(A) All signs shall be on private property.

(B) No sign shall be erected at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device. No rotating beam, beacon, or flashing illumination shall be permitted.

(C) Illuminated signs shall be lighted in a manner so that no illumination source is directly visible beyond the property lines of the lot upon which the sign is located.

(D) A permit shall be required for the erection, construction, or alteration of any sign exceeding 16 square feet in area.

(1993 Code, § 154.181)

(E) All signs advertising, relating to, or concerning a sexually oriented business (as defined in §153.272) shall contain no photographs, silhouettes, drawings, or pictorial representation of any kind, and may contain only the name of the enterprise.

(F) *Abandonment.*

(1) When a business or use ceases on a parcel for a period of 30 days or more, the owner of the parcel shall remove any sign (including signs attached to or painted on a building on the parcel) that advertises, identifies or pertains to that business or use. The sign and any sign cabinet shall either be removed in its entirety, or the sign face shall be removed, painted a neutral color, or a blank sign face substituted.

(2) After such 30-day period, the city may give written notice to the owner of the parcel that a sign on the parcel is not in compliance with this section, and that the owner has ten days from the date of the notice to comply with this section. If the owner does not bring the parcel into compliance within the ten-day notice period, then the city may remove the sign, and any expense incidental thereto shall be a lien on the property and may be added to the tax roll in the same manner as special assessments.

(3) The above provision shall not apply to seasonal activities during the regular periods in which they are closed.

(Ord. 84-1, passed 1-3-1984; Ord. 02-07, passed 8-5-2002; Ord. 16-89, passed 7-18-2016)

### § 153.232 RESIDENTIAL ZONES.

The following are permitted:

(A) One temporary, unlighted sign advertising the sale or rental of the premises on which it is maintained, not to exceed a total of eight square feet, provided that one sign may be permitted for each street the advertised premises abuts;

(B) (1) One identification sign, which may include a bulletin board not to exceed 32 square feet in area, for the following uses:

- (a) Apartment house;
- (b) Cemetery;
- (c) Church;
- (d) Educational facility;

- (e) Golf course;
- (f) Mobile home park;
- (g) Recreational subdivision; or
- (h) Other public or semi-private institution.

(2) The sign shall not exceed a height of ten feet above grade and shall have a minimum setback of 25 feet.

(C) Directional or informational signs deemed necessary to the public welfare subject to the approval of the Zoning Administrator; provided, however, that no sign shall be located nearer than 300 feet to any residential structure.

(1993 Code, § 154.182) (Ord. 84-1, passed 1-3-1984)

### **§ 153.233 COMMERCIAL AND INDUSTRIAL ZONES.**

#### **(A) Freestanding signs.**

(1) One freestanding sign shall be allowed for each use where setbacks permit, provided that where there are multiple uses upon any one parcel, the total square footage of all sign area shall not exceed 50% more than that which is permitted in division (A)(3) below for one sign; provided further, that whenever there are two or more uses, they shall use the same sign pole, pylons, or other supports and shall be governed by division (A)(3) of this section.

(2) Each freestanding sign shall not exceed a maximum of two sides upon which advertising matter may appear.

(3) Freestanding signs may have an area not to exceed 64 square feet, except a freestanding sign fronting a state divided highway or a street or road having four or more lanes, excluding turning lanes, may have a sign area not to exceed 128 square feet; provided, however, where the lineal feet of lot frontage exceeds 160 feet, the sign may exceed 64 square feet by two square feet for every five feet of additional lineal lot frontage over 160 feet subject to a maximum of 128 square feet. In addition, a sign's area may be increased by one square foot for each additional foot it is set back from the minimum setback requirement up to a maximum of 160 square feet. This formula shall apply to each side of the sign.

(4) Freestanding signs shall be at least eight feet above the ground measured from the bottom of the sign, except the following shall be permitted:

(a) A sign 24 square feet or less in area, provided it is at least three feet above the ground;

(b) A sign more than 35 feet from the road right-of-way, save for corner lots or parcels, the sign shall be at least 40 feet from one of the roadways on which it fronts;

(c) A sign parallel with the road at least 25 feet from the road right-of-way on which it fronts and at least 20 feet from any driveway and 55 feet from any other road; and

(d) A sign not greater than four feet in height measuring from the ground to the top of the sign, provided it is at least 25 feet from the road right-of-way, or parallel to the road on which it fronts and not closer than 15 feet from any driveway and 40 feet from any other road.

(5) Freestanding sign posts shall be at least 20 feet from street right-of-way; provided, however, freestanding signs may be erected two feet closer to the right-of-way line for each five feet distance over 15 feet between the sign and the nearest adjoining side property line. In no event shall any part of the sign posts be closer than ten feet from any right-of-way line.

(6) Where the property upon which a sign is located abuts a residential zone on the side, the side yard required in a residential district shall be maintained in the commercial zone and the sign shall not be placed any closer to the lot line than the required distance for side yard in the residential zone.

(7) The design of freestanding signs over 25 feet in height shall bear a seal of a licensed professional engineer or architect and in no case shall the sign have an overall height exceeding 35 feet.

#### **(B) Flat signs.**

(1) Flat signs shall be attached to buildings and parallel with the side upon which they are attached.

(2) Flat signs shall not exceed an area greater than 10% of the area of the side of the building upon which they are attached, except that a flat sign on any building may have an area of 48 square feet.

(3) Flat signs shall not be higher than four feet above the roof line of buildings and must be incorporated into the building architecture as an integral part.

(4) A flat sign may be placed upon each side of a building; but in no case shall there be more than four flat signs totally. However, no sign shall face toward a residential district unless the building and the residential district are separated by a public street.

(5) Where there are multiple uses on one parcel or lot of property, each use may have only two flat signs, and total area of all signs may not exceed 10% of the area of the side of the building on which they are placed.

(C) *Real estate signs.* One rental or sale sign is permitted for each use or parcel of land. The signs may not exceed nine square feet in area and shall be removed within six months. The Board of Appeals may grant one extension of six months.

(D) *Service stations, automobile sales, and the like.* Gasoline service stations, automobile sales area, and garages may display the following signs, in addition to the foregoing signs set forth in this section:



(1) Two temporary signs may be located inside the property line which advertise special seasonal servicing. Each sign may not exceed nine square feet in area;

(2) Directional signs or lettering displayed over individual entrance doors or bays; and

(3) Customary lettering, insignias which are a structural part of the gasoline pump and non-illuminated credit cards.

(E) *Shopping center signs.*

(1) Shopping center signs may have only two flat permitted commercial signs pertaining to each individual use, and one freestanding sign advertising the shopping center.

(2) The flat signs and freestanding signs of a shopping center shall comply in all other respects to the provisions of this chapter applying to commercial and industrial districts.

(F) *Temporary signs.* Temporary signs are permitted in the commercial zone upon approval by the Zoning Administrator under the following conditions only. No temporary sign shall:

(1) Be placed on any premises for a period of more than 15 days nor more frequently than one time in any three months. There shall be at least 30 days between each interval, and only one temporary sign is allowed for each parcel of property;

(2) Exceed 60 square feet of area on any one side including border; or

(3) Be placed within 25 feet of the edge of the pavement, but in no case within the road right-of-way or in any location which will obscure visibility of ingress or egress to and from property.

(1993 Code, § 154.183) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.234 PERMIT FEES.**

The required permit fees for signs are listed in the schedule of fees of the city (see §53.308).

(1993 Code, § 154.184) (Ord. 84-1, passed 1-3-1984)

### **INDUSTRIAL PERFORMANCE STANDARDS**

#### **§ 153.245 INDUSTRIAL PERFORMANCE STANDARDS (RESTRICTIONS ON THE CREATION OF DANGEROUS AND OBJECTIONABLE ELEMENTS).**

It shall be unlawful to conduct or permit any activity or operation or use of land, building, or equipment that produces irritants to the sensory perceptions greater than the measures established in this subchapter that are hereby determined to be the maximum permissible hazards to humans or human activities.

(1993 Code, § 154.195) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

#### **§ 153.246 SOUND.**

The emission of measurable noises from the premises shall not exceed 65 decibels as measured at the boundary property lines, except that where normal street traffic noises exceed that level, the measurable noise emanating from the premises may equal but not exceed the traffic noise. Within industrial districts, sound levels not exceeding 70 decibels may be permitted. In addition, objectionable sounds of any intermittent nature, or characterized by high frequencies even if falling below the aforementioned decibel reading, shall be controlled so as not to create a nuisance or hazard to adjacent properties. The above decibel rates refer to the commonly called A-scale.

(1993 Code, § 154.196) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

#### **§ 153.247 VIBRATION.**

All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 inch measured at any lot line of its source.

(1993 Code, § 154.197) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.248 ODOR.**

The emission of noxious, odorous matter in quantities as to be readily detectable at a point along any lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clear air, so as to produce a public nuisance or hazard beyond lot lines, is prohibited.

(1993 Code, § 154.198) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

#### **§ 153.249 TOXIC GASES.**

The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.

(1993 Code, § 154.199) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

#### **§ 153.250 GLARE AND HEAT.**

Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield the

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.

(1993 Code, § 154.200) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

#### **§ 153.251 LIGHT.**

All lighting shall be arranged to reflect light away from adjoining residential zones or uses.

(1993 Code, § 154.201) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.252 RADIOACTIVE MATERIALS.**

Radioactive materials shall not be emitted so as to be unsafe to human health or life.

(1993 Code, § 154.202) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

#### **§ 153.253 ELECTROMAGNETIC RADIATION.**

The rules and regulations of the Federal Communications Commission, as amended with respect to the propagation and dissemination of electromagnetic radiation, must be followed and are hereby made a part of this subchapter.

(1993 Code, § 154.203) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.254 DRIFTED AND BLOWN MATERIAL.**

The drifting or airborne transmission beyond the lot line of soot, particles, or debris from any stockpile shall be unlawful and may be summarily caused to be abated.

(1993 Code, § 154.204) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

#### **§ 153.255 SMOKE, DUST, DIRT, AND FLY ASH.**

(A) It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than three minutes in any 60 minutes which is:

(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 and which is hereby made a part of this subchapter. The umbrascope readings of smoke densities, however, may be used when correlated with the Ringelmann Chart; and

(2) More than 40% opacity which obscures an observer's view to a degree equal to or greater than the smoke described in division (A)(1) above, except when the emission consists of only water vapor.

(B) The emission of particulates shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500°F.

(1993 Code, § 154.205) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

#### **§ 153.256 LIQUID WASTES.**

No discharge shall be permitted at any point into any private sewage disposal system, or street, or into the ground of any materials in such a way or of a nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements, except in accord with water quality standards of the State Water Resources Commission, adopted by the State Legislature and administered by the State Department of Natural Resources; and with the standards of other state commissions having jurisdiction thereof.

(1993 Code, § 154.206) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

#### **§ 153.257 SOLID WASTES.**

(A) No on-site burial of solid wastes shall be permitted. Accumulation of recyclable material is possible, provided that the material is stored and screened in a non-nuisance manner, not detrimental to the public health, and is in accordance with this subchapter. Recycling must take place within 60 days after storage or stockpiling.

(B) Off-site disposal shall be made at a sanitary landfill or solid waste disposal site licensed by the state.

(1993 Code, § 154.207) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

### **SEXUALLY ORIENTED BUSINESSES AND RELATED ACTIVITIES**

#### **§ 153.270 PREAMBLE.**

(A) There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them; and have serious, harmful, negative, and objectionable operational characteristics, particularly when they are located in close proximity to each other.

(B) It is not the intent of this subchapter to suppress any activity protected by the First Amendment of the United States Constitution or Article I, § 5 of the State Constitution of 1963, but to enact content-neutral regulations which address the adverse secondary effects of sexually oriented businesses in order to protect the health, safety, and general welfare of the city.

(C) The city recognizes that state and federal law prohibit the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities that may occur within the city.

(Ord. 02-05, passed 8-5-2002)

#### **§ 153.271 INTENT AND PURPOSE.**

It is the purpose of this subchapter to regulate sexually oriented businesses and related activities to promote and ensure the health, safety, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious effects of sexually oriented businesses within the city. The provisions of this subchapter do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this subchapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, and Article I, § 5 of the State Constitution of 1963, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this subchapter to condone or legitimize the distribution of obscene materials.

(Ord. 02-05, passed 8-5-2002)

#### **§ 153.272 DEFINITIONS.**

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

**ADULT BOOK OR VIDEO STORE.** An establishment having as a substantial or significant portion of its stock-in-trade, books, magazines, periodicals, films, computer software, or video tapes 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.

**ADULT ENTERTAINMENT ESTABLISHMENT.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the enjoyment of the audience which has paid or promised to pay an admission fee, and which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

**ADULT MINI-THEATER.** A commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten persons, films, motion pictures, video cassettes, digital video discs, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT MOTION PICTURE THEATER.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, digital video discs, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, as defined herein.

**ADULT NOVELTY BUSINESS.** A business that has as a substantial or significant portion of its activity in the sale of devices which stimulate human genitals or devices designed for sexual stimulation.

**NUDITY or STATE OF NUDITY.** The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if complete and opaquely covered. For purposes of this section, **NUDITY** or a **STATE OF NUDITY** does not include:

- (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 defined in Public Act 343 of 1984, § 2, being M.C.L.A. § 752.362 as amended, or any similar successor statute; or
- (3) Sexually explicit visual material as defined in Public Act 33 of 1978, § 3, being M.C.L.A. § 722.673, as amended, or any similar successor statute.

**PERMIT.** A special use permit for the operation of a sexually oriented business.

**PERMITTEE.** A person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.

**PERSON.** An individual, proprietorship, partnership, limited liability company, corporation, association, or other legal entity.

**SEXUALLY ORIENTED BUSINESS.** An adult book or video store, adult motion picture theater, adult mini-theater, adult novelty business, or adult entertainment establishment.

**SPECIFIED ANATOMICAL AREA.** Includes:

- (1) Less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES.** Includes:

- (1) Acts of human masturbation, sexual intercourse, or sodomy;
- (2) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts; and

(3) Human genitals in a state of sexual stimulation or arousal.

**TRANSFER OF OWNERSHIP OR CONTROL.** Of a sexually oriented business, includes any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities, partnership interests, membership interest, or indicia of ownership rights which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, including transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 02-05, passed 8-5-2002)

**§ 153.273 PERMIT REQUIRED.**

(A) It shall be unlawful for a person to operate a sexually oriented business without a valid special use permit issued by the city.

(B) An application for a permit must be made on a form provided by the city. The application must be accompanied by a sketch or diagram showing the configuration of the business premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

(C) The application for a permit shall be upon a form provided by the Zoning Administrator. An applicant for a permit, which shall include all partners or limited partners of a partnership applicant, and all officers and directors of a corporate applicant and all stockholders including more than 5% of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

(1) Name and address, including all aliases;

(2) Date of birth;

(3) Social Security number;

(4) Michigan vehicle operator's license number;

(5) Written proof that the individual is at least 18 years of age;

(6) All residential addresses of the applicant for the past three years;

(7) The applicant's height, weight, color of eyes and hair;

(8) The business, occupation, or employment of the applicant for five years immediately preceding the date of application;

(9) Whether the applicant previously operated in this or any other county, city, or state under an adult entertainment establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;

(10) All criminal, whether federal or state, or city ordinance violation convictions, forfeiture of bond, or pleadings of nolo contendere on all criminal charges;

(11) Fingerprints and two portrait photographs at least two inches by two inches of the applicant;

(12) The address of the adult entertainment establishment to be operated by the applicant; and

(13) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, and the name and address of all shareholders owning more than 5% of the stock in the corporation, and all officers and directors of the corporation.

(D) The fact that a person possesses other types of state or county permits and/or licenses does not exempt him or her from the requirement of obtaining a special use permit from the city under this section.

(E) The application shall be accompanied by the following:

(1) Payment of the application fee in full;

(2) Proof of current fee ownership of the tract of land on which the sexually oriented business is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance; and

(3) If the persons identified as the fee owner(s) of the tract of land in division (E)(2) above are not also the owners of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract, or other documents evidencing the legally enforceable right of the ownership or proposed ownership of the premises to have or obtain the use and possession of the premises or portion thereof that is to be used for the purpose of the operation of the sexually oriented business.

(F) The application shall contain a statement under oath that:

(1) The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and

(2) The applicant has read the provisions of this section.

(Ord. 02-05, passed 8-5-2002) Penalty, see §153.999

## **§ 153.274 ISSUANCE OF PERMIT.**

(A) Upon receipt of an application and fee, the Zoning Administrator shall promptly review the application and supporting documents for completeness and proper execution. If found to be complete and properly executed, the Zoning Administrator shall forward the application and other documents to the Planning Commission for review and hearing under § 153.305. The Planning Commission may grant a special use permit if the application is in compliance with all of the requirements of the granting of a special use permit, and the requirements contained in this section, including:

- (1) The applicant is 18 years of age or older;
- (2) The applicant shall not be overdue or delinquent in payment of taxes, fines, or penalties assessed against or imposed upon applicant in relation to a sexually oriented business conducted in the city;
- (3) The applicant has made full and accurate representations and has truthfully answered all questions and requests for information on the application form;
- (4) The applicant shall not have been denied a permit by the city or another governmental entity to operate a sexually oriented business within the preceding 12 months, and has not had a license to operate a sexually oriented business in the city or elsewhere revoked within the preceding 12 months;
- (5) The premises to be used for the sexually oriented business has been approved by the Health Department for the use intended, if applicable;
- (6) The applicant has not been convicted within five years immediately preceding the application date of any of the following criminal offenses in any jurisdiction: prostitution, procuring a prostitute, or solicitation of a prostitute; sale, distribution, or display of obscene material; soliciting, procuring, or aiding and abetting an unlawful sexual performance by a minor; possession, sale, or distribution of child pornography; public lewdness; indecent exposure, indecent conduct with a child; sexual assault or rape; incest; or sexual solicitation of a child;
- (7) If the applicant is a corporation:
  - (a) All officers, directors, and stockholders required to be named shall be at least 18 years of age;
  - (b) No officer, director, or stockholder required to be named shall have been convicted within five years immediately preceding the application date of any of the following criminal offenses in any jurisdiction: prostitution, procuring a prostitute, or solicitation of a prostitute; sale, distribution, or display of obscene material; soliciting, procuring, or aiding and abetting an unlawful sexual performance by a minor; possession, sale, or distribution of child pornography; public lewdness; indecent exposure, indecent conduct with a child; sexual assault or rape; incest; or sexual solicitation of a child; and
  - (c) No officer, director, or stockholder required to be named shall have been found to have previously violated this subchapter or a substantially similar ordinance within five years immediately preceding the date of the application.
- (8) If the applicant is a partnership, joint venture, or any other type of organization where two or more persons have a financial interest:
  - (a) All persons having a financial interest in the partnership, joint venture, or other type of organization shall be at least 18 years of age;
  - (b) No person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted within five years immediately preceding the application date of any of the following criminal offenses in any jurisdiction: prostitution, procuring a prostitute, or solicitation of a prostitute; sale, distribution, or display of obscene material; soliciting, procuring, or aiding and abetting an unlawful sexual performance by a minor; possession, sale, or distribution of child pornography; public lewdness; indecent exposure, indecent conduct with a child; sexual assault or rape; incest; or sexual solicitation of a child; and
  - (c) No person having a financial interest in the partnership, joint venture, or other type of organization shall have been found to have violated any provision of this subchapter or a substantially similar ordinance within five years immediately preceding the date of the application.

(B) The Planning Commission may impose reasonable conditions in conjunction with the approval of a special use permit for a sexually oriented business.

(C) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(Ord. 02-05, passed 8-5-2002) Penalty, see §153.999

## **§ 153.275 INSPECTION.**

An applicant or permittee shall allow the City Zoning Administrator or representatives of the City Code Enforcement Office to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

(Ord. 02-05, passed 8-5-2002)

## **§ 153.276 ACTION TO REVOKE PERMIT.**

- (A) The City Commission may revoke or suspend a license or permit for any of the following reasons:

- (1) A permittee gave false or materially misleading information in the application process;
- (2) A permittee has been convicted of using and/or allowing the use of controlled substances on or in the premises of the sexually oriented business;
- (3) A permittee or employee of the sexually oriented business has been convicted of prostitution or other activity fostering, promoting, or otherwise facilitating prostitution;
- (4) A permittee or employee of the sexually oriented business has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof;
- (5) A permittee has been convicted of knowingly allowing a person under 18 years of age to enter the sexually oriented business;
- (6) There has been a transfer of ownership or control of the sexually oriented business without prior approval as required herein; or
- (7) The operator or any employee of the operator has violated any provision of this subchapter.

(B) The Commission, before revoking or suspending any permit, shall give the operator at least ten days' written notice of the charges against him or her, and the opportunity for a public hearing before the City Commission, as hereinafter provided.

(1) Before the City Commission revokes or suspends a license issued herein, the City Commission shall cause written notice to be sent by certified mail to the licensee or applicant affected, at the address stated in the license or application, informing the person of the right to a hearing upon request.

(2) If the licensee does not request a hearing within 14 days of the date the notice was sent, the license may be forthwith revoked or suspended. If the licensee requests a hearing before the City Commission regarding the proposed revocation or suspension, the hearing shall be held with 21 days after the date of the written request.

(3) Any license issued by the city may be immediately suspended by the City Manager or duly appointed city official if it is determined that the licensee has violated or someone at or upon the licensed location has violated the city ordinance or state law and that continued operation under the license is contrary to the public health, safety, and welfare. A licensee shall have the right to a hearing before the City Commission on any license suspension by the City Manager, and notice thereof shall be given in accordance with the preceding divisions.

(4) Both the city and the licensee shall be afforded a reasonable opportunity to present evidence on the issue at the hearing.

(Ord. 02-05, passed 8-5-2002)

#### **§ 153.277 TRANSFER OF PERMIT.**

A permittee shall not transfer a special use permit to another person, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. Transfers of the ownership, control, and/or operation of a sexually oriented business shall require the new person or entity to comply with the application and approval provisions of this section.

(Ord. 02-05, passed 8-5-2002)

#### **§ 153.278 LOCATION RESTRICTIONS.**

(A) A sexually oriented business shall only be operated in the I-1 Light Industrial District which is located in the southeastern portion of the city along Bean Street.

(B) A sexually oriented business may not be operated within 1,000 feet of:

- (1) A church, synagogue, or regular place of religious worship;
- (2) A public or private school; or
- (3) Another sexually oriented business.

(C) A sexually oriented business may not be operated within 500 feet of:

- (1) A boundary of any residential zoned district or any residential structure;
- (2) A licensed day care center; or
- (3) A public park.

(D) A sexually oriented business may not be operated within 500 feet of:

- (1) A campground or recreational vehicle park; or
- (2) An outdoor recreational park.

(E) A sexually oriented business may not be operated in the same building, structure, or portion thereof containing another sexually oriented business.

(F) For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structure or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private

school, or to the nearest boundary of an affected public park, residential district, or residential lot, licensed day care center, camp ground/recreational vehicle park or an outdoor recreational park.

(G) For purposes of division (E) of this section, the distance between any two sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located.

(Ord. 02-05, passed 8-5-2002)

#### **§ 153.279 REGULATIONS PERTAINING TO SEXUALLY ORIENTED BUSINESS.**

A person who operates or causes to be operated an adult entertainment establishment shall comply with the following requirements.

(A) The premises shall meet all barrier-free requirements and Building Code requirements.

(B) Hours of operation shall be limited to 8:00 a.m. to 2:00 a.m.

(C) Parking layouts shall not adversely affect the flow of traffic within the site, or to and from the adjacent streets.

(D) All off-street parking areas shall be sufficient for all vehicles patronizing the establishment, shall be illuminated during all hours of operation with down-shining lighting, and shall be open to view from the adjacent street.

(E) Grounds maintenance shall include routine clearing of rubbish and trash from the grounds, and hauling away of same at least once per week as weather permits.

(F) No person shall reside in or permit any person to reside in the premises of an adult sexually oriented business.

(G) No person shall become the lessee or sublessee of any property for the purpose of using the property for a sexually oriented business without the express written permission of the owner of the property.

(Ord. 02-05, passed 8-5-2002) Penalty, see §153.999

#### **§ 153.280 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESS.**

(A) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

(B) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual or explicit manner.

(C) Signs shall contain no photographs, silhouettes, drawings, or pictorial representations of any kind, and may contain only the name of the enterprise.

(Ord. 02-05, passed 8-5-2002) Penalty, see §153.999

#### **§ 153.281 PERSONS YOUNGER THAN 18 PROHIBITED FROM ENTRY; ATTENDANT REQUIRED.**

(A) It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

(B) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during the sexually oriented business' regular business hours. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless the attendant asked for and was furnished:

(1) A valid operator's, commercial operator's, or chauffeur's license; or

(2) A valid personal identification certificate reflecting that the person is 18 years of age or older.

(Ord. 02-05, passed 8-5-2002) Penalty, see §153.999

#### **§ 153.282 EXEMPTION.**

The following are exempt from the provisions of this section: the appearance of a person in a state of nudity in a modeling class, a class, dance class, or theater class/production operated:

(A) By a proprietary school, licensed by this state, a college, junior college, or university supported entirely or partly by taxation; and

(B) By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

(Ord. 02-05, passed 8-5-2002)

#### **§ 153.283 NOTICES.**

(A) Any notice required or permitted to be given by the city or other agency under this subchapter to any applicant, operator, or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the city, or any notice of address change that has been received by the city. Notices mailed as above shall

be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the city shall cause it or a copy thereof to be posted at the principal entrance to the establishment.

(B) Any notice required or permitted to be given to the city by any person under this subchapter shall not be deemed given until and unless it is received in the principal office of the city.

(C) It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the city, in writing, of any change of residence or mailing address.

(Ord. 02-05, passed 8-5-2002)

#### **§ 153.284 NONCONFORMING USES.**

(A) Any business lawfully operating on the effective date of this subchapter that is in violation of the location or structural configuration requirements of this subchapter shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business is nonconforming.

(B) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a church, synagogue, or regular place of religious worship, or public or private school, within 1,000 feet, or the location of a boundary of any residential zoned district or any residential structure, a licensed day care center or a public park within 500 feet or the location of a campground/recreational vehicle park or an outdoor recreational park within 500 feet. This provision does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

(Ord. 02-05, passed 8-5-2002) Penalty, see §153.999

#### **§ 153.285 INJUNCTION.**

A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this subchapter and shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by this subchapter, or other applicable law.

(Ord. 02-05, passed 8-5-2002) Penalty, see §153.999

#### **§ 153.286 EXPANSION AND DISCONTINUANCE.**

(A) Once established, a sexually oriented business may not be expanded in any manner without first applying for and receiving the approval of the Planning Commission through the special use permit process.

(B) If the regulated use is voluntarily discontinued, the use may not be reestablished without first applying for and receiving a new special use permit.

(C) Nothing herein shall prevent the reconstruction, repairing, or rebuilding and continued use of any building or structure under the regulation of this subchapter, which is damaged by fire, collapse, explosion, or any other involuntary cause.

(Ord. 02-05, passed 8-5-2002)

#### **§ 153.287 SEVERABILITY AND CAPTIONS.**

(A) This subchapter and the various parts, sections, divisions, sentences, phrases, and clauses thereof are hereby declared severable. If any part, section, division, sentence, phrase, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this subchapter shall not be affected.

(B) The captions included at the beginning of each section are for convenience only and shall not be considered a part of this subchapter.

(Ord. 02-05, passed 8-5-2002)

#### **§ 153.288 ADMINISTRATIVE LIABILITY.**

No officer, agent, or member of the city shall render himself or herself personally liable for any damage which may occur to any person or entity as a result of any act or decision performed in the discharge of his or her duties pursuant to this subchapter.

(Ord. 02-05, passed 8-5-2002)

#### **§ 153.289 EFFECTIVE DATE.**

The effective date of this subchapter is August 20, 2002.

(Ord. 02-05, passed 8-5-2002)

### **PART III**

## **ADMINISTRATION AND ENFORCEMENT**

#### **§ 153.300 ZONING ADMINISTRATOR.**

This chapter shall be administered and enforced by the Zoning Administrator being duly designated and appointed by the City



Commission.

(1993 Code, § 154.215) (Ord. 84-1, passed 1-3-1984)

### **§ 153.301 DUTIES OF THE ZONING ADMINISTRATOR.**

(A) It shall be the responsibility of the Zoning Administrator to enforce the provisions of this chapter and in so doing shall perform the following duties:

(1) *Issue certificates of zoning compliance; special use permits, variances.* All applications for local zoning approval shall be submitted to the Zoning Administrator who may issue the permits and certificates of occupancy only when all applicable provisions of this chapter have been met, and approval has been granted by the proper body or official;

(2) *Record applications.* The Zoning Administrator shall maintain files of all applications for all zoning requests and shall keep records of all zoning requests granted. These shall be filed in the City Office and shall be open to public inspection. Copies shall be furnished at cost upon the request of any person having a proprietary or tenancy interest in the property involved;

(3) *Inspections.* The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to properly carry out the enforcement of this chapter;

(4) *Record nonconforming uses.* The Zoning Administrator shall keep a record of nonconforming uses of land existing on the effective date of this chapter for the purposes of carrying out the provisions of §§ 153.060 through 153.063;

(5) *Record of complaints.* The Zoning Administrator shall keep a record of every documented complaint of a zoning violation of any of the provisions of this chapter. The record shall show the action taken consequent to each complaint. The records shall be public records;

(6) *Reports.*

(a) *Report to City Commission.* The Zoning Administrator shall report to the City Commission periodically, at intervals of not greater than once each 12 months, summarizing for that period all certificates of zoning compliance, special use permits, and variances issued; and all complaints of violation and the action taken.

(b) *Report to Planning Commission.* The Zoning Administrator shall make some report available to the Planning Commission of actions taken under the authority of this chapter.

(7) *Revocation of permits, special use permits, and variances.*

(a) With proper notice given, the Zoning Administrator shall have the power to revoke or cancel any permit in case of failure or neglect to comply with any of the provisions of this chapter, or in case of any false statement or misrepresentation made in the application. The provisions of §§ 153.312 and 153.999 shall be invoked. Upon the revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation.

(b) Where zoning compliance is a prerequisite for a county building permit, the notification shall also be given to the county in order to determine compliance with county administrative requirements.

(B) Under no circumstances is the Zoning Administrator permitted to make changes in this chapter, nor to vary the terms of this chapter while carrying out the duties prescribed herein. It shall be the responsibility of the City Commission to assure that the Zoning Administrator enforces the provisions of this chapter.

(1993 Code, § 154.216) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

### **§ 153.302 APPLICATION PROCEDURES FOR CERTIFICATES OF ZONING COMPLIANCE.**

(A) Prior to obtaining a county building permit, the development of a new use, the moving of any structure, the restoration and structural improvement (other than normal repairs and minor improvements) of any existing use or structure, or the conversion from one use to any other use, a certificate of zoning compliance shall first be obtained from the Zoning Administrator. For use permitted only by special use permit, see § 153.304.

(B) (1) *Contents of application.* Among the information to be supplied by the applicant and which shall constitute the application package, the following shall be included:

(a) Name and address of applicant or applicants;

(b) Location, shape, area, and dimension of the lot, and of the proposed structure or improvement (shown on a site plan);

(c) Description of proposed use and of the building (dwelling, structure, barn, garage, and the like) or improvement;

(d) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users;

(e) The yard, open space, and parking space dimensions as shown on a site plan;

(f) A site plan, where required; and

(g) In the case where the current use is commercial or industrial, not publicly sewered, and the application is to change, convert, add, or expand the commercial or industrial use, a statement from the County Sanitarian must be submitted certifying that the present on-site septic disposal system is adequate to meet the needs of the changed, converted, added, or expanded use after development.

(2) *Fee.* A fee as may be set by the City Commission and listed in the schedule of fees (see §53.308) shall accompany any plans or applications in order to defray the cost of administration and inspection.

(3) *General procedural steps.* Upon submission of an application, the Zoning Administrator:

(a) Reviews the application package:

1. To make sure that it is the proper application for the zoning action requested;
2. To see that all required information is submitted; and
3. To determine conformance with all zoning regulations, except those waived by variance from the Zoning Board of Appeals.

(b) Takes one or more of the following preliminary actions:

1. Requests from the applicant that any omitted or pertinent and necessary information now be submitted;
2. If necessary, requests the Board of Appeals to interpret an unclear chapter provision;
3. Where required, reviews site plan according to site plan review standards for approval as set forth in §53.076;
4. If necessary, discusses the application and site plan with the Planning Commission for advisory comments; or
5. Makes a site inspection to verify accuracy of the application and to gather additional information.

(4) *Issuance of certificate.* Upon satisfaction of the standards for site plan review/approval, and of any additional requirement or conditions that may be needed to meet those standards, the Zoning Administrator shall approve site plan and issue a certificate of zoning compliance. One copy shall be returned to the owner or applicant. A performance bond may be required by the city to ensure compliance with any imposed or proposed public improvements, requirements, specifications, and conditions.

(5) *Denial of certificate.* If the application is denied by the Zoning Administrator the reason or cause for denial shall be stated in writing.

(6) *Duration.* A certificate of zoning compliance shall be valid for one year. A valid certificate is eligible for an additional six-month extension granted by the Zoning Administrator as a reasonable length of time within which to secure a county building permit or to institute the use.

(7) *Inspection.* At least two site inspections by the Zoning Administrator must be held: one prior to issuance of a certificate of zoning compliance, and one prior to occupancy. See § 153.303.

(8) *Cancellation of permit.* See §§ 153.301(A)(7), and 153.312 and 153.999.

(1993 Code, § 154.217) (Ord. 84-1, passed 1-3-1984)

### **§ 153.303 APPLICATION PROCEDURES FOR CERTIFICATES OF OCCUPANCY.**

(A) *Required.* After development, but prior to occupying a new structure, using land in a different intensity than before, or occupying an existing structure, parcel, or property with a new type of use other than what previously existed, a certificate of occupancy must be obtained from the city. The certificate of occupancy is granted after an inspection and is intended to ensure local zoning compliance. It is intended to ensure that:

- (1) After construction, the newly developed structure is the one which has been approved;
- (2) Before occupancy, a new use is the same as the use which was approved; and
- (3) Both structure and use comply with all zoning requirements and any conditions previously imposed.

(B) *General procedural steps.*

(1) Upon notification by the applicant to the Zoning Administrator that the structure and or use is ready for inspection, the Zoning Administrator:

- (a) Shall contact applicant to establish a mutually agreed-upon date and time for inspection;
- (b) Researches and reviews any known records relating to the site in question; and
- (c) Inspects for compliance with zoning requirements and with any previous imposed conditions.

(2) Upon inspection, the Zoning Administrator takes one of the following actions:

- (a) Issues the certificates of occupancy;
- (b) Delays issuance subject to completion of alterations necessary to achieve full compliance and follow-up inspection; or
- (c) Denies the certificate of occupancy in writing based on inspection findings of noncompliance with the chapter, and initiates enforcement action pursuant to chapter requirements.

(1993 Code, § 154.218) (Ord. 84-1, passed 1-3-1984)

### **§ 153.304 APPLICATION PROCEDURES FOR SPECIAL USE PERMITS BY PLANNING COMMISSION.**

(A) Prior to construction or physical development of a proposed special use, as specified by this chapter, a required special use permit must be obtained. An application for a special use permit must be made to the Zoning Administrator.

(B) (1) *Contents of application.* Among the data to be supplied by the applicant and which shall constitute the application

package, the following shall be included:

- (a) Names and addresses of applicant or applicants;
- (b) Location, shape, area, and dimension of the lot, and of the proposed structure or improvement (shown on the site plan);
- (c) Description of proposed use and of the building (dwelling, structure, barn, garage, and the like) or improvement;
- (d) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users;
- (e) The yard, open space, and location of parking spaces as shown on the site plan; and
- (f) A required site plan, which must be approved before any granting of a special use permit.

(2) *Fee.* A fee as set by the City Commission and listed in the schedule of fees (see §153.308) shall accompany any plans or applications in order to defray the cost of administration and inspection.

(1993 Code, § 154.219) (Ord. 84-1, passed 1-3-1984)

#### **§ 153.305 GENERAL PROCEDURAL STEPS FOR SPECIAL USE PERMIT.**

Upon submission of an application for a special use permit, the following takes place:

(A) The Zoning Administrator:

(1) Reviews application package:

- (a) To make sure that it is the right application for zoning action requested;
- (b) To ensure all required information is submitted; and
- (c) To make sure that the proposed use is permitted in a particular district by special use permit.

(2) Takes one or more of the following actions:

- (a) Requests from the applicant that any omitted or necessary information now be submitted;
- (b) If necessary, seeks chapter interpretation from the Board of Appeals;
- (c) Make advisory comments about the site plan based on site plan review standards; and/or
- (d) Forwards the complete application with comments to the Planning Commission for review and approval.

(B) The Planning Commission:

(1) Reviews the site plan according to site plan review standards, as set forth in this chapter. See §153.077;

(2) Reviews the proposed special use according to standards for special use permits, as set forth in this chapter. See § 153.096;

(3) Reviews for compliance with any and all additional site facility design requirements and standards, as may be required by this chapter;

(4) (a) In a newspaper of general circulation, gives public notice not less than 15 days before the date of the hearing of receipt of an application for a special use permit which:

1. Describes the nature of the special use request;
2. Indicates the property in question;
3. States the time and place where the special use request will be considered;
4. Indicates when and where written comments will be received concerning the request; and

5. Indicates that a public hearing by the Planning Commission on the proposed special use is optional, but may be requested by any owner of property or the occupant of any structure located within 300 feet of the boundary of the property being considered for a special use permit.

(b) This notice is also mailed or delivered to property owners and occupants within 300 feet of the property in question. These notices must be given not less than 15 days before the date on which the application is to be considered. An affidavit of mailing or delivery of notice must be maintained. All public input is considered and evaluated. A summary of the public comments should be retained for the record.

(5) (a) Advertises and holds a public hearing, but only if requested by the Planning Commission, the applicant, or any owner of property or the occupant of any structure located within 300 feet of the boundary of the subject property. Proper notice of the public hearing shall be given in the same manner and content as described above in division (B)(4) above; except that the requirement set forth in division (B)(4)(a)5. of this section is omitted and it shall be known as the "notice of public hearing;" and further, that in addition to the requirement set forth in division (B)(4)(a)4. of this section, it be stated that oral comments will be received.

(b) In the case where the Planning Commission has first chosen to hold a public hearing, only the notice of hearing shall be given. A public notice of receipt shall be omitted.

(1993 Code, § 154.220) (Ord. 84-1, passed 1-3-1984)

### **§ 153.306 APPROVAL; INSPECTION AND CANCELLATION.**

(A) *Conditional approval.* Reasonable conditions may be required with the approval of a special land use by the Planning Commission. See § 153.097.

(B) *Final approval, denial, or approval with conditions to be in writing* When an application for a special use permit is finally approved, denied, or approved subject to conditions, the decision must be incorporated into an official written statement which contains the conclusions relative to the special use permit request. The decision shall specify the basis for the decision, and any conditions which may be imposed in the case of approvals.

(C) *Duration.* An approved special use permit is valid for one year. A valid special use permit is eligible for an additional six-month extension granted by the Planning Commission as a reasonable length of time within which to secure a county building permit or to institute the special use. Also see § 153.098.

(D) *Inspection.* At least two site inspections by the Zoning Administrator must be held: one prior to development, and one before the use or structure is occupied. If development is phased or in stages, then one inspection per phase or stage shall be made.

(E) *Cancellation of special use permit.* See §§ 153.301(A)(7), and 153.312 and 153.999.

(1993 Code, § 154.221) (Ord. 84-1, passed 1-3-1984)

### **§ 153.307 PERFORMANCE BONDING FOR COMPLIANCE (PERFORMANCE GUARANTEE).**

(A) *Purpose.* Upon authorizing any certificate of zoning compliance, special use permit, or variance, the body or official which administers the respective request, as designated by this chapter, may require that a cash or surety bond be submitted:

(1) To ensure compliance with any and all the requirements, specifications, and conditions imposed with the permit or variance; and

(2) To ensure the discontinuance of a temporary use by a stipulated time.

(B) *Amount of bond.* The amount of bond to be submitted by the applicant shall be equal to the total estimated cost of all required improvements and conditions of site plan and zoning approval, including contingencies. If development is staged or phased over time, a separate bond for each phase shall be submitted at the beginning of each phase as a prerequisite. All improvements and conditions shall be satisfactorily completed prior to issuance of a certificate of occupancy. However, one 9-month extension beyond issuance of a certificate of occupancy may be permitted by the Zoning Administrator.

(C) *Return of performance bonds and rebates.* During project development, as specific improvements and conditions of site plan and zoning approval are satisfactorily completed, as attested to by the Zoning Administrator, the City Commission shall direct the City Clerk to return or rebate a portion of the cash or surety bond equal to the cost of the specific improvement or condition complied with.

(D) *Withholding and partial withholding of performance bonds.* Upon the failure to comply with any or all of the requirements of this chapter, an approved site plan, or with any or all conditions of zoning approval, the bond, or portion thereof, shall be forfeited by the applicant. The City Commission shall determine the cost of the zoning and site plan requirements to be completed according to the most current construction prices, including the cost of administration. The amount determined shall be the amount of bond forfeited toward zoning enforcement upon the site, and/or toward completing the necessary improvements, requirements, or conditions of zoning approval upon the site.

(E) *Performance bond for razing of building.* The Zoning Administrator shall require a bond prior to the razing or demolition of principal structures and accessory structures having more than 144 square feet of floor area. The bond shall be determined according to a guideline of \$15,000 for each 1,000 square feet or fraction thereof of floor area of the structure to be razed. The bond shall be conditioned on the applicant completing the razing within any reasonable period as shall be prescribed in the permit and complying with regulations as to health and safety as the Zoning Administrator, Fire Inspector, or the City Commission may from time to time prescribe, including filling of excavation and proper termination of utility connections.

(1993 Code, § 154.222) (Ord. 84-1, passed 1-3-1984)

### **§ 153.308 SCHEDULE OF FEES.**

Upon the filing of an application for a certificate of zoning compliance, special use permit, Zoning Board of Appeals review, variance, or rezoning, an administrative fee shall accompany the application. The City Commission shall determine and set a schedule of fees to be charged. Fees shall be collected prior to processing of any requested permit, variance, appeals, rezoning, and the like.

(1993 Code, § 154.223) (Ord. 84-1, passed 1-3-1984)

### **§ 153.309 ZONING BOARD OF APPEALS.**

(A) *Establishment.* A Zoning Board of Appeals (ZBA) is authorized in accordance with Public Act 110 of 2006, as amended, being M.C.L.A. §§ 125.3101 *et seq.*, to carry out the responsibilities provided therein, and those delegated herein.

(B) *Membership.* There shall be a Zoning Board of Appeals which shall consist of the City Commission. The members shall serve without pay and act within their authority as set forth in this chapter.

(C) *Powers and duties.* The Zoning Board of Appeals shall have all the power and duties prescribed by law and by this chapter, which are more particularly specified as follows:

(1) *Hear appeals.* The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or by any other city official in administering or enforcing any provisions of this chapter. Upon appeal, the Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination, as in its opinion ought to be made in the premises, and to that end shall have all the power of the city official from whom the appeal is taken, and may direct the issuance of a permit;

(2) *Interpretation.* The Zoning Board of Appeals shall have the power to:

(a) Interpret, upon request, the provisions of this chapter in a way as to carry out the intent and purpose of the chapter;

(b) Determine the precise location of the boundary lines between zoning districts, where uncertainty exists; and

(c) Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use (in accordance with the purpose and intent of each district), until the time when the unclassified use is properly assigned or classified by amendatory legislation.

(3) *Variances.* The Board shall have the power to authorize, upon appeal, variances from the specific requirements of this chapter, such as lot area and width regulations, building height and bulk regulations, use regulations, off-street parking and loading space requirements, and the like, provided all of the conditions listed in § 153.311 can be satisfied.

(D) *General organization and procedures.*

(1) *Rules of procedure and decision-making.* The Zoning Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose its own chairperson, and in his or her absence, an acting chairperson. The ZBA shall formulate decisions based upon the standards and other various provisions of this chapter.

(2) *Meetings.* Meetings shall be held at times as the Zoning Board of Appeals may determine. All meetings by the Board shall be open to the public. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public attendance. A quorum is required.

(3) *Records.*

(a) Minutes shall be recorded of all proceedings which shall contain the evidence received, findings of fact, and data relevant to every case considered, together with the votes of the members and the final disposition of each case. The minutes shall be filed in the City Administration Office and shall be made available to the general public.

(b) The City Clerk shall act as Secretary to the Zoning Board of Appeals and all records of the Board's action shall be taken and recorded under the City Clerk's direction.

(4) *Employers.* The Board may employ clerical or other assistance as may be necessary, provided that it shall not at any time incur any expense beyond the amount of the appropriation made and then available for that purpose.

(5) *Counsel.* An attorney for the city may act as legal counsel for the ZBA and may be present at any meeting upon request.

(6) *Hearings.* Between 15 and 25 days from the date an appeal is filed, the Zoning Board of Appeals shall hold a hearing of the appeal. Notice of the hearing shall be published in a newspaper of general circulation not less than 15 days before the date of the hearing. Notice of the hearing shall be given at least 15 days prior to the hearing to all persons to whom any real property within 300 feet of the premises in question shall be assessed; and to occupants of single- and two-family dwellings within 300 feet. Notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll. Upon the hearing, any party may appear in person, by agent, or by attorney.

(7) *Decisions (voting).* The final disposition of any matter by the Zoning Board of Appeals shall require the concurring vote of a majority of its members, except a two-thirds vote is required for use variances.

(E) *Conditions of ZBA approval.*

(1) Reasonable conditions may be required with the approval of a variance by the Zoning Board of Appeals. The conditions may include but are not limited to 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 meet all of the following requirements:

(a) Be designed to protect natural resources, the health, safety, and welfare, and 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; and

(c) Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(2) The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Zoning Board of Appeals and the land owner. The Zoning Board of Appeals shall maintain a record of conditions which are changed.

(3) In the event the Zoning Board of Appeals grants a variance, the individual or his or her successor in interest shall not use the property in question such that it would exceed those rights given by this chapter or the variance, or fail to follow any conditions placed thereon by the Zoning Board of Appeals. In the event the use of the property exceeds those rights given by this chapter or

the variance, or fails to follow the conditions placed upon the variance, the variance shall immediately terminate and it shall be deemed a violation of this chapter.

(F) *Time limit on decision of ZBA.* Any decision of the Zoning Board of Appeals on an appeal or application for a variance which has resulted in granting a zoning approval, special use permit, or variance shall be valid for a period of one year with an additional one-year extension granted by the Zoning Administrator. This is construed to be a reasonable period of time within which to acquire county permits and to implement the provisions of the variance.

(G) *Final action on appeals.* The decision of the Zoning Board of Appeals shall not be final, and any person having an interest affected by that decision shall have the right to the courts on questions of law and fact. The records of the Zoning Board of Appeals shall be made available for the court's review.

(H) *Effect of appeals proceedings (stay of proceedings).* An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer or body from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with that officer or body, that by reason of facts stated in the certificate, a stay would cause immediate peril of life or property.

(1993 Code, § 154.224) (Ord. 84-1, passed 1-3-1984)

### **§ 153.310 APPLICATION PROCEDURE FOR APPEALS/VARIANCES AND THE DECISION PROCESS.**

(A) *Filing for an appeal/variance.* When any order, requirement, decision, or determination is subsequently appealed to the Zoning Board of Appeals or when a variance is requested, as provided for in this chapter, the appellant shall file a notice of appeal with fee to the Zoning Administrator, who shall forward all records and materials to the Zoning Board of Appeals. If appealing a determination or orders, the Zoning Administrator shall also send copies of all materials to the official or body of officials from whom the appeal is taken. The body or official shall also make all records available to the ZBA for review.

(B) *General procedural steps by ZBA.*

(1) If an appeal, it must be filed within 30 days from the date of the action being appealed. If request is for a variance or interpretation, no time limit for filing is required.

(2) The ZBA reviews the appeal form to make sure that it is the proper form for the action requested, and to see that all required information is submitted.

(3) The City Clerk shall place the appeal form on the calendar for hearing at the next meeting of the ZBA, and shall cause notice stating the time, place, and object of the hearing to be served. Notice of the hearing shall be published in a newspaper of general circulation not less than 15 days before the date of the hearing. These notices shall be served personally or by mail at least 15 days prior to the hearing upon the applicant or appellant, the Zoning Administrator and the owners of record of property within 300 feet of the premises in question, which notices, if by mail, shall be addressed to the respective property owners of record at the address given in the last assessment roll. In the event property immediately adjacent to the premises shall be part of a different governmental subdivision, the owner of the property shall nevertheless receive notice and shall be entitled to be heard.

(4) At the hearing, rules and procedures for the conduct of the hearing as may be established in the bylaws of the ZBA shall be followed.

(a) Any party may be heard in person or by agent or attorney.

(b) The ZBA may adjourn the hearing in order to permit the obtaining of additional information or to cause any further notice as it deems proper to be served upon other property owners as it decides may be interested in the application or appeal. If the hearing is adjourned, persons previously notified and persons already heard, need not be notified of the time of resumption of the hearing.

(5) Following the hearing, the ZBA shall formulate its decision.

(a) The ZBA shall consider the merits of the individual application or appeal within the context of any and all standards and considerations established in this chapter. In the case of variances, the standards of § 153.311 shall control.

(b) The Zoning Board of Appeals may reverse or affirm, wholly or part, or may modify the order, requirement, decision, or determination of issue, as in its opinion ought to be made, and to that end shall have all the powers of the official or body of officials from whom the appeal was taken, and may direct the issuance of a permit.

(c) The written decision of the ZBA shall not be final until five days after it is made unless the ZBA shall find the immediate effect of the order is necessary for the preservation of property or personal rights, and shall so certify on the record. In the written decision on the application or appeal, the ZBA must include the reasons for decision and facts supporting those reasons.

(1993 Code, § 154.225) (Ord. 84-1, passed 1-3-1984)

### **§ 153.311 STANDARDS FOR VARIANCES.**

(A) Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the Zoning Board of Appeals shall have the power, in passing on appeals, to vary or modify any of its rules, regulations, or provisions of this chapter, by granting variances only when any of the following conditions of divisions (A)(1) and (2) exist:

(1) Zoning requirements cannot be met by an existing lot or that the physical topography inhibits the lawful location of a structure or its accessories such as garage, sheds, and the like. If the Zoning Board of Appeals finds that local requirements, as written, can be met, variance must be denied; and

(2) The hardship is unique and does not affect the entire surrounding area. If it is found that the hardship is not unique, but

common, there may be cause for amending this chapter or the map.

(B) In addition to meeting any of the conditions of division (A)(1) or (2) above, the appellant must show that a variance:

- (1) Will not be contrary to the public interest and it is not for a self-made hardship;
- (2) Will not cause a substantially adverse effect upon adjacent property values;
- (3) Will relate only to the property under control of the appellant;
- (4) Will not jeopardize the preservation of a substantial right, although the spirit of the chapter shall be observed, public safety secured, and substantial justice be done;
- (5) Will not adversely affect or diminish the purpose of this chapter;
- (6) Will not increase the hazard from fire, flood, or similar dangers;
- (7) Will not increase traffic congestion;
- (8) Will not produce nuisance conditions to occupants or nearby premises, whether by reason of dust, noise, fumes, odor, vibrations, smoke, or lights; and
- (9) Will not otherwise impair public health, safety, comfort, or general welfare of the residents of the city.

(1993 Code, § 154.226) (Ord. 84-1, passed 1-3-1984)

### **§ 153.312 VIOLATIONS.**

Any building erected, moved, altered, razed, or converted, or any use of land which is begun or changed subsequent to the effective date of this chapter, or its amendment, and is in violation of any provision of this chapter or the requirements thereof or any condition attached to a zoning approval, occupancy permit, site plan, special use permit, decision of the ZBA, or a variance, is hereby declared to be a public nuisance per se, and shall be abated by any court of competent jurisdiction. Any person, corporation, or firm who violates, disobeys, omits, neglects, or refuses to comply with any provision of this chapter or any condition attached to a zoning approval, certificate of occupancy, special use permit, Zoning Board of Appeals decision, or variance granted hereunder shall be guilty of a misdemeanor. Notice shall be given in writing by the Zoning Administrator and shall be served by registered mail or personal service.

(1993 Code, § 154.998) (Ord. 84-1, passed 1-3-1984) Penalty, see §153.999

## **AMENDMENTS**

### **§ 153.325 CITY COMMISSION MAY AMEND.**

The regulations and provisions attached in the tables and text of this chapter and the boundaries of zoning districts shown on the Zoning Map may be amended, supplemented, or changed by the City Commission in accordance with Public Act 110 of 2006, as amended, being M.C.L.A. §§ 125.3101 *et seq.*

(1993 Code, § 154.240) (Ord. 84-1, passed 1-3-1984)

### **§ 153.326 INITIATION OF AMENDMENTS.**

Proposals for amendments, supplements, or changes may be initiated by the City Commission on its own motion, by the Planning Commission, or by written request of (or petition of) one or more owners of property to be affected by the proposed amendment.

(1993 Code, § 154.241) (Ord. 84-1, passed 1-3-1984)

### **§ 153.327 AMENDMENT PROCEDURE.**

(A) *Written request or petition to City Commission.* Except for those initiated by Planning Commission or City Commission, all written requests by one or more owners for an amendment shall be submitted to the City Commission.

(B) *Referral to Planning Commission/public hearing.* The City Commission shall refer every proposed amendment, supplement, or change to the Planning Commission for the holding of a required public hearing thereon and for review and recommended action.

(C) *Planning Commission recommendation.* The Planning Commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and in terms of the likely effect of the proposal upon the Land Use Plan of the city. The Planning Commission may recommend any additions or modifications to the original amendment proposal. The Planning Commission shall transmit a written report with recommendation within 60 days to the City Commission setting forth the reasons for the acceptance, denial, or modification of the amendment proposal.

(D) *Action by City Commission.* If the City Commission deems any amendment, changes, additions or departures are advisable to the proposed text or district boundaries recommended by the Planning Commission, it shall refer the same back to the Planning Commission for a further report thereon within a time specified by the City Commission. Before any amendments shall become effective, the City Commission may on its own conduct a public hearing on the proposed amendment. Thereafter, the City Commission may adopt the amendment with or without any changes or may refer the same again to the Planning Commission for further report.

(E) *Public hearing procedure and notification.* For any required public hearing conducted by the Planning Commission or any

additional public hearings by the City Commission on a proposed amendment to this chapter, the following procedure and notice requirements shall apply.

(1) Notice of the public hearing shall be given by publishing the notice at least once in an official paper or newspaper of general circulation for the city, stating the time and place of the hearing and the substance of the proposed amendment, and in the event of a proposed change in the Zoning Map, the district boundary lines affected shall also be stated. This notice shall appear in the newspaper at least 15 days prior to the date set for the public hearing. Furthermore, not less than 15 days' notice of the time and place of the public hearing shall first be given by United States mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the districts or zones affected, and a hearing be granted any person interested at the time and place specified. An affidavit of mailing shall be maintained.

(2) If a change in zoning boundaries is proposed, notice shall also be made by the City Clerk, with notification by first class mail to the person or firm to whom the property is assessed, and to all persons or firms to whom property within 300 feet is assessed. An affidavit of mailing shall be maintained.

(F) *Effect of protest to proposed amendment* In case a protest against any proposed amendment to this chapter is presented in writing to the City Clerk prior to the public hearing thereon, duly signed either by:

(1) The owners of at least 20% of the area of land included in the proposed change; 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 public land and public right-of-way, the amendment shall be passed by three-fourths vote of all members of the City Commission.

(G) *Resubmittal*. No application for a rezoning which has been denied by the City Commission shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the City Commission to be valid.

(1993 Code, § 154.242) (Ord. 84-1, passed 1-3-1984)

**§ 153.328 COMPREHENSIVE REVIEW OF ZONING CHAPTER.**

The Planning Commission shall, from time to time at intervals of not more than five years, examine the provisions of this chapter and the location of zoning district boundary lines and shall submit a report to the City Commission recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety, and general welfare.

(1993 Code, § 154.243) (Ord. 84-1, passed 1-3-1984)

**§ 153.999 PENALTY.**

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

(B) Upon conviction for any violation set forth in §153.312, before any court having jurisdiction, the violator shall be punishable by a fine not to exceed \$500 plus the cost of prosecution, by imprisonment not to exceed 90 days, or both.

(C) Each day during which a violation continues shall be deemed a separate offense.

(D) The imposition of any sentence shall not exempt an offender from compliance with the provisions of this chapter.

(E) The foregoing penalties shall not prohibit the city from seeking injunctive relief against a violator or any other appropriate relief as may be provided by law.

(1993 Code, § 154.999)

(F) A violation of any provision of §§ 153.115 through 153.123 is hereby declared to be a nuisance per se. A violation of that subchapter is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this division (F), **SUBSEQUENT OFFENSE** means a violation of the provisions of this subchapter committed by the same person within 12 months of a previous violation of the same provision of this subchapter for which the person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses. Each day during which any violation continues shall be deemed a separate offense.

(Ord. 84-1, passed 1-3-1984; Ord. 02-01, passed 1-7-2002)

**APPENDIX A: TABLE OF USE REGULATIONS**

Table of Use Regulations						
District	Uses Permitted As A Matter of Right	Uses Permitted by Special Use Permit	Permitted Accessory Uses	Minimum Off-Street Parking Spaces (All Districts) For: One Space Per	Minimum Off-Street Loading Berths (All Districts)	Additional Regulations
Table of Use Regulations						



<i>District</i>	<i>Uses Permitted As A Matter of Right</i>	<i>Uses Permitted by Special Use Permit</i>	<i>Permitted Accessory Uses</i>	<i>Minimum Off-Street Parking Spaces (All Districts) For: One Space Per</i>	<i>Minimum Off-Street Loading Berths (All Districts)</i>	<i>Additional Regulations</i>
R-1	1. Single-family dwelling	1. Churches	1. Home occupations	1. Residences: 1/2 dwelling unit	1. For all nonresidential uses in a residential zone: 1 berth for the first 10,000 sq. ft. of floor area and 1 additional berth for each additional 25,000 sq. ft. or fraction thereof	1. Accessory uses must observe all required setbacks
		2. Schools	2. Garages	2. Public buildings, theaters, community and recreation buildings: 200 sq. ft. of floor area, but not less than 1 space for each 3 seats where provided	2. For all retail commercial establishments: 1 berth for the first 8,000 sq. ft. of floor area, plus 1 additional berth for each additional 25,000 sq. ft. or fraction thereof	
		3. Libraries	3. Swimming pools	3. Schools and nursery schools: 12 seats or students for schools of elementary grades and 1 space for each 6 seats for students for all other schools	3. For all industrial uses: 1 berth for the first 5,000 sq. ft. of floor area and 1 additional berth for each additional 20,000 sq. ft. of floor area in the use	
		4. Hospitals, clinics, doctor's offices	4. Lawn sheds	4. Churches: 200 sq. ft.		
R-1 (cont'd)		5. Agriculture	5. Accessory signs as regulated by §§ 153.230 through 153.234	5. Retail and personal service uses not specifically listed in this column: 150 sq. ft. of floor area in those uses		
		6. Housing for the elderly		6. Community Parking Option: Nonresidential parking requirements of this chapter may be satisfied by participation in a municipal or joint community parking program designed to serve a large area, provided all plans for the community parking have been first approved by the Planning Commission. All new business buildings and additions to existing buildings in such a commercial district within 300 feet of a community parking area shall be considered a participant in the program when it exists		
		7. Child care facilities, centers, or nurseries				
		8. Funeral homes				
		9. Planned residential development				
		10. Boarding, lodging or rooming houses				
R-2	1. Single-family dwellings	1. Same as R-1, except 5 and 9.	1. Same as R-1	7. Restaurants: 2 seats capacity		
	2. Two-family dwellings					
R-3	1. Single-family dwellings	1. Row houses 4-6 units with structure	1. Same as R-1	8. Outdoor automotive commercial: 600 sq. ft. of display and sales area		
	2. Two-family dwellings	2. Multi-family in low rise, townhouse and garden apartment units with structure	2. Child care facility when part of a family development	9. Bowling alleys: 1/4 alley		
	3. Three-family dwellings	3. Planned residential development				

R-4	1. Mobile home parks subject to §§ 153.150 through 153.152	None	1. Accessory uses in mobile home parks are regulated by §§ 153.150 through 153.152	10. Industrial Uses: 500 sq. ft. of floor area in such uses, plus 1 space per 1,000 sq. ft. of floor area in accessory uses		
			2. For accessory uses outside of mobile home parks, same as R-1	11. Public utilities: 2 employees or 300 sq. ft., whichever is less		
			3. Child care facility only as part of a mobile home park			
CBD	1. Retail commercial excluding automotive commercial	1. Above-store residences	1. Parking lots			
	2. Personal services establishments	2. Entertainment and commercial recreation	2. On-site storage			
	3. Professional offices	3. Grain elevators, sales and service				
CBD (cont'd)	4. Restaurants and food service establishments	4. Meeting halls and community centers				
	5. Taverns	5. Mini-malls and supermarkets on 25,000 sq. ft. lots or larger				
	6. Public parking lots	6. Hotels				
	7. Essential public services					
	8. Churches					
	9. Other similar uses as determined by the Zoning Administrator					
HC	1. Same as CBD	1. Same as CBD	1. Parking lots			
	2. Automotive sales and service	2. Bowling alleys	2. On-site storage			
		3. Gasoline service stations				
I-1	1. None permitted by right	1. Manufacturing, compounding, processing, packaging, treating and assembling from previously prepared material in the production of:				
		a. Food and kindred products				
		b. Apparel, clothing, textile mill products, leather goods and canvas products				
		c. Lumber and wood products				
		d. Furniture and fixtures				
		e. Paper products				

		f. Printing and publishing				
		g. Finished chemical products				
		h. Finished rubber products				
		i. Stone, clay and glass products				
I-1 (cont'd)		j. Finished metal products such as machinery, equipment, and other fabricated metal products				
		k. Engineering, measuring, optic, medical, photographic, and similar equipment				
		l. Finished jewelry, silverware, toys, athletic, office and tobacco goods, musical instruments, and similar products				
		2. Wholesale trade, storage, and distribution				
		3. Private transportation, communication, and utilities				
		4. Service such as:				
		a. Laundry, dry cleaning, and dyeing plants				
		b. Warehousing and storage				
I-1 (cont'd)		c. Research and development				
		d. Direct mail advertising				
		5. Industrial parks				
		6. Sexually oriented businesses and related activities (along Bean Street only)				
I-2	1. None permitted by right	1. Same as I-1	1. Same as I-1	Same as above	Same as above	
		2. Manufacturing, compounding, processing, packaging, treating, assembling, and bulk storage of:				
		a. Acetylene gas				
		b. Alcohol				
		c. Ammonia				
		d. Brick, tile or terra cotta				
		e. Concrete/cement products				
	f. Electroplating					

		g. Lampblack							
I-2 (cont'd)		h. Petroleum products and byproducts							
		i. Cleaning products							
		3. Railroad repair and freight car yards							
		4. Junkyards, scrap processing*							
		5. Manufacturing of tar and asphalt products							
		6. Processing of raw materials							
		7. Slaughterhouses and rendering plants							
		8. Sanitary landfills and disposal sites for hazardous and liquid materials*							
		9. Industrial parks							

(1993 Code, § 154.028) (Ord. 84-1, passed 1-3-1984; Ord. 02-06, passed 8-5-2002)

**APPENDIX B: TABLE OF GENERAL BULK REGULATIONS**

<b>Table of General Bulk Regulations</b>										
<b>District</b>	<b>Group</b>	<b>For Uses Listed Below</b>	<b>The Following Bulk Regulations Apply (Also see Note 1)</b>							
		<b>(Uses listed herein refer to the uses listed in detail in columns 1-7, Appendix A)</b>	<b>Minimum Net Building Area (in sq. ft. unless otherwise noted)</b>	<b>Minimum Lot Width (in feet)</b>	<b>Required Front Yard Setback (in feet)</b>	<b>Required Side Yard Depth (in feet)</b>	<b>Total Width Both Required Side Yards (in feet)</b>	<b>Required Rear Yard Depth (in feet)</b>	<b>Maximum Building Height (in feet)</b>	<b>Minimum Floor Area of Dwelling Unit (sq. ft.)</b>
<b>Table of General Bulk Regulations</b>										
<b>District</b>	<b>Group</b>	<b>For Uses Listed Below</b>	<b>The Following Bulk Regulations Apply (Also see Note 1)</b>							
		<b>(Uses listed herein refer to the uses listed in detail in columns 1-7, Appendix A)</b>	<b>Minimum Net Building Area (in sq. ft. unless otherwise noted)</b>	<b>Minimum Lot Width (in feet)</b>	<b>Required Front Yard Setback (in feet)</b>	<b>Required Side Yard Depth (in feet)</b>	<b>Total Width Both Required Side Yards (in feet)</b>	<b>Required Rear Yard Depth (in feet)</b>	<b>Maximum Building Height (in feet)</b>	<b>Minimum Floor Area of Dwelling Unit (sq. ft.)</b>
R-1	A-1	Single-family dwelling	7,800	66	25	5	12	20	2-1/2 stories or 35 ft.	750
	A-2	Housing for the elderly, boarding, lodging and rooming houses	10,000 + 300 per sleeping room	150	40	25	50	40		See § 153.040(B)
	A-3	Planned residential development	10 acres							
	B	Child care facilities, funeral homes	5,000	80	25	5	12	20		
	C	All other uses permitted in Use Table for R-1	2 acres	150	30					
D-1	Single-family dwelling	5,000	66					2-1/2	750	
D-2	Two-family dwelling	3,000 per family							750	

R-2	E	Child care facilities, funeral homes	5,000		25	5	12	20	stories or 35 ft.	See § 153.040(B)	
	F	All other uses permitted in Use Table for R-2	2 acres	100							
R-3	H-1	Single-family dwelling	5,000	66	25	5	12	20	2-1/2 stories or 35 ft.	750	
	H-2	Two-family dwelling	3,000 + per dwelling unit	66	25	5	12	20		750	
	H-3	Three-family dwelling	3,000 + per dwelling unit	66	25	5	12	20			
	H-4	Single-family semi-attached	3,000 + per dwelling unit	66	25	S	12	20			
	H-3	Multiple-family	3,000 + per dwelling unit	100	30	10	25	25	3 stories or 42 ft.	See § 153.040(B)	
	H-6	Planned residential development	10 acres	150	35	20	40	35			
R-4	I	Mobile home parks	See §§ 153.150 through 153.152, Mobile Home Parks								
CBD	J	All uses permitted in Use Table for CBD	Some uses have design standards, see §§ 153.200 through 153.218			When in or adjacent to the CBD, no side yard is required, but when provided, each side yard shall be 6 feet. When adjacent to a residential zoning district or use, that side yard shall be 15 feet.			10	3-1/2 Stories or 50 ft.	500 per dwelling unit
			5,000								
HC	K-1	Automotive sales/services	2 acres	100	25	10	25	10	2-1/2 stories or 35 ft.		
	K-2	Bowling alleys									
	K-3	Gasoline service stations	25,000	66		(Note 2)	(Note 2)	(Note 2)			
	K-4	All other uses permitted in Use Table for HC	1 acre								
I-1	L	All uses permitted in Use Table for I-1	2 acres	150	25	10	25	10	2-1/2 stories or 35 ft.		
I-2	M-1	Sanitary landfills and disposal sites for hazardous and liquid wastes	10 acres	300	40	40	80	40	X		
	M-2	All other uses permitted in Use Table for I-2	5 acres	150	25	10	25	10	2-1/2 stories or 35 ft.		
Notes											
1. Supplemental bulk requirements as set forth in §§ 153.020 through 153.023, 153.035 through 153.047, 153.060 through 153.063, 153.075 through 153.081, 153.095 through 153.100, 153.135, 153.150 through 153.152, 153.165 through 153.170, 153.185, 153.200 through 153.218, 153.230 through 153.234, and 153.245 through 153.257 shall be observed. When requirements are at variance with any other lawfully adopted regulations or ordinances, the more restrictive or higher standard shall control.											
2. The required yard shall be doubled when adjacent to a residential district or residential use.											

(1993 Code, § 154.029) (Ord. 84-1, passed 1-3-1984)

## CHAPTER 154: RESIDENTIAL RENTAL PROPERTY REGULATIONS

### Section

154.01 Purpose

154.02 Definitions

- 154.03 Minimum standards for rental dwellings
- 154.04 Registration of rental dwellings
- 154.05 Certificate of compliance
- 154.06 Inspections by Building Inspector before permit issuance
- 154.07 Fees
- 154.08 Additional inspections
  
- 154.99 Penalty

**§ 154.01 PURPOSE.**

The purpose of this chapter is to establish minimum standards for dwellings offered for rent or lease; to authorize inspections of such dwellings; to establish certain responsibilities and duties of landlords and occupants essential to make such dwellings safe, sanitary, and fit for human habitation; provide for registration of such dwellings with the Building Inspector; to require a certificate of compliance issued by the Building Inspector; and to designate penalties for violations of this chapter.

(Ord. 2018-02, passed 9-4-2018)

**§ 154.02 DEFINITIONS.**

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

**BOARDING HOUSE.** As defined in §153.004.

**BUILDING INSPECTOR.** The Scottville City Manager or his or her designee, designated in writing.

**CERTIFICATE OF COMPLIANCE.** A document issued by the Building Inspector stating the dwelling has passed inspection and complies with local code and requirements.

**DWELLING.** Any house, room, boarding house, or apartment, which is wholly or partially used or intended to be used for living, sleeping, cooking, and eating. Hotels, motels, bed and breakfasts, and resorts shall not be defined as a dwelling for purposes of this chapter.

**FEE.** A fee determined from time to time by resolution of the City Commission. Such fee shall be charged each time the Building Inspector makes an on-site inspection of any dwelling that comes within the meaning of this chapter.

**LANDLORD.** Any person, firm, partnership, association, corporation, company, or organization of any kind owning or offering for rent or lease any dwelling or dwelling unit within the city.

**PARCEL.** A tract of land identified by a single parcel identification number on the property tax rolls of the city.

**RENTAL DWELLING.** Any dwelling which is rented, leased, or offered for rent or lease within the city.

**RENTAL DWELLING UNIT.** A portion of a rental dwelling for an individual, couple, a single family, or other living unit.

**SCOTTVILLE PROPERTY MAINTENANCE CODE.** Chapter 151 of this code, as amended.

**TRANSFER OF OWNERSHIP.** The conveyance of title to, or a present interest in, property, including the beneficial use of property, the value of which is substantially equal to the value of the fee interest.

(Ord. 2018-02, passed 9-4-2018)

**§ 154.03 MINIMUM STANDARDS FOR RENTAL DWELLINGS.**

The minimum standards of maintenance for any rental dwelling shall be those contained in the Scottville Property Maintenance Code, contained in Chapter 151 of this code.

(Ord. 2018-02, passed 9-4-2018)

**§ 154.04 REGISTRATION OF RENTAL DWELLINGS.**

(A) All rental dwellings shall be registered with the city by the owner.

(B) All rental dwellings existing as of the effective date of this chapter shall be registered no later than May 1, 2019.

(C) The landlord of a new rental dwelling or of any dwelling newly converted to a rental dwelling shall register the rental dwelling before allowing occupancy of any new units.

(D) Upon a transfer of ownership of a rental dwelling, the new owner of rental dwellings already registered with the city shall re-register within 60 days of assuming ownership.

(E) A landlord shall re-register the dwelling every three years or if the landlord adds any additional dwelling units in or to the rental dwelling.

(F) Failure of the landlord to register his or her rented or leased dwelling is a violation of this chapter, and in addition the

landlord shall be subject to a non-registration fee of \$500 for each unit not timely registered.

(G) It is a violation of this chapter for any landlord to rent any dwelling or dwelling unit that is not registered.

(Ord. 2018-02, passed 9-4-2018)

#### **§ 154.05 CERTIFICATE OF COMPLIANCE.**

Every rental dwelling within the city must receive a certificate of compliance. Such certificate shall be issued upon passing an inspection, or, in the case of newly constructed rental dwelling units meeting current building code requirements, upon issuance of a certificate of occupancy by the Mason County Building Department and registration of the newly constructed rental dwelling units. A certificate of compliance issued in connection with new construction shall be valid for three years. Such certificate of compliance must be displayed in the rental dwelling unit and made available to any tenant upon request. Such certificate of compliance must be renewed in accordance with the schedule for inspections as provided in § 154.06. Displaying a certificate of compliance in a non-inspected or non-compliant rental unit shall be a violation of this chapter.

(Ord. 2018-02, passed 9-4-2018)

#### **§ 154.06 INSPECTIONS BY BUILDING INSPECTOR BEFORE PERMIT ISSUANCE.**

(A) The Building Inspector, or his or her agent, shall make the necessary inspections required for the purpose of enforcing this chapter. The landlord, any tenants, and such other individuals as designated by the Building Inspector may be present during any inspection. The Building Inspector shall determine if the dwelling meets the minimum standards set forth in the Scottville Property Maintenance Code.

(B) Inspections will be conducted on a three-year cycle.

(C) The Building Inspector shall establish an inspection schedule. Notice shall be mailed to each landlord at least 30 calendar days before the scheduled inspection. It shall be the responsibility of the landlord to notify and make arrangements with any tenants for access to the dwelling or rental unit for purposes of conducting the inspection. If the inspection as scheduled creates undo hardship, the inspection can be rescheduled by notifying the Building Inspector at least 24 hours before scheduled inspection.

(D) After the first year of inspections, all rental dwelling units that have been inspected must have a certificate of compliance before occupancy of a rental dwelling unit. After the second year, all rental dwelling units that have been inspected in the first two years must have a certificate of compliance before occupancy of a rental dwelling unit. Effective three years after this chapter is adopted, all rental dwelling units within the city shall have a certificate of compliance prior to occupancy.

(E) Nothing in this chapter shall prevent the Building Inspector from making additional inspections either based upon complaints, referrals from other governmental agencies, or otherwise, to enforce the Scottville Property Maintenance Code or other applicable laws, ordinances, or regulations. Upon receiving a complaint, the Building Inspector shall notify the landlord of the nature of the complaint and shall provide the landlord a reasonable opportunity to resolve the complaint before scheduling an inspection. All complaints from tenants shall be in writing. If a tenant submits a written complaint regarding the condition of the tenant's rental dwelling unit, the tenant shall pay the city the appropriate inspection fee prior to the Building Inspector inspecting the rental dwelling unit.

(F) In the event that the Building Inspector finds violations of the Property Maintenance Code, the Building Inspector shall make re-inspections to ensure compliance with the code.

(G) Any person directly affected by a decision or determination of the Building Inspector or any notice or order issued by the Building Inspector, may appeal to the Board of Appeals in accordance with § 111 of the Scottville Property Maintenance Code.

(Ord. 2018-02, passed 9-4-2018)

#### **§ 154.07 FEES.**

There shall be imposed, pursuant to these sections, various fees as established from time to time by resolution of the City Commission.

(Ord. 2018-02, passed 9-4-2018)

#### **§ 154.08 ADDITIONAL INSPECTIONS.**

If the Building Inspector finds that there is reasonable cause to believe that additional inspections are necessary for which the Building Inspector is not qualified to inspect, such as mechanical, plumbing, or electrical inspections, the Building Inspector may require the landlord to have such additional inspections at the landlord's expense and to provide the Building Inspector with proof that such identified items are not in violation of any applicable codes, or with proof that such items have been repaired so that they comply with such codes.

(Ord. 2018-02, passed 9-4-2018)

#### **§ 154.99 PENALTY.**

Any person who violates any provision of this chapter, including failure of a landlord to register a rental dwelling, failure or refusal to allow an inspection or re-inspection, failure to pay any fee required, or failure to obtain an additional inspection and provide proof of compliance with applicable codes, shall be guilty of a municipal civil infraction as provided in § 10.99 of this code. The Building Inspector or any other city employee or official designated by the City Manager in writing, is authorized to issue citations for violations of this chapter.

## TABLE OF SPECIAL ORDINANCES

Table

- I. FRANCHISES, CONTRACTS, AND AGREEMENTS
- II. DEVELOPMENT DISTRICTS AND TIF PLANS
- III. ZONING MAP CHANGES

### TABLE I: FRANCHISES, CONTRACTS, AND AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>1993 Code</i>	<i>Description</i>
89-2	9-18-1989	TSO I	Granting to Western Michigan Electric Cooperative the right, power, and authority to construct, maintain, and commercially use electric lines and other electrical appliances on, under, along, and across the streets and other public places, and to do a local electric business in the city
94-2	1-17-1994	TSO I	Granting to Michigan Consolidated Gas Company, the right, power, and authority to lay, maintain, and operate gas mains, pipes, and services on, along, across, and under the highways, streets, alleys, bridges, and other public places, and to do a local gas business in the city for a period of 30 years

### TABLE II: DEVELOPMENT DISTRICTS AND TIF PLANS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>1993 Code</i>	<i>Description</i>
07-02	1-8-2007	–	Adopting development and tax increment financing (TIF) plans for the Downtown Development District
07-03	3-19-2007	–	Enacting contract with Glendale Apartments–Scottville Limited Dividend Housing Association Limited Partnership for payment of annual service charge for Glendale Apartments housing development, in lieu of property taxes
10-03	4-19-2010	–	Adopting Development and Tax Increment Financing (TIF) Plans for the Downtown Development District

### TABLE III: ZONING MAP CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>1993 Code</i>	<i>Description</i>
86-1	2-17-1986	TSO II	Changing the zoning classification of Lot 64, except the east 363 feet, City Assessor's Northern Addition, from HC, Highway Commercial, to R-3, Multiple Family
86-2	2-17-1986	TSO II	Changing the zoning classification of Lots 1, 2, 3, Block 5, City Assessor's Western Addition from R-1, Single Family Residential, to CBD, Central Business District



87-2	9-8-1987	TSO II	Changing the zoning classification of south two-thirds of Lot 13 and the S 75.3 ft. of Lot 14, Block 2, City Assessor's Western Addition, from CBD, Central Business District, to I-1, Light Industry
88-3	6-6-1988	TSO II	Changing the zoning classification of certain described territory being parts of Lot 16, Block 2, City Assessor's Western Addition, from I-1, Light Industrial to CBD, Central Business District
88-4	8-15-1988	TSO II	Changing the zoning classification of Lot 8 and south 32 ft. of Lot 7 and Lot 6 and north eight feet of Lot 7 in Block 5, City Assessor's Western Addition, from Residential to CBD, Central Business District
89-1	3-21-1989	TSO II	Changing the zoning classification of Lots 1 and 2, Block 4, City Assessor's replat of Neil's Addition, from R-1, Residential, to CBD, Central Business District; and Lots 7 and 8, Block 1, City Assessor's replat of Neil's Addition, Residential, from R-2, Residential, to CBD, Central Business District
91-3	12-2-1991	TSO II	Changing the zoning classification of south two-thirds of Lot 13 and the S 75.3 feet of Lot 14, Block 2, City Assessor's Western Addition, from I-1, Light Industry, to CBD, Central Business District
98-02	12-7-1998	—	Changing the zoning classification of Parcels 53-052-124-005-00, 53-052-124-008-50, and 53-052-124-011-00, all in the City Assessor's Western Addition, from R-1, Residential, to CBD, Central Business District
99-03	10-18-1999	—	Changing the zoning classification of Lots 1 and 2 of Gordon's First Addition from R-1, Residential, to I-1, Light Industrial
00-07	8-7-2000	—	Changing the zoning classification of unplatted Parcel 53-052-115-029-00, from R-1, Residential, to HC, Highway Commercial
06-01	4-17-2006	—	Changing the zoning classification of unplatted Parcel 53-052-115-002-00, from I-1, Industrial One, to R-1, Residential
11-02	7-18-2011	—	Changing the zoning classification of Parcel 53-052-215-001-00 in the City Assessor's Replat, Lot 1 and north 58 feet of Lot 2, Block 15, known as 201 South Main Street, from HC, Highway Commercial, to CBD, Central Business District

## PARALLEL REFERENCES

References to Michigan Compiled Laws Annotated

References to 1993 Code

References to Resolutions

References to Ordinances

## REFERENCES TO MICHIGAN COMPILED LAWS ANNOTATED

<i><b>M.C.L.A. Section</b></i>	<i><b>Code Section</b></i>
<i><b>M.C.L.A. Section</b></i>	<i><b>Code Section</b></i>
24.201 to 24.328	70.01
28.601 through 28.616	32.01
72.751 et seq.	131.01
117.3(k)	70.05
125.1509	150.01
125.1651 et seq.	31.031

125.1651—125.1657	31.031; 33.40
125.1655	31.037
125.1659—125.1680	31.031; 33.40
125.1661	31.040
125.2301 et seq.	153.004; 153.152
125.3101 et seq.	153.001; 153.003; 153.309; 153.325
125.3801 et seq.	31.055; 152.002; 152.005
257.1257.923	70.05; 70.40; 71.99
257.301—257.329	70.50
257.319	132.05
257.81129	70.50
257.907(3)	71.99; 72.99
324.11501 et seq.	50.01; 51.34
324.32101 et seq.	153.004
324.81101 et seq.	70.51
333.6103	132.03
333.6107	132.99
436.1703	132.99
560.101—560.293	152.002; 152.005; 152.022; 152.024
600.8395	72.15
600.8701 et seq.	95.99; 115.99; 133.99
712A.1 et seq.	132.01
722.1 et seq.	132.07
722.673	153.272
752.362	153.272

## REFERENCES TO 1993 CODE

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<b>1993 Code Section</b>	<b>2013 Code Section</b>
<b>1993 Code Section</b>	<b>2013 Code Section</b>
10.01	10.01
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30.02	30.02
30.03	30.03
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31.49	31.034
31.50	31.035
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31.52	31.037
31.53	31.038
31.54	31.039
31.55	31.040
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31.66	31.056
31.67	31.057
31.68	31.058
31.69	31.059
31.70	31.060
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31.72	31.062
31.73	31.063
31.74	31.064
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154.998	153.312
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## REFERENCES TO RESOLUTIONS

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2010-06	1-5-2010	52.04; 52.05

## REFERENCES TO ORDINANCES

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—	--	Ch. 74 Sched. III
80-1	2-18-1980	Ch. 74 Scheds. I, II; Ch. 75 Scheds. I, II

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