CODE OF ORDINANCES
CITY OF
GREENVILLE, MICHIGAN

_____

Published in 2012 by Order of the City Council

_____ Adopted: April 3, 2012

_____

Municipal Code Corporation P.O. Box 2235 Tallahassee, FL 32316
info@municode.com 800.262.2633 www.municode.com

OFFICIALS

of the

CITY OF

GREENVILLE, MICHIGAN

AT THE TIME OF THIS RECODIFICATION

_____

Jeanne Cunliffe

Brian Greene

John Hoppough, Mayor

Mark Lehman

Larry Moss

Lloyd Scoby

Fran Schuleit

City Council

_____

George M. Bosanic

City Manager

_____

Bradley S. Hool

City Clerk-Treasurer

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Greenville.

Source materials used in the preparation of the Code were the Prior Code, as supplemented through January 21, 2002, and ordinances adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the Prior Code, as supplemented, and any subsequent ordinance included herein.

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

Chapter and Section Numbering System

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

Page Numbering System

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

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

Indexes

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

Looseleaf Supplements

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

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

Acknowledgments

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

The publisher is most grateful to Mr. Bradley Hool, City Clerk-Treasurer and Mr. James M. Mullendore, Jr., City Attorney for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

Copyright

ADOPTING ORDINANCE
ORDINANCE NO. 2012-01

An Ordinance Adopting and Enacting a New Code for the City of Greenville, Michigan; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing

for the Manner of Amending Such Code; and Providing When Such Code and this Ordinance Shall Become Effective.

THE CITY OF GREENVILLE ORDAINS:

Section 1. Adopted. The Code entitled "Code of Ordinances, City of Greenville, Michigan," published by Municipal Code Corporation, consisting of chapters 1 through 46, each inclusive, is adopted.

Section 2. Prior ordinances repealed. All ordinances of a general and permanent nature enacted on or before September 20, 2011, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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

Section 4. Penalty.

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

(b) In addition to the penalty prescribed in this section, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

(c) Except as otherwise provided by law or ordinance:

(1) A person convicted of a violation of this Code shall be a criminal misdemeanor and shall be punished by a fine not to exceed $500.00 or by imprisonment for a period of not more than 90 days or by both such fine and imprisonment.

(2) A person convicted of a violation of this Code that substantially corresponds to a violation of state law which is a misdemeanor for which the maximum period of imprisonment is 93 days, shall be a criminal misdemeanor and punished by a fine of not more than $500.00, imprisonment for a term of not more than 93 days, or both such fine and imprisonment.

(3) A person convicted of a violation of this Code that is a criminal misdemeanor shall pay the costs of prosecution.

(d) The sanction for a violation which is declared to be a municipal civil infraction shall be a civil fine, plus any costs, damages, expenses and other sanctions, as authorized under chapter 87 of Public Act No. 236 of 1961 (MCL 600.8701 et seq.) and other applicable laws. Except as otherwise provided by ordinance: (or if the ordinance involved is silent, as set by the City Council by resolution)

(1) The civil fine for a municipal civil infraction violation shall be not less than $50.00, plus costs and other sanctions, for each infraction.

(2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of an ordinance. As used in this subsection, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or ordinance committed by a person within any twelve-month period and for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by an ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

a. The fine for any offense which is a first repeat offense shall be not less than $100.00, plus costs.

b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than $200.00, plus costs.

(e) Except as otherwise provided:

(1) With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(2) With respect to other violations, each violation constitutes a separate offense.

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

Section 6. References in certain ordinances. Ordinances adopted after September 20, 2011, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. Effective date. This Ordinance was adopted on April 3, 2012 and shall become effective on April 13, 2012. Bradley S. Hool
Clerk-Treasurer
City of Greenville

SUPPLEMENT HISTORY TABLE

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

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

Ordinance Number	Date Adopted	Included/ Omitted	Supplement Number
150-S	12- 7-2010	Included	1
2012-01	4- 3-2012	Included	1
2012-02	5-15-2012	Included	1
2012-03	5-15-2012	Included	1
2012-04	5-15-2012	Included	1
2012-05	8- 7-2012	Included	1
14-01	7-15-2014	Included	1
14-02	12- 2-2014	Included	2
15-01	1-20-2015	Omitted	2
15-02	5-19-2015	Included	2

15-03	6- 2-2015	Included	2
16-02	6- 6-2016	Included	2
16-03	7-19-2016	Included	2
17-01	1- 3-2017	Included	2
17-02	5- 2-2017	Included	2
17-03	5- 2-2017	Omitted	2
17-05	10- 3-2017	Included	2
13-04	7-16-2013	Included	3
18-01	8-21-2018	Included	3
19-01	1-15-2019	Included	3
19-02	1-15-2019	Included	3
19-03	3- 5-2019	Included	3
19-04	4-16-2019	Included	3
19-05	8- 6-2019	Omitted	4
19-06	10-15-2020	Included	4
17-06	11- 7-2017	Included	5
20-01	2-18-2020	Included	5
20-02	11- 3-2020	Included	5
21-01	5- 4-2021	Included	5

PART I
CHARTER[1]

PREAMBLE

We, the people of the City of Greenville, County of Montcalm, State of Michigan, pursuant to the authority granted by the Constitution and the statutes of the State of Michigan, in order to establish a City Government, and to provide for and maintain the essential interest and welfare of all our people, do hereby ordain and establish this Charter of the City of Greenville, Michigan.

CHAPTER 1. NAMES AND BOUNDARIES

[1]Editor's note(s)—This part contains the Greenville City Charter. The Charter was originally adopted by vote of the people in 1956. It was amended by vote of the people on November 5, 1974 and November 6, 1979 and amendments were present in the version furnished by the city. The absence of a history note indicates that the provision remains unchanged from the version furnished by the city. Obvious misspellings and miswordings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization and expression of numbers has been used. Additions made for clarity are indicated by brackets. Catchlines have been editorially altered for clarity and consistency.

Sec. 1.1. Name.

The municipal corporation now existing and known as the "City of Greenville" shall continue to be a body politic and corporate under the name "City of Greenville", and include the territory hereinafter described with power and authority to change its boundaries in the manner authorized by law.

State law reference(s)—Organized cities to be body corporate, MCL 117.1.

Sec. 1.2. Boundaries.

The City of Greenville shall include all the territory described as follows, to wit:

Commencing at the Northwest corner of Section 9, TN, R8W, Montcalm County, Michigan; thence South along the West Section lines of Sections 9 and 16 to the Southwest corner of Section 16; thence East along the South Section lines of Sections 16 and 15 to the Southeast corner of Section 15; thence North along East Section lines of Sections 15 and 10 to the Northeast corner of Section 10; thence West along North line of Sections 10 and 9 to the point of beginning.

Sec. 1.3. [Annexation.]

The City of Greenville shall also include land which is or has been annexed or added to the city in the manner authorized by Michigan Statute.

State law reference(s)—Annexation of territory, MCL 117.6 et seq.

CHAPTER 2. MUNICIPAL POWERS

Sec. 2.1. Continuation of powers of former charter.

All powers, privileges, and immunities, not inconsistent with the provisions of this Charter, possessed by the City of Greenville by virtue of its incorporation as such and enumerated in Act 215 of the Public Acts of 1895 [MCL 81.1 et seq.], 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.

Sec. 2.2. General powers.

Unless otherwise provided by 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 charters by Public Act 279 of 1909 [MCL 117.1 et seq.], as amended as fully and completely as though these 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 the 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 regularly constituted authority, to pass and enforce all laws, ordinances and resolutions relating to its municipal concerns, subject to the Constitution and statute and the provisions of this Charter.

Sec. 2.3. Further definition of powers.

In addition to the powers possessed by the city under the Constitution and statutes, and otherwise 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 limitations 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 Montcalm 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;

State law reference(s)—Permissible that charter provide for purchase or condemnation of property used for cemeteries, hospitals, utilities, etc., MCL 117.4e, 117.4f.

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

State law reference(s)—Permissible charter provisions, MCL 117.4e(3).

(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;

State law reference(s)—Permissible charter provisions, MCL 117.4b(3).

(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, heat, water and power businesses;

State law reference(s)—Permissible charter provisions, MCL 117.4f(a).

(f) The establishment and vacation of streets, alleys, public ways and other public places, and the use, regulation, 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;

State law reference(s)—Permissible charter provisions, MCL 117.4h(2).

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

State law reference(s)—Permissible charter provisions, MCL 117.4h(2).

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

State law reference(s)—Permissible charter provisions, MCL 117.4h(4).

(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 use thereof on a public basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise the land necessary therefor;

State law reference(s)—Permissible charter provisions, MCL 117.4h(6).

(l) The acquiring, construction, establishment, operation, extension and maintenance of facilities for the docking of watercraft, 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;

State law reference(s)—Permissible charter provisions, MCL 117.4h(7).

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

State law reference(s)—Permissible charter provisions, MCL 117.4i(a).

(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;

State law reference(s)—Permissible charter provisions, MCL 117.4i(c); zoning generally, MCL 125.3101 et seq.

(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;

State law reference(s)—Permissible charter provisions, MCL 117.4i(d).

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

State law reference(s)—Permissible charter provisions, MCL 117.4i(f).

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

State law reference(s)—Mandatory that charter provide for public peace and health and for the safety of persons and property, MCL 117.3(j); permissible that charter provide for enforcement of police, sanitary and other ordinances that are not in conflict with general laws, MCL 117.4i(j).

(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 observances of the conditions under which licenses are granted, and otherwise conditioning such licenses as the council may prescribe;

State law reference(s)—Permissible that charter provide for regulation of trades, occupations and businesses, MCL 117.4i(d).

(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;

Editor's note(s)—The provisions of MCL 125.2307 restrict the power of the city relative to mobile homes.

(u) The requiring of an owner of real property within the city to construct and maintain sidewalks abutting upon such property, if the council shall determine that such sidewalks are necessary for 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 11.9;

State law reference(s)—Charter may provide for the use, regulation, improvement and control of its streets, alleys and public ways, MCL 117.4h(1).

(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 council 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 11.9;

State law reference(s)—Mandatory that charter provide for public peace and health and for the safety of persons and property, MCL 117.3(j); permissible that charter provide for enforcement of police, sanitary and other ordinances that are not in conflict with general laws, MCL 117.4i(j).

(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 11.9;

State law reference(s)—Charter may provide for use, regulation, improvement and control of public ways, MCL 117.4h(1).

(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 11.9.

Sec. 2.4. Exercise of power.

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 public body shall govern. If alternative procedures are to be found in different statutes, the council 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 council shall prescribe a reasonable procedure for the exercise thereof by ordinance.

CHAPTER 3. ELECTIONS[2]

[2]State law reference(s)—Mandatory that charter provides for the time, manner and place of holding elections, MCL 117.3(c); Michigan Election Law, MCL 168.1 et seq.

Sec. 3.1. Qualifications of electors.

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

Editor's note(s)—The provisions of charter § 3.1 are superseded by MCL 168.491 et seq., in that such act provides for the qualifications of electors of the city. See MCL 168.492.

Sec. 3.2. Election procedure.

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 council to adjust these hours to local time.

State law reference(s)—Mandatory that charter provides for nomination of elective officers by partisan or nonpartisan primary, by petition or by convention, MCL 117.3(b); Michigan Election Law, MCL 168.1 et seq.; registration of electors, MCL 168.491 et seq.; poll hours, MCL 169.720.

Sec. 3.3. Wards and precincts.

The City of Greenville shall consist of one ward. The precincts into which the city is divided on the effective date of this Charter shall remain the precincts of the city until changed pursuant to this Charter. The council shall from time to time establish convenient election precincts.

State law reference(s)—Mandatory that charter provides for wards, MCL 117.3(e); election precincts, MCL 168.654 et seq.

Sec. 3.4. Regular city elections.

Regular city elections shall be held in accordance with state law.

State law reference(s)—Michigan Election Law, MCL 168.1 et seq.

Sec. 3.5. Special elections.

Special city elections shall be held when called by resolution of the council at least 40 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.

Sec. 3.6. Elective officers and terms of office.

The elective officers of the city shall be seven councilpersons, all of whom shall be nominated and elected from the city at large. Each councilperson (commencing in 1998) shall be elected to a four-year term.

In 1997, there will be five vacancies upon the council to be filled. The two receiving the highest number of votes shall be elected to a term of office of four years; the two receiving the next highest number of votes shall be

elected to a term of office of three years. The one who shall receive the fifth highest number of votes shall be elected to a term of office of one year.

In 1998, there will be one vacancy upon the council to be filled.

In 1999, there will be two vacancies upon the council to be filled.

In 2000, there will be two vacancies upon the council to be filled.

In 2001, there will be two vacancies upon the council to be filled.

The terms of office of councilpersons shall commence at 12:00 noon on the first day of January following the regular city election at which they were elected.

(Ord. No. 77, eff. 2-16-1971)

Sec. 3.7. Nominations.

The method of nomination of all candidates for the city elections shall be by petition. Such petitions for a candidate shall be signed by not less than 50, nor more than 100, 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 a greater number of 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 35th day preceding such election and 5:00 p.m. on the 30th 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.

State law reference(s)—Mandatory that charter provides for nomination of elective officers by partisan or nonpartisan primary, by petition or by convention, MCL 117.3(b); nonpartisan nominating petitions, MCL 166.544a; filing of petitions, MCL 168.644f.

Sec. 3.8. Form of petition.

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.

Editor's note(s)—The provisions of charter § 3.8 are superseded by MCL 168.544c, insofar as they relate to the form of the nominating petition. See MCL 166.544a.

Sec. 3.9. Approval of petition.

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 5.1. 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 date 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 5.1 shall be filed with such petition.

The clerk shall immediately notify in writing the candidate whose name appears thereon of his determinations. Such notice to any candidate whose petition is found invalid or insufficient shall be delivered by personal messenger if possible. Any candidate whose petition is so found invalid or insufficient shall be allowed to file supplementary or replacement petitions before 5:00 p.m., at the then prevailing local time on the fifth day after the last date for filing original petitions; thereafter no further petitions may be filed.

Editor's note(s)—The provisions of Charter § 3.09 are superseded by MCL 168.552.

Sec. 3.10. Public inspection of petitions.

All nomination petitions shall be open to public inspection in the office of the clerk.

State law reference(s)—Public record of nominating petitions, MCL 168.555.

Sec. 3.11. Election commission.

An election commission is hereby created, consisting of the clerk, the attorney and one member of the council who shall not be a candidate for elective office at the election for which he serves as a member of the election commission, such member to be appointed by the council not less than 30 days before such election. The members shall serve without compensation. The clerk shall be chairperson. 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 council. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed, subject to state election laws.

State law reference(s)—Board of city election commissioners, MCL 168.25 et seq.

Sec. 3.12. Form of ballot.

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.

State law reference(s)—Preparation and distribution of primary ballots, MCL 168.559 et seq.; voting machines at primaries, MCL 168.574 et seq.; ballots in general elections, MCL 168.684 et seq.

Sec. 3.13. Canvass of votes.

The clerk and the members of the council 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 council 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 county clerk and the other in his own office.

Editor's note(s)—The provisions of Charter § 3.13 are superseded by MCL 168.24a et seq.

Sec. 3.14. Tie vote.

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 council 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.

State law reference(s)—Determination of winner by lot, MCL 168.851, 168.852.

Sec. 3.15. Recount.

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. of 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.

Editor's note(s)—The provisions of Charter § 3.15 are superseded by MCL 168.861 et seq.

Sec. 3.16. Recall.

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.

State law reference(s)—Recall, MCL 168.951 et seq.

CHAPTER 4. ORGANIZATION OF GOVERNMENT[3]

Sec. 4.1. The city council.

The electors of the city shall elect a city council of seven members, one of whom shall serve as mayor. The council shall constitute the legislative and governing body of the city and shall have power and authority, except as in this Charter or by statute otherwise provided, 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 "council" is used in this Charter, the same shall be synonymous with the word "commission" or any other term used in any state or federal law in referring to municipal legislative or governing bodies.

State law reference(s)—Mandatory that charter provide for election of mayor and council, MCL 117.3(a).

[3]State law reference(s)—Mandatory that charter provide for officers, MCL 117.3(a); mandatory that charter provide for the qualifications, duties, and compensation of the city's officers, MCL 117.3(d).

[Sec. 4.2.] Compensation of mayor and councilperson.

The mayor and council shall receive compensation as set by the compensation commission under Section 117.5c of the Michigan Compiled Laws [MCL 117.5c] and under a city ordinance enacted pursuant to that statute.

Such compensation shall be paid quarterly and, except as otherwise provided in this Charter, shall constitute the only compensation which may be paid the mayor and councilpersons for the discharge of any official duty for or on behalf of the city during their tenure of office. However, the mayor and councilpersons may, upon order of the council, be paid such necessary bona fide expenses incurred in service on behalf of the city as are authorized, itemized and approved by the council.

Sec. 4.4. Election of mayor; mayor pro-tem.

After election of councilmembers and upon the taking of office by new councilmembers, the council shall, at its first meeting, elect one of its members to serve as mayor and one to serve as mayor pro-tem, both for a term expiring at the time following the next regular election when the next newly elected councilmembers take office. Such election shall be by written ballot and by majority vote of the members of the council in office at the time.

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

Sec. 4.5. Duties of mayor.

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

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

(c) The mayor shall execute or authenticate by his signature such instruments as the council, this Charter or any statutes of the State of Michigan or laws of the United States shall require.

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

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

Sec. 4.6. Administrative services.

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 council 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 council for an indefinite period, shall be responsible to and serve at the pleasure of the council and shall have their compensation fixed by the council.

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 council. 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 by the council. Such officers may be discharged by the city manager at his pleasure without confirmation by the council.

Except as may be otherwise required by statute or this Charter, the council 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 of the officers of those departments responsible to him 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 has been discharged may within ten days thereafter petition the council to hear the facts regarding such discharge, and in such case the council 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.

The council may require any administrative officer or employee, if he is not resident at the time of his appointment or employment, to become a resident of the city within the time set by the council and so remain throughout his tenure of office or employment.

Sec. 4.7. Relationship of council to administrative service.

Neither the council 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 council and its members shall deal with the administrative service solely through the city manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager.

Sec. 4.8. City manager: appointment and qualifications.

The council shall appoint a city manager within 90 days after any vacancy exists in such position. The city manager shall hold office at the pleasure of a majority of the council, but he shall not be removed from office during a period of 60 days following any regular city election, except by the affirmative vote of five members of the council. He shall be selected on the basis of his executive and administrative qualifications with special reference to his training and experience.

Sec. 4.9. Acting city manager.

The council 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.

Sec. 4.10. City manager; functions and duties.

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 council 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 council, the heads of the several city departments whose appointment is not otherwise 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 council and to administer the budget as finally adopted under policies formulated by the council, and to keep the council fully advised at all times as to the financial condition and needs of the city;

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

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

(i) 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 council and to generally accepted principles and procedures of governmental accounting. He shall submit financial statements to the council quarterly, or more often as the council directs;

(j) 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 council;

(k) To perform such other duties as may be prescribed by this Charter or required of him by ordinance or by direction of the council.

Sec. 4.11. Clerk; function and duties.

(a) The clerk shall be the clerk of the council and shall attend all meetings of the council 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 council.

(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 council or by the city manager.

Sec. 4.12. Treasurer; functions and duties.

(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 money shall be turned over to the treasurer after collection or receipt, and 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 council 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 council.

(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 council or by the city manager.

Sec. 4.13. Assessor; functions and duties.

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 council or by the city manager.

Sec. 4.14. Attorney; functions and duties.

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

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

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

(d) The attorney shall call to the attention of the council 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 council.

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

Sec. 4.15. Compensation of attorney and special counsel.

The compensation of the attorney shall be set by the council. No compensation to special legal counsel shall be paid, except in accordance with an agreement between the council and the attorney for special counsel made before the service for which such compensation to be paid has been rendered.

Sec. 4.16. Deputy administrative officers.

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.

Sec. 4.17. Planning and zoning.

The council 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 commissions.

The council shall maintain a zoning ordinance in accordance with 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.

State law reference(s)—Michigan Planning Enabling Act, MCL 125.3801 et seq.; Michigan Zoning Enabling Act, MCL 125.3101 et seq.

Sec. 4.18. Independent boards and commissions.

The council may not create any board or commission, other than those provided for in this Charter, to administer any activity department or agency of the city government, except: (a) a municipal hospital, (b) a municipal cemetery, (c) recreation, or (d) any activity which by statute is required to be so administered. The council may, however, establish: (a) quasi-judicial appeal boards and (b) boards or commissions to serve solely in an advisory capacity.

CHAPTER 5. GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL OF THE CITY[4]

Sec. 5.1. Eligibility for office and employment in the city.

No person shall hold an elective office of the city unless he or she meets all of the following requirements: (a) is a citizen of the United States, (b) is at least 21 years of age, and (c) has been a resident of the State of Michigan and the City of Greenville, Michigan, for 45 days before the last day for the filing of a nominating petition for an elective office. In the case of an appointment to fill a vacancy in an elective office, the appointee must be a resident of the state and city for a period of 45 days preceding the appointment.

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 30 days after written notice thereof by the council, 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 two years prior to the date of his

[4]State law reference(s)—Mandatory that charter provide for officers, MCL 117.3(a); mandatory that charter provide for the qualifications, duties, and compensation of the city's officers, MCL 117.3(d).

appointment and shall be a qualified and registered elector of the city on such day and throughout his tenure of office.

Sec. 5.2. Vacancies in elective offices.

Any elective city office shall be declared vacant by the council 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 qualifies 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 council, if such officer shall miss four consecutive regular meetings of the council or 25 percent of such meetings in any fiscal year of the city, unless such absence shall be excused by the council and the reason therefor entered in its proceedings at the time of each absence;

(e) If the officer is removed from office by the council in accordance with provisions of section 5.4.

State law reference(s)—Events creating vacancy, MCL 201.3.

Sec. 5.3. Vacancies in boards and commissions.

The office of any member of any board or commission created by, or pursuant to, this Charter shall be declared vacant by the council 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 25 percent 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 council in accordance with the provisions of section 5.4.

State law reference(s)—Events creating vacancy, MCL 201.3.

Sec. 5.4. Removals from office.

Removals by the council 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 and (b) for any act declared by this Charter to constitute misconduct in office. Such removals by the council 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 council in office at the time, exclusive of any member whose removal may be being considered, shall be required for any such removal.

Sec. 5.5. Resignations.

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

State law reference(s)—Resignations, MCL 201.1.

Sec. 5.6. Filling vacancies in elective offices.

(a) Any vacancy within the council more than 50 days before the next regular council election shall be filled within 30 days by a majority vote of the remaining members of the council. The seat so filled by council appointment, shall be filled at the next regular council election. The councilmember so appointed to fill a vacancy shall hold office until the person elected at the next regular election takes office. Any vacancy which occurs on the council 50 days or less before the next regular council election, shall not be filled by council appointment.

(b) If any vacancy in the office of councilperson which the council is authorized to fill, is not so filled within 30 days after such vacancy occurs, or if four or more vacancies exist simultaneously in the office of councilperson, 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 elective office, no primary election shall be held; candidates shall be nominated by petitions in a manner identical to that provided in sections 3.10 to 3.13 inclusive; the names of all qualified candidates who file sufficient valid nomination petitions 30 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 5.6 shall govern.

(c) The provisions of this section 5.6 shall not apply to the filling of vacancies resulting from recall.

State law reference(s)—Vacancies in city office to be filled as provided in charter, MCL 201.37.

Sec. 5.7. Filling vacancies in appointive offices.

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

State law reference(s)—Vacancies in city office to be filled as provided in charter, MCL 201.37.

Sec. 5.8. [Repealed.]

Editor's note(s)—Charter § 5.8, pertaining to filling vacancies in the office of justice of the peace, was repealed in the election held on November 6, 1979.

Sec. 5.9. Change in term of office or compensation.

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 council 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.

State law reference(s)—Mandatory that charter provide for compensation of city officers, MCL 117.3(d).

Sec. 5.10. Oath of office and bond.

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 council. 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 council shall by resolution extend the time in which such officer may qualify.

Sec. 5.11. Surety bonds.

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 council 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 council 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 council 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 requirement 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 premiums thereon shall he 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.

Sec. 5.12. Delivery of office.

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 $500.00 or imprisonment for not to exceed 90 days, or both, in the discretion of the court.

Sec. 5.13. Pecuniary interest prohibited.

(a) Except as permitted by this section, no contract or purchase involving an amount in excess of $100.00 shall be made by the city in which any elective or appointive officer or any member of his family has any pecuniary interest, direct or indirect. A "contract" shall for the purposes of this section include any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished to the city for a valuable consideration to be paid by the city or sold or transferred by the city, except the furnishing of personal services as an officer or employee of the city; and the term "member of his family" shall include spouse, children, and the spouse of any of them.

(b) Without limiting the generality of paragraph (a) of this section an officer shall be deemed to have a pecuniary interest in a contract if he or any member of his family is an employee, partner, officer, director or sales representative of the person, firm or corporation with which such contract is made or of a sales

representative of such person, firm or corporation with which such contract is made or of a sales representative of such person, firm or corporation. Ownership, individually or in a fiduciary capacity, by an officer or member of his family, of securities, or of any beneficial interest in securities, of any corporation with which a contract is made or which is a sales representative of any person, firm or corporation with which such contract is made, shall not be deemed to create a pecuniary interest in such contract, unless the aggregate amounts of such securities, or interest in such securities, so owned by such officer and the member of his family, shall amount to ten percent of any class of the securities of such corporation then outstanding.

(c) A contract in which an officer or member of his family has a pecuniary interest may be made by the city if the members of the council in office at the time having no such interest shall by unanimous vote determine that the best interests of the city will be served by the making of such contract and if such contract is made after comparative prices are obtained.

(d) Any officer who knowingly permits the city to enter into any contract in which he has a pecuniary interest without disclosing such interest to the council prior to the action of the council in authorizing such contract, shall be guilty of misconduct in office. Except in the instances specified in paragraph (c) of this section, the unanimous determination (by vote or written instrument filed with the clerk) of the council that in a particular case an officer or member of his family will not have a pecuniary interest in a contract or purchase to be entered into by the city shall be final and conclusive in the absence of fraud or misrepresentation.

(e) No officer shall stand as security on any bond to the city or give any bail for any other person which may be required by the Charter or any ordinance of the city. Any officer of the city who violates the provisions of this paragraph shall be guilty of misconduct in office.

Editor's note(s)—The above section is superseded by MCL 15.321 et seq. See MCL 15.328.

Sec. 5.14. Anti-nepotism.

Unless the council, by unanimous vote of those councilpersons voting on the question, shall determine that the best interests of the city shall be served, the following relatives of any elective or appointive city officer or official are disqualified from holding any appointive office or employment during the term for which said elective or appointive officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister or the spouses of any of them.

Sec. 5.15. Compensation of employees and officers.

(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 council.

(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 or 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 Montcalm 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 on behalf of the city.

State law reference(s)—Mandatory that charter provide for compensation of city officers, MCL 117.3(d).

Sec. 5.16. Employee welfare benefits.

The council shall have the power to make available to the administrative officers and employees of the city and its department 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.

Sec. 5.17. Merit system.

The council may provide for a merit system for city employees.

State law reference(s)—Permissible charter provisions, MCL 117.4i(h).

CHAPTER 6. THE COUNCIL: PROCEDURE AND MISCELLANEOUS POWER AND DUTIES

Sec. 6.1. Regular meeting.

The council shall provide by resolution for the time and place of its regular meetings and shall hold at least one regular meeting each month.

Sec. 6.2. Special meetings.

Special meetings shall be called by the clerk on the written request of the mayor or any two members of the council on at least 24 hours' written notice to each member of the council, 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 council are present or have waived notice thereof in writing.

State law reference(s)—Notice of special meetings, MCL 15.265(4).

Sec. 6.3. Business at special meetings.

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

Sec. 6.4. Meetings to be public.

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

State law reference(s)—Mandatory that charter require compliance with the Open Meetings Act, MCL 117.3(l); Open Meetings Act, MCL 15.261 et seq.

Sec. 6.5. Quorum; adjournment of meeting.

A majority of the members of the council in office at the time shall be a quorum for the transaction of business at all council 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.

Sec. 6.6. Compulsory attendance and conduct at meeting.

Any two or more members of the council 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 council 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 council shall be deemed guilty of misconduct in office, unless excused by the council. The presiding officer shall enforce orderly conduct at meetings and any member of the council or other officer who shall fail to conduct himself in an orderly manner at any meeting shall be deemed guilty of misconduct in office.

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

Sec. 6.7. Organization and rules of the council.

The council 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.

State law reference(s)—Mandatory that charter provide for keeping legislative journal in English, MCL 117.3(m).

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

(c) No member of the council 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.

(d) The proceedings of the council, or a brief summary thereof, shall be published within 15 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 council.

(e) There shall be no standing committees of the council.

Sec. 6.8. Investigations.

The council, 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 council, for the purpose 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 $500.00 or imprisonment not to exceed 90 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 council may invoke the aid of the proper judicial tribunal in requiring obeyance of such summons or production of such books, papers and other evidence.

Sec. 6.9. Providing for public health and safety.

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

State law reference(s)—Mandatory that charter provides for the public peace and health and for the safety of persons and property, MCL 117.3(j); local health departments, MCL 333.2401 et seq.

CHAPTER 7. LEGISLATION[5]

Sec. 7.1. Prior city legislation.

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. If any such ordinance, resolution, rule or regulation provides for the appointment of any officers or any members of any board or commission shall, after the effective date of this Charter, be appointed by the council.

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

Sec. 7.2. Form of ordinances.

All legislation of the City of Greenville, shall be by ordinance or by resolution. The word "resolution" as used in this Charter shall be the official action of the council 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 council, 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 council shall be "The City of Greenville ordains:".

Sec. 7.3. Enactment, amendment, and repeal of ordinances.

Ordinances may be enacted, amended, or repealed by the affirmative vote of not less than four councilpersons, and, except that when an ordinance is given immediate effect, section 7.4 shall govern. Unless by the affirmative vote of five councilmen, no office shall be created or abolished, no tax or assessment be imposed,

[5]State law reference(s)—Mandatory that charter provide for adopting, continuing, amending, and repealing and publishing ordinances, MCL 117.3(k).

no street, alley, or public ground be vacated, no real estate or any interested therein be sold or disposed of, no private property be taken for public use, nor any vote of the council 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 council until two weeks 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 council.

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 reenacted 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.

Sec. 7.4. Publication and recording of ordinances.

Each ordinance shall be published within ten days after its enactment by publishing the full text thereof in a newspaper as defined in section 17.9 either separately or as part of the published council proceedings.

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.

Sec. 7.5. Effective date of ordinances.

The effective date of all ordinances shall be prescribed therein but the effective date, except in the case of emergency ordinances, shall not be less than 15 days after enactment nor before publication thereof.

Sec. 7.6. Penalties for violations of ordinances.

The council 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 $500.00 or imprisonment for 90 days, or both, in the discretion of the court.

Editor's note(s)—The provisions of Charter § 7.6 are partially superseded by MCL 117.3(k), 117.4l, 117.3m.

Sec. 7.7. Enactment of technical codes by reference.

The council 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: (i) publishing the ordinance citing such code in the 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.

Editor's note(s)—The provisions of Charter § 7.7 are superseded by MCL 117.3(k).

Sec. 7.8. Severability of ordinances.

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 applications 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.

Sec. 7.9. Compilation or codification of ordinances.

Within five years after the effective date of this Charter, the council shall direct the compilation or codification and printing in loose-leaf 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 ordinance 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.

Editor's note(s)—The provisions of Charter § 7.09 are superseded by MCL 117.5b.

Sec. 7.10. Initiative and referendum.

An ordinance may be initiated by petition, or a referendum on an ordinance enacted by the council may be had by petition, as hereinafter provided.

Sec. 7.11. Initiatory and referendary petitions.

An initiatory or a referendary petition shall be signed by not less than ten percent 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 21 days before the date of filing the petition with the clerk. Any such petition shall be addressed to the council, and may be the aggregate of two or more petition papers identical as to contents. An initiatory petition shall set forth in full the ordinance it proposed 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 the 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 15 days, canvass the signature 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 15 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 council at its next regular meeting.

Sec. 7.12. Council procedure on initiatory and referendary petition.

Upon receiving an initiatory or referendary petition from the clerk, the council shall either, within 30 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.

Sec. 7.13. Submission of initiatory and referendary ordinances to electors.

Should the council 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 council at a special election called for that specific purpose. In case of an initiatory petition, if no election is to be held in the city for any other purpose within 150 days from the time the petition is presented to the council and the council does not adopt the ordinance, then the council shall call a special election within 60 days from such time for the submission of the initiative 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.

Sec. 7.14. Ordinance suspended: miscellaneous provisions on initiatory and referendary ordinance.

The presentation to the council by the clerk of a valid and sufficient referendary petition containing a number of signatures equal to 25 percent of the registered electors of the city as of the date of the last regular city election shall automatically suspend the operation of the ordinance in question pending repeal by the council or final determination by the electors.

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 reenacted 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 the provisions of this chapter or if submitted to the electorate by the council 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. GENERAL FINANCE—BUDGET, AUDIT[6]

Sec. 8.1. Fiscal year.

The fiscal year of the city and of all its agencies shall begin on July 1st of each year and end on June 30th of the following year.

Sec. 8.2. Budget procedure.

The city manager shall prepare and submit to the council 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 explanation of all proposed expenditures for each department, office, and agency of the city, and for the council, showing the expenditures for corresponding items

[6]State law reference(s)—Revised Municipal Finance Act, MCL 141.2101 et seq.; Uniform Budgeting and Accounting Act, MCL 141.421 et seq.

for the last preceding fiscal year in full, and for the current fiscal year to March 1 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 condition 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 1, 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 appropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;

(f) Such other supporting information as the council may request.

Sec. 8.3. Budget hearing.

A public hearing on the proposed budget shall be held before its final adoption at such time and place as the council 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.

Sec. 8.4. Adoption of budget.

Not later than the second week in May of each year, the council 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 9.1.

State law reference(s)—Mandatory that charter provide for annual appropriation of money, MCL 117.3(f).

Sec. 8.5. Budget control.

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 council by resolution may transfer any unencumbered appropriation balance, or any portion thereof from one account, department, fund or agency to another.

The council 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 council, the city manager all submit to the council 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 council 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.

Sec. 8.6. Depository.

The council shall designate depositories for city funds and shall provide for the regular deposit of all city moneys. The council shall provide for such security for city deposits as is authorized or permitted by statute, except that personal surety bonds shall not be deemed proper security.

State law reference(s)—Depositories of public moneys, MCL 129.11 et seq.

Sec. 8.7. Independent audit: annual report.

An independent audit shall be made of all city amounts at least annually, and more frequently if deemed necessary by the council. Such audit shall be trade by certified public accountants experienced in municipal accounting selected by the council.

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 30 days after receipt of the audit.

CHAPTER 9. TAXATION[7]

Sec. 9.1. Power to tax; tax limit.

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 1½ percent of the assessed value of all real and personal property, subject to taxation in the city.

State law reference(s)—Permissible that charter provide for laying and collecting rents, tolls and excises, MCL 117.4i(a); mandatory that charter provide for annual tax levy not to exceed two percent of assessed value, MCL 117.3(g).

Sec. 9.2. Subjects of taxation.

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.

State law reference(s)—Mandatory that charter so provide, MCL 117.3(f), (g); taxation generally, MCL 211.1 et seq.

[7]State law reference(s)—Mandatory that charter provide for tax procedure, MCL 117.3(i).

Sec. 9.3. Exemptions.

No exemptions from taxation shall be allowed, except as expressly required or permitted by statute.

State law reference(s)—Exempt property, MCL 211.7 et seq.

Sec. 9.4. Tax day.

Subject to the exceptions provided or permitted by statute, the taxable status of persons and property shall be determined as of January 1st, which shall be deemed the tax day.

Editor's note(s)—The date for determining taxable status is December 31. See MCL 211.2(2).

Sec. 9.5. Preparation of the assessment roll.

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.

State law reference(s)—Assessment roll, MCL 211.24 et seq.

Sec. 9.6. Board of review.

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 5.1 and who during their term of office shall not be city officers or employees or be nominees or candidates for elective city office. The filing by a member of the board of review of his nomination petition for an elective city office or the filing of a consent thereto shall constitute a resignation from the board of review. The appointment of members of such board shall be based upon their knowledge and experience in property valuation. One member of the board shall be appointed by the council in January, 1957, and in each January thereafter for a term of three years, to replace the member whose term expires that year. The council shall fix the compensation of the members of the board. The board of review shall annually in February, select its own chairperson 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.

State law reference(s)—Board of review, MCL 211.28 et seq.

Sec. 9.7. Meetings of the board of review.

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 council 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. 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 council 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 in which the board resolved at its first session to consider such increase or addition at its second session.

State law reference(s)—Meetings of board of review, MCL 211.29, 211.30.

Sec. 9.8. Notice of meetings.

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.

Sec. 9.9. Duties and functions of board of review.

For the purpose of revising and correcting assessments, the board of review shall have the same powers and perform like duties in all respects as are by 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.

State law reference(s)—Functions of board of review, MCL 211.29 et seq.

Sec. 9.10. Endorsement of roll.

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.

State law reference(s)—Completion of rolls, MCL 211.30a.

Sec. 9.11. Clerk to certify tax levy.

Within three days after the council has adopted the budget for the ensuing year, the clerk shall certify to the assessor the total amount which the council 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 council requires to be assessed, reassessed or charged upon any property or against any person.

Sec. 9.12. City tax roll.

After the board of review has completed its review of the assessment roll, the assessor shall prepare a copy or 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 9.11, the assessor shall spread upon said tax roll the several amounts determined by the council to be charged, assessed or reassessed against persons or property. The 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.

State law reference(s)—Deadline for certification of levy, MCL 211.216.

Sec. 9.13. Tax roll certified for collection.

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 in 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 taxes, assessments and charges on such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. On or before June 1st the roll shall be delivered to the treasurer for collection.

Sec. 9.14. Tax lien on property.

On July 1st 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.

State law reference(s)—Tax liens, MCL 211.40.

Sec. 9.15. Taxes due: notification thereof.

City taxes shall be due on July 1st of each year. The treasurer shall not be required to call upon the persons named in the city tax roll, nor to make personal demand for the payments of taxes, but he shall: (a) publish, between June 15th and July 1st, 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 cases 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 of late payment or nonpayment of the same.

Editor's note(s)—Taxes are now due on December 31. See MCL 211.40, 211.2(2).

Sec. 9.16. Interest on late payment.

All taxes paid on or before August 31st shall be collected by the treasurer without additional charge. On September 1st he shall add to all taxes paid thereafter four percent of the amount of said taxes and on October 1st 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, shall constitute a charge, and shall be a lien against the property to which the taxes themselves apply, collectible 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 9.13 is delayed for any reason by more than 30 days after June 1st, the application of the interest charge provided herein shall be postponed 30 days for the first 30 days of such delay and shall be postponed an additional 30 days for each 30 days, or major fraction thereof, of such delay.

State law reference(s)—Interest on unpaid taxes, MCL 211.44.

Sec. 9.17. Failure or refusal to pay personal property tax.

If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him or them by October 1st, the treasurer shall collect the same by seizing the personal property of such person, firm or corporation to an amount sufficient to pay 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.

State law reference(s)—Seizure of property, MCL 211.47 et seq.

Sec. 9.18. Delinquent tax roll to county treasurer.

All city taxes on real property remaining uncollected by the treasurer on March 1st following the date when said roll was received by him shall be returned to the 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 Montcalm is no longer charged with the collection of delinquent real property taxes, delinquent taxes shall be collected in the manner provided by statute for the collection of delinquent township, school and county taxes.

State law reference(s)—Tax collections, MCL 211.44 et seq.

Sec. 9.19. State, county and school taxes.

For the purpose of assessing and collecting taxes for state, county and school purposes, the city shall be considered the same as a township, and all provisions of 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.

CHAPTER 10. BORROWING POWER[8]

Sec. 10.1. Grant of authority to borrow.

Subject to the applicable provisions of statute and this Charter, the council 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 statute and may authorize the issuance of bonds or other evidence of indebtedness therefor. Such bonds or other evidence of indebtedness shall include, but not be limited to, the following types:

[8]State law reference(s)—Permissible that charter contain provisions re: borrowing funds, MCL 117.4a et seq.; Revised Municipal Finance Act, MCL 141.2101 et seq.

(a) General obligations which pledge the full faith, credit and resources of the city for the payment of such obligations, including bonds for the city's portion of public improvements;

(b) Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided by section 8.5;

(c) In case of fire, flood or other calamity, emergency loans due in not more than five years for the relief of the 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 an obligation of the special assessment district or districts or may be both an obligation of the special assessment 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 20 years from the date of the sale of such utility and the franchise on foreclosure. A sinking fund shall be created in the event of 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; and

(h) Revenue bonds as authorized by statute which are secured only by the revenues from public improvement and do not constitute a general obligation of the city.

Sec. 10.2. Authorization of electors required.

(a) Except as provided in section 10.2(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 elections.

(b) The restriction of section 10.2(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 10.1(b), emergency bonds issued under section 10.1(c), special assessment bonds issued under section 10.1(d), refunding bonds issued under section 10.1(g) or to bonds the issuance of which cannot, by statute, be so restricted by this Charter.

(c) Only those persons who have property 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.

State law reference(s)—Referenda required on certain bond issues, MCL 117.5(e).

Sec. 10.3. Applicability of other statutory restrictions.

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 issuance, holding of such referendum and other applicable procedural requirements.

Sec. 10.4. Limits of borrowing powers.

The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percent of the assessed value 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 chapter: 10.1(b) (tax anticipation notes), 10.1(c) (emergency loans), 10.1(d) (special assessment bonds even though they are also a general obligation of the city), 10.1(e) (mortgage bonds), 10.1(f) special assessment refunding bonds), 10.1(h) (revenue bonds), and other bonds which do not constitute a general obligation of the city.

The amount of emergency loans which the council may make under the provisions of section 10.1(c) of this Charter may not exceed three-eighths of one percent 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 five percent 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 12 months in excess of one percent of such assessed value, unless authorized by a three-fifths vote of the electors voting thereon at any general or special election.

Sec. 10.5. Preparation and record of bonds.

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. 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 evidence 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.

Sec. 10.6. Unissued bonds.

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

Sec. 10.7. Deferred payment contracts.

The city may enter into installment contracts for the purchase of property or capital equipment. Each of such contracts shall not extend over a period greater than five years, nor shall the total amounts of principal payable under all such contracts exceed a sum of $10,000.00 in any one fiscal year of the city.

All such deferred payments shall be included in the budget for the year in which the installment is payable.

CHAPTER 11. SPECIAL ASSESSMENTS[9]

[9]State law reference(s)—Special assessments, MCL 117.4a, 117.4b, 117.4d, 117.5.

Sec. 11.1. General power relative to special assessments.

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

Sec. 11.2. Detailed procedure to be fixed by ordinance.

The council 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 council 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 council 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 50 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 council for any one public improvement which includes property having an area in excess of 25 percent of the total area of the city. No public improvement project shall be divided geographically for the purpose of circumventing this provision.

State law reference(s)—Special assessment notices and hearings, MCL 211.741 et seq.

Sec. 11.3. Special assessment powers.

The council shall, in the exercise of its power 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 1st 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 percent per year, subject to the right of advance payment of any such installment with interest only to the date of payment.

Sec. 11.4. Disposition of excess special assessments.

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the city if such excess is five percent or less of the assessment, but, should the assessment prove larger than necessary by more than five percent, the entire excess shall be refunded on a pro rata 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 part by such special assessment.

Sec. 11.5. Additional assessments; correction of invalid special assessments.

Additional pro rata 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 evidence of obligation issued therefor; provided that the additional pro rata assessment shall not exceed 25 percent of the assessment as originally confirmed, unless a meeting of the council 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 council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceeding 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 council vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed for such amount or the assessment as may be equitable charged against the same or as by regular mode of proceeding might have been lawfully assessed thereupon.

Sec. 11.6. Contested assessments.

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

Sec. 11.7. Collection of special assessments.

Upon the confirmation of each special assessment roll, the special assessments shall become a debt to the city from the persons to whom they are assessed and shall until paid be a lien upon the property assessed for the

amount of such 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 1st of any year shall be collected in all respects as are city taxes due on July 1st 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 9.18.

The initial special assessment installments which become due other than on July 1st shall, if unpaid for 90 days or more on May 1st of any year, be certified as delinquent to the council by the treasurer, and the council shall place such delinquent assessments on the tax roll for that year together with accrued interest to July 1st 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 1st of that year, shall be subject to the same fees and penalties as are city taxes due on that date and if uncollected on the following March 1st shall be returned to the county treasurer with unpaid taxes as provided in section 9.18.

State law reference(s)—Deferment of special assessments for certain older persons, MCL 211.761 et seq.

Sec. 11.8. Special assessment accounts.

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.

Sec. 11.9. Assessments for removal of hazards, etc.

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 council. Notice of the time at which the council 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 purposes 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 council shall prescribe, and shall be subject to the collection fees and become a lien as provided in section 11.7. Every such assessment shall also be subject to sections 11.4, 11.5 and 11.6.

Sec. 11.10. Failure to mail notice.

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 12. PURCHASES - CONTRACTS - LEASES

Sec. 12.1. Purchase and sale of property.

City manager shall be responsible for the purchase and sale of all city property, subject to the restrictions or statutes and ordinances.

Comparative prices shall be obtained for the purchase or sale in an amount not in excess of $500.00 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 $1,500.00: (a) the sale or purchase shall be approved by the council, (b) sealed bids shall be obtained and (c) the requirements of section 12.2 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 council 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 council 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 and interest therein, except by the affirmative vote of four or more members of the council.

The purchase and sale of all city property shall be subject to the provisions of section 5.13.

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

State law reference(s)—Restrictions on sale of parks and cemeteries, MCL 117.5(e).

Sec. 12.1(a). [Industrial or commercial parks.]

Section 12.1 shall not apply to land owned by the city at an industrial or commercial park development. The city council may contract for the sale of, and sell by proper conveyance, land in an industrial or commercial park, upon such terms and conditions as the council may determine are best for proper development of an industrial or commercial park.

Sec. 12.2. Contracts.

The authority to contract on behalf of the city is vested in the council 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 12.1.

Any contract or agreement in an amount of $1,500.00 or more made with forms or terms other than the standard city purchases order form, 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 any amount of $500.00 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 that is being financed by an installment contract under authority of section 10.7. 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 authority of the council, provided the city manager may amend contracts for those purchases and sales made by him under authority of section 12.1.

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 officers of the city.

Sec. 12.3. Restriction on powers to lease property.

The council 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 council for presentation to the electorate before 30 days after application therefor has been filed with the council, 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.

Sec. 12.3(a). [Airport leases.]

Section 12.3 shall not apply to land owned by the city at the Greenville Airport. In order to facilitate development of the Greenville Airport, the city council may lease airport property upon such terms and conditions as the council may determine are best for promotion and development of the airport.

CHAPTER 13. MUNICIPALLY OWNED UTILITIES

Sec. 13.1. General powers respecting utilities.

Subject to the provisions of the Constitution and statutes, 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 statutes. 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.

State law reference(s)—Charter may provide for acquisition, etc., of utilities, MCL 117.4c; authority to operate, acquire, etc., utilities, MCL 141.104; authority to acquire, operate, etc., water systems, MCL 124.251 et seq.

Sec. 13.2. Management of municipal utilities.

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.

Sec. 13.3. Rates.

The council 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.

Sec. 13.4. Utility rates and charges; collection.

The council shall provide by ordinance for the collection of all public utility rates and charges of the city. Such ordinance shall provide at least: (a) that the city shall have as security for the collection of such utility rates and charges a lien 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) that the terms and conditions under which utility services may be discontinued in case 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 [MCL 123.161 et seq.].

Sec. 13.5. Disposal of utility plants and property.

Unless approved by the affirmative vote of three-fifths of the electors voting thereon at a regular or special election, the city shall not sell, exchange, lease or in any way dispose of any property, easement, equipment, privilege or asset belonging to and appertaining to any municipality 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 vacation or abandonment of streets, as provided by statute.

Sec. 13.6. Utility finances.

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

Transactions pertaining to the ownership and operation by the city of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to, or rendered by, other city departments or agencies shall be recorded. An annual report shall be prepared to show 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 14. PUBLIC UTILITY FRANCHISES

Sec. 14.1. Franchises remain in effect.

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

Sec. 14.2. Granting of public utility franchises.

Public utility franchises and all renewals and extensions thereof and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than 30 years.

No franchise ordinance which, is not subject to revocation at the will of the council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the council for referral to the electorate before 30 days after application therefor has been filed with the council, or until a public hearing has been held thereon, or 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 council shall have first been paid to the treasurer by the grantee.

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

State law reference(s)—Franchises limited to 30 years, Mich. Const. 1963, art. VII, § 30; submission of irrevocable franchise to electors required, Mich. Const. 1963, art. VII, § 25; expenses of special elections to approve franchises to be submitted to voters, MCL 117.5(i).

Sec. 14.3. Conditions of public utility franchises.

All public utility franchises granted after the adoption of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the city, but this enumeration shall not be exclusive or impair the right of the council 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 council to be conducive to the safety, welfare and accommodation of the public.

Sec. 14.4. Regulation of rates.

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, goodwill or prospective profits.

Sec. 14.5. Use of public places by utilities.

Every public utility whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and other public places as shall arise from its use thereof and shall protect and have 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 council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

State law reference(s)—Permissible that charter provide for use of streets and other public ways, MCL 117.4h.

CHAPTER 15. [REPEALED]

Editor's note(s)—Charter chapter 15, pertaining to county supervisors was repealed at an election held November 5, 1974.

CHAPTER 16. [REPEALED]

Editor's note(s)—Charter chapter 15, pertaining to the justice court, was repealed at an election held November 5, 1974.

CHAPTER 17. MISCELLANEOUS

Sec. 17.1. City liability.

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 encumbrance 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 60 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 circumstance 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 council by the clerk and the council 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 or 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.

Editor's note(s)—Charter § 17.1 is superseded by MCL 691.1401 et seq.

Sec. 17.2. No estoppel.

No estoppel may be created against the city.

Sec. 17.3. Processes against city.

All process 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.

Sec. 17.4. Vested rights continued.

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.

Sec. 17.5. Trusts.

All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the doctrine. The council 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.

Sec. 17.6. Vacancies in appointive boards and commissions.

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.

Sec. 17.7. Quorum.

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.

Sec. 17.8. Records to be public.

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.

State law reference(s)—Mandatory that charter provide for public records, MCL 117.3(l).

Sec. 17.9. Definition of publication, mailing of notices.

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 such notice was mailed shall be prima facie evidence of such mailing.

Sec. 17.10. Sundays and holidays.

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 on the next succeeding day which is not a Sunday or legal holiday.

Sec. 17.11. [Headings.]

The chapter, section and subsection headings used in this Charter are for convenience only and shall not be considered as part of the Charter.

Sec. 17.12. Interpretations.

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 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 council, 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 "freeholder" 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 provision 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 provisions 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.

Sec. 17.13. Penalties for violations of Charter.

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 $500.00 or imprisonment for not to exceed 90 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 Sections 5.2 and 5.3.

Sec. 17.14. Amendments.

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.

Sec. 17.15. Severability of Charter provision.

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 18. SCHEDULE [DELETED][10]

[10]Editor's note(s)—Charter chapter 18 has been deleted as Charter § 18.1 provided as follows: "The purpose of this schedule chapter is to inaugurate the government of the City of Greenville 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."

CHARTER COMPARATIVE TABLE ORDINANCES

The Charter was originally adopted by vote of the people in 1956. It was amended by vote of the people on November 5, 1974 and November 6, 1979 and amendments were present in the version furnished by the city. The following table shows the location other amendments to the Charter.

Ordinance Number	Referendum Date	Section this Charter
77	2-16-1971(eff.)	Char. § 3.6

Chapter 1 GENERAL PROVISIONS

Sec. 1-1. Code designated and cited.

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

State law reference(s)—Authority to codify ordinances, MCL 117.5b.

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

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

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

Charter. The term "Charter" means the Charter of the City of Greenville, Michigan.

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

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

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

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

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

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

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

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

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

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

Gender. Words of one gender include the other genders.

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

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

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

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

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

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

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

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

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

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

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

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

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

Public acts. References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 279 of 1909 is a reference to Act No. 279 of the Public Acts of Michigan of 1909.) Any reference to a public act, whether by act number or by short title, is a reference to the act as amended.

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

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

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

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

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

Street or highway or alley. The term "street" or "highway" means the entire width subject to an easement for a public right-of-way or owned in fee by the city, county or state, of every way or place, of whatever nature, whenever any part thereof is open to the use of the public as a matter of right for purposes of public travel.

Swear. The term "swear" includes the term "affirm."

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

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

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

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

State law reference(s)—Definitions and rules of construction applicable to state statutes, MCL 8.3 et seq.

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

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

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

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

State law reference(s)—Catchlines in state statutes, MCL 8.4b.

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

(a) Unless specifically provided otherwise, the repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving provision in it.

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

State law reference(s)—Effect of repeal of state statutes, MCL 8.4 et seq.

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

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

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

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

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

Sec. 1-6. Supplementation of Code.

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

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

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

(1) Arrange the material into appropriate organizational units.

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

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

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

(5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to _____ " (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).

(6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1-7. General penalty; continuing violations.

(a) In this section the term "violation of this Code" means any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation, a civil infraction or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation, a civil infraction or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(b) In this section the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided by law or ordinance:

(1) A person convicted of a violation of this Code shall be guilty of a criminal misdemeanor and shall be punished by a fine not to exceed $500.00 or by imprisonment for a period of not more than 90 days or by both such fine and imprisonment.

(2) A person convicted of a violation of this Code that substantially corresponds to a violation of state law which is a misdemeanor for which the maximum period of imprisonment is 93 days, shall be guilty of a criminal misdemeanor and punished by a fine of not more than $500.00, imprisonment for a term of not more than 93 days, or both such fine an imprisonment.

(3) A person convicted of a violation of this Code that is a criminal misdemeanor shall pay the costs of prosecution.

(d) The sanction for a violation which is declared to be a municipal civil infraction shall be a civil fine, plus any costs, damages, expenses and other sanctions, as authorized under chapter 87 of Public Act No. 236 of 1961 (MCL 600.8701 et seq.) and other applicable laws. Except as otherwise provided by ordinance:

(1) The civil fine for a municipal civil infraction violation shall be not less than $50.00, plus costs and other sanctions, for each infraction.

(2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of an ordinance. As used in this subsection, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or ordinance committed by a person within any 12-month period and for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by an ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

a. The fine for any offense which is a first repeat offense shall be not less than $100.00, plus costs.

b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than $200.00, plus costs.

(e) Except as otherwise provided:

(1) With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(2) With respect to other violations, each violation constitutes a separate offense.

(f) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(g) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.

(Prior Code, § 12.566; Ord. No. 98-02, § 6, 3-3-1998)

State law reference(s)—Penalty for ordinance violations, MCL 117.3(k); municipal civil infractions, MCL 117.4l, 600.8701 et seq.

Sec. 1-8. Severability.

If any provision of this Code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Code that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Code are severable.

State law reference(s)—Severability of state statutes, MCL 8.5.

Sec. 1-9. Continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

State law reference(s)—Similar provisions as to state statutes, MCL 8.3u.

Sec. 1-10. Prior offenses or rights not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.

(b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

Sec. 1-11. Certain ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of any ordinance not codified in this Code:

(1) Establishing or amending the Charter.

(2) Annexing property into the city or describing the corporate limits.

(3) Deannexing property or excluding property from the city.

(4) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.

(5) Authorizing or approving any contract, deed, or agreement.

(6) Making or approving any appropriation or budget or amending same.

(7) Creating a specific fund.

(8) Providing for salaries or other employee benefits.

(9) Granting any right or franchise.

(10) Adopting or amending the comprehensive plan.

(11) Dedicating, accepting or vacating any plat or subdivision.

(12) Imposing any special assessment.

(13) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.

(14) Establishing the grade of any street or sidewalk.

(15) Levying, imposing or otherwise relating to taxes not codified in this Code.

(16) Granting a tax exemption for specific property.

(17) Rezoning property.

(18) That is temporary, although general in effect.

(19) That is special, although permanent in effect.

(20) The purpose of which has been accomplished.

(b) The ordinances or portions of ordinances designated in subsection (a) of this section continue in full force and effect to the same extent as if published at length in this Code.

Chapter 2 ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-1. Municipal civil infraction citations; place for appearance.

The place for appearance specified in a municipal civil infraction citation shall be the 64-B District Court which has jurisdiction over the City of Greenville.

(Prior Code, § 12.564; Ord. No. 98-02, § 4, 3-3-1998)

State law reference(s)—Municipal civil infractions, MCL 600.8701 et seq.

Secs. 2-2—2-20. Reserved.

ARTICLE II. CITY COUNCIL

Secs. 2-21—2-43. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

Sec. 2-44. Persons authorized to issue appearance tickets.

Unless prohibited by state law or unless otherwise provided by specific provisions of a particular city ordinance to the contrary, the following officials are empowered to issue and serve appearance tickets for violations of city ordinances which contain criminal misdemeanor penalties for violations of the ordinance involved:

(1) The city building inspector.

(2) The director of the department of public safety and any full-time officer in the department of public safety.

(3) The city code enforcement officer.

(4) The city zoning administrator.

(Prior Code, § 12.568; Ord. No. 98-02, § 8, 3-3-1998)

State law reference(s)—Appearance tickets, MCL 764.9c et seq.

Sec. 2-45. Persons authorized to issue and serve municipal civil infraction citations.

Unless prohibited by state law or unless otherwise provided by specific provisions of a particular city ordinance to the contrary, the following officials are hereby designated as the city officials authorized to issue and serve municipal civil infraction citations for violations of city ordinances which provide for a municipal civil infraction for a violation thereof:

(1) The city building inspector.

(2) The director of the department of public safety and any full-time officer in the department of public safety.

(3) The city code enforcement officer.

(4) The city zoning administrator.

(Prior Code, § 12.567; Ord. No. 98-02, § 7, 3-3-1998)

State law reference(s)—Municipal civil infractions, MCL 600.8701 et seq.

Secs. 2-46—2-63. Reserved.

ARTICLE IV. DEPARTMENTS AND AGENCIES

DIVISION 1. GENERALLY

Secs. 2-64—2-84. Reserved.

DIVISION 2. DEPARTMENT OF PUBLIC SAFETY[11]

Sec. 2-85. Established.

Pursuant to Charter sections 4.1 and 4.6 a department of public safety is hereby established.

(Prior Code, § 12.451; Ord. No. 120, § 1, 4-19-1983)

[11]State law reference(s)—Firefighters Training Council Act, MCL 29.361 et seq.; law enforcement employment standards, MCL 28.601 et seq.

Sec. 2-86. Appointment of director of public safety and fire chief; director may serve as fire chief.

(a) The director of public safety is an administrative officer of the city.

(b) The fire chief is an administrative officer of the city.

(c) Upon resolution by the council, and until rescission of that resolution, the director of public safety may also serve as the fire chief. Upon resolution by the council, and until rescission of that resolution, the director of public safety may also serve as the chief of police.

(Prior Code, §§ 12.409, 12.412, 12.455; Ord. No. 119, §§ 1, 12, 12-1-1982; Ord. No. 120, § 3, 4-19-1983)

Sec. 2-87. Appointment of officers.

(a) The director of public safety shall appoint members of the police department.

(b) The director of public safety shall appoint members of the fire department, full-time and part-time paid.

(c) Qualifications (job classifications) for all public safety department employees shall be set by the public safety director. Public safety department employees include animal control officers, public safety officers, public safety officer candidates, dispatchers, part-time firefighters, firefighters, police officers, reserve police officers and special services officers.

(Prior Code, § 12.452; Ord. No. 120, § 2, 4-19-1983)

Sec. 2-88. Rules of procedure and conduct.

The director of public safety may establish rules of procedure and conduct for all employees of the public safety department.

(Prior Code, § 12.453; Ord. No. 120, § 3, 4-19-1983)

Sec. 2-89. Duty of public safety employees.

It shall be the duty of all public safety employees to perform duties assigned to them as is required by the director of public safety.

(Prior Code, § 12.454; Ord. No. 120, § 4, 4-19-1983)

Sec. 2-90. Duty of police officers.

It shall be the duty of all city police officers to enforce the law of the state, city ordinances, and to preserve the peace and good order of the city.

(Prior Code, § 12.405; Ord. No. 119, § 5, 12-1-1982)

Sec. 2-91. Police officers constituted peace officers.

All city police officers, whether full-time officers, reserve officers, auxiliary officers or part-time officers shall be and are hereby constituted peace officers under the law of the state.

(Prior Code, § 12.406; Ord. No. 119, § 6, 12-1-1982)

Sec. 2-92. Areas served.

(a) The police department may serve areas outside the city limits as is permitted by contract and state law. The director of public safety shall be responsible for all areas and districts served by the police department.

(b) The director of public safety and the fire chief may act in all areas outside the city which the fire department serves by contract, mutual aid or state law.

(Prior Code, §§ 12.412, 12.456; Ord. No. 119, § 11, 12-1-1982; Ord. No. 119-A, § 12, 5-5-1983; Ord. No. 120, § 6, 4-19-1983)

Sec. 2-93. References to fire department.

References in any ordinance, rule or statute to the fire department shall be construed to mean the department of public safety.

(Prior Code, § 12.457; Ord. No. 120, § 7, 4-19-1983)

Sec. 2-94. References to police department.

References in any ordinance, rule or statute to the police department shall be construed to mean the department of public safety.

(Prior Code, § 12.410; Ord. No. 119, § 10, 12-1-1982; Ord. No. 119-A, 5-5-1983)

Sec. 2-95. Appointment of reserve, part-time of auxiliary officers.

The director of public safety may appoint up to 20 reserve, part-time or auxiliary police officers and may set qualifications and training standards for such officers. Any appointment of a reserve police officer by the director of public safety shall constitute an appointment of an auxiliary or part-time police officer.

(Prior Code, § 12.403; Ord. No. 119, § 3, 12-1-1982)

Sec. 2-96. Authority of reserve, auxiliary or part-time officers.

Under the supervision of the director of public safety, or under the supervision of a full-time certified police officer, reserve, auxiliary or part-time officers are granted full authority to enforce city ordinances and state law. All such officers shall have full authority to make lawful arrests under the law of the state.

(Prior Code, § 12.407)

Secs. 2-97—2-120. Reserved.

ARTICLE V. FINANCE[12]

DIVISION 1. GENERALLY

Secs. 2-121—2-138. Reserved.

DIVISION 2. ANNUAL BUDGET[13]

Sec. 2-139. City manager; responsibilities.

The city manager shall have final responsibility for the budget preparation, presentation of the budget to the city council and for control of expenditures under the city budget.

(Prior Code, § 12.301; Ord. No. 108, § 1, 7-1-1980)

Sec. 2-140. Time schedule.

During February of each calendar year the city council shall adopt an appropriate time schedule for proposal, preparation, review and adoption of the budget for the city fiscal year to begin the following July 1. After adoption of the time schedule, the budget shall be prepared and presented to the council by the city manager. Thereafter, the budget shall be revised and/or adopted by the city council, pursuant to the time schedule. Pursuant to the authority of section 14 of Public Act No. 2 of 1968 (MCL 141.434), the council shall adopt a budget for the next fiscal year. The time schedule adopted by the council pursuant to this section and statute shall supersede the "second week in May of each year" deadline stated in section 8.4 of the city Charter. However, in all other respects permitted by law, chapter 8 of the city Charter shall be followed. The annual city budget shall be adopted on or before June 27 of each year.

(Prior Code, § 12.307; Ord. No. 108, § 7, 7-1-1980; Ord. No. 108-A, 4-1-1981)

State law reference(s)—Budget hearings, MCL 141.411 et seq.

Sec. 2-141. Preparation of annual budget.

The city manager shall prepare the recommended annual budget for the ensuing fiscal year, after consultation with various city department heads and as is provided in the applicable provisions of Public Act No. 2 of 1968 (MCL 141.421 et seq.) and consistent with section 4.10(f), and chapter 8 of the city Charter.

(Prior Code, § 12.302; Ord. No. 108, § 2, 7-1-1980)

[12]State law reference(s)—Revised Municipal Finance Act, MCL 141.2101 et seq.

[13]State law reference(s)—Uniform Budgeting and Accounting Act, MCL 141.421a et seq.

Sec. 2-142. Total expenditures.

The total budgeted expenditures, including any accrued deficit in the budget, shall not exceed the total budgeted revenues, including any available unappropriated surplus.

(Prior Code, § 12.303; Ord. No. 108, § 3, 7-1-1980)

Sec. 2-143. General appropriations ordinance.

The council declines to require an annual general appropriations ordinance under section 16 of Public Act 2 of 1968 (MCL 141.436) on the basis that section 4.10(f) and chapter 8 of the city Charter are an existing appropriate method for adopting a budget.

(Prior Code, § 12.304; Ord. No. 108, § 4, 7-1-1980)

Sec. 2-144. Debts; financial obligations; expenditures.

No council person or employee of the city shall create a debt or incur a financial obligation unless the debt or obligation is permitted by law, nor shall any officer of the city incur expenditures against an appropriation account in excess of the amount appropriated by the legislative body.

(Prior Code, § 12.305; Ord. No. 108, § 5, 7-1-1980)

Secs. 2-145—2-171. Reserved.

ARTICLE VI. BOARDS AND COMMISSIONS

DIVISION 1. GENERALLY

Secs. 2-172—2-195. Reserved.

DIVISION 2. LOCAL OFFICERS COMPENSATION COMMISSION[14]

Sec. 2-196. Compensation commission; creation; authority.

A compensation commission (hereinafter "commission" or "compensation commission") which shall determine the salaries of all the city's elected officials is hereby created. This provision is enacted under the provisions of section 5c of Public Act No. 279 of 1909 (MCL 117.5c).

(Prior Code, § 12.041; Ord. No. 82, § 1, 5-9-1973)

[14]State law reference(s)—Local Officers Compensation Commission, MCL 117.5c.

Sec. 2-197. Membership; qualification; appointment.

The compensation commission shall consist of five members who must be registered voters of the city. Members shall be appointed by the mayor and confirmed by a majority of the members elected and serving in the city council.

(Prior Code, § 12.042; Ord. No. 82, § 2, 5-9-1973)

Sec. 2-198. Terms of office.

The term of office for each commissioner shall be five years. Except in the case of an appointment to fill a vacancy on the board, members shall be appointed before October 1 of the year of appointment.

(Prior Code, § 12.043; Ord. No. 82, § 3, 5-9-1973)

Sec. 2-199. Beginning date of term.

The term of each commissioner shall begin on October 1 following his appointment.

(Prior Code, § 12.044; Ord. No. 82, § 4, 5-9-1973)

Sec. 2-200. Membership; persons excluded.

No members of the legislative, judicial, or executive branch of any level of government or members of the immediate family of such member, or his employee, shall be eligible for membership in the commission.

(Prior Code, § 12.045; Ord. No. 82, § 5, 5-9-1973)

Sec. 2-201. Salaries; duties of commission.

The commission shall determine the salaries of such local elected officials, which determination shall be the salaries unless the legislative body by resolution adopted by two-thirds of the members elected to and serving on the legislative body reject them. The determinations of the commission shall be effective 30 days following their filing with the city clerk unless rejected by the legislative body. 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.

(Prior Code, § 12.046; Ord. No. 82, § 6, 5-9-1973)

Sec. 2-202. Meeting schedules; quorum; compensation.

(a) The commission shall meet in every odd-numbered year thereafter 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.

(b) A majority of the members of the commission constitute a quorum for conducting the business of the commission. The commission shall take no action or make determinations without a concurrence of a majority of the members appointed and serving on the commission. The commission shall elect a chairperson from among its members. The term "session days" means any calendar day on which the commission meets and a quorum is present.

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

(Prior Code, § 12.047; Ord. No. 82, § 7, 5-9-1973)

Sec. 2-203. Meetings to be public; notice of meetings; inspection of records.

(a) The business which the local officers compensation commission may perform shall be conducted at a public meeting of the commission held in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.). Public notice of the time, date, and place of the meeting of the commission shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(b) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq.).

Sec. 2-204. Implementation; alteration of procedures.

The city council shall implement this division by resolution. The procedure for establishing the compensation of elected officials may be changed by charter amendment or revision.

Secs. 2-205—2-231. Reserved.

DIVISION 3. HOUSING COMMISSION[15]

Sec. 2-232. Created.

Pursuant to Public Act No. 18 of the Extra Session of 1933 (MCL 125.651 et seq.), a commission is hereby created in and for the city, to be known as the "Greenville Housing Commission."

(Prior Code, § 18.001; Ord. No. 70, § 1, 4-8-1968)

Secs. 2-233—2-257. Reserved.

DIVISION 4. PLANNING COMMISSION

Sec. 2-258. Creation.

There shall be a planning commission pursuant to Public Act No. 33 of 2008, being the Michigan Planning Enabling Act (MCL 125.3801 et seq.), hereinafter referred to as the "commission" with the powers and duties as set forth herein. This division shall be officially known as the "Greenville Planning Commission Ordinance."

(Ord. No. 09-03, § 101, 9-1-2009)

[15]State law reference(s)—Housing commissions, MCL 125.651 et seq.

Sec. 2-259. Membership: appointment and terms.

(a) The commission shall consist of nine members. One member shall be a member of the city council who shall be an ex officio member. To be qualified to be a member and remain a member of the commission, the individual shall meet the following qualifications:

(1) Shall be a qualified elector of the city, except that one member may be a nonqualified elector who lives outside the boundaries of the city.

(2) Shall not be an employee of the city, except as allowed by this section.

(b) Members shall be appointed for three-year terms. However, when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of one-third of all commission members will expire each year.

(c) If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of one-third of all commission members continue to expire each year. A member shall hold office until his successor is appointed.

(d) An ex officio member of the planning commission shall not serve as the chairperson of the planning commission.

(e) Removal from office. Repeated failure to attend commission meetings shall be considered nonfeasance in office within the meaning of section 15 of Public Act No. 33 of 2008 (MCL 125.3815).

(Ord. No. 09-03, § 102, 9-1-2009)

Sec. 2-260. Meetings.

(a) Regular meetings of the commission shall be held twice monthly as necessary. A majority of the commission shall constitute a quorum for the transaction of the ordinary business of said commission.

(b) An affirmative vote of the majority of the commissioners present, provided there is a quorum, shall be required for the approval of any requested action or motion placed before the commission.

(c) The affirmative vote of the majority of the total number of seats for members of the commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a master plan.

(Ord. No. 09-03, § 103, 9-1-2009)

Sec. 2-261. Powers and duties.

The commission shall have their powers and duties as set forth in Public Act No. 33 of 2008, being the Michigan Planning Enabling Act (MCL 125.3801 et seq.) and Public Act No. 110 of 2006, being the Michigan Zoning Enabling Act (MCL 125.3101 et seq.). In addition, duties shall include the following:

(1) Taking such action on petitions, staff proposals and city council requests for amendments to the zoning ordinance as required.

(2) Taking such action on petitions, staff proposals and city council requests for amendments to the master plan as required.

(3) Reviewing subdivision and condominium proposals and recommending appropriate actions to the city council.

(4) Preparing special studies and plans, as deemed necessary by the planning commission or city council and for which appropriations of funds have been approved by the city council, as needed.

(5) Attending training sessions, conferences, or meetings as needed and as recommended by city staff, the city council, mayor or the chair of the commission to properly fulfill the duties of a planning commissioner and for which appropriations of funds have been approved by the city council, as needed.

(Ord. No. 09-03, § 104, 9-1-2009)

Sec. 2-262. Staff.

(a) The commission may recommend to the city council a planning director, planning consultant, or other planning staff within the budget provided for this purpose.

(b) The appointment of the planning director, planning consultant, and other such employees shall be subject to the same provisions of law, employment policies, employee roster, employee or union contracts, if any, as govern other employees of the city.

(Ord. No. 09-03, § 105, 9-1-2009)

Chapter 4 ALCOHOLIC LIQUOR[16]

Sec. 4-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcohol means the product by distillation or fermented liquid, whether rectified or diluted with water or not, whatever may be the origin thereof. It does not mean ethyl and/or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes.

Alcoholic liquor means and includes beer, wine or any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented and by whatever name called, containing one-half of one percent or more of alcohol by volume, which are fit for use for beverage purposes.

Beer means any beverage obtained by alcoholic fermentation of any infusion or decoction of barley, malt, hops and/or other cereal in potable water.

Spirits means any beverage which contains alcohol obtained by distillation, mixed with potable water and other substances in solution and includes among other things, wine containing an alcoholic content of over 21 percent by volume, except sacramental wine and mixed spirit drink.

Vendor means a person licensed by the State of Michigan Liquor Control Commission to sell alcoholic liquor.

Wine means the product made by the normal alcoholic fermentation of the juice of grapes or any other fruit with the usual cellar treatment, and containing not more than 21 percent of alcohol by volume. The term "wine" shall include fermented fruit juices other than grapes and mixed wine drinks.

(Prior Code, § 20.851; Ord. No. 114, § 1, 8-6-1981)

[16]State law reference(s)—Michigan Liquor Control Code of 1998, MCL 436.1 et seq.

Sec. 4-2. License required; state law.

No person shall do or engage in any act relating to traffic in alcoholic liquors for which a license is required under the laws of the state, without first obtaining a license therefor pursuant to and under the laws of the state. No person, directly or indirectly, himself or by his clerk, agent or employee shall manufacture for sale, sell, offer or keep for sale, barter, furnish or import, import for sale, transport for hire or transport, or possess any beer, wine, spirits and/or alcoholic liquor unless such person shall have fully complied with the laws of the state and/or the rules and regulations of the state liquor control commission.

(Prior Code, § 20.852; Ord. No. 114, § 2, 8-6-1981)

State law reference(s)—State licenses, MCL 436.1501 et seq.

Sec. 4-3. Vendors; state law, compliance required.

No license under the laws of the state shall sell at wholesale or retail, give away or furnish any alcoholic liquor on any day or at any hour or time not permitted under the laws of the state or the rules and regulations of the state liquor control commission.

(Prior Code, § 20.853; Ord. No. 114, § 3, 8-6-1981)

Sec. 4-4. Vendors; sales, food, gratuities; prohibitions.

No regulation shall be made by any vendor requiring the purchase or serving of food with the purchase of any alcoholic liquor, nor shall any food of any kind be given away in connection with the sale of alcoholic liquor.

(Prior Code, § 20.854; Ord. No. 114, § 4, 8-6-1981)

Sec. 4-5. Alcoholic liquor for consumption on premises.

Except as authorized by state law, and as permitted within Social District Commons Areas created pursuant to Public Act 24 of 2020, alcoholic liquor sold by vendors for consumption on premises shall not be removed therefrom. Any violation of this section is a misdemeanor punishable by up to 93 days of incarceration and a $500.00 fine as well as the cost of prosecution, not less than $500.00, but not to exceed $1,000.00, and immediate revocation of such businesses license to do business within the City of Greenville.

(Prior Code, § 20.855; Ord. No. 114, § 5, 8-6-1981; Ord. No. 21-01 , § 1, 5-4-2021)

State law reference(s)—Removal of wine bottles from restaurants, MCL 436.2021.

Sec. 4-6. Gifts, sales to intoxicated person.

No vendor shall give away any alcoholic liquor of any kind or description at any time in connection with his business. No vendor shall sell any alcoholic liquor to any person in an intoxicated condition. A vendor who violates this section shall be guilty of a misdemeanor.

(Prior Code, § 20.856; Ord. No. 114, § 6, 8-6-1981; Ord. No. 21-01 , § 1, 5-4-2021)

State law reference(s)—Similar provisions, MCL 436.1707.

Sec. 4-7. Public ways, places; consumption, open receptacles prohibited.

No alcoholic liquor shall be consumed on or in any public highway, alley, sidewalk, waterway, cemetery school grounds, and any person, regardless of age, who shall be found in or upon any such public place having in his possession an open receptacle or container containing any alcoholic beverage shall be deemed guilty of a violation of this section, except as permitted within Social District Commons Areas created pursuant to Public Act 24 of 2020. Any violation of this section is misdemeanor punishable by up to 93 days of incarceration and a $500.00 fine as well as the cost of prosecution, not less than $500.00, but not to exceed $1,000.00, and immediate revocation of such businesses license to do business within the City of Greenville.

(Prior Code, § 20.862; Ord. No. 114, § 12, 8-6-1981; Ord. No. 21-01 , § 1, 5-4-2021)

Sec. 4-8. Park areas; vehicles; liquor; description and definitions.

(a) No person shall, in Miller Park or in Weitzel Park, or in any street, sidewalk, or parking area open to the general public, have in his possession any alcoholic liquor in a container which is open, uncapped or upon which the seal is broken, unless such areas fall within Social District Commons Areas created pursuant to Public Act 24 of 2020. Any violation of this section is a misdemeanor punishable by up to 93 days of incarceration and a $500.00 fine as well as the cost of prosecution, not less than $500.00, but not to exceed $1,000.00, and immediate revocation of such businesses license to do business within the City of Greenville.

(b) Miller Park is defined as: Lot 63 of Assessor Grosvenor's Addition No. 2 to the City of Greenville, according to the recorded plat thereof. Weitzel Park is defined as: The South 16 feet of Lot 18, Block 2, Manning Rutan's Plat of the Village (now City) of Greenville.

(Prior Code, § 20.313; Ord. No. 145, § 3, 2-4-1994; Ord. No. 21-01 , § 1, 5-4-2021)

Sec. 4-9. Sale of alcoholic liquor to minors.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Corrective action means action taken by a licensee or a clerk, agent, or employee of a licensee designed to prevent a minor from further possessing or consuming alcoholic liquor on the licensed premises. The term "corrective action" includes, but is not limited to, contacting a law enforcement agency and ejecting the minor and any other person suspected of aiding and abetting the minor.

Diligent inquiry means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official state operator's or chauffeur's license, an official state personal identification card, or any other bona fide picture identification which establishes the identity and age of the person.

Minor means a person who is less than 21 years of age.

(b) Alcoholic liquor shall not be sold or furnished to a minor. A person who knowingly sells or furnishes alcoholic liquor to a minor, or who fails to make diligent inquiry as to whether the person is a minor, is guilty of a misdemeanor. A suitable sign describing the content of this section and the penalties for its violation shall be posted in a conspicuous place in each room where alcoholic liquor is sold. The signs shall be approved and furnished by the state liquor control commission.

(c) If a violation occurs in an establishment that is licensed by the liquor control commission for consumption of alcoholic liquor on the licensed premises, a person who is a licensee or the clerk, agent, or employee of a licensee shall not be charged with a violation of subsection (b) of this section unless the licensee or the clerk, agent, or employee of the licensee knew or should have reasonably known with the exercise of due diligence

that a person less than 21 years of age possessed or consumed alcoholic liquor on the licensed premises and the licensee or clerk, agent, or employee of the licensee failed to take immediate corrective action.

(d) If the enforcing agency involved in the violation is the state police or a local police agency, a licensee shall not be charged with a violation of subsection (b) of this section unless all of the following occur, if applicable:

(1) Enforcement action under section 4-10 is taken against the minor who purchased or attempted to purchase, consumed or attempted to consume, or possessed or attempted to possess alcoholic liquor.

(2) Enforcement action is taken under this section against the person 21 years of age or older who is not the retail licensee or the retail licensee's clerk, agent, or employee who sold or furnished the alcoholic liquor to the minor.

(3) Enforcement action is taken under this section against the clerk, agent, or employee who sold or furnished the alcoholic liquor to the minor.

(e) Subsection (d) of this section does not apply if the minor against whom enforcement action is taken under section 4-10, the clerk, agent, or employee of the licensee who directly sold or furnished alcoholic liquor to the minor, or the person 21 years of age or older who sold or furnished alcoholic liquor to the minor is not alive or is not present in this state at the time the licensee is charged. Subsection (d)(1) of this section does not apply under either of the following circumstances:

(1) The violation of subsection (d)(1) of this section is the result of an undercover operation in which the minor purchased or received 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.

(2) The violation of subsection (d)(1) of this section is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action.

(f) Any initial or contemporaneous purchase or receipt of alcoholic liquor by the minor under subsection (e)(1) or (e)(2) of this section must have been under the direction of the state police, the commission, or the local police agency and must have been part of the undercover operation.

(g) If a minor participates in an undercover operation in which the minor is to purchase or receive alcoholic liquor under the supervision of a law enforcement agency, his parents or legal guardian shall consent to the participation if that person is less than 18 years of age.

(h) In an action for the violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a minor, a motor vehicle operator's or chauffeur's license, a military identification card, or other bona fide documentary evidence of the age and identity of that person, shall be a defense to an action brought under this section.

(Prior Code, § 20.311(D); Ord. No. 145, § 1, 2-4-1994)

State law reference(s)—Similar provisions, MCL 436.1701.

Sec. 4-10. Purchase, consumption, or possession of alcoholic liquor by minor.

(a) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. A minor who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions:

(1) For the first violation, a fine of not more than $100.00, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in

section 6107 of the Public Health Code (MCL 333.6107) and designated by the state administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his own expense as described in subsection (d) of this section.

(2) For a violation of this subsection following a prior conviction or juvenile adjudication for a violation of this subsection, section 33b(1) of former Public Act No. 8 of 1933 (Ex. Sess.) or a local ordinance substantially corresponding to this subsection or section 33b(1) of former Public Act No. 8 1933 (Ex. Sess.), by imprisonment for not more than 30 days, but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than $200.00, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the Public Health Code (MCL 333.6107) and designated by the state administrator of substance abuse services, to perform community service and to undergo substance abuse screening and assessment at his own expense as described in subsection (d) of this section.

(3) For a violation of this subsection following two or more prior convictions or juvenile adjudications for a violation of this subsection (a), section 33b(1) of former Public Act No. 8 of 1933 (Ex. Sess.), or a local ordinance substantially corresponding to this subsection (a) or section 33b(1) of former Public Act No. 8 of 1933 (Ex. Sess.), by imprisonment for not more than 60 days, but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than $500.00, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the Public Health Code (MCL 333.6107) and designated by the state administrator of substance abuse services, to perform community service and to undergo substance abuse screening and assessment at his own expense as described in subsection (d) of this section.

(b) A person who furnishes fraudulent identification to a minor, or notwithstanding subsection (a) of this section, a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(c) When an individual who has not previously been convicted of or received a juvenile adjudication for a violation of subsection (a) of this section pleads guilty to a violation of subsection (a) of this section or offers a plea of admission in a juvenile delinquency proceeding for a violation of subsection (a) of this section, the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that include, but are not limited to, the sanctions set forth in subsection (a)(1) of this section, payment of the costs including minimum state cost as provided for in section 18m of chapter XIIA of the Probate Code of 1939 (MCL 712A.18m), and section 1j of chapter IX of the Code of Criminal Procedure (MCL 769.1j), and the costs of probation as prescribed in section 3 of chapter XI of the Code of Criminal Procedure (MCL 771.3). Upon violation of a term or condition of probation or upon a finding that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions or juvenile adjudications under subsections (a)(1) and (a)(3) of this section. There may be only one discharge and dismissal under this subsection as to an individual.

(d) The court may order the person convicted of violating subsection (a) of this section to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the Public Health Code (MCL 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. The court may order a person subject to a conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (a) of this section to submit to a random or regular preliminary chemical breath analysis. In the case of a minor under 18 years of age not emancipated under Public Act No. 293 of 1968 (MCL 722.1 et seq.), the parent, guardian, or custodian may request a random or regular preliminary chemical breath analysis as part of the probation.

(e) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content 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 minor has consumed or possessed alcoholic liquor or had any bodily alcohol content. A minor who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00.

(f) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under Public Act No. 293 of 1968 (MCL 722.1 et seq.) allegedly consumed, possessed, purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (a) of this section, 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 subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (a) of this section is less than 18 years of age and not emancipated under 1 Public Act No. 293 of 1968 (MCL 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 an individual less than 17 years of age is incarcerated for violating subsection (a) of this section, his parents or legal guardian shall be notified immediately as provided in this subsection.

(g) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his employment if employed by a person licensed by Michigan Liquor Control Code of 1998 (MCL 436.1101 et seq.), by the state liquor control commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his personal consumption.

(h) This section does not limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this Act.

(i) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary 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 requirement of the course.

(j) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this section.

(k) Subsection (a) of this section does not apply to a minor who participates in either or both of the following:

(1) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(2) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.

(l) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (a) of this section, section 801(2) of the Liquor Control Code of 1998 (MCL 436.1801(1)), or section 38-391(a).

(m) In a criminal prosecution for the violation of subsection (a) of this section concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Any bodily alcohol content means either of the following:

(1) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

Minor means a person who is less than 21 years of age.

(Prior Code, § 20.311(F), (G); Ord. No. 145, § 1, 2-4-1994)

State law reference(s)—Similar provisions, MCL 436.1703.

Chapter 6 ANIMALS[17]

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

For the purpose of this chapter, the following words and phrases are defined and shall be construed as hereinafter set out unless it shall be apparent for the context where a different meaning is intended:

Animal shall mean any animal, including without limitation any cat, dog, poultry, birds, reptile, fish or any other creature, of any age.

Animal control officer means the designated animal control officer of Montcalm County, Michigan.

[17]Editor's note(s)—Ord. No. 18-01 , § I, adopted Aug. 21, 2018, repealed the former Ch. 6, §§ 6-1, 6-2, 6-23—6-31, and enacted a new Ch. 6 as set out herein. The former Ch. 6 pertained to similar subject matter and derived from Prior Code, §§ 35.788, 35.789, 35.792, 35.793; Ord. No. 79, §§ 7, 8, 11, 12, adopted Sept. 22, 1971; Ord. No. 79-A, adopted May 15, 1978; Ord. No. 79-B, adopted Aug. 22, 1978; Ord. No. 79A, adopted Dec. 7, 1999; and Ord. No. 10-02, § 1(20.1170—20.1178), adopted July 20, 2010.

State law reference(s)—Authority to adopt animal control ordinance, MCL 287.290.

Animal shelter means any animal shelter maintained by the city, the county humane society or the county.

At large means off the premises of the owner and not under control of the owner, a member of the owner's immediate family, or other individual designated by the owner by leash, cord, chain, or other restraint not over six feet in length or by a leash up to 25 feet in length which is attached to a retracting mechanism held by the owner, a member of the owner's immediate family, or other individual designated by the owner. Electronic controls are not adequate restraints for purposes of this chapter.

Impounded shall mean having been received into the custody of an animal shelter or into custody of any authorized agent or representative thereof.

Kennel shall mean any lot, building, structure or premises whereon or wherein more than three dogs or cats over two months old are kept or maintained for any purpose.

Owner shall mean any person having a right or property in a dog or other animal or who harbors a dog or other animal or has a dog or other animal in his/her care or who permits a dog to remain on or about the property or premises occupied by such person.

Police officer shall mean any person employed by the city or by the state or any municipality, county or township, and whose duty it is to preserve the peace, to make arrests or to enforce the law.

Dangerous or vicious or fierce or ferocious dog shall mean a dog or other animal who bites or attacks a person, or a dog who bites or attacks and causes serious injury or death to another dog or animal while the other dog or other animal is on the property or under the control of its owner. However, a dangerous, vicious, fierce or ferocious animal does not include any of the following: an animal who bites or attacks a person who is knowingly trespassing on the property of the animal's owner; an animal who bites or attacks a person who provokes or torments the animal; or an animal who is responding in a manner an ordinary and reasonable person would conclude was designed to protect a person if the person is engaged in a lawful activity or is the subject of an assault or in self-defense or in the defense of another.

(Ord. No. 18-01 , § I, 8-21-2018)

State law reference(s)—Dangerous animals, MCL 287.321—287.323.

Sec. 6-2. Applicability of chapter.

This chapter shall not be applicable to seeing eye dogs for the blind, or other service dogs, or other dogs fully trained to assist disabled or physically challenged persons.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-3. Rules of construction.

For the purpose of this chapter, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section. Unless the context clearly indicates to the contrary:

(a) Words used in the present tense include the future tense;

(b) Words used in the singular number include the plural; and words used in the plural number include the singular;

(c) The word "herein" means this chapter;

(d) The word " regulation" means the regulations of this chapter;

(e) The words "this chapter" shall mean "the chapter illustrations, text, tables, maps and schedules included herein, as enacted or subsequently amended;"

(f) The term "shall" is always mandatory;

(g) Lists of examples prefaced by "including the following," "such as," or other similar preface shall not be construed as exclusive and shall not preclude an interpretation of the list including other similar examples which are not expressly mentioned;

(h) The term "building," "structure," " premises" or any similar term, shall be interpreted to include any part of the building, structure, premises or other similar term unless otherwise stated;

(i) The "city council," "zoning board of appeals," and "planning commission" are respectively the city council, zoning boards of appeals, and planning commission of the City of Greenville.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-4. Running at large prohibited.

It shall be unlawful for any owner to permit or allow any dog to be at large at any place within the limits of the city, except in an area designated and posted for unleashed use. The owner of any dog found at large shall be guilty of a violation of this section.

(Ord. No. 18-01 , § I, 8-21-2018)

State law reference(s)—Animals running at large, MCL 433.11 et seq.; livestock running at large, MCL 433.51 et seq.

Sec. 6-5. Prohibitions on harboring and keeping of animals.

(a) It shall be unlawful for any owner to keep, harbor or have charge of any animal whether licensed or unlicensed when any one or more of the following facts exist:

(1) Any animal has a dangerous, vicious, fierce or ferocious disposition, shows vicious habits and has molested any person lawfully in or upon any public street or place, and every dog shall be deemed dangerous, vicious, fierce or ferocious who shall run after, chase, or bite or attempt to run after or attempt to bite any person;

(2) Such animal has attacked or bitten any person or animal, or has destroyed any property or domestic animal;

(3) Any animal by destruction of property or trespassing upon the property of others has become a nuisance in the vicinity where kept, provided any complaint based upon this fact shall be made by not less than two persons from two separate households in the vicinity where the animal is kept;

(4) Any dog, by loud barking, howling or yelping has become a nuisance in the vicinity where kept, provided any complaint on this fact shall be made by not less than two persons in two separate households in the vicinity where the dog is kept;

(5) Any animal, unless it is under the care of a licensed veterinarian for the condition, appears to be suffering from rabies, mange or other infectious or dangerous disease;

(6) Any animal has been deprived of proper food, drink, shelter or protection from the weather by a structure consisting of at least three sides and a roof, or has been cruelly beaten, tortured, tormented or mutilated.

(b) If any one or more of the above facts shall exist it shall be the duty of the owner to forthwith deliver such animal to the animal control officer on demand, a complaint shall be filed in the district court of the county and the district court shall thereupon issue a summons to the owner of such animal to show cause why the animal should not be killed or otherwise disposed of as ordered by the court. Upon a hearing, the district court judge, upon finding one or more of the facts as set forth in this section exists, shall order such animal to be killed or otherwise disposed of as ordered by the court. Any owner refusing to obey such order shall be punished as provided in section 6-12(e).

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-6. Keeping of dogs and cats.

Please reference chapter 46, section 46-92 of this Code of Ordinances. A violation of this provision is a nuisance per se.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-7. Animals prohibited in parks, beaches and public places.

No person owning or having possession, charge, custody or control of any animal shall allow such animal to be in any park or on any beach or any public place under the control of the city at any time where such park, beach or public place is, pursuant to a resolution of the city council, posted "No Pet Allowed," "No Dogs Allowed," or "No Animals Allowed" or with a sign using universal symbols to communicate the same.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-8. Taking up stray animals.

(a) Any person finding any stray domestic animal or any such animal found running at large contrary to the provisions of this chapter may take up such animal; provided, however, the persons taking up such animal shall, within 12 hours thereafter or within two hours thereafter if such animal is attached to a vehicle, give notice to the police department or to some police officer of the fact he/she has such animal in his/her possession, and shall furnish thereto a description of such animal and a statement of the place where he/she found and where he/she has confined the animal.

(b) Any person taking up any such stray domestic animal found running at large contrary to the provisions of this article shall surrender such animal to the animal control officer upon demand thereof.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-9. Damaging property or injuring by animals on a leash.

(a) It shall be unlawful for any person having control of any dog on a leash to allow the dog to defecate on or upon any premises other than his/her own unless the person shall clean up any feces deposited by the animal.

(b) It shall be unlawful for any person having control of any dog on a leash to allow the dog to damage property.

(c) It shall be unlawful for any person having control of any dog on a leash to allow the dog to injure any person.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-10. Treatment and quarantine of biting animal and exposed animal.

(a) The police department or animal control officer upon receiving notification from the owner, victim, director of the county health department, physician or any other person, an animal is involved in a biting incident, shall order the quarantining of the animal causing the bite. Upon issuing an order for quarantine the rules provided for in this section for quarantine shall be enforced and every person having actual or constructive knowledge of the order, shall obey all requirements of the quarantine.

(b) Every animal who bites a human or other animal shall be immediately confined by the owner, who shall promptly notify the police department or animal control officer of the place where the animal is confined and the reason for the confinement. The owner shall not permit the animal to come in contact with any other person or animal. The owner shall surrender possession of the animal to the animal control officer on demand for supervised quarantine. Supervised quarantine shall be in the animal shelter, a veterinary hospital or by any other method of adequate confinement approved by the animal control officer. The quarantine period shall be for not less than ten days immediately following the time of the biting incident. A release from quarantine may be issued if signs of rabies have not been observed during the quarantine period. Any costs of such quarantine shall be the responsibility of the owner.

(c) If the animal control officer orders quarantine other than in the animal shelter or veterinary hospital, the owner shall be responsible for confining the animal as designated by the animal control officer so as to prevent further exposure to humans or animals during the quarantine period.

(d) All animal bite reports shall be investigated by the police department or animal control officer. Without permission of the animal control officer, a person shall not kill or remove from the county limits an animal who has bitten a human or other animal, or who has been placed under quarantine, except when it is necessary to kill the animal to protect a person or other animal.

(e) The animal control officer shall direct the disposition of any animal found to be or suspected of being rabid.

(f) An animal exposed to rabies shall be handled in one of the following methods:

    (1) Humane destruction with notification to, or under supervision of the animal control officer;

    (2) If the animal is not currently vaccinated, quarantine in a veterinary hospital or at the animal shelter for at least six months, immediately following the date of exposure;

    (3) If the animal is currently vaccinated, immediate revaccination and quarantine for at least 30 days immediately following the date of exposure;

    (4) A person shall not fail or refuse to surrender an animal for supervised quarantine or humane destruction as required herein for rabies control when demand thereof is made by the animal control officer; or

    (5) A person having possession of or responsibility for a quarantined animal shall immediately notify the police department or the animal control officer if the animal escapes, or becomes or appears to become sick, or dies, and in case of death of the animal while under quarantine, the person shall immediately surrender the dead body to the animal control officer for diagnostic purposes.

(g) A person who owns an animal has been placed under quarantine for biting a person and is found running free during this quarantine period, shall be guilty of a misdemeanor.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-11. Resisting officers.

No person shall hinder, resist or oppose the animal control officer or any police officer in the performance of their duties under this chapter, or conceal or secrete any animal from any such officer or person, authorized to enforce the provisions of this chapter.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-12. Penalty.

(a) Unless a section in this chapter specifically provides otherwise, a first violation of any provision of this chapter, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than $100.00.

(b) Unless a section in this chapter specifically provides otherwise, a second violation of any provision of this chapter, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than $200.00.

(c) Unless a section in this chapter specifically provides otherwise, a third violation of any provision of this chapter, by any person, is a municipal civil infraction which shall, upon a determination of responsibility, be punishable by a fine of not less than $300.00.

(d) In addition to a fine, a person determined to be responsible for a municipal civil infraction under this chapter shall be assessed the cost of prosecution of not less than $500.00 but not to exceed $1,000.00.

(e) The fourth and any subsequent violation of any provision of this chapter, by any person, is a misdemeanor which shall, upon conviction, be punishable by up to 93 days of incarceration and a $500.00 fine as well as the cost of prosecution of not less than $500.00 but not to exceed $1,000.00.

(f) In addition to the penalties provided by this section, the district court shall have equitable jurisdiction to enforce any judgment, writ, or order necessary to enforce any provision, the violation of which is a municipal civil infraction, including, but not limited to, abatement of the violating condition or the granting of any injunctive relief.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-13. Animal excrement.

(a) No person shall allow any animal under his/her ownership or control to leave its excrement on any private or public property unless the excrement is promptly and thoroughly removed from the property. Provided, however, a person may fail to remove the excrement from private property which the person owns or in which he/she has a lawful possessory interest.

(b) It shall be unlawful for any person to appear with any animal on any private or public property unless the person has in his/her possession an appropriate device for the immediate and thorough removal of any animal excrement. Provided, however, the owner or lawful occupant of a vacant parcel of real property or a parcel of real property on which there is located a single-family residence, may appear on his or her property with an animal without possessing such a device.

(c) Penalty.

(1) A violation of this provision shall constitute a municipal civil infraction which, upon an admission or finding of responsibility, shall result in a fine of not less than $50.00;

(2) A second violation of this provision within two years shall constitute a municipal civil infraction which, upon an admission or finding of responsibility, shall result in a fine of not less than $100.00;

(3) A third violation of this provision within two years of the first such violation shall constitute a municipal civil infraction which upon an admission or finding of responsibility shall result in a fine of not less than $300.00;

(4) A fourth and any subsequent violation of this provision within two years of the first such violation shall constitute a misdemeanor which shall, upon conviction, be punishable by up to 93 days of incarceration and a $500.00 fine as well as the cost of prosecution of not less than $500.00 but not to exceed $1,000.00.

(5) In addition to the penalties provided by this section, the district court shall have equitable jurisdiction to enforce any judgment, writ, or order necessary to enforce any provision, the violation of which is a municipal civil infraction, including, but not limited to, abatement of the violating condition or the granting of any injunctive relief.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-14. Cruelty to animals.

(a) The following words, terms, and phrases, when used in this chapter, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Domestic animal means a dog, cat, fowl, horse, cow, mule, donkey, swine, goat, or any other type of animal kept and maintained as a domestic pet.

Fowl means chickens, geese, ducks, turkeys, guinea hens, pheasants, and similar birds whose flesh or eggs are commonly consumed by humans.

Own, owned, or *owner* means a person who has continuous possession of or a property right in an animal. Permitting or suffering an animal to remain on one's premises for 14 days or more will establish a presumption of ownership in the tenant or possessor of the premises.

(b) No person will:

(1) Beat, ill-treat, torment, overload, overwork, or starve any domestic animal or animals;

(2) Leave any domestic animal owned by them without sufficient housing or without protection from the weather, heat, cold or the elements;

(3) Leave a domestic animal confined in a vehicle without a human;

(4) Leave a domestic animal confined without sufficient means of food and water;

(5) Own or possess a dog unless the dog is licensed in accordance with the veterinary care when such care is needed to prevent suffering;

(6) Fail or neglect to provide any domestic animal owned by them with veterinary care when such care is needed to prevent suffering;

(7) Abandon an animal owned by them;

(8) Chain or tie an animal in a manner contrary to subsection (b)(2) of this section;

(9) Keep a domestic animal in such a place or condition as to leave the animal surrounded by animal feces;

(10) Being the owner of a domestic animal, fail to keep their yard and house free and clear of unreasonable amounts of or number of piles of animal feces or waste;

(11) Being the owner of a domestic animal, suffer or permit animal feces or waste to accumulate in his house or yard to an extent, which the odor thereof causes an order disturbance to neighboring tenants or landowners;

(12) Fail to provide their domestic animal or animals with sufficient good and wholesome food and water;

(13) Fail to remove or clean up any dog or cat feces or solid waste dropped or deposited by the animal owned by them:

(c) A housing facility for domestic animals will be structurally sound, maintained in good repair and will protect the animal or animals from injury and the elements. Such a facility will be large enough to reasonably accommodate the animal or animals and will restrict the entrance of other animals. A violation of subsection (b)(2) of this section will be presumed if the subject animal or animals housing does not conform to the requirements of this subsection. If a dog house with a chain or rope is used to house an animal or animals, or if a chain or rope is used to hold an animal or animals, the chain or rope will be so placed as to avoid entanglement with other animals or other objects. A chain or rope must:

(1) Be of a type commonly used for the size of the animal or animals being kept and will be attached to a well-fitted animal collar; and

(2) Be of such length and construction to allow the animal or animals to exercise and convenient access to the animal or animals house - such as a doghouse.

(d) This section will be enforced by the animal control officer or officers as referenced in section 6-11.

(e) The animal control officer or officer will immediately remove any animal found to be suffering from any form of animal cruelty.

(f) Any violation of section is punishable by up to 93 days of incarceration and a $500.00 fine as well as the cost of prosecution of not less than $500.00 but not to exceed $1,000.00, and immediately surrender of all the owners animals - whether abused or not.

(g) Section 6-14, Cruelty to animals, will be retroactively enforced to the date of August 21, 2018.

(Ord. No. 20-02 , § 1, 11-3-2020)

Secs. 6-15—6-19. Reserved.

ARTICLE II. DOGS[18]

Sec. 6-20. Dog runs.

It shall be unlawful for any person who owns or harbors a dog to keep the dog in any run, pen, chain, rope or any other outside enclosure when any one or more of the following facts exist:

(a) Such dog is kept within 20 feet of any occupied dwelling other than the owner's, unless the dog is kept loose within a completely enclosed yard rather than a run, pen or on a chain or rope;

(b) Such pen, run, enclosure or area where dog is kept has not been properly cleaned and is in an unsanitary condition and is causing offensive odors in the area where dog is kept.

[18]State law reference(s)—Dog Law, MCL 287.261 et seq.

(c) Penalty.

(1) A violation of this provision shall constitute a municipal civil infraction which, upon an admission or finding of responsibility, shall result in a fine of not less than $50.00;

(2) A second violation of this provision within two years shall constitute a municipal civil infraction which, upon an admission or finding of responsibility, shall result in a fine of not less than $100.00;

(3) A third violation of this provision within two years of the first such violation shall constitute a municipal civil infraction which upon an admission or finding of responsibility shall result in a fine of not less than $300.00;

(4) A fourth and any subsequent violation of this provision within two years of the first such violation shall constitute a misdemeanor which shall, upon conviction, be punishable by up to 93 days of incarceration and a $500.00 fine as well as the cost of prosecution of not less than $500.00 but not to exceed $1,000.00;

(5) In addition to the penalties provided by this section, the district court shall have equitable jurisdiction to enforce any judgment, writ, or order necessary to enforce any provision, the violation of which is a municipal civil infraction, including, but not limited to, abatement of the violating condition or the granting of any injunctive relief.

(Ord. No. 18-01 , § I, 8-21-2018)

Secs. 6-21—6-29. Reserved.

ARTICLE III. IMPOUNDMENT

Sec. 6-30. Seizure of animal or animals.

Any person including, without limitation, any police officer, peace officer or code enforcement official, is authorized to seize any animal found running at large contrary to section 6-4. Any animal seized by any person shall be delivered to the county animal control officer, and the owner of such animal shall be responsible for all boarding and other expenses related to the confinement, and any and all costs associated with euthanization of the animal or animals.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-31. Failure to seize; lawful killing.

If any animal found running at large cannot be seized and impounded, the animal control officer or any police officer shall have the right to kill such animal and there shall be no liability in damages or otherwise for such killing. Any person may kill any animal which he sees in the act of pursuing, molesting, attacking or biting any person in or upon any public street or place and there shall be no liability in damages or otherwise for such killing.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-32. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

Garbage means all waste animal, fish, fowl, fruit or vegetable matter incident to the use, preparation and storage of food for human consumption.

Other solid waste means all other solid wastes including but not limited to putrescible or other solid waste such as, for example, carcasses or parts of any dead animals, fish, or fowl, or human or animal offal or feces or any other organic material which may rot, decay or emit a noxious or unpleasant odor or which is not either garbage or refuse as defined above.

Refuse and waste matter means non-putrescible solid waste consisting of both combustible and noncombustible waste including but not limited to paper, cardboard, metal containers, ashes, wood, glass, bedding, crockery, demolished building materials, yard waste such as grass and hedge clippings, leaves, weeds, brush, twigs and tree limbs, and litter of any kind which may be a detriment to the public health and safety.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-33. Certain waste prohibited.

It shall be unlawful for the holder of a permit, as provided for in this article, to permit or suffer to be deposited upon the real estate described in such permit, any garbage, including vegetable and animal offal, carcasses of dead animals, and all other waste capable of becoming putrescent; or any inflammable waste, including paper, rags, excelsior, wood, grass, leaves and other waste substance capable of ready incineration, unless proper provision is made for prompt disposition of same by the burning of such materials, or by burying with earth all other combustible substances.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-34. Molesting animals.

No unauthorized person shall chase, catch, trap, injure, molest, kill, disturb, annoy, or remove any animal, bird, fish, reptile, or fowl, either wild or domestic, on land, or in the air, or water, or in any places in any park, zoo, parkway, boulevard or playground, or on any property controlled, leased, or loaned by the city, or on which a concession has been granted by it.

(Ord. No. 18-01 , § I, 8-21-2018)

State law reference(s)—Cruelty to Animals, MCL 752.21 et seq.

Sec. 6-35. Authorization to issue appearance tickets.

Park patrol officers, harbor patrol officers, animal control officers, firefighters, and housing inspectors of the city as well as others designated by the city council to have authority to enforce city ordinances, may pursuant to Act 175 of the Public Acts of 1927, as amended by Act 366 of 1984 [MCL 764.9C] issue and serve upon a person an appearance ticket if there is reasonable cause to believe the person has committed a violation of a city ordinance for which the maximum penalty does not exceed 90 days in jail and a fine of $500.00.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-36. Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

Public highway shall mean all the land lying between private property lines on either side of all public streets and places.

Tree shall not be construed to include shrubs which do not grow higher than 15 feet.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-37. Prohibited acts.

(a) No person shall, without the written permit of the superintendent of parks, remove, destroy, break, deface, trim (except minor), brace, move, do surgery work, mutilate, kill, girdle, or in any way injure or interfere with any tree, plant or shrub in any highway, park or boulevard of the city provided however, nothing in this section shall be construed so as to apply to the removal, under the direction of the city manager, of any root, tree, shrub, or plant or parts thereof when such removal shall be necessary for the construction and/or maintenance of any sidewalks, sewer or public improvement.

(b) No person shall attach any rope, wire, cable, sign, card or poster or any other article to a tree or its guard in a public highway without a written permit from the superintendent of parks, nor shall any person pour or deposit salt or brine or other injurious material upon any public highway in such manner as to injure any tree or shrub planted or growing thereon; nor shall any person hitch, tie, fasten or secure any horse, or other animal to any tree or allow the animal to stand so it can injure any tree, plant or shrub.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-38. Animals prohibited in parks, beaches and public places.

(a) No person owning or having possession, charge, custody or control of any animal shall allow such animal to be in any park or on any beach or any public place under the control of the city at any time where such park, beach or public place is, pursuant to a resolution of the city council, posted "No Pets Allowed," "No Dogs Allowed," or "No Animals Allowed" or with a sign using universal symbols to communicate the same.

(b) Except as may be permitted within designated areas, no animal is allowed at any public event, festival, parade, show or exhibition sponsored or co-sponsored by the city without the prior written approval of the city manager.

(Ord. No. 18-01 , § I, 8-21-2018)

Sec. 6-39. Penalties.

Please reference section 6-12.

(Ord. No. 18-01 , § I, 8-21-2018)

Chapter 8 BUILDINGS AND BUILDING REGULATIONS[19]

ARTICLE I. IN GENERAL

[19]State law reference(s)—State construction code, MCL 125.1501 et seq.

Sec. 8-1. International Property Maintenance Code.

(a) A certain document three copies of which are on file in the office of the clerk of the city being marked and designated as the International Property Maintenance Code, 2009 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Greenville 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 on file in the office of the city clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in subsection (b) of this section.

(b) The following sections are hereby revised:

Section 101.1 Insert: City of Greenville

Section 103.5 Insert: See attached Exhibit A

Section 304.14 Insert: May 15th - October 15th

Section 602.3 Insert: October 15th - May 15th

Section 602.4 Insert: October 15th - May 15th

(Ord. No. 05-04, §§ 1, 2, 11-18-2005)

State law reference(s)—Adoption by reference, MCL 117.3(k).

Sec. 8-2. International Existing Buildings Code.

(a) A certain document, three copies of which are on file in the office of the city clerk, being marked and designated as the International Existing Buildings Code, 2009 edition, including appendix chapter B as published by the International Code Council, be and is hereby adopted as the Existing Building Code of the City of Greenville for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, 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 Existing Building Code on file in the office of the city and hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in subsection (b) of this section.

(b) The following sections are hereby revised:

Section 101.1 Insert: The City of Greenville

Section 1201.2 Insert: December 1, 2005

(Ord. No. 05-05, §§ 1, 2, 11-18-2005)

State law reference(s)—Adoption by reference, MCL 117.3(k).

Sec. 8-3. Demolition of building and structures.

(a) *Required activities.* The purpose of this section is to provide a clean, level, seeded, buildable site at the conclusion of the demolition process. Whenever a building, dwelling or structure is demolished or otherwise removed from a property in the city, the person performing such demolition or removal shall do all of the following:

(1) Before demolition or removal.

a. Receive a demolition permit from the city's building department. Demolition permits applications are available at the city clerk's office. Applications shall be reviewed by the city building official to ensure compliance with applicable city ordinances, codes and regulations.

b. Arrange for the proper disconnection and/or abandonment of all utility services.

(2) During demolition or removal.

a. Demolish or remove the entire building, dwelling or structure, including all attached appurtenances.

b. Remove all footings, foundations, floors, basement walls and basement floors from the property.

c. Remove all concrete, masonry and asphalt from the property excluding public sidewalks, street curbs and driveway approaches located in the public right-of-way.

d. Ensure that pedestrians and motorists utilizing adjacent sidewalks, roads and other public rights-of-way are provided safe and unobstructed passage.

(3) After demolition or removal.

a. Have all basement and foundation excavations inspected by the city's building official before beginning backfilling.

b. Plug all existing sewer laterals and record the location of the sewer plug with measured dimensions on a form provided by the city. Once completed, the form shall be submitted to the city's building department.

c. Backfill all excavations with clean fill and compact to prevent settling.

d. Remove all paper, wood, rubbish and debris from the property prior to final site restoration.

e. Grade and level the property so as to be free of rocks, voids and pockets.

f. Install at least three inches of topsoil and seed the property with a climate-appropriate grass seed. Alternatively, install asphalt or other hard surface in accordance with this Code.

g. Replace or repair all public sidewalks, curbs, drive approaches, curb stops or city-owned property damaged during the demolition or removal.

(b) *Exceptions.* The building official may allow, in writing, for a basement and foundation to remain for reconstruction of a building, dwelling or structure if such reconstruction shall begin immediately following demolition or removal and if the basement and/or foundation comply with applicable city ordinances, codes and regulations.

(c) *Penalties.* A person who violates any provision of this section is responsible for a municipal civil infraction.

(Ord. No. 11-01, § 1(35.85), 9-20-2011)

State law reference(s)—Authority to designate municipal ordinance a municipal civil infraction, MCL 117.4l; municipal civil infractions, MCL 600.8701 et seq.

Secs. 8-4—8-24. Reserved.

ARTICLE II. PRIVATE SWIMMING POOLS

Sec. 8-25. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Private means that a pool is not open to the use of the general public or that the pool is not publicly owned.

Swimming pool means any artificially constructed pool or apparatus for the holding of water which is not completely enclosed as part of a dwelling house, capable of holding in excess of 50 gallons of water, and capable of holding a depth of two feet or more of water at any point.

(Prior Code, § 35.801; Ord. No. 85, § 1, 10-15-1973)

Sec. 8-26. Violations and penalties.

(a) Any violation of any provision of this article is hereby declared to be a nuisance, per se. A violation of this article is a municipal civil infraction, for which the fine shall be not less than $100.00 nor more than $500.00 for the first offense and not less than $500.00 nor more than $1,000.00 for subsequent offenses, in the discretion of the court, and in addition to all other costs, damages, and expenses provided by law.

(b) For purposes of this section, the term "subsequent offense" means a violation of the provisions of this article committed by the same person within 12 months of a previous violation of the same provision of this article, for which said 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.

(Prior Code, § 35.808; Ord. No. 85, § 8, 10-15-1973; Ord. of 4-21-2009)

State law reference(s)—Authority to designate municipal ordinance a municipal civil infraction, MCL 117.4l; municipal civil infractions, MCL 600.8701 et seq.

Sec. 8-27. Scope.

This article applies only to private swimming pools.

(Prior Code, § 35.801; Ord. No. 85, § 1, 10-15-1973)

Sec. 8-28. Supplementation; subordination; conflicts.

This article in no way alters or amends the requirements of any existing or future building, housing or electrical code or state statute or statewide code, and should conflict with said ordinances, statutes or codes occur, then the provisions of this article shall be subordinate to the conflicting ordinance, statute or code.

(Prior Code, § 35.807; Ord. No. 85, § 7, 10-15-1973)

Sec. 8-29. City manager, inspection; right of access.

The city manager or his delegate shall have the right at any reasonable hour to inspect any premises for the purposes of determining that all provisions of this article are fulfilled and complied with.

(Prior Code, § 35.806; Ord. No. 85, § 6, 10-15-1973)

Sec. 8-30. Erection and maintenance.

(a) Pools shall not be nearer than six feet from any side or rear lot lines of the land upon which the pool is situated or to be situated. Pools shall not be located within the area required as front yard by the zoning ordinance of the city. Likewise, a pool shall not be closer than six feet from any house, garage, building or residence.

(b) The construction and installation of electrical wiring for equipment in or adjacent to swimming pools, to metallic appurtenances in or within five feet of the pool, and to auxiliary equipment such as pumps, filters, and similar equipment shall conform to the state electrical code. No wires of any kind shall cross or be directly over the water surface. Lighting fixtures near the pool shall be permanent and of solid construction.

(c) There shall be no cross connection of the city water supply with any other source of water for the pool. The water line from the city water supply to the pool shall be protected against backflow of pool water by means of an air gap and the source of water shall discharge at least six inches above the maximum high water level of the pool or makeup tank therefor.

(Prior Code, § 35.803; Ord. No. 85, § 3, 10-15-1973; Ord. No. 85-A, 7-3-1974)

Sec. 8-31. Drainage.

Drainage of a swimming pool must comply with the following regulations:

(1) The discharge pipe leading from any private swimming pool shall not exceed four inches in diameter.

(2) No private swimming pool shall be emptied in a manner which will cause or permit water to flow upon the premises owned or held by another person without the written consent of the owner of said adjacent premises.

(3) The pool drain shall be connected to a storm sewer if a storm sewer is available and where a storm sewer is available, it shall be unlawful to connect the pool to a sanitary sewer.

(4) Where a storm sewer is not available, the pool drain may be connected to a sanitary sewer or a combined sanitary sewer and storm sewer with the written approval of the city manager or his authorized representative.

(Prior Code, § 35.804; Ord. No. 85, § 4, 10-15-1973)

Sec. 8-32. Cleanliness.

Each pool used, operated or maintained within the city must comply with the following minimum standards for cleanliness:

(1) The pool construction shall be in such a manner as to permit splash water, deck water and surface water which has left the pool to return to the pool only after filtration through the pool filter system.

(2) A pool shall be equipped with a filtration, circulation, clarification and chlorination system adequate to maintain the water therein in a clean and healthful condition.

(3) The pool shall be kept free at all times while the pool is in use, of floating material, sediment and other debris.

(4) There shall be a recirculation system connected to every pool. It shall be capable of filtering and recirculating the entire volume of the pool during one 12-hour period. Filters shall not filter water at a rate in excess of five gallons per minute per square foot of filter surface area.

(5) The treatment system shall be so designed and installed to provide in the water, at all times when the pool is in use, excess chlorine of not less than 0.4 ppm or more than 0.6 ppm, or excess chloramine between 0.7 and 1.0 ppm, or disinfection may be provided by other approved means.

(6) Acidity-alkalinity of the pool water shall not be below 7.0 or more than 7.5. The pool owner shall be instructed in proper care and maintenance of the pool, by the supplier or builder, including the use of high-test calcium hypochlorite (dry chlorine) or sodium hypochlorite (liquid chlorine) or equally effective germicide and algaecide and the importance of proper pH (alkalinity and acidity) control. Testing devices capable of accurately measuring such excess (residuals) and pH shall be provided to the owner of the pool by the seller of the pool at the time of purchase.

(7) The source of artificial lights illuminating the pool shall be shielded in order that the light used to light the pool does not light the yard or houses of adjacent property owners.

(8) Water from the city's water distribution system shall not be used in connection with the filling of any private swimming pool during any time when restrictions upon the use of public water are imposed by the city.

(9) Every person owning land on which there is situated a swimming pool or fish pond shall erect and maintain thereon an enclosure or fence either surrounding the property or surrounding the pool area. Such enclosure, including gates, must be not less than four feet high and a construction not readily climbed or penetrated by small children. All gates shall be of the self-closing and latching type, with the latch on the inside of the gate or with the latch in a position inaccessible from the outside of said gate to small children.

(10) One or more ladders or set of steps shall be provided to permit a person in the pool to exit from the pool. Treads on steps or ladders shall have non-slip surfaces.

(Prior Code, § 35.805; Ord. No. 85, § 5, 10-15-1973)

Secs. 8-33—8-52. Reserved.

ARTICLE III. DANGEROUS BUILDING

Sec. 8-53. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous building means any building, dwelling, dwelling unit or structure which:

(1) Is a "dangerous building" as described and defined in section 139 of the Housing Law of Michigan (MCL 125.539).

(2) Because of damage by fire or wind or because of its dilapidated condition, is dangerous to the life, safety or general health and welfare of the occupants or the people of the city.

(3) Has light, air or sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.

(4) Has inadequate means of egress.

(5) Has parts thereof which are so attached that they may fall and injure persons or damage property.

(6) Is vacant and open, at door or window, leaving the interior exposed to the elements or accessible to entrance by trespassers or animals, or open to casual entry.

(7) Has been damaged or vandalized or has deteriorated to such an extent as to be unfit or unsuitable for occupancy and which has not been made habitable or safe to the standards of this article and other ordinances of the city within 30 days after notice is given by the building official to the last known owner or persons having the right to possession thereof.

(8) Is hazardous to the safety, health or welfare of the public by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

(9) Is in such a condition as to constitute a nuisance.

(10) Is boarded up or unoccupied for a period of more than 180 consecutive days or longer and is not listed as being available for sale, lease or rent with a real estate broker, except when the owner has notified the city of its intentions to keep the building unoccupied and continuously maintains the property and grounds, or if the building is classified as a second home, vacation home, hunting cabin or is to be occupied by the owner or a member of the owner's family part of the year.

The term "dangerous building" shall also include any sign, fence, shed, lean-to, cellar or other structure which has become so rotted, burned, broken, inform or dilapidated as to be likely to fall over or collapse and injure persons or damage property.

Designated enforcement official means that individual designated by resolution of the city council to enforce this chapter.

Hearing officer or*officer* means the hearing officer provided for in section 8-54.

Owner means the owner, occupant, lessee or any other person with an interest of record in a dangerous building or the property on which a dangerous building is located, or any building or property which the city is investigating to determine whether a violation of this article exists.

(Ord. No. 05-01, § 1, 10-4-2005)

Sec. 8-54. Maintenance of dangerous building prohibited.

(a) It shall be unlawful for any owner to keep, own, occupy or maintain any dangerous building within the city.

(b) The city finds that any dangerous building located within the city constitutes a public nuisance; in addition to any other penalty or liability provided for in this article, any person who keeps, owns, occupies or maintains a dangerous building shall be liable for maintaining a public nuisance.

(c) The city may enter upon property for the purpose of making surveys, measurements, inspections, examinations, tests, borings, samplings, taking photographs, videotaping; conducting an environmental inspection, or for any other purpose reasonably necessary to carry out the provisions of this article. If reasonable efforts to enter have been obstructed or denied, the city may commence a civil action in circuit court for an order permitting entry, and restraining or enjoining further obstruction or denial of access. The complaint shall state the facts making the entry necessary, the date or dates on which entry is sought, and

the duration of the entry. The court shall permit entry by the city upon such terms as justice and equity require.

(Ord. No. 05-01, § 2, 10-4-2005)

Sec. 8-55. Notice to owners.

(a) When the whole or any part of any building is found to be in a dangerous or unsafe condition (as defined in section 8-53), the designated enforcement official shall issue a notice of the dangerous or unsafe condition. The notice shall be served on the owner by either certified mail or personal service. A copy of said notice should also be posted in a conspicuous place on the building.

(b) Such notice shall be directed to the owner, as well as any other party with an interest in the building or property on which the building is located.

(c) The notice shall identify the condition or conditions for which the building has been found to be dangerous or unsafe, specify that a permit or permits for the performance of work to correct such violations be obtained from the city building official, and the time within which the violation shall be corrected. If the owner finds that the work cannot be completed within the time specified, or for any other reason, the owner may appeal to the hearing officer, to show cause why the structure should not be ordered to be demolished or otherwise made safe. If the owner does not complete correction of the violation or complete demolition within the time specified by the notice, then the designated enforcement official shall send the owner, a second notice, stating the date on which the owner shall appear before the hearing officer to show cause why the structure should not be ordered to be demolished or otherwise made safe. This notice shall be served on the owner in the manner prescribed in subsection (a) of this section.

(d) The designated enforcement officer shall file a copy of the notice provided for in this section with the hearing officer.

(Ord. No. 05-01, § 3, 10-4-2005)

Sec. 8-56. Appointment of hearing officer.

(a) For the purposes of carrying out the provisions of this article, a hearing officer shall be appointed by the city council upon the recommendation of the mayor.

(b) The hearing officer shall be paid on a per diem basis for conducting hearings or a pro-rated amount for a partial day.

(c) The hearing officer may not be a city employee.

(Ord. No. 05-01, § 4, 10-4-2005)

Sec. 8-57. Hearing.

(a) At the time and place fixed in the notice given pursuant to section 8-55, the hearing officer shall conduct the hearing referred to in such notice. Both the city and the owner may be represented by counsel at this hearing. The hearing officer may take the testimony of the designated enforcement officer, the owner, occupant, lessee, or agent of the property or any interested party, as well as any other evidence relevant. The use of pictures, videotapes or other recording devises shall be permitted to present evidence in the hearing. The hearing officer shall render findings of facts, which shall include, but not be limited to:

(1) Evidence of relevant building and building regulations.

(2) The condition or state of repair of the building, dwelling or structure.

(3) The estimated cost of repair or demolition of the building, dwelling or structure.

(4) The equalized assessed value of the building, dwelling or structure.

(5) Recommendation regarding the action that should be taken with respect to the building.

(b) If it is determined by the hearing officer that the building, dwelling or structure is unfit for human habitation or is a dangerous building and should be demolished or otherwise made safe, the hearing officer shall so order, fixing a time in the order for the owner to comply therewith.

(c) A copy of the findings and order of the hearing officer shall be served on the owner in the manner prescribed in section 8-55(a).

(Ord. No. 05-01, § 5, 10-4-2005)

Sec. 8-58. Action by city council.

(a) If, pursuant to section 8-57, the hearing officer issues an order to demolish or otherwise make safe a dangerous building, and the owner neglects or refuses to comply with such order, or if the owner fails to appear to the hearing, the hearing officer shall file a report of the findings and a copy of the order with the city council and request that the city take the necessary action to demolish or otherwise make safe the dangerous building.

(b) The city council shall fix a date for hearing, reviewing the findings and order of the officer and shall give notice to the owner, in the manner prescribed in section 8-55(a), of the time and place of the hearing. At the hearing, the owner shall be given the opportunity to show cause why the dangerous building should not be demolished or otherwise made safe, and the city council shall either approve, disapprove or modify the order of the officer.

(Ord. No. 05-01, § 6, 10-4-2005)

Sec. 8-59. Appeal from the decision or order of city council.

Any owner aggrieved by a final decision or order of the city council under section 8-58 may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 21 days from the date of decision.

(Ord. No. 05-01, § 7, 10-4-2005)

Sec. 8-60. Placarding and vacating; rent not recoverable.

(a) If an order to demolish a dangerous building is affirmed by the city council and no appeal is taken within the time prescribed by section 8-59 or, if an appeal is taken and the order is affirmed by the court, and the owner fails to comply with the order by demolishing the dangerous building or making it safe, the designated enforcement official shall post, in a conspicuous place or places on the dangerous building, a placard bearing the following words: "CONDEMNED AS UNFIT FOR HUMAN OCCUPANCY." No person shall deface or remove such placard, except the designated enforcement official, as provided for in this section.

(b) A dangerous building which has been placarded under this section shall be vacated within a reasonable time, as required by the designated enforcement official. No owner or operator shall let to any person for human occupancy and no person shall occupy nor permit anyone to occupy any such dangerous building which has been placarded by the building official, after the date on which the designated enforcement official has

required such building to be vacated, until written approval is secured from, and such placard is removed by, the designated enforcement official. The designated enforcement official shall remove such placard whenever the defect or defects upon which the condemnation and placarding action was based have been eliminated.

(c) If pursuant to the provisions of this section, a dangerous building has been ordered vacated by the designated enforcement official and there is no compliance with the order in the time specified, the designated enforcement official may petition the appropriate court to obtain compliance, and the court may order the occupants to vacate or demolish the dangerous building forthwith.

(d) If any dangerous building is occupied after it has been ordered vacated under this section, no rent shall be recoverable for the period occupancy.

(Ord. No. 05-01, § 8, 10-4-2005)

Sec. 8-61. Demolition or repair by city.

(a) If no appeal is filed within the time prescribed by section 8-59, or if a final order to demolish a dangerous building or make it safe is affirmed by the court, and such order is not fully obeyed, the city may demolish such dangerous building or take whatever steps necessary to make it safe. The cost of such work shall constitute both a personal liability of the owner and be a lien against the real property on which the dangerous building is located and shall be reported to the assessing officer of the city, who shall assess the cost against the property on which the dangerous building is or was located.

(b) The owner shall be notified of the amount of the cost referred to in subsection (a) of this section by first-class mail at the address shown on the record.

(c) If the amount in subsection (a) of this section is not paid within 30 days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the same to the next tax roll of the city; and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes.

(d) As an additional method of recovering the amount referred to in subsection (a) of this section, the amount may be recovered by lawsuit against the persons referred to in section 8-55(b).

(e) Interest shall accrue as provided for taxes and judgments by law.

(Ord. No. 05-01, § 9, 10-4-2005)

Sec. 8-62. Fees for actions.

(a) The city council may, by resolution, establish reasonable fees for covering the costs of actions taken with regard to this article.

(b) All costs incurred in enforcement of this article may be assessed against the owner and be collected either personally from the owner or shall be a lien against the real property and shall be reported to the assessing officer of the city who shall assess the cost against the property on which the building or dwelling is or was located.

(c) The owner or any party in interest in whose name the property appears upon the last local tax assessment record shall be notified of the amount of the costs referred to in subsection (b) of this section by first class mail at the address shown on record. If such person fail to pay the same within 30 days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the same to the next tax roll of the city, and the same shall be collected in the same manner in all respects as provided by law for collection of taxes and/or may be collected by suit at law. Interest shall accrue as provided for taxes and judgment by law.

(Ord. No. 05-01, § 10, 10-4-2005)

Sec. 8-63. Boarding up of buildings on notice by building official.

Whenever a building is a dangerous building under section 8-53 for a period of five days after notice of said condition has been issued in accordance with section 8-55, the city may board up the building or take such other action as may be feasible and necessary to protect the health, safety and welfare of the city. The costs and their recovery shall be governed by section 8-62, except that the cost to be recovered for boarding up the building shall be in the actual amount expended for the particular work done.

(Ord. No. 05-01, § 11, 10-4-2005)

Sec. 8-64. Demolition or correction without prior notice or hearing.

If a building is so dangerous that it poses an immediate threat to health or safety, the building may be demolished or otherwise made safe without prior notice or hearing. Such danger includes but is not limited to conditions which pose the immediate threat of collapse of the building. Sections 8-61 and 8-62 shall apply to recoupment of city costs, except that the notice requirements of sections 8-55 and 8-58 shall not apply.

(Ord. No. 05-01, § 12, 10-4-2005)

Chapter 10 BUSINESSES

ARTICLE I. IN GENERAL

Sec. 10-1. Moral character.

(a) In this Code the phrase "good moral character" shall be construed to mean the propensity of the person to serve the public in the licensed area in a fair, honest and open manner.

(b) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used in and of itself as proof of a person's lack of good moral character. It may be used as evidence in the determination and, when so used, the person shall be notified and shall be permitted to rebut the evidence by showing that:

  (1) At the current time the person has the ability to, and is likely to, serve the public in a fair, honest and open manner; and

  (2) Such person is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks a business license or business permit.

(c) The following criminal records shall not be used, examined, or requested by the city in a determination of good moral character when used as a requirement to obtain a business license or business permit:

  (1) Records of an arrest not followed by a conviction.

  (2) Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction.

  (3) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest, and open manner.

(4) Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

State law reference(s)—Moral character, MCL 338.41 et seq.

Secs. 10-2—10-20. Reserved.

ARTICLE II. POOLROOMS, DANCE HALLS AND BOWLING ALLEYS

DIVISION 1. GENERALLY

Secs. 10-21—10-43. Reserved.

DIVISION 2. PERMIT

Sec. 10-44. Required; persons eligible.

No public billiard or poolroom, public dance hall, or public bowling alley shall be established, maintained or conducted in any place within the city by any person or corporation without first obtaining a permit to operate such place from the city council. No person shall be granted a permit who is under 18 years of age; nor shall any such permit be granted to any person who is not of good moral character.

(Prior Code, § 20.101; Ord. No. 24, § 1, 2-15-1939)

Sec. 10-45. Application.

(a) Any person desiring to open or establish any of the places mentioned in section 10-45 shall first make application therefor to the city clerk, setting forth in such application his age and correct name, post office address and residence, the length of time he has resided within the city and where, and his places of residence for the past five years immediately preceding the time of such application, whether or not he has ever been convicted of any crime involving moral turpitude, and giving references in such application to at least two reputable citizens of the city.

(b) Every such application shall be accompanied by a fee and payable to the city and to be paid into the contingent fund of the said city upon the issuing of the license to the applicant, and the applicant shall specify in such application the class of business and the exact location of the place thereof for which he requests the permit.

(c) In case the applicant for such permit is a corporation authorized to do business in this state, the application shall be made by the agent of such corporation, who will have the principal charge of the place proposed to be established, and such application shall contain all of the statements and furnish all the facts and recommendations in respect to such agent as are required in the case of a private individual herein. Such permit to a corporation shall be revocable upon the occurrence of a change in the agent so managing such place, and a new permit may be required by such city council before any new agent shall take charge of such place for such corporation.

(d) In case of a partnership, each active partner in such business shall join in the application for such permit and shall furnish all of the information and recommendations required of an individual applicant.

(Prior Code, § 20.102; Ord. No. 24, § 1, 2-15-1939)

Sec. 10-46. Issuance.

The city council receiving such application, if presented in due form, shall pass upon the same at its next regular meeting or at any special meeting called for such purpose and, if satisfied that such applicant possesses the qualifications herein prescribed, shall grant such permit for the term of one year, provided no permit shall be granted for any term beyond the first Monday in June next thereafter. All such permits shall be in such form as the city council may prescribe, shall contain the name, address, place of business and the class of business so permitted to the holder, and the date of expiration of such permit, and shall be authenticated by the signature of the city clerk.

(Prior Code, § 20.103; Ord. No. 24, § 1, 2-15-1939)

Sec. 10-47. Renewal.

Any permit issued in accordance with this division may be renewed for an additional year or less upon the same terms and subject to the same requirements as provided herein for an original permit. Whenever the holder of such permit desires to effect a change of place of doing business, he shall notify the city council and make application for a permit for such new place in the same manner as in the first instance, except that proof of good character may be dispensed with by such city council. No permit issued pursuant to this division shall be assignable or transferrable, nor shall any person, excepting the person to whom it was issued, be permitted to do business thereunder either directly or indirectly.

(Prior Code, § 20.104; Ord. No. 24, § 1, 2-15-1939)

Sec. 10-48. Revocation.

(a) Every such permit shall be revoked for any of the following causes:

(1) That intoxicating liquors are either sold or drunk on the premises, except in those cases where a license has been issued for such consumption on the premises, or that persons under the influence of intoxicating liquors are permitted to frequent, be in, or remain on said premises;

(2) That gambling in any form is permitted in or about said premises;

(3) That minor children under 16 years of age are allowed to frequent the place, unless approval of the city council is obtained.

(b) In either of the foregoing cases the city council shall revoke such permit and give notice of such revocation to the holder. For the purpose of enforcing these provisions for revocation, the city council may act on its own initiative, or on complaint of any resident of the city.

(c) When such revocation is sought, the city clerk shall give a written notice to the licensee personally, or by leaving the same with his agent or employee at his place of business, in which notice shall be stated the charges made against him for which revocation of his license is sought, and the time and place at which he may appear to defend against such charges, which time shall not be sooner than three full days from the serving of said notice Such hearings need not follow the strict legal requirements of court trials.

(d) If, after an impersonal and unbiased investigation, the city council is convinced that the charges have been sustained, it shall revoke the permit. It shall be the duty of the city attorney to attend and assist in the conduct of such hearing. If the city council shall determine that such permit shall be revoked, the city clerk shall personally notify the licensee or his agent or employee in charge of his place, in writing, and the said

permit shall be revoked from and after midnight of the said day, and the said licensee shall forfeit his permit fee.

(Prior Code, § 20.105; Ord. No. 24, § 1, 2-15-1939)

Secs. 10-49—10-69. Reserved.

ARTICLE III. TAXICABS

DIVISION 1. GENERALLY

Sec. 10-70. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Taxicab means and includes any motor vehicle engaged in the business of carrying for hire, where no regular or specified route is traveled, but passengers are taken to and from such places as they may designate. Automobiles used exclusively as hearses, ambulances and buses shall not be included in this definition of taxicabs.

(Prior Code, § 20.691; Ord. No. 56, § 1, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-71. Rules and regulations.

It shall be unlawful for any persons:

(1) To drink any intoxicating liquor whatsoever while transporting passengers.

(2) To fail, neglect or refuse to turn into the director of the department of public safety within 24 hours all the lost articles found in the taxicab.

(3) To drive or operate any taxicab upon any street unless the owner thereof shall have given and there is in full force and effect at all times while such person is driving or operating such taxicab, a policy of liability insurance in the sum of $100,000.00, personal injury, and $300,000.00, property damage, which said insurance contract shall insure to the benefit of any person or persons who may receive injury or suffer death or property damage by reason of the negligence or misconduct of the driver or operator of such taxicab. Such policy of insurance may be furnished by any insurance company authorized by the department of insurance to conduct business in the state.

(4) To use any portion of the public streets or alleys as a taxicab stand or to permit a taxicab in his charge to stand upon any portion of the public streets or alleys, except for such time as is necessary to load or unload passengers.

(5) To fail to notify the director of the department of public safety within 15 hours after any accident, giving the time and location of the accident, the name of any person injured, character of injuries so far as known, and in case of property damage, the estimated amount of such damage.

(6) To operate a taxicab which does not have the required lighted taxicab sign on the roof or the required lettering on the sides of the vehicle.

(7) To operate a taxicab without having the driver's permit on display within the taxicab and available for inspection upon request.

(Prior Code, § 20.701; Ord. No. 56, § 11, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-72. Refusing fare; exception; direct route.

(a) It shall be unlawful for the driver of any taxicab not already engaged to refuse to convey any person or persons to any place or places within the city, unless the safety of the driver would be placed at risk.

(b) The person or persons being placed in such conveyance, the same shall be driven by the most direct and safe route to the place to which such person or persons wish to go.

(Prior Code, § 20.702; Ord. No. 56, § 12, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-73. Customer refusal to pay.

(a) Any person who shall solicit and receive the services of any taxicab within the city without paying, with the intent to defraud owner of such taxicab out of the pay for the use of the service rendered, shall be liable to the punishment provided in this article.

(b) Proof that any person refused and neglected to pay for such service on demand or left such taxicab without paying or offering to pay for such service shall be prima facie proof of fraudulent intent.

(Prior Code, § 20.703; Ord. No. 56, § 13, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Secs. 10-74—10-104. Reserved.

DIVISION 2. LICENSES AND PERMITS

Subdivision I. In General

Sec. 10-105. Appeals.

Any applicant denied for either a taxicab license or a permit to drive a taxicab, or whose license or permit has been revoked, may appeal the decision to the city council as follows: The appeal must be in writing and submitted within 30 days of notification of denial. The action of the city council shall be final.

(Prior Code, § 20.700; Ord. No. 56, § 10, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-106. Examination.

The director of the department of public safety shall initiate an examination as to whether an applicant for the license required by this article is capable and properly qualified by experience to operate and drive such automobile for hire. Said examination shall be based on the knowledge of the then-existing traffic ordinance and vehicle laws, and also upon rules and regulations prescribed by this article, in addition to testing as to the ability to operate said vehicle, and if said applicant shall fall to pass the examination herein provided, no permit shall be granted him; provided, however, he shall be given an opportunity for re-examination within three months from the date of the first examination.

(Prior Code, § 20.694; Ord. No. 56, § 4, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-107. Term of license and permits.

All permits and licenses granted hereunder shall be for a term or period of one year from the date of issue.

(Prior Code, § 20.692; Ord. No. 56, § 1, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-108. Revocation.

A violation of any of the provisions of this article or of the traffic ordinance of the city or of the statutes of the state shall be sufficient grounds for the revocation of any license or permit issued hereunder and shall be considered sufficient grounds for the refusal to grant a license or permit in the first instance.

(Prior Code, § 20.695; Ord. No. 56, § 1, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Secs. 10-109—10-129. Reserved.

Subdivision II. License

Sec. 10-130. Required.

No person, his principal, agent or employee shall run or operate any taxicab on the streets of the city without having first obtained a license.

(Prior Code, § 20.693; Ord. No. 56, § 3, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-131. Application.

All applicants desiring a license to operate a taxicab shall:

(1) File an application with the city clerk stating:

a. The name, age, phone number, and residence of the person applying for the license.

b. Any previous experience in such business.

c. If he is to drive the taxicab, whether a permit has been applied for as provided in this article.

d. The name, age, phone number, and residence of the person to be in immediate charge of any such taxicab or taxicabs, if other than the person making application.

e. The type of vehicle to be used, the VIN number, the state license number, the year and the model of the vehicle, and the seating capacity of the vehicle.

(2) Produce the vehicle at the department of public safety for a physical inspection of the vehicle.

(3) Distinguish the vehicle as a taxicab by the following:

a. Placing a lighted taxicab sign on the roof of the vehicle.

b. Place, in a distinctive fashion, lettering on the sides of the vehicle signifying the cab company and telephone number of the cab company.

c. Place the license number of the taxicab on the passenger-side door in a clear and distinctive fashion.

(4) Submit a character and fitness application to the director of the department of public safety who shall cause an investigation to be performed.

(5) Pay the license fee, as provided for by the city council, to the city clerk.

(Prior Code, § 20.693; Ord. No. 56, § 3, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-132. Fee.

The fee for a license required by the provisions of this article is to be paid to the city clerk shall be as established by the city.

(Prior Code, § 20.694; Ord. No. 56, § 4, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Secs. 10-133—10-162. Reserved.

Subdivision III. Permit

Sec. 10-163. Required.

No person licensed to operate a taxicab shall employ a driver unless such driver shall have a permit.

(Prior Code, § 20.697; Ord. No. 56, § 7, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-164. Permits.

(a) Application for a permit to operate or drive a taxicab upon the streets of the city shall be made to the director of the department of public safety upon an application furnished by the city clerk.

(b) Each applicant shall state:

(1) His, age and residence.

(2) Driver's license number.

(3) The names and addresses of three people not related to the applicant.

(4) Any violations of traffic ordinances or statutes and/or violations of any criminal ordinances or statutes.

(Prior Code, § 20.697; Ord. No. 56, § 7, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-165. Age limit.

No permit to drive or operate any taxicab shall be granted to any person under the age of 18 years.

(Prior Code, § 20.696; Ord. No. 56, § 6, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-166. Permit fee.

The city shall be paid a fee in the amount established by the city for each application filed under section 10-132. This fee is charged to defray the administrative cost of investigating the driving ability and credentials of an applicant driver under section 10-132.

(Prior Code, § 20.698; Ord. No. 56, § 8, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Sec. 10-167. Revocation.

The permit of any person driving a taxicab may be revoked in the event that he pleads guilty to or is convicted of the following:

(1) Violation of any law or ordinance regulating speed.

(2) Careless or reckless driving.

(3) Any alcohol-related driving offense, including, but not limited to, OUIL, OWI or open intoxicant in a motor vehicle.

(Prior Code, § 20.699; Ord. No. 56, § 9, 9-1-1947; Ord. No. 56-A, 12-3-1996)

Secs. 10-168—10-187. Reserved.

ARTICLE IV. GARAGE SALES

Sec. 10-188. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garage sale means a sale of used household effects and personal property, appliances, clothing, china, glassware, tools, toys, garden implements, recreational equipment and other such items by a person from his residence by means of a display of such items in the yard, garage, patio, parking area or other like place in, around or near such residence. The term "garage sale" also means an estate sale and/or auction conducted at or around a residence or in a residential subdivision. The term "garage sale" shall not mean the sale of a single automobile by means of a "For Sale" sign in the window of such vehicle parked at or near the residence.

Salesmen's or free samples mean items which were packaged and designed to introduce products to consumers and which were distributed by salesmen or otherwise without charge.

Wholesale means sales in bulk or individual to dealers or to persons who intend to resell such item.

(Ord. No. 09-01G, § 2, 6-17-2009)

Sec. 10-189. Penalty.

Any person, persons or entity violating any of the provisions of this article shall be held responsible for a municipal civil infraction.

(Ord. No. 09-01G, § 7, 6-17-2009)

State law reference(s)—Authority to designate municipal ordinance a municipal civil infraction, MCL 117.4l; municipal civil infractions, MCL 600.8701 et seq.

Sec. 10-190. Purpose and intent.

It is the intent of this article to regulate, control and limit the holding of garage sales, as they may become a nuisance and a safety hazard if not so regulated, and so that residential areas do not become commercialized through a proliferation of garage sales and similar commercial activities.

(Ord. No. 09-01G, § 1, 6-17-2009)

Sec. 10-191. Exemptions.

The provisions of this article shall not apply to sales and/or charity bazaars held by churches or other houses of worship, schools and/or service organizations that are located in residential zoning districts provided that the sales and/or charity bazaars are held by the church or other house of worship, school or service organization, on their own property and provided that said sales and/or charity bazaars comply with all other requirements of this Code, including but not limited to the Greenville Zoning Ordinance.

(Ord. No. 09-01G, § 6, 6-17-2009)

Sec. 10-192. Restriction, number and duration.

(a) There shall be no more than two garage sales at any residence within any one calendar year.

(b) No garage sale may last more than 72 hours.

(c) Garage sales shall only be conducted between the hours of 8:00 a.m. and 6:00 p.m.

(Ord. No. 09-01G, § 3, 6-17-2009)

Sec. 10-193. Sales limitations.

(a) No wholesale sales shall be made at any garage sale.

(b) No salesman shall be permitted to sell, and no free samples or similar items shall be sold at any garage sale.

(c) Garage sales shall be limited to sales of items which have actually been used during the normal course of residential living at the residence at which the sale is to occur and items shall not be transported to such residence. Joint and/or group garage sales between or among two or more homes shall only be permitted if the following applies: Sales shall be limited to items that have actually been used during the normal course of residential living in one or more of the residences participating in the joint and/or group garage sales.

(Ord. No. 09-01G, § 4, 6-17-2009)

Sec. 10-194. Garage sale not to create nuisance.

(a) No garage sale shall be situated so as to obstruct traffic, nor shall any garage sale patrons park their vehicles so as to obstruct traffic.

(b) No signs advertising a garage sale regulated by this article shall be placed on public property, utility poles or on private property except for the property on which the garage sale is conducted. Within 24 hours after the conclusion of a garage sale, all signs shall be removed.

(c) Excessive noise emanating from the area of any garage sale shall be expressly prohibited.

(Ord. No. 09-01G, § 5, 6-17-2009)

Secs. 10-195—10-200. Reserved.

ARTICLE V. MARIHUANA ESTABLISHMENTS.

Sec. 10-201. Prohibition of marihuana establishments.

(a) Pursuant to the provisions of Section 6.1 of the Michigan Regulation and Taxation of Marihuana Act (the "Act"), marihuana establishments, as defined by the Act, are completely prohibited within the boundaries of the City of Greenville.

(b) Any applicant for a state or local license to establish a marihuana establishment, as defined by the Act, within the boundaries of the city shall be deemed to be not in compliance with this article or with the Code of Ordinances as amended [by the ordinance from which this section derives.]

(c) This section does not supersede rights and obligations with respect to the transportation of marihuana through the city to the extent provided by the Act, and does not supersede rights and obligations under the Michigan Medical Marihuana Act, the Medical Marihuana Licensing Act, 2016 PA 281, or any other law of the State of Michigan allowing for or regulating marihuana for medical use.

(Ord. No. 19-02 , § 1, 1-15-2019)

Editor's note(s)—Ord. No. 19-02 , § 1, adopted Jan. 15, 2019, amended the Code by the addition of § 10-195; however, said provisions have been redesignated as 10-201, at the editor's discretion for purposes of allowing future expansion of the Code.

Chapter 12 CEMETERIES[20]

ARTICLE I. IN GENERAL

Secs. 12-1—12-18. Reserved.

ARTICLE II. FOREST HOME CEMETERY

Sec. 12-19. Scope.

The provisions of this article apply to the Forest Home Cemetery.

[20]State law reference(s)—Authority to acquire and maintain cemeteries, MCL 128.1.

Sec. 12-20. City manager; cemetery supervision and management.

The city cemetery, known as "Forest Home Cemetery," shall be administered as a regular department of the city government under the management and supervision of the city manager.

(Prior Code, § 35.701; Ord. No. 63, § 1, 10-24-1960)

Sec. 12-21. Manager; rules and regulations; approval of council.

The city manager shall, subject to the approval of the city council, make such rules and regulations for the burial of the dead, the care and protection of the cemetery grounds and appurtenances, and the orderly conduct of persons visiting the grounds as may be consistent with the ordinances of the city and the laws of the state.

(Prior Code, § 35.702; Ord. No. 63, § 2, 10-24-1960)

Sec. 12-22. City council; sale of lots; terms.

The city council shall fix the price of cemetery lots and make the sales thereof, and shall fix the terms and conditions of such sales.

(Prior Code, § 35.703; Ord. No. 63, § 3, 10-24-1960)

Chapter 14 COMMUNITY AND ECONOMIC DEVELOPMENT

ARTICLE I. IN GENERAL

Secs. 14-1—14-18. Reserved.

ARTICLE II. DOWNTOWN DEVELOPMENT[21]

DIVISION 1. GENERALLY

Secs. 14-19—14-39. Reserved.

DIVISION 2. DOWNTOWN DEVELOPMENT AUTHORITY

Sec. 14-40. Definitions.

The terms used in this division shall have the same meaning as given to them in Public Act No. 197 of 1975 (MCL 125.1651 et seq.) or as hereafter in this section provided unless the context clearly indicates to the contrary.

[21]State law reference(s)—Downtown development, MCL 125.1651 et seq.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act 197 means Public Act No. 197 of 1975 (MCL 125.1651 et seq.).

Authority means the Greenville Downtown Development Authority created by this division.

Board or *board of trustees* means the governing body of the authority.

Chief executive officer means the mayor of the city.

Downtown district means the downtown district designated by this division as now existing or hereafter amended.

(Prior Code, § 12.253; Ord. No. 104, § 3, 4-19-1979)

Sec. 14-41. Determination of necessity.

The city council hereby determines that it is necessary for the best interests of the city to halt property value deterioration and increase 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 pursuant to Act 197.

(Prior Code, § 12.254; Ord. No. 104, § 4, 4-19-1979)

State law reference(s)—Required provisions, MCL 125.1653.

Sec. 14-42. Creation of authority.

There is hereby created and established pursuant to Act 197, a downtown development authority for the City of Greenville, Michigan. The authority shall be known and exercise its powers under title of "Greenville Downtown Development Authority." The authority may adopt a seal, may sue and be sued in any court for this state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this division and all of the powers expressed or implied granted to it by Act 197. The enumeration of a power in this division or in Act 197 shall not be construed as a limitation upon the general powers of the authority.

(Prior Code, §§ 12.254, 12.255; Ord. No. 104, §§ 4, 5, 4-19-1979)

State law reference(s)—Governing body of authority, MCL 125.1654.

Sec. 14-43. Description of downtown district.

(a) The downtown district in which the authority shall exercise its powers as provided by Act 197 shall consist of the following described territory in the city, subject to such changes as may hereinafter be made pursuant to this division and Act 197:

An area in the City of Greenville, Montcalm County, Michigan within the boundaries described as follows:

The part of the City of Greenville, Montcalm County, Michigan, bounded on the north by the south line of Greenville West Drive, on the east by the west line of Clay Street, on the south by the north line of Benton Street and on the west by the east line of Franklin Street. The Downtown Development Authority Area also extends in the right-of-way along Washington Street from the west city limit to Industrial Park Drive and Lafayette Street from the north city limit to the south city limit. Also, please refer to Exhibit A.

(b) Properties excluded from above boundaries.

(1) Owner-occupied properties used only for single-family residential purposes are not part of the downtown development district.

(2) Determination of exclusion of such properties shall be made annually by the city assessor and shall be based on the use of each property on each May 1.

(Prior Code, § 12.256; Ord. No. 104, §§ 6, 6A, 4-19-1979; Ord. No. 104-A, 11-10-1979; Ord. No. 104-B, 8-15-1980; Ord. No. 104-C, 10-17-1984; Ord. No. 104-D, 1-17-1989; Ord. No. 104-E, 4-29-1997)

Sec. 14-44. Board of trustees.

The authority shall be under the supervision and control of a board of trustees consisting of the mayor of the city and eight members as provided by Act 197.

(Prior Code, § 12.257; Ord. No. 104, § 7, 4-19-1979)

State law reference(s)—Board of trustees, MCL 125.1654.

Sec. 14-45. Powers of the authority.

Except as specifically otherwise provided in this division, the authority shall have all powers provided by law subject to the limitations imposed by law and in this division. The authority shall have the power to levy ad valorem taxes on the real and tangible personal property now exempt by law and as finally equalized in the downtown district at the rate of not more than two mills each year if the city council annually approves the levy thereof by the authority.

(Prior Code, § 12.258; Ord. No. 104, § 8, 4-19-1979)

Sec. 14-46. Director, bond and director.

If a director is employed as authorized by section 5 of Act 197 (MCL 125.1655), he shall post bond in the penal sum of $5,000.00 as required by said section of said statutes.

(Prior Code, § 12.258; Ord. No. 104, § 9, 4-19-1979)

Sec. 14-47. 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 such other fiscal year as may hereafter be adopted by the city.

(b) The board shall annually prepare a budget and shall submit it to the council. The board shall not finally adopt a budget for any fiscal year until the budget has been approved by the city council. 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.

(Prior Code, § 12.260; Ord. No. 104, § 10, 4-19-1979)

Secs. 14-48—14-67. Reserved.

DIVISION 3. DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN FOR DOWNTOWN DEVELOPMENT AREA NO. 1[22]

Sec. 14-68. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Base year assessment roll means that the base year assessment roll prepared by the city assessor.

Captured assessed value means the amount in any one year by which the current assessed value as finally equalized of all taxable property in the development area exceeds the initial assessed value.

Development area means the area bounded by Franklin Street on the west, Clay Street on the east, the Flat River on the north and Benton Street on the south, more fully described in the development plan.

Development plan means the Tax Increment and Development Plan—Greenville Downtown Development Area Number 1, dated November 4, 1982, as amended and transmitted to the city council by the downtown development authority for public hearing, as modified by action of the city council and confirmed by this article, copies of which are on file in the office of the city clerk.

Downtown development authority(DDA) means the City of Greenville Downtown Development Authority.

Initial assessed value means the most recently assessed value as finally equalized of all the taxable property within the boundaries of the development area as of December 22, 1982.

Project fund means the Downtown Development Authority Project No. 1 Fund established pursuant to section 14-72.

Taxing jurisdiction means each unit of government levying an ad valorem property tax on property in the development area.

(Prior Code, § 12.271; Ord. No. 118, § 1, 12-22-1982)

Sec. 14-69. Approval and adoption of development plan.

The development plan as now or hereafter amended by the city council is hereby approved and adopted. The duration of the plan shall be 30 years from the date of issuance of the last series of bonds pursuant to the development plan, except as it may be extended by subsequent amendment of the plan and this division. A copy of the plan and all amendments thereto shall be maintained on file in the city clerk's office and cross-indexed to Ord. No. 118.

(Prior Code, § 12.272; Ord. No. 118, § 2, 12-22-1982)

[22]State law reference(s)—Tax increment financing plan, MCL 125.1664.

Sec. 14-70. Boundaries of development area.

The boundaries of Development Area No. 1 as set forth in the development plan are hereby adopted and confirmed.

(Prior Code, § 12.273; Ord. No. 118, § 3, 12-22-1982)

Sec. 14-71. Preparation of annual base year assessment roll.

Each year within 15 days following the final equalization of property in the development area, the assessor shall prepare an updated base year assessment roll. The updated base year assessment roll shall show the information required in the initial base year assessment roll and, in addition, the captured assessed value for that year. Copies of the annual base year assessment roll shall be transmitted by the assessor to the same persons as the initial base year assessment roll, together with a notice that it has been prepared in accordance with this division and the development plan.

(Prior Code, § 12.275; Ord. No. 118, § 5, 12-22-1982)

Sec. 14-72. Fund to be established.

The treasurer of the downtown development authority shall establish a separate fund which shall be kept in a depository bank account or accounts in a bank or banks approved by the director of finance of the city, to be designated Downtown Development Authority Project No. 1 Fund. All moneys received by the downtown development authority pursuant to the development plan shall be deposited in the project funds. All moneys in that fund and earnings thereon shall be used only in accordance with the development plan and this division.

(Prior Code, § 12.276; Ord. No. 118, § 6, 12-22-1982)

Sec. 14-73. Payments required.

The city and county treasurers shall, as ad valorem taxes are collected on the property in the development area, pay that proportion of the taxes, except for penalties and collection fees, that the captured assessed value bears to the initial assessed value to the treasurer of the downtown development authority for deposit into the project fund. The payments shall be made on the date or dates on which the city and county treasurers are required to remit taxes to each of the taxing jurisdictions.

(Prior Code, § 12.277; Ord. No. 118, § 7, 12-22-1982)

Sec. 14-74. Permitted uses of funds.

(a) The money credited to the project fund and on hand therein from time to time shall annually be used in the following manner and following order of priority:

(1) To pay into the debt retirement fund, or funds, for all outstanding series of bonds issued pursuant to this plan an amount equal to the interest and principal coming due (in the case of principal whether by maturity or mandatory redemption) prior to the next collection of taxes, less any credit for sums on hand in the debt retirement fund.

(2) To establish a reserve account for payment of principal and interest on bonds issued pursuant to this plan, an amount required by the resolution authorizing any series of bonds. Any amounts to the credit

of the reserve account at the beginning of a fiscal year in excess of the requirement of the preceding sentence shall be considered tax increment revenue for that year.

(3) To pay the administrative and operating costs of the DDA and city for the development area, including planning and promotion, to the extent provided in the annual budget of the DDA.

(4) To pay, to the extent determined desirable by the DDA and approved by the city, the cost of completing the remaining public improvements as set forth in the development plan to the extent those costs are not financed from the proceeds of bonds.

(5) To pay the cost of any additional improvements to the development as determined necessary by the DDA and approved by the city council.

(6) To reimburse the city for funds advanced to acquire property, clear land, and make preliminary plans and improvements necessary for the development of the development area in accordance with this plan.

(b) Any tax increment receipts in excess of those needed under subsection (a) of this section shall revert to the taxing jurisdictions or used for future development activities within the development area, as defined in the development plan or as expanded to include all or parts of the downtown development district pursuant to amendment or modification of the development plan pursuant to applicable provisions of Act No. 197 and other laws.

(Prior Code, § 12.278; Ord. No. 118, § 8, 12-22-1982)

Sec. 14-75. Report required; publication thereof.

Within 90 days after the end of each fiscal year, the downtown development authority shall submit to the city council, with copies of each taxing jurisdiction, a report on the status of the project fund. The report shall include the amount and source of revenue in the account, the amount and purpose of expenditures from the account, the initial assessed value of the development area, the captured assessed value of the development area, the tax increments received and the amount of any surplus from the prior year, and any additional information requested by the city council or deemed appropriate by the downtown development authority. The secretary of the downtown authority shall cause a copy of the report to be published once in full in a newspaper of general circulation in the city.

(Prior Code, § 12.279; Ord. No. 118, § 9, 12-22-1982)

Sec. 14-76. Surplus moneys.

Any surplus money in the project fund at the end of a year, as shown by the annual report of the downtown development authority, shall be paid by the authority to the city or county treasurer, as the case may be, and rebated by him to the appropriate taxing jurisdiction.

(Prior Code, § 12.280; Ord. No. 118, § 10, 12-22-1982)

Secs. 14-77—14-95. Reserved.

ARTICLE III. ECONOMIC DEVELOPMENT CORPORATION[23]

Sec. 14-96. Created.

There is hereby created and authorized the incorporation of the Economic Development Corporation of the City of Greenville, pursuant to and in accordance with Public Act No. 338 of 1974 (MCL 125.1601 et seq.).

(Prior Code, § 14.501; Ord. No. 102, § 1, 12-22-1977)

Sec. 14-97. Applicants named.

The application dated October 12, 1977, and filed by William G. Ham, C. J. Newell and J. Daniel Plank is hereby approved.

(Prior Code, § 14.502; Ord. No. 102, § 2, 12-22-1977)

Sec. 14-98. Articles of incorporation.

The articles of incorporation for the Economic Development Corporation of the City of Greenville are hereby approved and adopted in the following form:

ARTICLES OF INCORPORATION

OF

THE ECONOMIC DEVELOPMENT CORPORATION OF THE CITY OF GREENVILLE

A PUBLIC CORPORATION

These Articles of Incorporation are signed and acknowledged by the incorporators for the purpose of forming a public economic development corporation pursuant to the provisions of Act No. 338 of the Public Acts of 1974, as amended, (the "economic development corporations act of 1974").

ARTICLE I. NAME

The name of the economic development corporation is the Economic Development Corporation of the City of Greenville.

ARTICLE II. INCORPORATING MUNICIPALITY

The incorporation of the Economic Development Corporation of the City of Greenville was accomplished by the approval of these Articles of Incorporation by Ordinance of the City of Greenville, Montcalm County, Michigan.

ARTICLE III. PURPOSE

The corporation is organized and incorporated as authorized by and pursuant to the Economic Development Corporations Act of 1974 (Act 338, Public Acts of 1974), as amended. The purpose for which the Corporation is created is to alleviate and prevent conditions of unemployment; to assist and retain local industries and

[23]State law reference(s)—Economic development corporations, MCL 125.1601 et seq.

commercial enterprises; to strengthen and revitalize the economy of the City of Greenville and of the State of Michigan; to provide means and methods for the encouragement and assistance of industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in the City of Greenville to encourage the location and expansion of commercial enterprises to more conveniently provide needed services and facilities of the commercial enterprises to the city and the residents thereof. To accomplish the foregoing essential public purposes, the corporation, pursuant to Public Act No. 338 of 1974 (MCL 125.1601 et seq.), may do the following:

A. Construct, acquire by gift or purchase, reconstruct, improve, maintain, or repair projects (as the word "project" is defined in Public Act No. 338 of 1974 (MCL 125.1601 et seq.)), and acquire the necessary lands for the site therefor;

B. Acquire by gift or purchase the necessary machinery, furnishings, and equipment for a project;

C. Borrow money and issue its revenue bonds or revenue notes to finance part or all of the cost of the acquisition, purchase, construction, reconstruction, or improvement of a project or any part thereof, the cost of the acquisition and improvement of the necessary sites therefor, the acquisition of machinery, furnishings, and equipment therefor, and the costs necessary or incidental to the borrowing of money and issuing of bonds or notes for such purpose;

D. Enter into leases, lease purchase agreements, or installment sales contracts with any person, firm, corporation, or public authority for the use or sale of a project or any part thereof;

E. Mortgage the project, or any part thereof, in favor of any lender of money to the corporation;

F. Sell and convey the project or any part thereof for a price and at a time as the corporation determines;

G. Lend, grant, transfer, or convey funds, as described in Act 338, Public Acts of 1974, as amended, as permitted by law, but subject to applicable restrictions affecting the use of such funds;

H. Assist and participate in the designation of the land area which will be acquired in the implementation of a project;

I. Prepare, assist and aid in the preparation of plans, services, studies and recommendations relative to the public purposes of the corporation;

J. Aid, assist and participate in clearing, rebuilding and rehabilitating blighted, deteriorated areas or structures;

K. Encourage citizen participation and assistance in industrial and commercial enterprises, housing and community improvements and to disseminate information to the general public concerning the purposes and objectives of the corporation;

L. Aid, assist and participate in the acquisition, rehabilitation or construction of industrial and commercial improvements, dwelling units or other structures or matters incidental thereto;

M. Hold, demolish, repair, alter and improve or otherwise develop, clear, and dispose of real property;

N. Enter into agreements and contracts with any state agency or department, its political subdivisions and agency or department thereof, or any other official public body and any individual, corporation or other organization in connection with the purpose of the corporation;

O. Accept, hold, own, and acquire by bequest, devise, gift, purchase, or lease any property, real or mixed, whether tangible or intangible, without limitation as to kind, amount or value;

P. Sell, convey, lease, rent, mortgage, or make loans, grants or pledges of any such property, or any interest therein or proceeds therefrom, and to invest and reinvest the principal thereof and receipts therefrom, if any;

Q. Carry on any activity for the purposes above stated, either directly or as agent, for or with public authorities, individuals, corporations or other organizations, or in whole or in part through or by means of public authorities, individuals, corporations or other organization;

R. In general, and subject to such limitations and conditions as are or may be prescribed by law, to exercise such other powers which now are or hereafter may be conferred by law upon a corporation organized pursuant to Act 338, P.A. 1974, as amended, and for the foregoing purposes.

ARTICLE IV. BOARD OF DIRECTORS

1. DIRECTORS.

The board of directors of the corporation shall consist of nine persons, not more than three of whom shall be an officer or employee of the city. The board of directors of the corporation shall be appointed by the mayor of the City of Greenville with the advice and consent of the city council, as provided in Act 338, Public Acts of Michigan, 1974, as amended. The directors shall be appointed for terms of six years, except of the directors first appointed, four shall be appointed for six years, one for five years, one for four years, one for three years, one for two years and one for one year.

2. ADDITIONAL DIRECTORS.

In Accordance with Act 338, Public Acts of Michigan, 1974, as amended, the mayor with the advice and consent of the city council shall appoint two additional directors to the board of directors of the corporation for each project proposed by the corporation. Each of said additional directors appointed pursuant to this paragraph 2, article IV, shall serve as directors of the corporation until the project for which they are appointed is either abandoned or, if undertaken, is completed in accordance with the project plan, at which time each such director shall cease to serve.

ARTICLE V. OFFICERS

The board of directors of the corporation, by an affirmative vote of a majority of its members (not counting additional directors appointed pursuant to paragraph 2 of article IV, hereof), shall elect as the officers of the corporation, a president, a secretary and a treasurer, and from time to time may elect one or more vice-presidents and such assistant secretaries, assistant treasurers and such other officers, agents and employees as the board of directors may deem proper. Any two offices other than the office of president, secretary, and treasurer may be held by the same person.

The officers of the corporation shall serve for a term of one year and thereafter until his/her successor is elected and qualified, or until death, resignation or removal.

ARTICLE VI. POWERS AND DUTIES

The powers and duties of the corporation and its officers are to assist in alleviating and preventing conditions of unemployment; to assist and retain local industries and commercial enterprises; to assist industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in the city; and to construct, acquire by gift or purchase, reconstruct, improve, maintain, modernize, repair, furnish, equip and expand projects (as the word "project" is defined in Act 338, P.A. 1974, as amended), and acquire the necessary lands for the site therefor; to acquire by gift or purchase the necessary machinery, furnishings, and equipment for a project; to borrow money and issue revenue bonds or revenue notes to finance all or part of the cost of a project, including machinery, furnishings and equipment and the necessary site or sites therefor; to enter into, execute and carry out leases, lease purchase agreements, installment sales contracts with any person, firm or corporation for the use or sale of the project; to lease, mortgage, sell, and convey the project or any part thereof for a price and at a time as the corporation determines; to lend, grant, transfer, or convey funds as permitted by law, and in general to do and have such powers not prohibited by law and to this extent all powers provided and conferred by law upon corporations created and incorporated pursuant to Act 338, Public Acts of Michigan, 1974, as amended, are hereby

incorporated herein as powers of the corporation and its officers, in addition to all other powers conferred thereupon by law. It shall be the power and the duty of the officers of the corporation to implement, carry out, and execute the above described powers and duties of the corporation.

ARTICLE VII. BODY CORPORATE

The corporation shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purpose of its incorporation and those incidental thereto. The enumeration of any powers in these articles of incorporation shall not be construed as a limitation upon such general powers of the corporation.

ARTICLE VIII. LOCATION

Location of the first offices of the Economic Development Corporation of the City of Greenville is the Greenville City Hall, 411 S. Lafayette Street, Greenville, Michigan 48838.

ARTICLE IX. REGISTERED AGENT

The name of the first resident agent at the registered office is Alan G. Davis.

ARTICLE X. NON-STOCK; ASSETS

The corporation is organized upon a non-stock basis.

The amount of assets which said corporation possesses is:

1. Real property: None

2. Personal property: None.

The corporation will be financed from donations, gifts, grants, and devises, either solicited or unsolicited, obtained from public authorities, individuals, corporations, and other organization, by earnings from its activities, borrowings, and issuance of bonds and notes.

ARTICLE XI. INCORPORATORS

The names and addresses of each of the incorporators are as follows (as appointed by the mayor with the advice and consent of the council):

NAMES	ADDRESSES

ARTICLE XII. TERM

The term of existence of the corporation is perpetual or until dissolved in accordance with Act 338, Public Acts of Michigan, 1974, as amended.

ARTICLE XIII. BYLAWS AND REGULATION OF AFFAIRS

The board of directors, by an affirmative vote of a majority of its members (not counting additional directors appointed pursuant to paragraph 2 of article IV, hereof), shall adopt bylaws for the operation of affairs of the corporation.

The regulation of the internal affairs of the corporation, including the distribution of assets on dissolution or final liquidation is placed entirely with the board of directors or their successors, as provided in the bylaws of this corporation, subject, however, to the provisions of Act No. 338 of the Public Acts of 1974, as amended.

ARTICLE XIV. EFFECTIVE DATE OF CORPORATION

The date upon which the corporation shall become effective is January 1, 1978.

ARTICLE XV. PUBLICATION OF ARTICLES OF INCORPORATION

The name of the newspaper in which the Articles of Incorporation shall be published is the Daily News, a newspaper of general circulation in the City of Greenville. The director elected as secretary of the corporation shall also act as recording officer of the corporation. The clerk of the City of Greenville shall cause a copy of the Articles of Incorporation to be published once in said newspaper, accompanied by a statement that the right exists to question the incorporation of the corporation in a court as provided in section 31 of Act 338, Public Acts of Michigan, 1974, as amended.

ARTICLE XVI. NET EARNINGS

No part of the net earnings of the corporation, beyond that necessary for the retirement of indebtedness or to implement the public purposes or program of the city shall inure to the benefit of any person, firm or corporation, other than the city (except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes), and no member, trustee, officer or director of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

Upon the termination or dissolution of the corporation, after adequate provision has been made for all obligations of the corporation, surplus earnings and all property and assets of the corporation shall belong to and be paid only to the City of Greenville, Michigan, or its successor.

We, the incorporators, sign our names this 14th day of December, 1977.

_____

(Director)

_____

(Director)

_____

(Director)

EXECUTION OF INSTRUMENT

STATE OF MICHIGAN

COUNTY OF MONTCALM

On this 14th day of December, 1977, before me personally appeared William G. Ham, C. J. Newell and J. Daniel Plank, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

_____

Notary Public, Montcalm County, Mich.

My commission expires: _____

The foregoing Articles of Incorporation were adopted by the City Council of the City of Greenville, Montcalm County, Michigan, at a regular meeting duly held on the 6th day of December, 1977.

Attest: _____

City Clerk

(Prior Code, §§ 14.510—14.526; Ord. No. 102, § 3(arts. I—XVI), 12-22-1977)

Secs. 14-99—14-126. Reserved.

ARTICLE IV. PRINCIPAL SHOPPING DISTRICT[24]

DIVISION 1. GENERALLY

Secs. 14-127—14-150. Reserved.

DIVISION 2. SHOPPING DISTRICT BOARD[25]

Sec. 14-151. Creation.

A shopping district board is hereby created and shall exercise its powers within the boundaries of the principal shopping districts by the city council.

(Prior Code, § 47.004; Ord. No. 00-01, § 1, 9-19-2000)

Sec. 14-152. Composition; appointment.

(a) The shopping district board shall consist of nine members. One member shall be the city manager, one shall be a resident of an area designated as a principal shopping district, and one shall be a resident of an adjacent residential area. A majority of the members shall be nominees of individual businesses located within a principal shopping district who have an interest in property located in the district. The remaining members shall be representatives of businesses located in the district.

(b) Members of the board shall be appointed by the mayor with the concurrence of the city council. However, if all the following requirements are met, a business may appoint a member of the board, which member shall be counted toward the majority of members required to be nominees of businesses located within a principal shopping district:

(1) The business is located within a principal shopping district.

[24]State law reference(s)—Principal shopping districts, MCL 125.981 et seq.

[25]State law reference(s)—Principal shopping district board, MCL 125.981.

(2) The business is located within a special assessment district established by the city council to defray all or a portion of the costs of the board's activities.

(3) The special assessment district is divided into special assessment rate zones reflecting varying levels of specific benefits.

(4) The business is located in the special assessment rate zone with the highest special assessment rates.

(5) The square footage of the business is greater than five percent of the total square footage of businesses in the special assessment rate zone.

(c) If a member is appointed by a business meeting the requirements of this section at a time when all nine positions on the board are filled, the city council shall, by resolution, remove one or more members of the board in order that its membership not exceed nine in number.

(Prior Code, § 47.005; Ord. No. 00-01, § 1, 9-19-2000)

Sec. 14-153. Terms.

Each member shall serve for a term of three years. An appointment to fill a vacancy shall be made by the mayor, with the concurrence of the city council, for the unexpired term only.

(Prior Code, § 47.006; Ord. No. 00-01, § 1, 9-19-2000)

Sec. 14-154. Organization and compensation.

The shopping district board shall, from its appointed members, elect a chairperson who shall be the presiding officer of the board, and a vice-chairperson, who shall serve in the absence of the chairperson. A secretary, who shall keep and maintain proceedings of the board, shall be appointed by the board. The secretary need not be a member of the board. The officers shall each serve for one year and until their successors have been elected by the board. Members shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

(Prior Code, § 47.007; Ord. No. 00-01, § 1, 9-19-2000)

Sec. 14-155. Meetings and quorum.

The shopping district board shall hold meetings at such times and places as may be established by the board. Public notice of the time, date and place of all meetings shall be given in the manner required by the Open Meetings Act (MCL 15.261 et seq.). Special meetings may be called by the secretary at the written request of the chairperson or any three members of the board on at least two days' notice. A quorum for the transaction of business at regular and special meetings shall be a majority of the current members of the board.

(Prior Code, § 47.008; Ord. No. 00-01, § 1, 9-19-2000)

Sec. 14-156. Records and budget.

The shopping district shall keep minutes of its meetings and records of all expenses incurred by it in the performance of its duties. The board shall prepare and submit annually for approval of the city council a budget for its activities for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments.

(Prior Code, § 47.009; Ord. No. 00-01, § 1, 9-19-2000)

Sec. 14-157. Goal and powers.

(a) The goal of the shopping district board shall be to promote economic activity in the principal shopping districts of the city by undertakings including, but not limited to, conducting market research and public relations campaigns, developing, coordinating and conducting retail and institutional promotions, and sponsoring special events and related activities. In furtherance of its goal, the board may recommend to the city council that the city undertake one or more of the following in a principal shopping district:

(1) Open, widen, extend, realign, pave, maintain or otherwise improve highways and construct, reconstruct, maintain or relocate pedestrian walkways.

(2) Prohibit or regulate vehicular traffic where necessary to carry out the purposes of a development or redevelopment project.

(3) Regulate or prohibit vehicular parking on highways.

(4) Acquire, own, maintain, operate, demolish, develop or improve off-street parking lots or structures.

(5) Contract for the operation or maintenance by others of city off-street parking lots or structures, or appoint agents for the operation or maintenance of those lots or structures.

(6) Construct, maintain and operate malls with bus stops, information centers and other buildings that will serve the public interest.

(7) Acquire by purchase, gift or condemnation, and own, maintain, or operate real or personal property necessary to implement the goals of the board.

(8) Provide for or contract with other public or private entities for the administration, maintenance, security and operation of a district.

(b) The board may expend funds it determines reasonably necessary to achieve its goal, within the limits of those monies made available to it by the city council from the financing methods specified in this article.

(Prior Code, § 47.010; Ord. No. 00-01, § 1, 9-19-2000)

Chapter 16 EMERGENCY MANAGEMENT AND EMERGENCY SERVICES[26]

Sec. 16-1. Hindering emergency management personnel; impersonating emergency management personnel.

It shall be unlawful for any person willfully to obstruct, hinder or delay emergency management personnel in the enforcement of any rule or regulation issued pursuant to this chapter, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this chapter. It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the emergency management organization having jurisdiction in the city, unless authority so to do has been granted to such person by the proper officials. Convictions for violations of the provisions of this chapter shall be punishable by a fine of not to exceed $100.00 for such offense or by imprisonment in the county jail for a period of not to exceed 30 days or, within the discretion of the court, by both such fine and imprisonment.

[26]State law reference(s)—Emergency management, MCL 30.401 et seq.; Private Security Business and Security Alarm Act, MCL 338.1051 et seq.

(Prior Code, § 12.158; Ord. No. 52, § 8, 4-8-1957)

State law reference(s)—Emergency management, MCL 30.401 et seq.

Chapter 18 ENVIRONMENT AND NATURAL RESOURCES[27]

ARTICLE I. IN GENERAL

Secs. 18-1—18-18. Reserved.

ARTICLE II. WELLHEAD PROTECTION[28]

DIVISION 1. GENERALLY

Sec. 18-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned well means a well that has been permanently discontinued or a well in such disrepair that its continued use for obtaining groundwater is impractical or may be a health hazard.

Aquifer means a geological formation, group of formations, or part of a formation capable of storing and yielding useable amounts of groundwater to wells and springs.

Best Management Practices (BMPs) means measures, either managerial or structural, determined to be the most effective, practical means of preventing or reducing pollution from point sources or nonpoint sources of water bodies.

Contaminant source categories means groupings of land or land uses that provide a measure of their potential to contaminate or be detrimental to the integrity of the drinking water supply.

Contingency plan means detailed plans for control, recontainment, recovery, and cleanup of hazardous material releases such as during fires or equipment failures.

Designated agents means those persons given the authority by the director for the day-to-day administration of this article.

Development means the carrying out of any construction, reconstruction, alteration of surface or structure, change of land use, or intensity of use.

Director means the city manager.

Environment means:

[27]State law reference(s)—Natural Resources and Environmental Protection Act, MCL 324.101 et seq.

[28]State law reference(s)—Groundwater and freshwater protection, MCL 324.8701 et seq.

(1) The navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Fishery Conservation and Management Act of 1976; and

(2) Any other surface water, groundwater, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States (40 CFR 302.3).

Facility means something built, installed, or established for a particular purpose.

Hazardous substances means items identified on the Environmental Protection Agency (EPA) Table 1, Hazardous Substances including Radionuclides (40 CFR 302.4). Any material containing a listed hazardous substance in a concentration for the substance to be identified on the Material Safety Data Sheet (MSDS) is also considered a hazardous substance.

Operator means the owner, CEO, CFO, president, manager, chairperson, or person in similar position given the authority for the day-to-day management of a facility or any other entity, or a person acting as their agent.

Primary containment means a tank, pit, container, pipe, or vessel of first containment of a liquid or chemical.

Property owner means a person, public corporation, authority, or a political subdivision of the state or a combination of any of them, that holds an ownership interest in land, whether recorded or not. The term "ownership interest" means ownership by one person or by different private entities if the land is owned in joint interest or by members of the same immediate family.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (40 CFR 302.3).

Secondary containment means a second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area. Monitoring and recovery is required.

Significant use means the use, storage, handling, or management, at any time, of hazardous substances in quantities that exceed those commonly used for typical residential or office purposes.

Time-of-travel distance means the distance that groundwater will travel in a specified time. This distance generally depends on the transmissivity and hydraulic gradient of the supply aquifer.

Underground storage tank (UST) means one or any combination of tanks, including the underground pipes connected thereto, used to contain an accumulation of hazardous substances, the volume of which, including the volume of the underground pipes connected thereto, is ten percent or more beneath the surface of the ground. The term "UST" does not include any of the following:

(1) Pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, 82 Stat. 720.

(2) Surface impoundments, pits, ponds, or lagoons.

(3) Stormwater or wastewater collection systems.

(4) Flow-through process tanks.

(5) Storage tanks in underground areas when the tanks are on or above the surface of the floor and the integrity of the tank is periodically visually evaluated.

(6) Septic tanks.

(7) Tanks used for storing heating fuel for consumptive use on the premises where stored, provided the premises are single- or two-family homes.

Wellhead protection area (WHPA) means the area that has been approved by the Michigan Department of Environmental Quality (MDEQ) in accordance with the State of Michigan Wellhead Protection Program (WHPP),

which represents the surface and subsurface area surrounding a water well, or well field, which supplies a public water system, and through which contaminants are reasonably likely to move toward and reach the water well, or well field within a ten-year time of travel (defined by reference on a map approved by the MDEQ).

Wellhead protection district (WHP district) means the surface and subsurface area surrounding a water well, spring, or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach that water well, spring, or well field (defined by reference on a map approved by the MDEQ).

Wellhead Protection Team (WHP team) means a group of people that includes the public water supply superintendent, a representative of the community, and representatives from among the local health department, fire department, business and industry, agriculture, education, planning, environmental groups, or the general public, whose purpose is to facilitate the development, implementation, and long-term maintenance of a WHPA.

(Prior Code, § 25.620; Ord. No. 00-02, art. 2, 11-21-2000)

Sec. 18-20. Penalties for violations.

(a) Any entity or person who spills, leaks or discharges said substances shall be liable for any reasonable expense, loss, or damages incurred by the city in response to such an incident. Along with the amount of any fines imposed due to it under state and federal law, said entity or person shall document and maintain sufficient records to reflect accurately the circumstances related to any such incident and develop and carry out procedures substantially to eliminate the likelihood or recurrence of such spills, leaks, or discharges when practicable following the incident, but no later than 120 days after the incident.

(b) Any person who violates or continues to violate any provisions of this article beyond the time limit for compliance set forth by the director, notice of violation, or a compliance schedule established by the director, shall be subject to the following:

  (1) A fine in an amount not to exceed $500.00 to be paid into the WHP fund.

  (2) A subsequent violation of the same provision of this article may constitute a misdemeanor punishable by a fine of up to $1,000.00 to be paid into the WHP fund and a term of imprisonment of up to 90 days. If the violation is a continuing one, each day of such violation shall constitute a separate violation.

  (3) The property where the violation has occurred may be subject to disconnection from the city's public drinking water supply.

  (4) The city may seek injunctive relief to stop the violation.

(Prior Code, § 25.677; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-21. Purpose and scope.

(a) The purpose of this article is to help safeguard the public health, safety, and welfare and to provide for the protection and availability of existing and future potable water supply by instituting rational and objective requirements, standards, and criteria for the control of toxic or otherwise hazardous substances within specifically defined areas in and around the city's present and future wells and well fields, thereby enhancing the protection of the public potable water supply from contamination. This article provides a framework to carry out a contaminant source management program for the wellhead protection district (WHP district) to prevent or remove nuisances.

(b) This article is based on active management of potential contamination sources and the regulation of certain land uses. A combination of techniques can be employed to ensure that release of hazardous substances does not occur from known and potential sources of contamination. The best known of these techniques are

Best Management Practices (BMPs). BMPs are common-sense operational procedures for handling, storage, and disposal of hazardous substances (see Attachment 8 to Ord. No. 00-02, Best Management Practices).

(c) This article recommends close monitoring of certain high-risk land uses, inspection activities to ensure that BMPs are being carried out and the assessment of fees to cover the cost of compliance.

(d) Groundwater monitoring wells may be required for existing high-risk land uses. This can be useful to verify that groundwater contamination is not taking place. It also allows for early detection and remediation of releases of potentially hazardous materials to groundwater.

(e) A strength of a wellhead protection ordinance is the ability to apply the use of prescribed operational BMPs. BMPs ensure that existing operational practices of existing businesses are carried out in a manner consistent with the goals of the wellhead protection plan (WHP plan).

(f) These provisions shall be effective within the city corporate limits, except as otherwise provided. This article provides for pollution control concerning the public water supply.

(g) Nothing contained in this article shall be construed to interfere with any existing or future lawful requirements that may be, or heretofore were, imposed by any other public body authorized to enact sanitary, health, or water pollution abatement restrictions if such requirements are consistent with, or more stringent than, the stated purpose of this article.

(h) This article provides for a variety of specific procedures. When implemented, these procedures will minimize the potential of accidental releases of hazardous substances impacting potable water supplies. In summary, this article does the following:

(1) Establishes operational BMPs for business and industry.

(2) Creates a mechanism to monitor operational activities through an inspection program.

(3) Requires certain categories of businesses to report their presence in a WHP district to the Michigan Department of Environmental Quality (MDEQ).

(4) Establishes reporting requirements for city notification of state and federal compliance requirements.

(5) Allows for new charges to appear on water bills for wellhead protection.

(6) Establishes a fund for wellhead protection.

(7) Creates an employment category of WHP officer.

(8) Establishes penalties for failure to comply with the provisions of this article.

(Prior Code, § 25.610; Ord. No. 00-02, art. 1, 11-21-2000)

Sec. 18-22. Exemptions.

(a) The director may exempt a hazardous substance from regulation if it is determined that the substance poses no risk to groundwater. A request for such exemption shall be submitted to the director and shall contain such information as the director may require. The decision of the director regarding exemptions shall be final and binding and may not be appealed to any other city board or agency.

(b) Reporting procedures and requirements are based on the type of hazard associated with chemical usage. Applicable businesses are either Category 1 or Category 2, Category 3 uses will be monitored. Property owners will be responsible for notifying the city in case of a change of classification. The WHP officer shall maintain an inventory of all land uses within the WHP district.

(Prior Code, § 25.662; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-23. Management functions.

(a) The local WHP management program is based on active management of known and potential contamination sources through a combination of notification, education, reporting, and inspection activities. This article details how this is to be accomplished.

(b) The local WHP team will function as the executive committee regarding implementation of the WHPP.

(Prior Code, § 25.662; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-24. Territorial applicability.

(a) The WHP plan defines a WHP area as "the area which has been approved by the Department of Environmental Quality in accordance with the State of Michigan Wellhead Protection Program, which represents the surface and subsurface area surrounding a water well, or well field, which supplies a public water system, and through which contaminants are reasonably likely to move toward and reach the water well, or well field within a ten-year time of travel." (Defined by reference on a map approved by the MDEQ.)

(b) This article shall apply to the WHP district in the city as shown on the official wellhead map of the city and as identified in Attachment 1 to Ord. No. 00-02. These areas are delineated on a map that is available for public viewing in the office of the department of public services. The director of public services shall maintain such maps.

(c) It will be the responsibility of any person owning real property and/or owning or operating a business or facility within the city corporate limits to determine the applicability of this article as it pertains to the property and/or facility under his ownership or operation, and his failure to do so shall not excuse any violations of said sections.

(Prior Code, §§ 25.633, 25.661; Ord. No. 00-02, arts. 3, 6, 11-21-2000)

Sec. 18-25. Other regulations.

When the provisions herein specified for wellhead protection conflict with those of other ordinances or regulations, the most stringent requirements shall apply.

(Prior Code, § 25.680; Ord. No. 00-02, art. 7, 11-21-2000)

Sec. 18-26. Compliance generally.

(a) No person shall place, deposit, or permit to be deposited; store, process, use, produce, dispose of, transport, or discharge, hereinafter referred to as "handle," any hazardous substance on public or private property within the city, or in any area under the jurisdiction of said city, except as provided by local, state, and federal law, statute, ordinance, rule, or regulation.

(b) Any violation of this article is hereby determined to be a public nuisance.

(c) Except for single- or two-family residences where the use, storage, handling, or management, at any time, of hazardous substances in quantities that do not exceed those commonly used for typical residential or office purposes, the use of any land, building, or structure in the WHP district in which any hazardous substances are stored or handled, and for which an occupancy permit has not been issued, is hereby determined to be a public nuisance.

(d) Except for a seasonal discontinuation of operation, the owner or operator of any nonresidential property that becomes unoccupied or has ceased operation for 90 consecutive days shall remove all hazardous substances from the property other than those used exclusively for heating, cooling, and providing electrical lighting for the premises within 90 days after the date upon which the property initially became unoccupied or the operation discontinued. Except as noted above, hazardous substances excluded from reporting requirements shall be removed within the time frame specified above. The owner or operator shall secure the hazardous substances on the property until they have been removed. The owner or operator shall notify the director in writing of the date of the cessation of operation or the property becoming unoccupied no later than the day upon which the operation actually ceases or the property becomes unoccupied, and such notification shall include the owner's name, phone number, and address and the operator's name, phone number, and new address.

(e) Hazardous substances associated with paving, the pouring of concrete, or construction for which all necessary permits have been obtained may be handled in the WHP district, provided such hazardous substances are present at the construction site for which the permits have been issued and do not pose a real and present danger of contaminating surface water and/or groundwater. For the on-site storage of fuel for vehicles or other equipment that may be associated with such construction activity, the fuel storage containers shall be secondarily contained. Hazardous substances not used in the construction process, and all subsequent waste generated during construction, shall be removed from the construction site no later than at the time of the completion of the construction. If construction activity has ceased for 60 days, all hazardous substances shall be removed from the site until the construction activity is to resume. The WHP officer is to determine the intensity of each use in the WHP district.

(Prior Code, § 25.663; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-27. Falsifying information.

No person shall make any false statement, representation, or certification in any report or other document filed or required to be maintained pursuant to this article.

(Prior Code, § 25.667; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-28. Vandalism.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, property, or equipment that is a part of or used in conjunction with the city's water facilities, or which results in the violation of this article.

(Prior Code, § 25.674; Ord. No. 00-02, art. 6, 11-21-2000)

Secs. 18-29—18-59. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Subdivision I. In General

Sec. 18-60. Enforcement officer generally.

Except as otherwise provided herein, the city manager or the manager's designated agent, hereinafter referred to as director, shall administer, implement, and enforce the provisions of this article.

(Prior Code, § 25.631; Ord. No. 00-02, art. 3, 11-21-2000)

Sec. 18-61. Wellhead protection officer.

(a) A wellhead protection (WHP) officer will be responsible for implementing this article.

(b) The WHP officer is an employee of the city. The job description for this position is on file in the office of human resources, and is available for public review during regular business hours. This position may be part-time, full-time, or combined and shared with other duties, functions, and responsibilities as determined by the director.

(c) The responsibilities of the WHP officer will be outlined in this article and further directed by the director of public services.

(Prior Code, §§ 25.650—25.652; Ord. No. 00-02, art. 5, 11-21-2000)

Sec. 18-62. Inventory of potential contamination sources.

(a) An inventory of potential contamination sources within the area of delineation has been prepared prior to the adoption of this article.

(b) A contaminant source inventory and the boundaries of the WHP district are on file in the office of the director of public services and are available for public review during regular business hours. The contaminant source inventory presents the list of identified potential contamination sources.

(c) The contaminant source inventory will be maintained by the WHP officer and updated at least every three years.

(Prior Code, §§ 25.640—25.642; Ord. No. 00-02, art. 4, 11-21-2000)

Secs. 18-63—18-82. Reserved.

Subdivision II. Enforcement Actions

Sec. 18-83. Generally.

(a) If any activity or use of hazardous substance is deemed by the director to present a real and present danger of contaminating surface water and/or groundwater that would normally enter the public water supply, the director is authorized to:

  (1) Cause cessation of said activity or use of hazardous substance and require the provision of administrative controls and/or facilities sufficient to mitigate said danger; and/or

  (2) Cause the provision of pollution control and abatement activities.

(b) When considering the exercise of any of the authorities or actions stated in subsection (a) of this section, the director will ensure that the city's public water supply is reasonably and adequately protected from

contamination for the present and the future. The director will attempt to coordinate and act in concert with other regulatory entities in the exercise of these authorities. The director may take into consideration any evidence represented by the entity regarding the cost, economic effectiveness, and the economic impact imposed by the requirements or actions.

(Prior Code, § 25.632; Ord. No. 00-02, art. 3, 11-21-2000)

Sec. 18-84. Notice of violation.

(a) Any person found violating any provision of this article or any order, requirement, rule, or regulation issued under the authority of such sections will be served with a written notice stating the nature of the violation and providing reasonable time for compliance; provided, however, written notice of violation may be dispensed with under the conditions described herein and provided further that if the director has previously promulgated a schedule of compliance or issued an order addressing the same type of or a similar violation, and the time for compliance has passed, the director may dispense with establishing another time period for compliance.

(b) The notice shall be served in the manner provided by law for the service of civil process. Where the address of the violator is unknown, service may be made upon the owner of the property involved at the tax-mailing address of the owner as shown on the county tax record.

(1) If the potential contamination source is found not to employ BMPs in accordance with the city, a written warning of violation shall be issued by the WHP officer. The written warning allows the opportunity for a facility owner to show a good faith effort to correct an unintentional violation within a reasonable time.

(2) The written warning will:

a. Specify the actions or conditions that violate BMPs;

b. Identify what needs to be done to correct the violations; and

c. Specify a reasonable time within which the violation will be corrected.

(3) One copy of the written warning shall be provided to the potential contamination source owner and one will be kept in the official records of the WHP officer.

(c) Attachment 5 to Ord. No. 00-02 is a sample written warning.

(Prior Code, § 25.671; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-85. Cease-and-desist order.

(a) A cease-and-desist order shall be issued by the WHP office if:

(1) The potential contamination source is found not to employ BMPs following city policy and an immediate threat to public WHP and safety exists in the opinion of the WHP officer; or

(2) If a violation is not corrected within the time specified in a written warning issued by the WHP officer.

(b) Attachment 6 to Ord. No. 00-02 is a sample cease-and-desist order.

(Prior Code, § 25.672; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-86. Enforcement of BMPs.

(a) The WHP officer will be responsible for enforcement of the provisions of this article.

(b) If the owner or operator of a facility fails to comply with a removal order issued under this article within the specified time, the WHP officer shall have the authority to cause the nuisance to be removed or destroyed.

(c) If the owner or operator of a facility fails to comply with a removal order within the specified time, the WHP officer shall have the authority to commence an action for collection of nuisance abatement costs.

(Prior Code, § 25.673; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-87. Removal order.

(a) A removal order shall be issued by the WHP officer if it is found that the potential contamination source does not employ BMPs in accordance with this article and an immediate threat to public WHP and safety exists, in the opinion of the WHP officer, or if a violation is not corrected within the time specified in a written warning issued by the WHP officer.

(1) The WHP officer shall notify the owner or occupant of any building, vessel, premises or property to remove or destroy any nuisance therein deemed by them, on examination, to be harmful to the public wellhead protection, within a reasonable time.

(2) The removal order shall specify the actions or conditions that violate BMPs, identify what needs to be done to correct the violations, and specify the time frame within which the violation shall be corrected based on the degree of threat to public WHP and safety.

(3) One copy of the removal order will be provided to the potential contamination source owner and one copy will be kept in the official records of the WHP officer.

(b) Attachment 7 to Ord. No. 00-02 is a sample removal order.

(Prior Code, § 25.674; Ord. No. 00-02, art. 6, 11-21-2000)

Secs. 18-88—18-117. Reserved.

DIVISION 3. LOCAL WELLHEAD PROTECTION MANAGEMENT

Sec. 18-118. Contaminant source categories.

(a) *Category 1—Sites of known contamination.*

(1) MDEQ Act 307 sites or Part 201 sites of environmental contamination are a list of sites published by the MDEQ's environmental response division (ERD). This list identifies sites deemed by the MDEQ as requiring remediation under Part 201 of Act 451. The environmental act was formerly known as Act 307. Therefore, the listing is sometimes referred to by both names. Currently, the listing is available from the MDEQ's web page as a database file.

(2) Leaking underground storage tank (LUST) sites are sites where there has been a release from an underground storage tank (UST), hence the term "leaking UST or LUST." The MDEQ's storage tank division maintains a listing of these sites, either open (has not been completely cleaned up) or closed (has been cleaned up).

(3) The Emergency Response Notification System (ERNS) is a national database maintained by the United States Environmental Protection Agency (USEPA) and United States Department of Transportation (USDOT). It contains information about spills or releases reported to the National Response Center (NRC). Reports to the NRC are required if the spill exceeds established threshold amounts. Thresholds vary for different types of materials.

(4) The term "active CERCLA sites" refers to a listing of sites identified as hazardous or potentially hazardous that may require action. These sites are currently being investigated, or an investigation has been completed regarding the release of hazardous substances. The most serious sites are transferred to the NPL (Superfund).

(5) Civil enforcement docket sites are civil and administrative actions filed by the Department of Justice for the USEPA.

(6) Current or former sites with lagoons or pond for liquid waste disposal.

(b) *Category 2—Sites of potential or suspected significant hazardous substance use.*

(1) Sites with operations known to use significant amounts of hazardous substances.

(2) Sites with operations suspected to use significant amounts of hazardous substances.

(3) Sites where significant quantities of hazardous materials are stored (except retail sales).

(4) Generators of hazardous wastes.

(5) Hazardous waste treatment, storage and disposal facilities (TSDFs).

(6) Sites with former USTs or aboveground storage tanks (ASTs).

(7) Remediated release sites.

(8) Commercial properties.

(c) *Category 3—Sites of no significant hazardous substance use.*

(1) Residential properties.

(2) Office properties.

(3) Vacant properties.

(4) Retail sales properties.

(d) *Right of appeal.* If a person believes his site has been included in an inappropriate category, disputes can be handled by submitting documented proof that the associated chemicals and quantities are not being used or stored onsite.

(e) *Recordkeeping.*

(1) Facility plans, plumbing plans, and subsurface disposal system plans and specifications must be updated to reflect current facility configurations. Copies of associated approvals and permits should be maintained on file.

(2) Occupational Safety and Health Administration (OSHA) requirements, health and environmental emergency procedures, materials management plans, inventory records, servicing/repair/inspections logs, and medical waste-tracking and hazardous waste disposal records must be maintained up-to-date and made available for inspection by the WHP officer.

(3) Reporting procedures and requirements are based on the type of hazard associated with chemical usage. Applicable businesses are Category 1 and Category 2 sites.

(f) *Retention of record.* Any reports or records compiled or submitted pursuant to this article shall be maintained by the user for a minimum of ten years or while enforcement or judicial proceedings are being pursued, whichever is longer.

(g) *Notification of potential contamination source landowners.*

(1) Each owner of property identified as containing a potential contamination source shall receive a notification letter from the WHP officer. The letter should state that the site activities are being conducted within the WHP district. The letter must also state that the site must be available for the WHP officer to perform site inspections as necessary. Inspections, if deemed necessary by the WHP officer, will be conducted to ensure compliance with this article. Activities conducted onsite are subject to the BMPs as determined appropriate by the WHP officer and this article.

(2) Attachments 2 and 3 to Ord. No. 00-02 are a sample letter to residential property owners and a sample letter to nonresidential property owners.

(Prior Code, § 25.664; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-119. Reporting and protection requirements.

Reporting procedures and requirements are based on the type of hazard associated with chemical usage.

(1) *Reporting procedures for Category 1 contaminant sources.* Each owner of property identified as containing a potential contamination source listed as a Category 1 contaminant source in appendix 4 of the WHP plan must submit an annual report to the WHP officer indicating the following:

a. Completion of the city's reporting/plan checklist.

b. Submit all studies and reports describing and/or showing the extent of known contamination.

c. Specification of liable parties, and the name and title of the person designated with the responsibility for filing this information.

d. Compliance with operational BMPs, as recommended by the city.

(2) *Reporting procedures for Category 2 contaminant sources.* Each owner of property identified as containing a potential contamination source listed as a Category 2 contaminant source in Appendix 4 of the WHP plan must submit an annual report to the city WHP officer indicating the following:

a. Completion of the city's reporting/plan checklist.

b. Specification of liable parties, and the name and title of the person designated with the responsibility for filing this information.

c. Compliance with operational BMPs, as recommended by the city.

Failure to file the report by the specified deadline will initiate an inspection in accordance with this article.

(3) *Proof of notification.* Each owner of property identified as a known soil and/or groundwater contamination source listed in Appendix 4 of the City of Greenville Wellhead Protection Plan must also provide proof of notification that they are located within a WHP district to the appropriate MDEQ project manager within 90 days after receiving the notice described above. Failure to file proof of notification by the specified deadline will initiate an inspection in accordance with this article.

(Prior Code, § 25.665; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-120. Releases.

(a) Any person with direct knowledge of a release of a hazardous substance within the WHP district shall give notice immediately, but no later than within 30 minutes, to the director or the WHP officer by telephone. If giving notice of a spill within the first 30 minutes is impractical under the circumstances, notice shall be given as soon as it becomes practical to do so. At a minimum, the notification shall include the location of the incident, the name and telephone number of the property owner or operator, the date and time thereof, the type of substances, the concentration and volume, and the control or corrective action taken. Such notification shall in no way alleviate other local, state, and federal reporting obligations as required by law.

(b) The city shall post signs in conspicuous places advising transporters of hazardous substances of notification procedures if there is a spill or accidental discharge.

(c) The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc., used in routine agricultural operations, including plant nutrients and crop protection materials, applied under BMPs and label directions approved by the USEPA or the state department of agriculture shall not be considered a release subject to the reporting provisions of this article.

(Prior Code, § 25.666; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-121. BMPs compliance inspections.

(a) Subject to applicable provisions of law, the director or authorized designee bearing proper identification shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling, and records examination concerning the requirements of this article to ensure that activities are in accordance with the provisions of this article.

(b) All potential contamination sources located within the WHP district may be inspected by the local WHP officer to ensure compliance with BMPs. Inspections may be conducted upon 24-hour notice. An inspection form will be filled out by the WHP officer upon completion of each compliance inspection. One copy of the form will be provided to the potential contamination source owner and one copy will be kept in the official records of the WHP officer. A certificate of compliance can be issued after a satisfactory inspection of a potential contamination source.

(c) Upon request of the entity that is the subject of the inspection and if permitted by the Michigan Public Records Law, information obtained from the inspection shall be maintained as confidential. If the owner or tenant does not consent to the entry of the WHP officer for the above stated purposes, the director may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.

(d) Attachment 8 to Ord. No. 00-02 is the Best Management Practices.

(Prior Code, § 25.668; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-122. Abandonment of underground storage tank.

Owners and operators of any UST system in the WHP district that is out of service for 12 consecutive months shall permanently abandon or remove the UST in accordance with the requirements of the MDEQ.

(Prior Code, § 25.669; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-123. Determination of compliance or violation of BMPs.

(a) A follow-up letter will be issued after a satisfactory inspection of a potential contamination source by the WHP officer if the potential contamination source is found to employ BMPs, based on a site inspection performed in accordance with this article.

(b) Issuance of a follow-up letter is not intended in any way to limit the powers of the WHP officer to enter property to perform additional inspections for administration of this article.

(c) Attachment 4 to Ord. No. 00-02 contains a sample certificate of compliance form.

(Prior Code, § 25.670; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-124. Abandoned wells.

(a) Since it is known that improperly abandoned wells can become a direct conduit for contamination of groundwater by surface water, all abandoned wells should be properly plugged according to MDEQ requirements and specifications.

(b) Abandoned wells are required to be properly sealed at the time of property sale, change of ownership, or demolition. This requirement applies to Category 1, 2, and 3 sites.

(Prior Code, § 25.675; Ord. No. 00-02, art. 6, 11-21-2000)

Sec. 18-125. Wellhead protection fund (WHP fund) and board.

(a) *Wellhead protection fund (WHP fund).* The WHP fund is hereby established to remediate pollution that could affect the public water supply and/or to pay the costs of administering this article and acquiring interests in property necessary to reduce the risk of pollution of the public water supply. The WHP fund can be used only for WHP activities within the designated WHP district.

(b) *WHP fund revenue sources and usage.*

(1) The city water rates shall be amended to include a WHP charge applicable to the entire rate base. This charge is to generate revenue for the WHP fund. The rate is to be set by the council. All interest and payments resulting from WHP fund activities will be paid to the WHP fund. All directly related administrative costs of the WHP fund are reimbursable from the WHP fund.

(2) Costs for WHP activities advanced from the water fund or any other city source of funds are reimbursable from the WHP fund.

(c) *Wellhead protection board (WHP board).*

(1) The WHP board is hereby established. The board shall consist of the city manager, the director of public services, and the city treasurer. The board shall determine the WHP charge to be part of the city water rates, subject to approval by the council.

(2) The board shall, subject to approval by the council, develop rules, regulations and procedures for the administration of the WHP fund. If necessary, the board may recommend a reduction in the WHP charge if the WHP fund exceeds the limitations as set forth herein subject to approval by the council.

(d) *Limitations on fund use.*

(1) The WHP fund shall be limited to $250,000.00.

(2) Interests in private property will not be acquired with funding under the WHP fund to compensate the owner for compliance with:

a. A lawful order, requirement, or declaration from any regulatory agency.

b. A requirement to obtain or maintain insurance coverage.

(3) In case of fire at a Category 1 or 2 contaminant source site, the city will withhold ten percent of the insurance settlement up to $25,000.00 for environmental testing.

(e) *Fee for site inspection* There will be a fee for inspection of potential contamination sources, to be paid by the owner or operator of the facility. A fee schedule shall be established by the council that reasonably represents the cost of performing an inspection on various types of facilities.

(Prior Code, § 25.676; Ord. No. 00-02, art. 6, 11-21-2000)

Chapter 20 FIRE PREVENTION AND PROTECTION[29]

ARTICLE I. IN GENERAL

Sec. 20-1. Open fires and burning.

(a) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garbage means any regular wastes, produced from the household and not considered a food product, i.e., containers, paper products, etc.

Trash means any putrescible animal or vegetable waste resulting from handling, preparation, cooking and consumption of food.

Yard waste means any regular wastes produced from landscaping activities, i.e., lawn trimmings, leaves, small brush (must be less than 1½ inches in diameter).

(b) *General restrictions.*

(1) *Cleanliness.* It shall be the duty of every owner, tenant, lessee or occupant of any building, residential or commercial, having trash, garbage or other refuse to provide for and have proper storage containers as defined in this chapter, of sufficient size and number to handle the accumulation of trash, garbage or other refuse on the premises during the interval between private and public collections. In the case of collections not taken care of by the city, there shall be no undue accumulation of materials and the buildings and premises shall be kept in a clean and orderly condition. Should any person violate this provision, the city shall notify the said owner, tenant, lessee or occupant by personal service of a written notice or by first class mail to correct the violation within 24 hours from the time of notification. If the said owner, tenant, lessee or occupant shall fail to correct the situation of which he has had notification within the 24-hour period, the city has the right and power to correct the violation and bill the said owner, tenant, lessee or occupant for the costs incurred for doing the work for the city.

[29]State law reference(s)—State fire prevention code, MCL 29.1 et seq.; false fire alarms, MCL 750.240.

(2) *Yard waste.* No person shall cause or permit the burning of yard waste on any private premises or public property.

(c) *Open fires.*

(1) No person or persons shall burn any wood or other combustible material whatever on any public paved street or alley or in any public place, provided that such burning shall not be prohibited in licensed or approved incinerators or burners, or in similar containers provided and placed by the city for public use in parks and other public places.

(2) No persons shall burn a bonfire unless first authorized by permit issued by the department of public safety and provided that such person or persons are of mature age and/or judgment and remain in constant attendance while such fire is burning. Such bonfire must be of such limited size so as to allow the person or persons in charge to have complete control over such fire and remain in constant attendance until such fire is extinguished. The burning of yard waste, rubbish, trash or other debris in a bonfire is expressly prohibited.

(3) No person or persons shall kindle or start any outside material in any place, public or private, or in such quantities so as to endanger surrounding property, and no person shall kindle or start such fire when the wind is of a velocity to carry burning embers beyond the control of such person or persons.

(Prior Code, §§ 40.071—40.073; Ord. No. 147, §§ 1—3, 10-18-1996)

Secs. 20-2—20-20. Reserved.

ARTICLE II. FIRE CONTROL MEASURES[30]

Sec. 20-21. Scope.

The provisions of this article apply to conditions that could impede or interfere with fire suppression forces.

(Prior Code, § 40.001; Ord. No. 109, § 1, 1-2-1981)

Sec. 20-22. Other ordinances.

The provisions of this article are supplementary to existing fire control ordinances.

(Prior Code, § 40.013; Ord. No. 109, § 13, 1-2-1981)

Sec. 20-23. Authority at fires and other emergencies.

The fire official or his duly authorized representatives, as may be in charge at the scene of a fire or other emergency involving the protection of life and/or property is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fires, gas leaks, or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. The fire official may prohibit any person, vehicle or object from approaching the scene and may remove or cause to be removed from the scene any person, vehicle or object which may impede or interfere with the operations of the department of public safety. The fire official may remove or cause to be removed any person, vehicle or object from hazardous

[30]State law reference(s)—State fire prevention code, MCL 29.1 et seq.

areas. All persons ordered to leave a hazardous area shall do so immediately and shall not re-enter the area until authorized to do so by the fire official.

(Prior Code, § 40.002; Ord. No. 109, § 2, 1-2-1981)

Sec. 20-24. Interference with operations.

It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of travel of any department of public safety emergency vehicle in any way, or to interfere with, attempt to interfere, conspire to interfere with, obstruct or hamper any department of public safety operation.

(Prior Code, § 40.003; Ord. No. 109, § 3, 1-2-1981)

Sec. 20-25. Compliance with orders.

A person shall not fail or refuse to comply with any lawful order or direction of any fire official at the scene of a fire or accident or emergency at which the department of public safety is in attendance, nor shall anyone interfere with the compliance attempts of any other individual.

(Prior Code, § 40.004; Ord. No. 109, § 4, 1-2-1981)

Sec. 20-26. Unlawful boarding or tampering with emergency equipment.

A person shall not, without proper authorization from the fire official in charge of said department of public safety emergency equipment, cling to, attach himself to, climb upon or into, board, or swing upon any department of public safety emergency vehicle, whether the same is in motion or at rest, or sound the siren, bell or other sound-producing device thereon, or to manipulate or tamper with, or attempt to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps, or any equipment or protective clothing on, or a part of, any department of public safety emergency vehicle.

(Prior Code, § 40.007; Ord. No. 109, § 7, 1-2-1981)

Sec. 20-27. Damage, injury to equipment or personnel.

It shall be unlawful for any person to damage or deface or attempt, or conspire to damage or deface any department of public safety emergency vehicle at any time, or to injure, or attempt to injure or conspire to injure department of public safety personnel while performing departmental duties.

(Prior Code, § 40.008; Ord. No. 109, § 8, 1-2-1981)

State law reference(s)—Destruction of fire department property, MCL 750.377b; obstructing firefighters, MCL 750.241.

Sec. 20-28. Blocking fire hydrants and connections.

(a) It shall be unlawful to obscure from view, damage, deface, obstruct or restrict the access to any fire hydrant or any department of public safety connection for the pressurization of fire suppression systems, including fire hydrants and department of public safety connections that are located on public or private streets and access lanes or on private property.

(b) If, upon the expiration of the time mentioned in a notice of violation, obstruction or encroachments are not removed, the fire official shall proceed to remove the same. Cost incurred in the performance of necessary work shall be paid from the municipal treasury on certificate of the fire official and with the approval of the chief administrative official, and the legal authority of the municipality shall institute appropriate action of the recovery of such costs.

(Prior Code, § 40.009; Ord. No. 109, § 9, 1-2-1981)

Sec. 20-29. Maintenance of fire suppression equipment.

A person shall not obstruct, remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of the fire prevention code, except for the purpose of extinguishing fire, training or testing purposes, recharging, or making necessary repairs, or when permitted by the fire official. Whenever a fire appliance is removed as herein permitted, it shall be replaced or re-installed as soon as the purpose for which it was removed has been accomplished. Defective and non-approved fire appliances or equipment shall be replaced or repaired as directed by the fire official.

(Prior Code, § 40.010; Ord. No. 109, § 19, 1-2-1981)

Sec. 20-30. Sale of defective fire extinguishers.

A person shall not sell, trade, loan or give away any form, type or kind of fire extinguisher which is not approved by regulations or laws of the state including the Michigan Administrative Code. A person shall not sell or trade any fire extinguisher which is not in proper working order or the contents of which do not meet the requirements of state law or regulation, including the Michigan Administrative Code. This section shall not apply to the sale or trade of obsolete or damaged equipment for junk, as long as said items being exchanged are permanently disfigured or marked and identified as junk.

(Prior Code, § 40.011; Ord. No. 109, § 11, 1-2-1981)

Sec. 20-31. Street obstructions.

A person or persons shall not erect, construct, place, or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction in or on any street within the boundaries of the municipality, unless that person has obtained the written approval of the traffic engineer and has provided the department of public safety and the traffic engineer with a key or other means of access. The term "street" as used in this section means any roadway accessible to the public for vehicular traffic, including but not limited to, alley, private streets or access lanes as well as all public streets and highways within the boundaries of the city.

(Prior Code, § 40.012; Ord. No. 109, § 12, 1-2-1981)

Secs. 20-32—20-50. Reserved.

ARTICLE III. SMOKE DETECTORS, FIRE EXTINGUISHERS IN RENTAL DWELLING UNITS

DIVISION 1. GENERALLY

Sec. 20-51. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Rental unit means residence apartment, flat, motel room, hotel room, boarding room or boardinghouse for which consideration is paid by one person to another for use or occupancy thereof.

Small rental units means a rental unit consisting of five units or less.

(Prior Code, § 40.051(B), (C); Ord. No. 113, § 1, 8-15-1981; Ord. No. 113-B, 11-2-1983; Ord. of 8-20-1996; Ord. of 5-8-1998; Ord. of 7-16-2002)

Sec. 20-52. Article supplemental.

This article is intended to be used with as a supplement to the existing construction and fire codes now in effect within the city.

(Prior Code, § 40.058; Ord. No. 113, § 8, 8-15-1981; Ord. No. 113-B, 11-2-1983; Ord. of 8-20-1996; Ord. of 5-8-1998; Ord. of 7-16-2002)

Sec. 20-53. General requirements.

It shall be the responsibility of the owner of any rentals, including small rentals, new and existing, to register their ownership with city hall. It shall also be the responsibility of the owner of each new and existing rental unit in the city to provide fire extinguishers, as is hereinafter provided. Smoke detectors shall be capable of sensing visible particles of combustion and providing a suitable audible alarm thereof. An owner who fails to install smoke detectors as is required under this article is guilty of a misdemeanor.

(Prior Code, § 40.051(A); Ord. No. 113, § 1, 8-15-1981; Ord. No. 113-B, 11-2-1983; Ord. of 8-20-1996; Ord. of 5-8-1998; Ord. of 7-16-2002)

Sec. 20-54. Approved equipment.

All devices, combinations of devices and equipment required herein must be installed in conformance with this article. The fire chief shall prepare a list of approved smoke detector devices and a list of approved fire extinguisher devices and equipment which list may be subsequently amended by the fire chief as necessary. Such approval shall be permanent unless hazardous or unreliable in which case the fire chief may suspend or revoke approval. The fire chief may in such case determine whether replacement of an existing installation shall be required. The list of approved smoke detectors and/or fire extinguishers shall be kept at the office of the city clerk and shall be available upon request to any person if request is made by mail or in person at either office.

(Prior Code, § 40.054; Ord. No. 113, § 4, 8-15-1981; Ord. No. 113-B, 11-2-1983; Ord. of 8-20-1996; Ord. of 5-8-1998; Ord. of 7-16-2002)

Sec. 20-55. Inspections.

(a) Any rental unit, excluding small rental units, shall be personally inspected by the fire chief or his designated representative for smoke detectors and/or fire extinguishers as hereinafter provided. Said inspections shall be done annually.

(b) Inspection of small rental units for compliance within this article shall be in accordance with the following:

(1) Each owner of a small rental unit shall file a certificate within seven days of occupancy, on a form provided by the city clerk truthfully certifying the following:

a. The name and address of the small rental unit;

b. That the small rental unit has a fire protection device, in working order, which complies with this article.

(2) Such certificate shall be filed annually with the city clerk between December 1st and December 31st, at 5:00 p.m., of each year.

(3) Any owner of a small rental unit who does not comply with this article shall be subject to an inspection fee in the amount established by the city and an inspection by the Greenville Department of Public Safety. Failure to timely provide the certificate and failure to pay the inspection fee shall constitute a misdemeanor.

(Prior Code, §§ 40.051(D), 40.057, 4.063; Ord. No. 113, §§ 1, 7, 13, 8-15-1981; Ord. No. 113-B, 11-2-1983; Ord. of 8-20-1996; Ord. of 5-8-1998; Ord. of 7-16-2002)

Sec. 20-56. Fire extinguishers.

Each rental unit, as defined herein, must have readily available and readily accessible within the rental unit itself, a five-pound ABC fire extinguisher, the brand and type to be approved by the fire chief. It is the responsibility of the owner to keep the fire extinguisher within the rental unit and in proper working order. In hotels, motels or residential hotels, all of the following regulations shall apply to the placement of fire extinguishers instead of the requirement that a fire extinguisher be placed in each room:

(1) Minimum of two extinguishers per floor located in an accessible hallway area.

(2) Minimum of one extinguisher for each five rental units.

(3) Placement of a fire extinguisher every 50 feet per hallways and per floor or story.

(Prior Code, § 40.059; Ord. No. 113, § 9, 8-15-1981; Ord. No. 113-B, 11-2-1983; Ord. of 8-20-1996; Ord. of 5-8-1998; Ord. of 7-16-2002)

Sec. 20-57. Identification of buildings and dwellings.

(a) Except as is provided hereinafter, each residence or business structure within the city which is constructed before the effective date of this division, shall display proper street or house numbers in numeral style on a prominent part of that structure facing or easily visible from the street, such numerals must be at least three inches in height. On new dwellings constructed after the date hereof, or on dwellings whose exterior facing the street side is substantially renovated following the date of this division, a four-inch numeral or house number shall be displayed on the prominent part of that structure facing or easily visible from the street.

(b) Any apartment house or multiple dwelling (containing three dwelling units or more), whether now constructed or hereinafter constructed, must have all of the following:

(1) Four-inch house numbers in numeral form easily visible from the street displayed on a prominent part of the structure.

2. For each individual apartment entrance, three-inch numerals must be displayed, the numerals being visible from the exterior of the apartment and the numerals denominating each apartment number or letter.

3. A means of access must be provided by the apartment owner or manager to the fire department in order that the fire department can inspect hallways and common areas and in order that the fire department may have immediate emergency access to the structure.

(Prior Code § 40.014)

Secs. 20-58—20-85. Reserved.

DIVISION 2. SMOKE DETECTORS

Sec. 20-86. Protection of sleeping areas.

(a) At least one smoke detector shall be installed to protect each sleeping area. A sleeping area is defined as the area or areas of the family living unit in which the bedrooms (or sleeping rooms) are separated by other use areas (such as kitchens or living rooms, but not bathrooms or closets), which shall be considered as separate areas for the purpose of this section.

(b) At least one smoke detector shall be installed at the head (top) of each stairway leading up to an occupied area in such a manner as to ensure that rising smoke is not obstructed in reaching the detector and that the detector intercepts rising smoke before it reaches the sleeping area.

(c) The owner is defined as the person who holds legal title to the premises; however, should a land contract be in existence and recorded with the county register of deeds, or should an affidavit or memorandum as to the existence of land contract be recorded with the county register of deeds, then the land contract purchaser shall be considered the owner for purposes of this section.

(Prior Code, § 40.052; Ord. No. 113, § 2, 8-15-1981; Ord. No. 113-B, 11-2-1983; Ord. of 8-20-1996; Ord. of 5-8-1998; Ord. of 7-16-2002)

Sec. 20-87. Alternative systems.

As an alternative to self-contained smoke detectors, an approved fire detection system may be installed and maintained. Each fire detection system must be individually approved and a permit issued therefore by the fire chief or his designee.

(Prior Code, § 40.053; Ord. No. 113, § 3, 8-15-1981; Ord. No. 113-B, 11-2-1983; Ord. of 8-20-1996; Ord. of 5-8-1998; Ord. of 7-16-2002)

Sec. 20-88. Installation.

(a) In this subsection, "new" means constructed or built after December 1, 1981.

(b) In new rental units or apartment buildings, at least one smoke detector in each apartment or dwelling unit shall be hardwired directly to the building's power supply. Other smoke detectors required hereunder might be alarms that meet the requirements of section 20-90.

(c) In existing rental units and/or apartment buildings, smoke detectors may be hardwired or may be battery-operated or powered by electric plug if the same comply with section 20-90.

(d) In new hotels or motels, smoke detectors in hallways, stairways, common areas and storage areas must be wired directly (hard-wired) to the building's power supply. In such individual motel or hotel sleeping rooms, one smoke detector must be provided, either hardwired or powered in conformance with section 20-90.

(e) In existing hotels, motels, boarding rooms or boardinghouses, smoke detectors must be provided in hallways, stairways, common areas and storage areas. Such smoke detectors may be wired directly (hardwired) to the building's power supply or in conformance with section 20-90. Any existing hotels, motels, boardinghouses or boarding rooms, should the building or any part thereof be renovated in a major renovation project (defined as a project costing equal to ten percent or more of the building's state-equalized value), then the smoke detectors in the hallways, common areas, stairways, and storage areas shall be hardwired.

(Prior Code, § 40.055; Ord. No. 113, § 5, 8-15-1981; Ord. No. 113-B, 11-2-1983; Ord. of 8-20-1996; Ord. of 5-8-1998; Ord. of 7-16-2002)

Sec. 20-89. Certification of change in occupancy.

At every change of occupancy of every dwelling unit in the city, occasioned by or incidental to a sale, lease or sublease of a rental unit, it shall be the duty of the grantor thereof (i.e., the seller, lessor or sub-lessor, as the case may be) to certify in writing before occupancy, to the new occupant that all smoke detectors as required by this article are installed and in proper working condition. Failure to comply with this section shall be punishable as a misdemeanor as is provided herein and shall be evidence of the negligence of or inattention of the grantor. This section shall not, however, render any lease or contract or sublease void for failure to have certification required hereby.

(Prior Code, § 40.056; Ord. No. 113, § 6, 8-15-1981; Ord. No. 113-B, 11-2-1983; Ord. of 8-20-1996; Ord. of 5-8-1998; Ord. of 7-16-2002)

Sec. 20-90. Battery and plug in smoke detectors; conditions of use.

(a) Battery-type smoke detectors may be used, provided that the batteries are mounted to ensure that the following conditions are met:

(1) All power requirements are met for at least one year's life, including weekly testing.

(2) A distinctive audible trouble signal is given before the battery is incapable of operating (from aging, terminal corrosion, etc.) the devices for alarm purposes.

(3) For a unit employment a dock-in alarm feature, automatic transfer is provided from alarm to a trouble condition.

(4) The unit is capable of producing an alarm signal for at least four minutes at the battery voltage at which a trouble signal is normally obtained followed by seven days of trouble signal operation.

(5) The audible trouble signal is produced at least once every minute for seven consecutive days.

(6) The monitored batteries meeting these specifications are clearly identified on the unit near the battery compartment.

(b) Electric, plug-in smoke detectors may be used and operated from a wall plug provided that the plug is fitted with a plug restraining device and provided that the wall outlet power supply is not controlled by switch other than the main power supply.

(Prior Code, § 40.060; Ord. No. 113, § 10, 8-15-1981; Ord. No. 113-B, 11-2-1983; Ord. of 8-20-1996; Ord. of 5-8-1998; Ord. of 7-16-2002)

Secs. 20-91—20-100. Reserved.

ARTICLE IV. FIREWORKS

Sec. 20-101. Short title.

This article shall be known, and may be cited as the "2012 Fireworks Ordinance".

(Ord. No. 2012-05, § 1, 8-7-2012)

Sec. 20-102. Statement of purpose.

This is an ordinance to adopt a new chapter to provide for the regulation of the ignition, discharge and use of consumer fireworks, as allowed under the Michigan Fireworks Safety Act, MCL 28.451 et seq., as amended.

(1) *Definitions.* As used in this section, the following definitions shall apply:

(a) *Act 256* means the Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2011 as amended from time to time.

(b) *Consumer fireworks* mean fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition and labeling requirements promulgated by the United States Consumer Product Safety Commission and are identified as such in Act 256. Consumer fireworks do not include low-impact fireworks.

(c) *Display fireworks* mean large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration or deterioration and are identified as such in Act 256.

(d) *Articles pyrotechnic* means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as provided in Act 256.

(e) *Fireworks* mean any composition or device, except for a starting pistol, a flare gun or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks and special effects.

(f) *Low-impact fireworks* mean ground and handheld sparkling devices as provided in Act 256.

(g) *Retailer* means a person who sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.

(h) *Special effects* means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

(i) *Wholesale* means any person who sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person who sells only display fireworks or special effects.

(j) *Minor* means an individual who is less than 18 years of age.

(k) *National holiday* means the following legal public holidays:

1. New Years' Day, January 1.
2. Birthday of Martin Luther King, Jr., the third Monday in January.
3. Washington's Birthday, the third Monday in February.
4. Memorial Day, the last Monday in May.
5. Independence Day, July 4.
6. Labor Day, the first Monday in September.
7. Columbus Day, the second Monday in October.
8. Veteran's Day, November 11.
9. Thanksgiving Day, the fourth Thursday in November.
10. Christmas Day, December 25.

(2) *Sale of consumer fireworks.* A retailer or other person may not sell consumer fireworks within the city unless such person has obtained and has in effect a valid consumer fireworks certificate issued by the Michigan Department of Licensing and Regulatory Affairs and otherwise complies with the requirements of Act 256 and any rules and regulations promulgated thereto included those related to storage.

(3) *Sale of low-impact fireworks.* A retailer or other person may not sell low-impact fireworks unless such person is actively registered, in accordance with Act 256, with the low-impact fireworks retail registry maintained by the Michigan Department of Licensing and Regulatory Affairs.

(4) *Compliance with applicable ordinances and codes.* Unless otherwise provided in this section, a retailer or wholesaler of fireworks located within the city must comply with the requirements of the city's zoning ordinance and building codes and regulations.

(5) *Use of consumer fireworks.* Except as otherwise provided in this section, a person may ignite, discharge or use consumer fireworks in the city on the day proceeding, the day of, or the day after a national holiday. On any other day, no person may ignite, discharge or use consumer fireworks in the City of Greenville unless authorized by permit.

(6) *Firework safety.* No person shall endanger the life, health or safety and/or property of any other person by the sale, use, possession, transport, display or discharge of any fireworks.

(7) *Prohibition on or near certain property.* No person shall, at any time, ignite, discharge, use or display, except under the terms and conditions of a permit issued to this section, any fireworks upon another person's property or within 15 feet of another person's property without such property owner's permission. No person shall, at any time, ignite, discharge, use or display, except under the terms and conditions of a permit issued pursuant to this section, any fireworks in a public street or right-of-way, a public park, school property, or any other place of public assembly.

(8) *Permits.* Provided the applicable provisions of Act 256 are complied with, upon application in accordance with this section, the city may issue a nontransferable permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks or special effects manufactured for outdoor pest control or agricultural purposes or for public or private display. After a permit has been issued, the sale, possession or transportation of fireworks for the purposes described in the permit only may be made. A permit may not be issued to a person under 18 years of age. The issuance of a permit shall be based on the competency and qualifications of the operator of such fireworks as required by Act 256 and the time, place and safety aspects of the proposed use.

(9) *Permit application.* An application for a permit, on the form prescribed by the city, shall be made for use of fireworks requiring a permit at least 15 days in advance of such use.

(10) *Permit fee.* The fee for a fireworks permit as established from time-to-time by the city council shall accompany the application for a permit.

(11) *Proof of financial responsibility.* In order to receive a permit for articles pyrotechnic or display fireworks use, the applicant shall furnish proof of financial responsibility by a bond or insurance in the amount, character, and form deemed necessary by the city manager or his/her designee to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant or an agent or employee of the applicant, and to protect the public.

(12) *Storage of fireworks.* The storage of fireworks by retailers and wholesalers shall at all times be in compliance with the requirements of Act 256.

(13) *Possession of consumer fireworks by minor.* A minor shall not possess consumer fireworks.

(Ord. No. 2012-05, § 2, 8-7-2012)

Sec. 20-103. Penalty.

(a) A violation of this article is a civil infraction is punishable by a fine of up to $500.00, plus the costs of prosecution.

(b) Following final disposition of a finding of responsibility for violating this article, the city may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.

(c) In addition to any other penalty, a person that is found responsible for a violation of this article shall be required to reimburse the city for the costs of storing, disposing of, or destroying consumer fireworks that were confiscated for a violation of this article.

(Ord. No. 2012-05, § 3, 8-7-2012)

Chapter 22 HISTORIC PRESERVATION[31]

Sec. 22-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Local Historic Districts Act, Public Act No. 169 of 1970 (MCL 399.201 et seq.).

Alteration means work that changes the detail of a resource, but does not change its basic size or shape.

Certificate of appropriateness means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.

Commission means the city's historic district commission.

Committee means a historic district study committee appointed by the city council.

[31]State law reference(s)—Local Historic Districts Act, MCL 399.201 et seq.

Demolition means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.

Demolition by neglect means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

Denial means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

Department means the Michigan Department of History, Arts and Libraries or its successor department or agency.

Fire alarm system means a system designed to detect and annunciate the presence of fire or by-products of fire. Fire alarm systems include smoke alarms.

Historic district means an area, or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

Historic preservation means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.

Historic resource means a publicly or privately owned building, structure, site, object, feature or open space that is significant in the history, architecture, archaeology, engineering, or culture of the city, the state, or the United States.

Notice to proceed means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under section 22-5(i).

Open space means undeveloped land, a naturally landscaped area, or a formal or manmade landscaped area that provides a connective link or buffer between other resources.

Ordinary maintenance means keeping a resource unimpaired and in good condition through ongoing minor intervention undertaken from time to time in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute "work" for the purposes of this chapter.

Proposed historic district means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.

Repair means to restore a decayed or damaged resource to good or sound condition by any process. A repair that changes the external appearance of a resource constitutes "work" for the purposes of this chapter.

Resource means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district.

Smoke alarm means a single-station or multiple-station alarm responsive to smoke and not connected to a system. As used in this subdivision, the term "single-station alarm" means an assembly incorporating a detector, the control equipment, and the alarm-sounding device into a single unit, operated from a power supply either in the unit or obtained at the point of installation. The term "multiple-station alarm" means two or more single-station alarms that are capable of interconnection such that actuation of one alarm causes all integrated separate audible alarms to operate.

Work means construction, addition, alteration, repair, moving, excavation, or demolition.

(Ord. No. 09-05, § 1(19.003), 10-27-2009)

Sec. 22-2. Violations.

(a) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this chapter is responsible for a municipal civil infraction.

(b) In addition to the penalty provided in subsection (a) of this section, a person, individual, partnership, firm, corporation, organization, institution, or agency of government who violates this chapter may be deemed responsible for a violation of the Act.

(Ord. No. 09-05, § 1(19.015), 10-27-2009)

State law reference(s)—Similar provisions, MCL 399.201; authority to designate municipal ordinance a municipal civil infraction, MCL 117.4l; municipal civil infractions, MCL 600.8701 et seq.

Sec. 22-3. Purpose.

(a) The city council has determined that historic preservation is a valid public purpose and that the construction, addition, alteration, repair, moving, excavation, or demolition of historic structures and resources located within an established historic district must be regulated.

(b) The purpose of this chapter is to:

(1) Safeguard the heritage of the city by preserving districts which reflect elements of its history, architecture, archaeology, engineering, or culture.

(2) Stabilize and improve property values within such districts and surrounding areas.

(3) Foster civic beauty.

(4) Strengthen the local economy.

(5) Promote the use of established historic districts for the education, pleasure, and welfare of the citizens of the city and of the state.

(c) The city council may establish one or more historic districts pursuant to this chapter. Each established historic district shall be administered by the city's historic district commission.

(Ord. No. 09-05, § 1(19.002), 10-27-2009)

State law reference(s)—Similar provisions, MCL 399.202.

Sec. 22-4. Historic district commission.

(a) A historic district commission is hereby established and shall consist of seven members of legal age who are residents of the city. Commission members shall be appointed by the city council and shall serve without compensation, but may be reimbursed for actual expenses incurred in commission activities. Commission members shall be appointed for three-year terms, except the initial appointments of three members shall be for the term of three years, two members for the term of two years, and two members for the term of one year. Subsequent appointments shall be for three-year terms, and commission members shall be eligible for reappointment. In the event of a vacancy on the commission, interim appointments shall be made by the city council within 60 days to complete the unexpired term of such position.

(b) A majority of the appointed commission members shall have a demonstrated interest in or knowledge of historic preservation. One member shall be appointed from a list submitted by the Flat River Historical Society or other organized historic preservation organization, and one member, if eligible and willing to

serve, shall be an architect registered in the state. Neighborhood associations, merchants' groups and other groups with historic preservation interests may also submit names for consideration to the city council.

(c) A quorum of the commission shall consist of four members. All decisions by the commission shall be based on a vote of the majority of its members present at a meeting where a quorum is present.

(d) The commission shall annually select one member to serve as chairperson.

(e) Subject to review, amendment and approval of the city council, the commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines to carry out its duties under this chapter. The city council may prescribe powers and duties to the commission, in addition to those prescribed in this chapter, that foster historic preservation activities, projects, and programs in the city.

(f) Business of the commission shall be conducted at a public meeting held at city hall, or at such other place as the commission shall provide by notice to the public. Meetings shall be held on a monthly basis or at the call of the chairperson if a need arises sooner than the next scheduled monthly meeting. Public notice of the time and date of each meeting shall be provided as required by the Open Meetings Act (MCL 15.261 et seq.).

(g) A record of decisions made by the commission, along with any other writings prepared, owned, used, in the possession of, or retained by the commission in the performance of its official functions, shall be made available to the public in compliance with the Freedom of Information Act (MCL 15.231 et seq.).

(h) A member of the commission who has a pecuniary interest in a matter before the commission shall disclose such interest before the commission takes action on the matter. Such disclosure shall be made a matter of record in the commission's official proceedings.

(Ord. No. 09-05, § 1(19.004), 10-27-2009)

State law reference(s)—Historic district commission, MCL 399.204.

Sec. 22-5. Review of proposed work.

(a) A permit issued by the city's building department shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district or, if required under subsection (g) of this section, work affecting the interior arrangements of a resource, is performed within a historic district. Any person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do such work shall file an application for a permit with the city's building department or the commission. Applicants shall also submit plans detailing the proposed work and showing the resource in relation to adjacent resources and other buildings or structures. A nonrefundable application fee in an amount established from time to time by resolution of the city council shall be paid in full at the time of application.

(b) Applications and plans received by the building department shall be referred to the commission. A permit shall not be issued and proposed work shall not proceed until the commission has acted on an application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this section. Applications and plans received by the commission shall be reviewed by the commission at its next scheduled meeting.

(c) In reviewing an application and plans, the commission shall follow the United States Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 CFR 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the commission may be followed if they are equivalent in guidance to the Secretary of Interior's standards and guidelines and are established or approved by the department and the city council. The commission shall also consider all of the following:

(1) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.

(2) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.

(3) The general compatibility of the design, arrangement, texture, and materials proposed to be used.

(4) Other factors, such as aesthetic value, that the commission finds relevant.

(d) If an application for work is consistent with the requirements of subsection (c) of this section, the commission shall approve such application through the issuance of a certificate of appropriateness filed with the building department. The commission shall not issue a certificate of appropriateness unless the applicant certifies in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale Single State Construction Code Act (MCL 125.1501 et seq.). Upon receipt of a certificate of appropriateness, the building department may issue a permit for the proposed work in accordance with applicable provisions of this Code and state law.

(e) If an application for work is denied by the commission, the decision shall be binding on the city's building department. A denial shall be accompanied by a written explanation by the commission of the reasons for denial and, if appropriate, a notice that an application may be resubmitted for commission review when suggested changes have been made. A denial shall also include the notification of the applicant's right to appeal to the state historic preservation review board and to the county circuit court.

(f) Failure of the commission to approve, conditionally approve or deny an application within 60 calendar days of its filing, unless otherwise mutually agreed by the applicant and the commission, shall constitute approval. In that event, the building department shall proceed to process the application without regard to a certificate of approval from the commission.

(g) The commission shall only review and act upon exterior features of a resource and, except for noting compliance with the requirement to install a fire alarm system or a smoke alarm, shall not review and act upon interior arrangements unless interior work will cause visible change to the exterior of the resource.

(h) If an application is for work that will adversely affect the exterior of a resource the commission considers valuable to the city, state, or nation, and the commission determines that the alteration or loss of that resource will adversely affect the stated purpose of this chapter, the commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.

(i) Work within a historic district shall be permitted by the commission through the issuance of a notice to proceed filed with the building department if any of the following conditions exist and if the proposed work can be demonstrated by a finding of the commission to be necessary to substantially improve or correct any of the following conditions:

(1) The resource constitutes a hazard to the safety of the public or to the structure's occupants.

(2) The resource is a deterrent to a major improvement program that will be of substantial benefit to the city and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.

(3) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.

(4) Retaining the resource is not in the interest of the majority of the community.

Upon receipt of a notice to proceed, the building department may issue a permit for the proposed work in accordance with applicable provisions of the city's Code of Ordinances and state law.

(j) The commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to the building department or to another delegated authority. The commission shall provide to the delegated authority specific written standards for issuing certificates of appropriateness under this section. On at least a quarterly basis, the commission shall review the certificates of appropriateness, if any, issued for work by the building department or another authority to determine whether or not the delegated responsibilities should be continued.

(Ord. No. 09-05, § 1(19.005), 10-27-2009)

State law reference(s)—Similar provisions, MCL 399.205.

Sec. 22-6. Ordinary maintenance.

Nothing in this chapter shall be construed to prevent ordinary maintenance or repair of a resource within a historic district or to prevent work on any resource under a permit issued by the building department or other duly delegated authority before this chapter was enacted.

(Ord. No. 09-05, § 1(19.006), 10-27-2009)

State law reference(s)—Similar provisions, MCL 399.210.

Sec. 22-7. Work without a permit.

(a) When work has been done upon a resource without a permit, and the commission finds that the work does not qualify for a certificate of appropriateness, the commission may require an owner to restore the resource to the condition that the resource was in before the inappropriate work or to modify the work so that it qualifies for a certificate of appropriateness.

(b) If the owner does not comply with the restoration or modification requirement within a reasonable time, the commission may seek an order from a court of competent jurisdiction to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness.

(c) If the owner does not comply or cannot comply with the order of the court, the commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The costs of the work done shall be charged to the owner, and may be levied by the city as a special assessment against the property. When acting pursuant to a court order, the commission or its agents may permissibly enter the property of another for purposes of this section.

(Ord. No. 09-05, § 1(19.007), 10-27-2009)

State law reference(s)—Similar provisions, MCL 399.205.

Sec. 22-8. Demolition by neglect.

Upon a finding by the commission that a historic resource within a historic district, or a proposed historic district subject to its review and approval, is threatened with demolition by neglect, the commission may do either of the following:

(1) Require the owner of the resource to repair all conditions contributing to demolition by neglect.

(2) If the owner does not make repairs within a reasonable time, the commission or its agents may enter the property and make such repairs as necessary to prevent demolition by neglect. The costs of the work shall be charged to the owner, and may be levied by the city as a special assessment against the property. The commission or its agents may permissibly enter the property of another for purposes of this section upon obtaining an order from a court of competent jurisdiction.

(Ord. No. 09-05, § 1(19.008), 10-27-2009)

Sec. 22-9. Right to appeal.

(a) An applicant aggrieved by a decision of the commission concerning an application may file an appeal with the state historic preservation review board. The appeal shall be filed within 60 calendar days after the decision is furnished to the applicant. An applicant aggrieved by the decision of the state historic preservation review board may appeal the decision to the circuit court.

(b) Any citizen or duly organized historic preservation organization in the city, as well as resource property owners, jointly or severally aggrieved by a decision of the commission, may appeal the decision to the circuit court, except that an applicant aggrieved by a decision rendered under this chapter may not appeal to the court without first exhausting the right to appeal to the state historic preservation review board.

(c) A failure to file a timely appeal pursuant to this section shall be deemed to constitute a waiver of the right to appeal.

(Ord. No. 09-05, § 1(19.009), 10-27-2009)

State law reference(s)—Similar provisions, MCL 399.205.

Sec. 22-10. Historic district study committee.

(a) Before establishing a historic district, the city council shall appoint a historic district study committee in accordance with the requirements of the Act.

(b) Once appointed, the study committee shall:

(1) Conduct a photographic inventory of resources within a proposed historic district following procedures established by the state historic preservation office of the Michigan Historical Center, or its successor agency or department.

(2) Conduct basic research of a proposed historic district and historic resources located within that district.

(3) Determine the total number of historic and non-historic resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR 60, and criteria established or approved by the state historic preservation office of the Michigan Historical Center, or its successor agency or department.

(4) Prepare a preliminary historic district study committee report that addresses at a minimum all of the following:

a. The charge of the committee.

b. The composition of committee membership.

c. The historic district studied.

d. The boundaries of a proposed historic district in writing and on maps.

e. The history of a proposed historic district.

f. The significance of a district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district relative to the evaluation criteria.

(5) Transmit copies of the preliminary report for review and recommendations to the city's planning commission, the state historic preservation office of the Michigan Historical Center, the Michigan Historical Commission, and the State Historic Preservation Review Board.

(6) Make copies of the preliminary report available to the public pursuant to the Act.

(c) Not less than 60 calendar days after the transmittal of the preliminary report, the committee shall hold a public hearing in compliance with the Open Meetings Act, 1976 PA 267, as amended, MCL 15.261 et seq. Written notice of the public hearing shall be mailed by first class mail not less than 14 calendar days prior to the hearing to the owners of properties within the proposed historic district as listed on the most current tax rolls.

(d) Within one year after the date of the public hearing, the committee and the city council shall take the following actions:

(1) The committee shall prepare and submit a final report with its recommendations and the recommendations, if any, of the city's planning commission to the city council as to the establishment of a historic district. If the recommendation is to establish a historic district, the final report shall include a draft of a proposed amendment to this chapter.

(2) After receiving a final report that recommends the establishment of a historic district, the city council, at its discretion, may introduce and pass or reject an amendment to this chapter. If the city council passes an amendment to establish the proposed historic district, the city shall file a copy of the amendment, including a legal description of the property or properties located within the historic district with the register of deeds. If the city council rejects the establishment of the proposed historic district, it may send the final report back to the committee with proposed recommendations.

(e) Once a historic district has been established, the city council may not establish a contiguous historic district less than 60 days after a majority of the property owners within the proposed contiguous historic district, as listed on the tax rolls of the city, have approved its establishment pursuant to a written petition.

(Ord. No. 09-05, § 1(19.010), 10-27-2009)

State law reference(s)—Study committees, MCL 399.214.

Sec. 22-11. Modification or elimination of a historic district.

(a) The city council may at any time establish, by amendment to this chapter, additional historic districts, including proposed districts previously considered and rejected; may modify the boundaries of an existing historic district; or may eliminate an existing historic district.

(b) Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the city council shall follow the procedures provided in section 22-10.

(c) In considering elimination of a historic district, a committee shall follow the procedures set forth in section 22-10 for the issuance of a preliminary report, holding a public hearing, and issuing a final report, but with the intent of showing one or more of the following:

(1) The historic district has lost those physical characteristics that enabled the establishment of the district.

(2) The historic district was not significant in the way previously defined.

(3) The historic district was established pursuant to defective procedures.

(Ord. No. 09-05, § 1(19.011), 10-27-2009)

State law reference(s)—Similar provisions, MCL 399.214.

Sec. 22-12. Work in proposed historic districts.

Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the city council may, at its discretion, adopt a resolution requiring that all applications for permits within such proposed historic district be referred to the commission as prescribed in section 22-10. The commission shall review applications and plans with the same powers that would apply if such proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one year, or until such time as the city council approves or rejects the establishment of the historic district by amendment to this chapter, whichever occurs first.

(Ord. No. 09-05, § 1(19.012), 10-27-2009)

State law reference(s)—Similar provisions, MCL 399.214.

Sec. 22-13. Acceptance of gifts or grants.

The city council may accept state or federal grants for historic preservation purposes, may participate in state and federal programs that benefit historic preservation, and may accept public or private gifts for historic preservation purposes. The city council may appoint the commission to accept and administer grants, gifts, and program responsibilities.

(Ord. No. 09-05, § 1(19.013), 10-27-2009)

Sec. 22-14. Emergency moratorium.

If the city council determines that pending work will cause irreparable harm to resources located within an established or proposed historic district, the city council may by resolution declare an emergency moratorium on all such work for a period not to exceed six months. The city council may extend the emergency moratorium for an additional period not to exceed six months, upon finding that the threat of irreparable harm to resources is still present. A pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

(Ord. No. 09-05, § 1(19.014), 10-27-2009)

State law reference(s)—Similar provisions, MCL 399.214.

Sec. 22-15. Historic district boundary.

The official name of the historic district is the Downtown Greenville, Michigan Historic District. The legal description is as follows:

ORIGINAL PLAT (RUTAN'S PLAT)

BLOCK 1 PUBLIC SQUARE, LOTS 1-7, 11

BLOCK 2, LOTS 1-6, 9, 10, 13, 14, 17, 18, 21, 22

BLOCK 3, LOTS 1, 4, 5, 8, 9,

ASSESSOR GROSVENOR'S ADDITION NO. 2, LOTS 20-23, 30-38, 40, 53, 54-77

ASSESSOR'S PLAT OF LOTS 10, 11, 12, 14, 15, 16

JOHN GREEN'S PLAT, LOTS 2-9, 11, 13-17, 20

MERRITT'S SUBDIVISION OF LOT 1 BLOCK 6 RUTAN'S PLAT, LOTS 1-9, 11, 12

(Ord. No. 09-05, § 1(19.016), 10-27-2009)

Chapter 24 NUISANCES[32]

ARTICLE I. IN GENERAL

Secs. 24-1—24-18. Reserved.

ARTICLE II. WEEDS OR TALL GRASS[33]

Sec. 24-19. Definition.

Weeds or tall grass is defined as vegetation, excluding trees and shrubs, growing eight inches or more from the ground. Weeds or tall grass does not include vegetables or flowers which are grown and cared for by the owner or person in possession of the premises.

(Prior Code, § 35.353; Ord. No. 124, § I, 3-20-1985; Ord. No. 124-A, 8-15-1997)

Sec. 24-20. Penalties.

Any person in violation of this article may be ticketed and shall be liable for a fine of $50.00. Each and every violation of the provisions of this article or any clause, phrase or regulation thereof, shall be a separate violation. Therefore, any person in violation of this article may be ticketed separately for each day of the violation. If tickets are not paid and/or violation of the ordinance continues for a period of ten days, the city may prosecute the person responsible for the upkeep of the property. Upon conviction of a violation of this article, the person so convicted shall be liable for an additional fine of up to $500.00 and for imprisonment in the county jail for not more than 30 days.

(Prior Code, § 35.351; Ord. No. 124, § I, 3-20-1985; Ord. No. 124-A, 8-15-1997)

[32]State law reference(s)—Public nuisances, MCL 600.3801 et seq.; nuisance abatement, MCL 600.2940.

[33]State law reference(s)—Noxious weeds, MCL 247.61 et seq.

Sec. 24-21. Notice of violation.

Before any cutting of weeds is done by the city or its agent, or before any ticket is issued, or before any prosecution is commenced hereunder, the city may give notice of violation to the owner or occupant of the offending property and give said owner or occupant five days following said violation notice to comply with this article. The notice to the offending property may be addressed to any tenant in possession of said property and appears on the tax assessment rolls on hand in the office of the city assessor.

(Prior Code, § 35.356; Ord. No. 124, § VI, 3-20-1985; Ord. No. 124-A, 8-15-1997)

Sec. 24-22. Board of weed appeals.

(a) The mayor, with council confirmation, shall appoint a board of weed appeals consisting of three residents who shall hear appeals of violation notices issued by the enforcing agency.

(b) The board of weed appeals shall have the power to grant weed variances permitting weeds in otherwise illegal places when either of the following circumstances exists:

(1) The weeds in question are aesthetically pleasing, cared for or cultivated; or

(2) Where the topography or other natural features of the land in question do not permit reasonable removal or control of the weeds or tall grass.

(Prior Code, § 35.355; Ord. No. 124, § V, 3-20-1985)

Sec. 24-23. Prohibition.

It shall be unlawful for the owner, occupant or tenant of any lands within the city to which this article applies to permit the presence of tall grass and/or weeds contrary to the terms of this article.

(Prior Code, § 35.351; Ord. No. 124, § I, 3-20-1985; Ord. No. 124-A, 8-15-1997)

Sec. 24-24. Options of city.

(a) The city has the option of prosecuting the persons responsible for the upkeep of the property under this article and also has the option or choice of prosecuting said responsible person and for removing offending weeds and tall grass from the property.

(b) It shall be the responsibility of the director of public safety or his designee to determine whether it would be in the best interest of the public health, safety and welfare of the citizens of Greenville if offending weeds or tall grass were removed from a certain premises.

(c) Should such determination be made, then the independent contractor of the city or agents of the city may enter upon the offending grass. Charges for such cutting shall be a lien upon said premises. On April 1 of each year following any cutting, the city director of public safety shall certify in writing any charges which have been delinquent for such cutting for four months or more, said certification to be made to the city treasurer.

(d) The treasurer shall thereafter immediately enter the amount of delinquency for cutting charges upon the next tax roll, said charges to be against the premises where the weeds or tall grass was cut, and such charges shall be collected and shall be a lien enforced in the same manner against the real estate as is provided in respect to real property taxes assessed upon such premises and stated in the city tax roll.

(Prior Code, § 35.352; Ord. No. 124, § II, 3-20-1985)

Sec. 24-25. Land categories where weeds or tall grass prohibited.

It shall be unlawful for an owner or occupant of any premises to suffer or permit to grow weeds or tall grass on land within the city which land falls into any one of the following categories:

(1) Where weeds or tall grass are within 25 feet of the edge of a traveled roadway at or near an intersection;

(2) Where weeds or tall grass are within 25 feet of an occupied or unoccupied dwelling house within the city limits; and

(3) Is vacant and where 75 percent of said lots or lands located within 100 feet of the offending premises are occupied for residential use within the city. The 100-foot standard mentioned herein is from any boundary of the offending vacant lot or land.

(Prior Code, § 35.354; Ord. No. 124, § IV, 3-20-1985)

Chapter 26 OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. IN GENERAL

Sec. 26-1. Attempts.

(a) A person attempts to commit an offense if the person does any act towards the commission of an offense prohibited by law or ordinance, but fails in the perpetration of the offense, or is intercepted in execution of the offense or prevented from executing the offense.

(b) When no express provision is made by law for the punishment of such attempt, an attempt to commit an offense shall be punished as follows:

(1) The offender convicted at such attempt shall be guilty of a misdemeanor and shall be subject to incarceration and/or fines not to exceed one-half of the greatest punishment which might have been inflicted if the offense so attempted had been committed.

(2) If the violation is a municipal civil infraction, the offender shall be responsible for a civil fine that is one-half of the amount provided for the offense that the offender attempted to commit.

(Prior Code, §§ 12.576, 12.577; Ord. No. 149, §§ 1, 2, 12-9-1996)

State law reference(s)—Attempts, MCL 750.92.

Sec. 26-2. Aiding and abetting in commission of offenses.

Every person concerned with or in the commission of an offense under this chapter, whether that person directly commits the act constituting the offense, or procures, counsels, aids or abets in its commission, may be prosecuted and punished as if that person had directly committed such offense.

(Prior Code, § 20.1001; Ord. No. 139, § I, 1-2-1993)

Sec. 26-3. Loitering where illegal occupation or business conducted.

No person shall knowingly loiter in or about a place where an illegal occupation or business is being conducted.

(Prior Code, § 20.312(G); Ord. No. 145, § 2, 2-4-1994)

State law reference(s)—Similar provisions, MCL 750.167.

Sec. 26-4. Outdoor storage of junk and waste.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Building materials means plywood, press board, siding of any type, lumber, brick, concrete or cinder blocks, plumbing materials (including, but not limited to, well and septic materials, pipes, tools, and equipment), electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, cement, nails, screws, pipes, and any other materials used in constructing any structure.

Junk means:

(1) Any item which by its condition cannot reasonably be used for its original purpose and shall include secondhand, worn, or discarded items including, without limitation, parts of machinery or motor vehicles, unmounted motor vehicle tires, broken and unusable furniture, unusable stoves, refrigerators or other appliances, remnants of wood, metal, cast-off household items and fixtures, broken toys and bicycles, broken lawn furniture, and building materials; and

(2) Any other discarded or abandoned item of any kind, whether or not the same could be put to any reasonable use.

Waste means trash, garbage, household waste, solid waste, waste products, excess soil, litter, and any other forms of waste, debris or discarded or abandoned items not herein otherwise defined.

(b) It shall be unlawful for an owner, tenant, occupant, or manager of real property to store junk or waste outdoors on such property or to permit junk or waste to be stored outdoors on such property, except that a person who complies with section 32-25, regarding garbage and trash containers, shall not be in violation of this section with respect to such garbage and trash.

(c) A person who violates this section, a person who commits, takes part in or assists in a violation of this section shall be responsible for a municipal civil infraction. A person who maintains any building or land in or on which such violation exists shall be responsible for a municipal civil infraction.

(Ord. No. 05-03, §§ 1—4, 11-3-2005)

State law reference(s)—Authority to designate municipal ordinance a municipal civil infraction, MCL 117.4l; municipal civil infractions, MCL 600.8701 et seq.

Secs. 26-5—26-26. Reserved.

ARTICLE II. OFFENSES INVOLVING PERSONAL INJURY

Sec. 26-27. Assault and battery; aiding and abetting fights.

No person shall, whether in a public or private place:

(1) Assault another or be engaged in or aid or abet in any fight; or

(2) Intentionally commit a battery upon another person.

(Prior Code, § 20.311(A), (B); Ord. No. 145, § 1, 2-4-1994)

State law reference(s)—Assaults, MCL 740.81 et seq.

Sec. 26-28. Harassing telephone calls.

No person shall maliciously or improperly use any service, telephone system, or radio communications carrier with the intent to terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person.

(Prior Code, § 20.320(P); Ord. No. 145, § 10, 2-4-1994)

State law reference(s)—Harassing communications, MCL 750.540e.

Sec. 26-29. Voyeurism.

(a) No person shall peep into an occupied dwelling of another person or go upon the land of another with the intent to peep into an occupied dwelling of another person.

(b) No person shall peep into an area where an occupant of the area reasonably can be expected to disrobe, including restrooms, baths, showers, and dressing rooms, without the consent of the other person.

(Prior Code, § 20.312(F); Ord. No. 145, § 2, 2-4-1994)

State law reference(s)—Window peepers, MCL 750.167.

Secs. 26-30—26-46. Reserved.

ARTICLE III. OFFENSES INVOLVING PROPERTY RIGHTS

Sec. 26-47. Larceny.

Any person who shall, within the city, commit the offense of larceny by stealing property belonging to another person shall be guilty of a misdemeanor.

(Prior Code, § 20.371; Ord. No. 94, § 1, 5-22-1975)

State law reference(s)—Larceny, MCL 750.356 et seq.

Sec. 26-48. Fraud generally.

No person shall engage in any fraudulent scheme, device or trick to obtain money or other valuable things, and no person shall obtain money or any other valuable thing under false pretenses or aid or abet the same.

(Prior Code, § 20.320(O); Ord. No. 145, § 10, 2-4-1994)

State law reference(s)—Gross frauds and cheats, MCL 750.280.

Sec. 26-49. Retail fraud.

No person shall do any of the following in a store or in its immediate vicinity:

(1) While a store is open to the public, alter, transfer, remove and replace, conceal, or otherwise misrepresent the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale.

(2) While a store is open to the public, steal property of the store that is offered for sale.

(3) With intent to defraud, obtain or attempt to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store.

(Ord. No. 07-02, § 1, 10-3-2007)

State law reference(s)—Similar provisions, MCL 750.356d.

Sec. 26-50. Receiving stolen property.

No person shall receive, possess, conceal or aid in the concealment of stolen property, knowing the property to be stolen.

(Prior Code, § 20.318; Ord. No. 145, § 8, 2-4-1994)

State law reference(s)—Similar provisions, MCL 750.535.

Sec. 26-51. Breaking and entering.

No person shall enter, with or without breaking, any building or structure within the city limits, without having first obtained the permission from the owner, occupant, agent or person having immediate control of said premises.

(Prior Code, § 20.381; Ord. No. 134, § 1, 8-22-1990)

State law reference(s)—Breaking and entering, MCL 750.114 et seq.

Sec. 26-52. Trespass.

(a) No person shall enter or remain upon lands or premises of another without lawful authority after having been forbidden so to do by the owner, occupant or agent of the owner.

(b) It shall be unlawful for a person to drive or park a motor vehicle on the private property of another without the express consent of the owner of the property, his agent or a proper person in charge of the property.

(Prior Code, §§ 20.312(J), 20.315(A)(6); Ord. No. 145, §§ 2, 5, 2-4-1994)

State law reference(s)—Trespass, MCL 750.546 et seq.

Sec. 26-53. Prowling.

No person shall prowl about the private yard, garage, driveway, entrance hall, stairway, fire escape, or residence of any other person in the nighttime without authority or permission of the owner or tenant of the premises.

(Prior Code, § 20.312(I); Ord. No. 145, § 2, 2-4-1994)

Sec. 26-54. Malicious destruction of property.

No person shall willfully or maliciously destroy the property of any other person.

(Prior Code, § 20.311(C); Ord. No. 145, § 1, 2-4-1994)

State law reference(s)—Malicious mischief generally, MCL 750.377a et seq.

Sec. 26-55. Removal of trees and shrubs.

It shall be unlawful for any person to take and carry away from any place within the city any ornamental tree, shade tree or shrub with the intent to deprive the owner thereof of said plant. It shall also be unlawful to detach from the ground or injure any ornamental tree, shade tree, or shrub or part thereof without the consent of the owner thereof.

(Prior Code, § 20.314; Ord. No. 145, § 4, 2-4-1994)

State law reference(s)—Destruction of trees and shrubs, MCL 750.382.

Secs. 26-56—26-83. Reserved.

ARTICLE IV. OFFENSES INVOLVING PUBLIC SAFETY

DIVISION 1. GENERALLY

Sec. 26-84. Abandoned iceboxes and refrigerators.

It shall be unlawful for any person to leave in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of a kind and size sufficient to permit the entrapment and suffocation of a child therein without first removing the said snap lock or other locking device from the lid or cover thereof.

(Prior Code, § 35.722; Ord. No. 68, § 1, 1-23-1969)

State law reference(s)—Similar provisions, MCL 750.493d.

Secs. 26-85—26-111. Reserved.

DIVISION 2. WEAPONS[34]

Sec. 26-112. Possession.

No person shall, in any public place, any motor vehicle or place open to the public, possess or have in his control any of the following items or their substantial equivalent: A sand club or sandbag, a switchblade or any mechanically operated knife, nunchuks, a machete, a stiletto or a bayonet. Any weapon possessed in violation of this section shall be seized and retained by the department of public safety. This section shall not apply to peace officers or other persons authorized by law to carry such weapons.

(Prior Code, § 20.319(A); Ord. No. 145, § 9, 2-4-1994)

Sec. 26-113. Clubs, bats, canes, knives, etc.

In any public place or place open to the public it shall be unlawful for any person to carry, use or brandish a club, bat, cane, knife or similar object in a manner and/or under circumstances that either manifest intent to cause harm or intimidate another person, or that would cause a reasonable person to fear for his safety. This section shall not apply to peace officers or other persons authorized by law to carry such weapons.

(Prior Code, § 20.319(B); Ord. No. 145, § 9, 2-4-1994)

Sec. 26-114. Discharge of weapons.

No person or persons, except those authorized by the law of this state so to do, shall discharge or cause to be discharged any gun, rifle, firearms, air gun, spring gun, slingshot, pistol, or other dangerous weapon or instrument within the limits of the city; provided, shooting ranges approved by the chief of police may be maintained.

(Prior Code, § 20.091; Ord. No. 23, § 1, 2-15-1939)

Sec. 26-115. Archery ranges and discharge of arrows.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Archery range means an area where arrows are or may be shot at a target or backstop for practice, sport or otherwise.

Arrow means a wooden, fiberglass, carbon or aluminum device capable of being moved or shot from a bow.

(b) *Findings.* The city council finds that archery ranges in residential areas are inherently dangerous. The city council finds that discharge of arrows in residential areas is inherently dangerous.

[34]State law reference(s)—Firearms and other weapons, MCL 750.222; local firearm regulations, MCL 123.1101 et seq.

(c) *Discharge of arrows prohibited; exception.* Except as provided in subsection (e) of this section, it is unlawful for any person to discharge or propel an arrow from a bow in any place in the city.

(d) *Archery ranges prohibited; exception.* It is unlawful for any person to maintain, suffer or permit an archery range on land owned or occupied by that person, except as provided by subsection (e) of this section.

(e) *Limited discharge permitted.* A person may use or maintain an archery range and discharge arrows from a bow within the city under all of the following circumstances only:

(1) The director of public safety or his designee has inspected the proposed archery range and has found that the range is situated so as to prevent arrows from flying onto the property of an adjoining landowner, either by a natural or fabricated barrier. A natural barrier includes the ground in the form of a bank behind the target area of substantially flat ground if the arrows are shot from a raised stand or platform at a sufficient angle for the ground to serve as an effective barrier for arrows shot. A fabricated barrier would include any barrier, such as a wall or fence which is of sufficient height, width and density to ensure with reasonable certainty that shot arrows will not avoid or penetrate it.

(2) The director of public safety or his designee may refuse approval of any proposed range if he finds any unique existing circumstance which makes placement of the range or target a danger to persons or property.

(3) No arrow shooting is permitted, except on range at target with backstop or barrier.

(4) Before inspection by the department of public safety, the applicant for archery range must certify in writing, as follows:

a. The applicant agrees to be responsible for safe maintenance of backstop and target;

b. The applicant agrees to abide by this section;

c. The applicant agrees to supervise use of the archery range.

(Prior Code, §§ 20.082—20.086; Ord. No. 135, §§ 2—6, 10-15-1980)

Secs. 26-116—26-143. Reserved.

ARTICLE V. OFFENSES INVOLVING PUBLIC PEACE AND ORDER

Sec. 26-144. Obstructing public passage.

(a) It shall be unlawful for any person, while on a public street, or in a right-of-way, or in a public place or building, or in any public parking lot, to congregate in such a fashion so as to obstruct the free and uninterrupted passage of the public.

(b) It shall be unlawful for any person to conduct himself on any city street or sidewalk, whether alone or in a group of persons, so as to cause inconvenience, interference or so as to hinder or intimidate the free passage of others on such street or sidewalk.

(c) It shall be unlawful for any person, while on a public street, or in a right-of-way, or in a public place or building, or in any public parking lot, to obstruct vehicular traffic.

(Prior Code, §§ 20.315(A)(1), (A)(2), 20.317; Ord. No. 145, §§ 5, 7, 2-4-1994)

Sec. 26-145. Sleeping in public places.

It shall be unlawful for any person to sleep, whether in a motor vehicle or not, in any park, street, public way, public beach or other public place in the city during the nighttime, unless specifically authorized to do so by a member of the police department. This section shall not apply to events which have the approval of the city council which are held at the Montcalm Fairgrounds.

(Prior Code, § 20.320(E); Ord. No. 145, § 10, 2-4-1994)

Sec. 26-146. Refusal to disperse.

It shall be unlawful for anyone, with intent to cause public inconvenience, annoyance or alarm to congregate with others in a public place and thereafter refuse to disperse and move on when ordered to do so by a police or peace officer.

(Prior Code, § 20.320(D); Ord. No. 145, § 10, 2-4-1994)

Sec. 26-147. Noise generally.

(a) It shall be unlawful for any person to:

(1) Drive, operate or use any automobile, motorcycle, truck or vehicle which is so out of repair or so loaded as to create loud or unnecessary grating, grinding, rattling or other noise.

(2) Blow or operate any whistle, siren, or noise-making device, except to give notice of the time to begin and stop work or as an emergency warning signal.

(3) Use any drum, loudspeaker, amplifier or other instrument or device for the purpose of attracting attention for any purpose. This subsection does not, however, prohibit:

a. Use of said devices between the hours of 8:00 a.m. and 6:00 p.m. of each day, Monday through Saturday.

b. The use of loudspeaker systems at athletic events which are open to the general public.

c. The use of said devices as permitted by the First Amendment to the United States Constitution.

(4) Play, use, place or permit the playing of any radio, phonograph, television set, musical instrument or sound amplifying equipment in such a manner or at such a volume so as to annoy or disturb the quiet, comfort or repose of persons in an office, dwelling, hotel, motel, hospital or other type of residence.

(5) Own, possess or harbor any animal or bird which frequently howls, barks, meows, squawks or makes other sounds which create a noise disturbance of the quiet or good order of the community.

(6) Repair, rebuild, modify, test or operate any motor vehicle, motorcycle, motorboat, or other gasoline engine in such a manner as to cause a noise disturbance across a residential real property boundary.

(7) Operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snow blower or similar device between the hours of 10:00 p.m. to 8:00 a.m. of the following day so as to cause a noise disturbance of the quiet or good order of the community.

(8) Operate, park, suffer or permit to be parked or operated in one place within the city, a gasoline or diesel engine, mounted upon or in any automobile, truck, truck tractor, truck trailer or motorcycle (including, but not limited to, a refrigeration unit) for a continuous period of 30 minutes or more. This subsection does not apply to public or private property designated by the city traffic engineer as truck

parking areas. The driver or owner of a vehicle in violation of this section shall be presumed to have permitted the operation or parking of vehicles mentioned herein.

(b) The provisions of subsection (a) of this section do not apply to:

(1) Noises of public or governmental safety signals, warning devices and emergency relief valves when used as indicated for warnings in case of emergency or danger or when tested, and noises of fire alarms;

(2) Noises resulting from any authorized police, fire or emergency vehicle when responding to an emergency call or acting in a time of emergency;

(3) Noises resulting from emergency work. The term "emergency work" means work which is necessary to restore property to a safe condition following a public calamity or accident, or work required to protect persons or property from an imminent exposure to danger;

(4) Any noise resulting from activities of a temporary duration, permitted by the law and for which a temporary or special permit has been granted by the city;

(5) Any aircraft operated in conformity with or pursuant to federal law, federal air regulations and air traffic control instruction and used pursuant to and within the duly adopted federal air regulations;

(6) Noise from church bells, chimes or churches, except between 12:00 midnight and 6:00 a.m.;

(7) Noise from construction activity, except such noise as is specifically prohibited by this section;

(8) Noise resulting from the repair of public utilities;

(9) Noise resulting from the operation of snow removal equipment when being used for or in connection with snow removal; and

(10) Noise resulting from a city-sponsored cultural, ethnic or community activity open to the public.

(Prior Code, §§ 20.131, 20.131.5; Ord. No. 101, § 1, 11-15-1977; Ord. of 2-4-2003)

Sec. 26-148. Permitting noisy, boisterous or riotous persons to assemble in structure.

It shall be unlawful for any person to permit any noisy, boisterous or riotous persons to assemble in any house, dwelling or building owned or occupied or controlled by him to the annoyance or disturbance of the neighborhood and/or the public peace.

(Prior Code, § 20.320(A); Ord. No. 145, § 10, 2-4-1994)

Sec. 26-149. Sitting in windows, window sills, etc.

It shall be unlawful to sit or recline in office windows, window sills or ledges outside office windows in any building open to the public or to which the public is invited.

(Prior Code, § 20.315(A)(5); Ord. No. 145, § 5, 2-4-1994)

Sec. 26-150. Creating or aiding disturbance or riot.

No person shall create, incite or aid in any disturbance or riot.

(Prior Code, § 20.312(A), (E); Ord. No. 145, § 2, 2-4-1994)

State law reference(s)—Riots, MCL 750.541 et seq.

Sec. 26-151. Disturbing religious meetings.

It shall be unlawful for any person to disturb any congregation or assembly met for religious worship by making any noise or profane discourse or engaging in any indecent or any loud behavior in or near the place of worship so as to disturb the solemnity of the meeting.

(Prior Code, § 20.315(A)(7); Ord. No. 145, § 5, 2-4-1994)

State law reference(s)—Similar provisions, MCL 750.170.

Sec. 26-152. Public intoxication.

No person shall be intoxicated in a public place and endanger directly the safety of another person or of property or act in a manner that causes a public disturbance.

(Prior Code, § 20.312(C); Ord. No. 145, § 2, 2-4-1994)

Sec. 26-153. Public urination or defecation.

No person shall relieve himself in any public street, park, beach or other area open to or in view of the public.

(Prior Code, § 20.320(G); Ord. No. 145, § 10, 2-4-1994)

State law reference(s)—Similar provisions, MCL 750.167.

Sec. 26-154. Soliciting legal services or bail bonds.

No person shall loiter in or about any police station or police headquarters building, county jail, hospital, court building, or other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizances.

(Prior Code, § 20.312(D); Ord. No. 145, § 2, 2-4-1994)

State law reference(s)—Similar provisions, MCL 750.167.

Sec. 26-155. Disorderly conduct.

(a) *Assault and battery; malicious destruction; furnishing alcoholic liquor to underage person; possession or distribution of controlled substance.* Any person who shall, whether in a public or private place within the city:

(1) Assault another or be engaged in or aid or abet in any fight;

(2) Intentionally commit a battery upon another person;

(3) Willfully or maliciously destroy the property of any other person or corporation;

(4) Furnishes alcoholic liquor (as defined by Michigan Alcohol or Liquor Control Law) to a person under 21 years of age;

(5) Possesses or furnishes a controlled substance (as defined by Michigan Law) to any other person;

(6) No person less than 21 years of age shall purchase, or attempt to purchase, alcoholic liquor;

(7) No person less than 21 years of age shall furnish or use altered identification papers or false identification, to purchase or attempt to purchase, alcoholic liquor; and/or

(8) Shall knowingly and willfully obstruct, resist or oppose, assault or beat or wound any police officer while that officer is attempting to maintain the peace, or in that officer's efforts to enforce or uphold the law or ordinance, or in that officer's efforts to serve, process or execute orders of any court;

shall be guilty of a misdemeanor. Persons convicted under this section shall be penalized under section 26-156.

(b) *Riot; immorality; intoxicated; loiter; incite.* Any person who shall:

(1) Create or aid in any disturbance or riot;

(2) Expose male or female genitals in a place of business or public place other than in a restroom or bathhouse;

(3) Be intoxicated in a public place and who is endangered directly the safety of another person or of property or is acting in a manner that causes a public disturbance;

(4) Loiter in or about any police station or police headquarters building;

(5) Make or incite any disturbance in any tavern, store or grocery, manufacturing establishment or any other place of business or in any street, sidewalk, lane, alley, highway, public building, grounds, or park in the city;

(6) Be a window peeper;

(7) Knowingly loiter in or about a place where an illegal occupation or business is being conducted;

(8) Be found jostling or roughly crowding people unnecessarily in a public place or in a place open to the public;

(9) Prowl about the private yard, garage, driveway, entrance hall, stairway, fire escape, or residence of any other person in the night time without authority or permission of the owner or tenant of the premises; or

(10) Enter or remain upon lands or premises of another without lawful authority after having been forbidden so to do by the owner, occupant or agent of the owner;

shall be guilty of misdemeanor, punishable as provided in section 26-156.

(Ord. No. 16-03 , §§ 1, 2, 7-19-2016)

Sec. 26-156. Same—Penalties.

A person convicted of an offense under this ordinance shall be subject to a fine of up to $500.00 and/or up to 90 days in the county jail, or work detail, in the discretion of the court, and costs of prosecution.

(Ord. No. 16-03 , § 2, 7-19-2016)

Secs. 26-157—26-176. Reserved.

ARTICLE VI. OFFENSES INVOLVING PUBLIC MORALS

DIVISION 1. GENERALLY

Sec. 26-177. Gambling houses, houses of prostitution or places where legal drugs are possessed.

(a) No person owning, renting or occupying any premises in the city shall allow such premises to be used for prostitution, nor shall any person allow the illegal sale, use or possession of any drugs, intoxicants, controlled substances upon such premises.

(b) No proprietor or keeper of any tavern, saloon, bar, hotel, motel or other public place within the city limits shall allow his premises to be used for exchange, possession or delivery of controlled substances, gambling or prostitution.

(Prior Code, § 20.320(H), (I); Ord. No. 145, § 10, 2-4-1994)

State law reference(s)—Keeping or maintaining gambling room, MCL 750.303; keeping house of ill-fame, MCL 750.452.

Sec. 26-178. Public nudity.

(a) In a public area, no person shall intentionally expose to the view of another person any portion of the genitals, the female breasts with less than a fully opaque covering of the nipples and areolas, the male or female buttock, or the pudendum. A mother's breastfeeding of her baby does not under any circumstances constitute a violation of this subsection irrespective of whether or not the nipple is covered during or incidental to the feeding.

(b) No person may aid or abet a violation of subsection (a) of this section.

(c) This section applies to live exhibitions only.

(d) No person may advertise at or near a place of business or other premises that public nudity or nude dancing or nude shows or nude persons will be or are shown at or within that business or premises.

(e) The following persons are presumed to know of display of public nudity with regard to any premises or business:

(1) The record landowner or land contract owner or lessee under a written lease;

(2) The licensee of any premises licensed by the state liquor control commission;

(3) The licensee under any sales tax license issued by the state department of treasury;

(4) The manager or operator of any premises or business, who is on or at the premises at the time of the advertising or display of public nudity.

(Prior Code, §§ 20.320(J), 20.901; Ord. No. 145, § 10, 2-4-1994; Ord. No. 137, 2-20-1992)

State law reference(s)—Local regulation of public nudity, MCL 117.5h.

Sec. 26-179. Public lewdness.

No person shall engage in any petting or fondling of the genitals, breasts or buttocks of another in a public place, and no person shall engage in sexual relations or sexual touching in a public place or any place visible or open to the public.

(Prior Code, § 20.320(K); Ord. No. 145, § 10, 2-4-1994)

Sec. 26-180. Prostitution.

No person shall engage in prostitution, and no person shall solicit or accost or invite another for the purposes of prostitution in any public place or from any motor vehicle.

(Prior Code, § 20.320(L); Ord. No. 145, § 10, 2-4-1994)

State law reference(s)—Prostitution, MCL 750.448 et seq.

Sec. 26-181. Possession or distribution of controlled substance.

No person shall possess or furnish a controlled substance (as defined by state law) to any other person.

(Prior Code, § 20.311(E); Ord. No. 145, § 1, 2-4-1994)

State law reference(s)—Controlled substances, MCL 333.7101 et seq.

Sec. 26-182. Gambling.

No person shall engage in or conduct any game of chance; gamble; make or take any wagers on dog or horse races, elections, or other events the outcome of which is uncertain; engage in or conduct any lottery or gift enterprise for money; or engage in or conduct any policy game or pool.

(Prior Code, § 20.051; Ord. No. 21, § 1, 2-15-1939)

State law reference(s)—Gambling, MCL 750.301 et seq.

Secs. 26-183—26-202. Reserved.

DIVISION 2. DRUG PARAPHERNALIA[35]

Sec. 26-203. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Controlled substance means any drug, substance, or immediate precursor enumerated in schedules 1—5 of sections 7201—7231 of the Public Health Code (MCL 333.7201—333.7231).

[35]State law reference(s)—Drug paraphernalia, MCL 750.7451 et seq.

Drug paraphernalia means any equipment, item, product or material, or a combination of equipment, items, products and materials, that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, including, but not limited to, all of the following:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived.

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a controlled substance.

(4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose used, intended for use, or designed for use with controlled substances.

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes or other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as the following:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

b. Water pipes.

c. Carburetion tubes and devices.

d. Smoking and carburetion masks.

e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

f. Miniature cocaine spoons and cocaine vials.

g. Chamber pipes.

h. Carburetor pipes.

i. Electric pipes.

j. Air driven pipes.

k. Chillums.

l. Bongs.

m. Ice pipes or chillers.

n. Wired cigarette papers.

(13) A device, commonly known as a cocaine kit, that is specifically designed for use in ingesting, inhaling, or otherwise introducing controlled substances into the human body, and which consists of at least a razor blade and a mirror.

(14) A device, commonly known as a bullet, that is specifically designed to deliver a measured amount of controlled substances to the user.

(15) A device, commonly known as a snorter, that is specifically designed to carry a small amount of controlled substances to the user's nose.

(16) A device, commonly known as an automotive safe, that is specifically designed to carry and conceal a controlled substance in an automobile, including, but not limited to, a can used for brake fluid, oil, or carburetor cleaner which contains a compartment for carrying and concealing controlled substances.

(Ord. No. 10-01, § 1(20.1151), 3-2-2010)

Sec. 26-204. Violations.

(a) A person who violates any provision of this division is responsible for a municipal civil infraction.

(b) Any drug paraphernalia used or possessed in violation of this division may be seized and forfeited to the city's department of public safety.

(Ord. No. 10-01, § 1(20.1155), 3-2-2010)

State law reference(s)—Authority to designate municipal ordinance a municipal civil infraction, MCL 117.4l; municipal civil infractions, MCL 600.8701 et seq.

Sec. 26-205. Purpose.

The purpose of this division is to prohibit the possession, delivery, sale, marketing and advertising of items, paraphernalia, accessories or things which are designed or marketed for use with controlled substances to protect the health, safety and welfare of the citizens of the city and to discourage the use of controlled substances.

(Ord. No. 10-01, § 1(20.1150), 3-2-2010)

Sec. 26-206. Exceptions.

The provisions of this division shall not apply to:

(1) Any person authorized by local, state, or federal law to manufacture, possess, or distribute drug paraphernalia.

(2) Any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and traditionally intended for use with tobacco products, including any pipe, paper, or accessory.

(3) Persons suffering from diabetes, asthma or any other medical condition requiring self-injection.

(Ord. No. 10-01, § 1(20.1153), 3-2-2010)

Sec. 26-207. Enforcement.

(a) The provisions of this division shall be enforced by the city's department of public safety.

(b) In determining whether an item constitutes drug paraphernalia under this division, in addition to all other logically relevant factors, the following may be considered:

(1) Instructions, oral or written, provided with the item concerning its use.

(2) Descriptive materials accompanying the item which explain or depict its use.

(3) National and local advertising concerning its use.

(4) The manner in which the item is displayed for sale.

(5) Whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(6) Direct or circumstantial evidence of the ratio of sales of the items to the total sales of the business enterprise.

(7) The existence and scope of legitimate uses of the item in the community.

(8) Expert testimony concerning its use.

(9) Statements by an owner or by anyone in control of the objects concerning its use.

(Ord. No. 10-01, § 1(20.1154), 3-2-2010)

Sec. 26-208. Prohibitions.

(a) It is unlawful for any person to deliver, sell, market, or possess with intent to deliver, sell or market drug paraphernalia knowing or under circumstances where one reasonably should know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

(b) It is unlawful for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

(c) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(Ord. No. 10-01, § 1(20.1152), 3-2-2010)

Secs. 26-209—26-239. Reserved.

ARTICLE VII. OFFENSES INVOLVING GOVERNMENTAL FUNCTIONS

Sec. 26-240. Verbally abusing police; failure to obey police.

It shall be unlawful for any person to:

(1) Direct obscene or profane language at any police officer while said officer is in the lawful performance of his duties, which language tends to incite persons present toward an immediate breach or disturbance of the peace; or

(2) Disobey reasonable orders of a police officer while in the discharge or apparent discharge of his duty.

(Prior Code, § 20.331(A), (B); Ord. No. 92, § 1, 1-31-1975)

State law reference(s)—Obstruction of police officer, MCL 750.479.

Sec. 26-241. False reports of emergencies.

It shall be unlawful for any person to knowingly turn in any false alarm of fire, burglary, intrusion, felony, misdemeanor, hazard or injury to any public authority, police agency or fire department or communications network organized to receive emergency messages.

(Prior Code, § 20.320(B); Ord. No. 92, § 1, 1-31-1975)

State law reference(s)—False fire alarms, MCL 750.240; false report on crime, MCL 750.411a.

Sec. 26-242. False statements to police.

It shall be unlawful to knowingly make a false statement or report to a police or peace officer in the course of a lawful investigation or to a peace officer in the course of his lawful duty.

(Prior Code, § 20.320(C); Ord. No. 92, § 1, 1-31-1975)

State law reference(s)—False report on crime, MCL 750.411a.

Sec. 26-243. False 911 calls.

(a) It shall be unlawful for any person by means or use of the telephone, to use an emergency 911 service for any reason other than to call for an emergency response service for a public safety answering point. This subsection does not apply to a person who calls a public safety answering point to report a crime or seek assistance that is not an emergency unless the call is repeated after the person is told to call a different number. The term "emergency" means a situation which poses an immediate threat to life or valuable property.

(b) Proper venue for prosecution under this section shall be met if the call either originates in the city or if the call is made to a telephone in the city.

(Prior Code, § 20.411; Ord. No. 130, 5-2-1990; Ord. No. 130-A, 5-5-1990)

State law reference(s)—Similar provisions, MCL 484.1605.

Secs. 26-244—26-266. Reserved.

ARTICLE VIII. OFFENSES INVOLVING UNDERAGE PERSONS

Sec. 26-267. Establishment of curfew.

(a) It shall be unlawful for a minor under 17 years of age to be on the public streets, playgrounds, vacant lots, alleys, public parking lots or private parking lots open to the public between the following curfew hours:

(1) If such minor is 15 or 16 years of age, between the hours of midnight and 6:00 a.m.;

(2) If such minor is under 15 years of age, between the hours of 10:00 p.m. and 6:00 a.m.

(b) The provisions of subsection (a) of this section shall not apply to a minor:

(1) Accompanied by the person's parent or guardian or an adult designated by the person's parent or guardian;

(2) On an errand at the direction of the person's parent or guardian or an adult designated by the person's parent or guardian, without any detour or stop;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(5) Involved in an emergency. In this subsection, the term "emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. Such term includes, but is not limited to, a fire, natural disaster, automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life;

(6) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the person, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the person;

(7) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or

(8) Married, or had been married or is an emancipated minor removed in accordance with law.

(c) Any parent or guardian who permits or suffers a minor to violate subsection (a) of this section shall be guilty of a misdemeanor.

(Prior Code, §§ 20.041—20.043; Ord. No. 107, §§ 1—3, 4-1-1980; Ord. No. 107-A, 5-7-1987)

State law reference(s)—Juvenile curfews, MCL 722.751 et seq.

Sec. 26-268. Furnishing compounds which release toxic or hallucinogenic vapors.

No person shall furnish to any minor, compounds releasing toxic or hallucinogenic vapor.

(Prior Code, § 20.320(F); Ord. No. 145, § 10, 2-4-1994)

Sec. 26-269. Contributing to delinquency of minor.

No person shall contribute to the delinquency of any minor.

(Prior Code, § 20.320(F); Ord. No. 145, § 10, 2-4-1994)

State law reference(s)—Similar provisions, MCL 750.145.

Secs. 26-270—26-286. Reserved.

ARTICLE IX. OFFENSES INVOLVING SCHOOLS

Sec. 26-287. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Person means students and/or nonstudents.

School means any public, private, or parochial school within the City of Greenville.

School buildings and/or grounds means real property and appurtenances thereon owned by or leased to the Greenville, Michigan, Public Schools System or owned by or leased to any private or parochial school authority.

(Prior Code, § 20.165; Ord. No. 80, § 5, 3-1-1972)

Sec. 26-288. Regulations; right of superintendent.

The superintendent of schools may establish further reasonable regulations for conduct in schools, school grounds and public events. Such regulations must be signed by him and conspicuously posted at the place where the regulations apply. Violation of such regulations shall constitute a violation of this article.

(Prior Code, § 20.164; Ord. No. 80, § 4, 3-1-1972)

Sec. 26-289. Property damage.

No person shall damage, destroy or deface any school building, grounds, outbuildings, fences, trees, playground or other appurtenances or fixtures belonging to a school or located on the grounds thereof.

(Prior Code, § 20.161; Ord. No. 80, § 1, 3-1-1972)

Sec. 26-290. Request to leave.

Any person who is on the grounds of a school or in the buildings thereof shall leave the school buildings and grounds when requested to do so by any principal, assistant principal, superintendent of schools, teacher, school administrator, custodian or police officer, without the necessity of reasons being assigned for such request to leave, except as is provided by section 26-291.

(Prior Code, § 20.162; Ord. No. 80, § 2, 3-1-1972)

Sec. 26-291. Interference.

Any person who is present in a school building or upon school grounds in attendance at a public event, who shall interfere with the conduct of the public event, or interfere with or divert the attention or the pleasure of the public, from the scheduled event, shall:

(1) Be guilty of a misdemeanor; and

(2) Shall leave all school grounds and buildings upon the request of a policeman or the person or persons in charge of the public event.

(Prior Code, § 20.163; Ord. No. 80, § 3, 3-1-1972)

Chapter 28 PARKS AND RECREATION[36]

ARTICLE I. IN GENERAL

Secs. 28-1—28-18. Reserved.

ARTICLE II. PUBLIC CONDUCT IN PARKS

Sec. 28-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Assembly means any event designated to attract the attendance of persons, including but not limited to, a concert, show, exhibition, performance, speech, display or other form of entertainment. Assembly does not include recreation department games and events, and events sponsored by the city.

Group means any club, organization, association, or any number of persons gathered together and forming a recognizable unit having common characteristics and a community of interest.

Park means any park, playground, beach, recreation center or any other area in the city leased by, owned or used by the city, which area is primarily set aside for or devoted to active or passive recreation.

Vehicle means any conveyance, whether motor-powered, animal-drawn or self-propelled. The term "vehicle" shall include any trailer in tow, of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the city parks.

(Prior Code, §§ 20.182—20.189; Ord. No. 86, § 1, 1-1-1974)

[36]State law reference(s)—Authority to operate system of public recreation, MCL 123.5.

Sec. 28-20. Scope.

This article shall extend to and include all public parks, playgrounds or beaches owned by or under the jurisdiction of the city.

(Prior Code, § 20.180)

Sec. 28-21. Rules authorized.

The city council may by resolution adopt rules and regulations respecting the use of public parks, playgrounds and beaches, and may regulate and limit the use of equipment and other facilities. Once adopted by the city council, such rules and regulations shall be prominently posted within the public parks, playgrounds and beach areas. The city council shall have the authority to forbid the use of equipment and facilities of any such park, playground or beach to any person who refuses or neglects to obey the rules and regulations adopted under this section.

(Prior Code, § 20.291; Ord. No. 86, § 11, 1-1-1974; Ord. No. 09-02, § 1, 8-18-2009)

Sec. 28-22. Entering closed areas.

No person shall use or enter upon a beach or park during hours when said beach or park is posted as being closed.

(Prior Code, § 20.201; Ord. No. 86, § 2, 1-1-1974)

Sec. 28-23. Clubs, organizations, associations or groups to apply for use.

(a) Any person, assembly or group expecting to attract more than 75 persons, desiring use of a park, shall make application to the city clerk and shall not use park until said application is approved by the city manager.

(b) All approvals shall require the user to clean up the area occupied after the affair is over, and all applications for use must give the name, address and phone number of person responsible for the cleanup.

(c) Approval for use of the parks shall be granted by the city manager if all the following conditions are satisfied:

  (1) The city manager finds that the park is large enough for the anticipated crowd;

  (2) The purpose and proposed activity of the applicant will not disturb the peace of the persons in the area surrounding the park; and

  (3) Reasonable provisions have been made for cleanup after the gathering under subsection (b) of this section.

(d) Under no circumstance shall any group be granted exclusive use of a park and no permittee shall exclude the public from the park.

(Prior Code, §§ 20.211—20.214; Ord. No. 86, § 3, 1-1-1974)

Sec. 28-24. Willfully abusing equipment.

No person shall mark, deface, disfigure, injure, displace or remove any table, bench, fireplace, railing, pavement, water line or other public utility or appurtenance.

(Prior Code, § 20.221; Ord. No. 86, § 4, 1-1-1974)

Sec. 28-25. Jostling or crowding.

No person shall jostle or crowd another in any public park or beach, nor shall any person throw any ball or other object in such manner as to unreasonably annoy or endanger other persons in or on such park or beach, nor shall any person engage in any rough or violent play therein.

(Prior Code, § 20.222; Ord. No. 86, § 4, 1-1-1974)

Sec. 28-26. Harassing, threatening, etc., another person.

Any person within any city park, playground, beach area or other public place who, alone or with others, with intent to harass, intimidate, coerce or threaten another person, by word of mouth, sign, gesture, conduct or behavior in fulfillment of such intent, shall be guilty of a misdemeanor. Such activity may include, by way of example and not by limitation, loud and raucous behavior and interference with the movement of others.

(Ord. No. 09-02, § 2(4.3), 8-18-2009)

Sec. 28-27. Beaches and swimming areas.

(a) *Obedience to orders; police and lifeguards.* All persons on a municipal beach, or bathing in water adjacent thereto, shall obey the directions of the lifeguard or police officer on duty.

(b) *Swimming.* No person shall swim in any beach area, shore area, or along the Flat River, where those beach or shore areas are owned or leased by the city, unless such swimming is done in those areas strictly designated for swimming and specifically designated as open to the public for that purpose. A sign, visible to the public at swimming areas, shall constitute a swimming area as open to swimming. No person shall swim at a time when a beach is not posted as permitting swimming.

(Prior Code, §§ 20.231—20.233; Ord. No. 86, § 5, 1-1-1974)

Sec. 28-28. Vehicles.

(a) *Noise; speed limit.* No person shall operate any vehicle in such a manner as to create a noise which is unreasonable and offensive to those using a park or to those who live adjacent to said park. No person may drive a vehicle at a speed which is too fast or unreasonable for the existing conditions in the park. No person shall exceed the posted speed limit in the park, which posted speed limit may be lower than 25 mph for the reason that the park area is to be used for recreational purposes by the people. The city council, by resolution, shall have the power to and may establish maximum speed rates for vehicles used on the established park streets and drives.

(b) *Permitted areas only.* No person may drive, operate or park a vehicle within a park except upon a street, path, drive or parking area which is designated for the use of vehicles.

(Prior Code, §§ 20.241, 20.242; Ord. No. 86, § 6, 1-1-1974)

Sec. 28-29. Alcoholic beverages.

No person shall have in his possession any intoxicating liquor, beer or wine in any city beach area. No person shall have in his possession any intoxicating liquor, beer or wine in any city park or ball field open to the public between the hours of 10:00 p.m. and 6:00 a.m.

(Prior Code, §§ 20.251, 20.252; Ord. No. 86, § 7, 1-1-1974)

Sec. 28-30. Garbage and rubbish; receptacles.

No person shall throw, place, deposit or leave any garbage, rubbish, glass, cans, containers, papers or other waste in any public park, playground, or public beach, except in containers provided by the city for that purpose. Waste material, other than those resulting from use of the park, may not be deposited in park receptacles.

(Prior Code, § 20.261; Ord. No. 86, § 8, 1-1-1974)

Sec. 28-31. Water pollution.

No person shall throw, discharge, or otherwise place in the water or any fountain, stream or other body of water in or adjacent to any park or beach, any substance, liquid or solid, which may result in water pollution or a creation of hazard to the health and safety of other persons.

(Prior Code, § 20.262; Ord. No. 86, § 8, 1-1-1974)

Sec. 28-32. Animals.

Subject to section 502c of the Michigan Penal Code (MCL 750.502c), no person shall bring any animal, whether domestic, pet, or otherwise into any city park or beach.

(Prior Code, § 20.271; Ord. No. 86, § 9, 1-1-1974)

Sec. 28-33. Fires.

No person shall start or maintain a fire in any beach area. No person shall start or maintain a fire in any park, except in existing fireplaces and stoves or stoves and grills provided by park users. All fires shall be extinguished after use.

(Prior Code, §§ 20.281, 20.282; Ord. No. 86, § 10, 1-1-1974)

Chapter 30 PEDDLERS, HAWKERS, SOLICITORS AND VENDORS[37]

[37]Editor's note(s)—Ord. No. 17-05 , § 1, adopted October 3, 2017, amended chapter 30 in its entirety to read as herein set out. Formerly, chapter 30 pertained to similar subject matter, and derived from Ord. No. 122-A, § 1(20.001—20.013), adopted April 20, 2010.

State law reference(s)—Transient merchants, MCL 445.371 et seq.

ARTICLE I. IN GENERAL

Sec. 30-1. Purpose.

The purpose of this chapter is to regulate the movement, location, business practices and hours of operation of hawkers, peddlers, solicitors, food vendors and vendors in the city; to reduce vehicular and pedestrian traffic congestion; to promote the safe use of the streets and sidewalks; and to protect the health, safety and welfare of the people of the city.

(Ord. No. 17-05 , § 1, 10-3-2017)

Sec. 30-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Food vendor means any person offering food of any kind, whether or not for immediate consumption, including, without limitation, fruit, vegetables, confections, snacks or beverages, for sale from a temporary structure or shelter, moveable stand, cart, or wagon, at a public location.

Hawker means any person offering services, goods, wares, or merchandise for sale from a fixed place not within a building or part of a building.

Peddler means any person offering services, goods, wares, or merchandise for sale by going from door to door, place to place, or by passing from house to house, not including regular route deliverymen delivering products on a continuous order basis.

Solicitor means any person offering services, goods, wares, or merchandise for sale by sample or description for delivery at a future time going from door to door, or passing from house to house.

Vendor means any person offering services, goods, wares, or merchandise for sale, other than food, from a temporary structure or shelter, moveable stand, cart, or wagon, at a public location.

(Ord. No. 17-05 , § 1, 10-3-2017)

Sec. 30-3. Prohibited streets, hours, and acts.

(a) No hawker, peddler, solicitor or vendor shall conduct business upon Lafayette Street in the city from the north line of Benton Street to the south line of Coffren Avenue, or upon or along any street, alley or public place within one block of Lafayette Street.

(b) A food vendor registered under this chapter shall not sell beer, wine or other alcoholic beverages or liquor.

(c) Food vendors licensed under this chapter shall prohibit customers from smoking within any seating area in accordance with Section 12905 of the Public Health Code (MCL 333.12905).

(d) Food vendors may conduct business only in the following locations:

(1) At the city beach.

(2) On city property located within the downtown development district.

(3) At Alan G. Davis Park.

(4) Other locations as approved by city council resolution.

(e) No hawker, peddler, solicitor or vendor shall conduct business near any street or highway in such a manner that the customers would occupy or congregate within the limits of any street, lane, highway or public place.

(f) No hawker, peddler, solicitor or vendor shall conduct business under this chapter between the hours of 8:00 p.m. and 8:00 a.m., with the exception of food vendors, who may operate between 7:00 a.m. and 10:00 p.m.

(g) No hawker, peddler, solicitor or vendor shall enter a private residence under pretenses of entering for purposes other than hawking, peddling, soliciting or vending.

(h) No hawker, peddler, solicitor or vendor shall remain in a private residence or on the premises thereof after the owner or occupant thereof has requested such hawker, peddler, solicitor, or vendor to leave.

(i) No hawker, peddler, solicitor or vendor shall go in and upon the premises of a private residence when the owner or occupant thereof has displayed a sign prohibiting hawking, peddling, soliciting, or vending on such premises.

(Ord. No. 17-05 , § 1, 10-3-2017)

Sec. 30-4. Reserved.

ARTICLE II. REGISTRATION OR LICENSE REQUIRED

Sec. 30-5. Peddlers and solicitors.

(a) It shall be unlawful for any peddler or solicitor to engage in such business within the city without first registering with the city as provided in this chapter.

(b) Registration procedure.

(1) Any person desiring to conduct business as a peddler or solicitor, as defined in this chapter, shall first file with the city clerk a written registration stating the registrant's name, date of birth, residence address, business address, mailing address, and a brief description of the type of goods or services which he or she intends to sell or offer for sale or for which he or she intends to seek to obtain orders for future delivery or performance.

(2) The clerk shall either accept the registration within three business days of the submission of the registration as complete and issue a certificate of registration, or, in the alternative, return the incomplete registration to the person who submitted the same. Persons submitting an incomplete registration shall not be issued a certificate of registration until such registration is complete.

(c) It shall be a violation of this chapter to provide false or inaccurate information on the registration application.

(d) Any person desiring to conduct business as a peddler or solicitor, as defined in this chapter, shall pay to the city clerk a registration fee in the amount of not less than $25.00 or such other amounts as may be set by resolution of the city council for each registration.

(e) Subject to subsection (f) below, a certificate of registration issued pursuant to this chapter:

(1) Shall be clearly displayed at all times by the registered peddler or solicitor;

(2) Shall be valid for a period of 90 days from the time and date of the acceptance or until December 31 of the same year, whichever is longer; and

(3) Is nontransferable.

(f) Registration of local organizations.

(1) Organization(s) with a local address within the city may submit a single registration for its members to operate within the city as a peddler or solicitor on behalf of such local organization, in accordance with subsection (b)(2) above by listing one member as the primary registrant (or responsible adult if the members of such organization are primarily youth) and also providing a list of the names of the organization's members who will be operating under this chapter on behalf of the organization.

(2) A certificate of registration issued to a local organization under this chapter shall remain valid, provided the local organization provides an updated primary registrant (or responsible adult if the members of such organization are primarily youth) along with an updated list of the names of the organization's members who will be operating under this chapter on behalf of the organization, once per calendar year, on the anniversary date of the issuance of the organization's original certificate of registration.

(Ord. No. 17-05 , § 1, 10-3-2017)

Sec. 30-6. Hawkers, food vendors, and other vendors.

(a) It shall be unlawful for any hawker, food vendor, or other vendor to engage in such business within the city without having a valid license issued by the city as provided in this chapter.

(b) Licensing procedure.

(1) Any person desiring to conduct himself or herself as a hawker, food vendor, or other vendor, as defined in this chapter, shall first file with the city clerk a written application for license stating the proposed licensee's name, date of birth, residence address, business address, mailing address, and a brief description of the type of goods or services which he or she intends to sell or offer for sale.

(2) The clerk shall either accept the application within three business days of the submission of the license application as complete and issue a license, or, in the alternative, return the incomplete application to the person who submitted the same. Persons submitting an incomplete application shall not be issued a license until such application is complete.

(3) The city may revoke or suspend a license issued under this chapter for a violation of any provision of this Code.

(c) It is a violation of this chapter to provide false or inaccurate information on the license application.

(d) Any person desiring to conduct himself or herself as a hawker, food vendor, or other vendor, as defined in this chapter, shall pay to the city clerk a license fee in the amount of not less than $25.00 or such other amounts as may be set by resolution of the city council for each license.

(e) Subject to subsection (f) below, a license issued pursuant to this chapter:

(1) Shall be clearly displayed at all times by the licensed hawker, food vendor, or vendor;

(2) Shall be valid for a period of 90 days from the time and date of the issuance of the license or until December 31 of the same year, whichever is longer, unless otherwise suspended or terminated as provided in this chapter; and

(3) Is nontransferable.

(f) Licensing of local organizations.

(1) Organization(s) with a local address within the city may apply for single license for its members to operate within the city as a hawker, food vendor, or other vendor on behalf of such local organization, may file one license application on behalf of the local organization, in accordance with subsection (b)(2) above by listing one member as the primary applicant (or responsible adult if the members of such organization are primarily youth) and also providing a list of the names of the organization's members who will be operating under this chapter on behalf of the organization.

(2) A license issued to a local organization under this chapter shall be valid until otherwise suspended or terminated as provided in this chapter, provided the local organization provides an updated primary applicant (or responsible adult if the members of such organization are primarily youth) along with an updated list of the names of the organization's members who will be operating under this chapter on behalf of the organization, once per calendar year, on the anniversary date of the issuance of the organization's original license.

(Ord. No. 17-05 , § 1, 10-3-2017)

Sec. 30-7. Exemptions.

The registration and licensing requirements of this article shall not apply to the following activities or individuals:

(1) Yard sales, garage sales, bake sales or other similar types of activities held by the owner or lessee of residentially zoned property. Such activities must be temporary in nature and comply with all applicable city ordinances.

(2) The sale of vegetables, fruits or perishable farm products, raised, produced or manufactured by the seller on the premises where offered for sale.

(3) Regular route newspaper delivery persons.

(4) Persons soliciting charitable donations of money or other items of value, or distributing information, on behalf of any church, charitable, educational or fraternal organization, or of any political group seeking funds or membership.

(5) Veterans who have been issued a vending license in accordance with state law.

(Ord. No. 17-05 , § 1, 10-3-2017)

Sec. 30-8. Penalties.

A person who violates any provision of this chapter is responsible for a municipal civil infraction.

(Ord. No. 17-05 , § 1, 10-3-2017)

State law reference(s)—Authority to designate municipal ordinance a municipal civil infraction, MCL 117.4l; municipal civil infractions, MCL 600.8701 et seq.

Chapter 32 SOLID WASTE[38]

[38]State law reference(s)—Solid waste management, MCL 324.11501 et seq.; garbage disposal plants, MCL 124.261 et seq.; hazardous waste, MCL 324.11101 et seq.; littering, MCL 324.8901 et seq.

ARTICLE I. IN GENERAL

Secs. 32-1—32-18. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL[39]

DIVISION 1. GENERALLY

Sec. 32-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approval or disapproval by the city means approval by the department director of the Greenville Public Works Department, criteria for approval being compatibility of container with city trucks and systems and compliance with section 32-25(a) and (b).

Day of pickup means the day established for garbage and trash pickup by the city, which days and pickup areas shall be designated on a city map at the city hall, which map shall be available for public view.

Garbage means any putrescible animal or vegetable waste resulting from handling, preparation, cooking and consumption of food.

Licensed trucks means and includes trucks owned by the city and other trucks when hauling waste originating from residential, commercial and industrial premises located within the city. Application for a license shall be made to the city manager.

Metals and large furniture items means stoves, water heaters, bathtubs, sinks, bikes, steel fence posts, metal beds and springs, metal furniture, stuffed chairs, couches or sofas.

Premises means land, building or other structures, vehicles, watercraft, or parts thereof upon or in which garbage and/or trash may be or is stored.

Private garbage and/or trash haulers means a person who hauls for hire.

Schedule of rates and hours of operation means that schedule, as adopted by the city council by resolution, governing the fees charged and the hours of availability, for use of the city solid waste disposal facility.

Trash means any non-putrescible solid waste consisting of both combustible and noncombustible waste, such as paper, cardboard, discarded articles, tin cans, glass, dishes, crockery, cold ashes, grass clippings, yard trimmings, leaves and general yard and garden waste materials. Boards, stones, sod, logs and wastes from building or remodeling projects are not considered as trash.

[39]State law reference(s)—Solid waste management, MCL 324.11501 et seq.; garbage disposal plants, MCL 124.261 et seq.; hazardous waste, MCL 324.11101 et seq.; littering, MCL 324.8901 et seq.

Used appliances means used washers, dryers, stoves, freezers, refrigerators and similar appliances which weigh 50 pounds or more. Such used appliances are not trash.

(Prior Code, § 35.502; Ord. No. 81-D, § 2, 9-16-1987; Ord. No. 81-E, 12-15-1990)

Sec. 32-20. System for collection and disposal of garbage or trash.

The city council recognizes that it has established and does desire to maintain a safe, clean and efficient system for the collection and disposal of garbage or trash within the city. Included in that system are garbage trucks, a transfer station and employees who operate those vehicles and the transfer station.

(Prior Code, § 35.509; Ord. No. 81-D, § 9, 9-16-1987)

Sec. 32-21. City collection and disposal.

(a) The city shall pick up all garbage and trash in the city from all residences, apartment houses, commercial places of business, gasoline service stations and garages once every week. There shall be no pickup for industries in the city. All garbage and trash collected by the city shall be disposed of at a state approved sanitary landfill.

(b) The city, by written contract approved by the city council, may hire an independent contractor to do any of the following within the city:

  (1) Operate the transfer station on Shearer Road; and

  (2) Pick up garbage, trash and refuse in the city and dispose of the same by transporting such items out of the city to an approved landfill.

(Prior Code, §§ 35.506, 35.519; Ord. No. 81-D, §§ 6, 19, 9-16-1987; Ord. No. 81-G, 7-24-1994)

Sec. 32-22. Items not required to be picked up or disposed of by city.

The city is not required to pick up or dispose of used appliances or metals or large furniture items.

(Prior Code, § 35.518; Ord. No. 81-D, § 18, 9-16-1987; Ord. No. 81-E, 12-25-1990)

Sec. 32-23. Required.

It shall be the duty of every person within the city who owns or has possession of a premises to dispose of all garbage and/or trash in a manner which is lawful under this article, other city ordinance, Mid-Michigan District Health Department regulations, and state law. Garbage may be disposed of by the use of kitchen garbage disposal units. Persons with garbage disposal units shall not be exempt from the requirement to dispose of all trash each week.

(Prior Code, §§ 35.501, 35.505; Ord. No. 81-D, §§ 1, 5, 9-16-1987)

Sec. 32-24. Licensing of haulers.

(a) It shall be unlawful for any solid waste hauler or contractor to remove waste from any business or premises within the city, unless that hauler is licensed by the city to do so under the provisions of this section.

(b) Any independent contractor who contracts with the city to haul waste, garbage or trash and his trucks and equipment shall be deemed to be licensed by the city during the period of that waste hauler's contract.

(c) The city shall not license any person under this section unless that licensee is a party to a written trash/solid waste disposal contract between the hauler or contractor and the city.

(d) Any license issued to a solid waste hauler or operator must be issued only after letting of a written contract to such solid waste hauler or contractor.

(e) No contract may be made between the city and a solid waste hauler or contractor unless the city and its staff have first advertised for bids in a public manner calculated to reach trash haulers in West Michigan and accepted said bids in a fair and public bidding procedure.

(f) The city may enforce this section by misdemeanor prosecution under this article or by civil action.

(g) The provisions of this section do not prohibit or apply to the following:

(1) Removal of roofing, old structural materials from a building site, a building repair site or a site where a building has been repaired or razed.

(2) Hauling of used appliances, grass, leaves or brush.

(3) Removal of household junk by a local drayman, as long as hauling from any premises is not done on a regular or scheduled basis.

(4) Newspaper, magazine, or telephone book recycling.

(Prior Code, §§ 35.521—35.527; Ord. No. 81-G, 7-29-1994; Ord. No. 81-H, 10-19-1994)

Sec. 32-25. Containers.

(a) *Containers for garbage.*

(1) *Dwelling units.* Containers for garbage shall be watertight, made of metal or plastic with tightfitting covers and handles and shall have a capacity of not more than 32 gallons. The use of plastic garbage bags is recommended and approved. An apartment house that has an approved two-, three-, or four-yard trash container shall use the trash container.

(2) *Commercial places.* Same requirements as for dwelling units. A commercial place that has an approved two-, three-, or four-yard trash container shall use the trash container.

(b) *Containers for trash.*

(1) *Dwelling units.* Containers for trash shall be of reasonable substantial construction to permit handling. All trash shall be placed in containers, except large discarded articles. Containers when full and/or articles shall not exceed 75 pounds in weight. The use of plastic garbage bags is recommended and approved.

(2) *Commercial places.* A commercial place that has less than one yard of trash per week may use containers as required for dwelling units. All other commercial places shall use two-, three-, or four-yard containers as approved by the city.

(3) *Apartment houses of six or more units.* Containers shall be two-, three-, or four-yard containers as approved by the city.

(c) *Container location.* Should a person elect to have the city remove his garbage and/or trash, then such person shall, each week, place or cause to be placed by 7:00 a.m. of the scheduled day of pickup, the garbage and/or trash container or containers at the front curbline or, if street is not curbed, at the edge of street. In the case of a corner lot, the director of public works shall determine on which street pickup will be made. Containers

shall not be placed at the street prior to 24 hours before scheduled pickup and shall be removed within 24 hours after pickup. Commercial containers shall be placed at a convenient and accessible location pending collection. The location shall be mutually agreed upon by the proprietor or operator of each place of business and the city. In the event of a dispute as to the most proper location, the decision of the director of public works shall be final and binding. A person who violates this subsection shall be responsible for a civil infraction.

(d) *Container condemnation.* The city may place a tag with the caption "This Container is Condemned for Use" on a container that the director of public works or his agent determines to be badly broken, or so faulty as to constitute an unsanitary condition. The city may also, by use of appropriate tags, notify persons of other violations of this article.

(Prior Code, §§ 35.503, 35.516; Ord. No. 81-D, §§ 3, 16, 9-16-1987)

State law reference(s)—Authority to designate municipal ordinance a municipal civil infraction, MCL 117.4l; municipal civil infractions, MCL 600.8701 et seq.

Sec. 32-26. Prohibited activities.

(a) *Littering generally.*

(1) It shall be unlawful for any person to deposit any garbage and/or trash in any street, alley, river or public place within the city, except for pickup in accordance with section 32-26.

(2) It shall be unlawful for any person to deposit any garbage and/or trash upon any private property, whether or not owned by such person, within the limits of the city, unless same shall be in an approved container as required by this article.

(3) It shall be unlawful for any person to destroy or dispose of garbage by burning, except garbage may be burned in a natural gas burner if that burner is located within a building, is operationally sound and safe, and if that burner is approved and sealed by Underwriters Laboratories.

(4) It shall be unlawful to bury garbage or trash within the city (this provision, however, does not apply if such is properly composted under article III of this chapter).

(b) *Bringing garbage or trash into city or park for pickup.* It shall be unlawful for any person to transport garbage and/or trash into the city for pickup by the city, except this provision does not apply to city residents who are returning from vacationing, camping or travelling. It is also unlawful for any person to deposit in a park waste container garbage and/or trash not originating from activities within the park.

(c) *Transportation of garbage and trash.* No person shall transport garbage and trash in such a manner as to cause litter to fall upon the streets of the city or any public highway. Any vehicle used for the transportation of garbage and/or trash shall be cleaned at sufficient frequency to prevent becoming a nuisance or a place for insect breeding, and shall be maintained in good repair.

(d) *Use of another's container.* It shall be unlawful for any person to place or dump trash or garbage in a receptacle or dumpster which serves a premises in which that person has no ownership or lease interest. This subsection does not prohibit placement or dumping of trash or garbage in public receptacles or in receptacles located on nonresidential premises placed for the use of persons on such premises.

(Prior Code, § 35.504; Ord. No. 81-D, § 4, 9-16-1987; Ord. No. 81-F, 10-1-1992)

Sec. 32-27. Use of solid waste disposal site.

(a) The solid waste disposal site shall be open to cars, cars with trailers, pickup trucks and all other transporting vehicles in accordance with this article, the rate schedule and regulations to be adopted by the city council.

(b) Entrance to the disposal site may be gained after compliance with regulations, this article, and after payment of rates adopted by the city council pursuant to this article.

(Prior Code, § 35.507; Ord. No. 81-D, § 7, 9-16-1987)

Sec. 32-28. Schedule of rates and hours of operation for waste disposal facility.

The schedule of rates and hours of operation for all users shall be established by the city council resolution and the schedule shall be kept for public inspection at the office of the city clerk. A copy of the scheduled rates and hours for operation shall be maintained at the city waste disposal facility for inspection by any member of the public who requests to see the same.

(Prior Code, § 35.508; Ord. No. 81-D, § 8, 9-16-1987)

Sec. 32-29. Dumpsters not owned by city.

The city shall not be required to dump or empty dumpsters not owned by the city.

(Prior Code, § 35.512; Ord. No. 81-D, § 12, 9-16-1987)

Secs. 32-30—32-46. Reserved.

DIVISION 2. COLLECTION RATES AND CHARGES

Sec. 32-47. Generally.

In addition to the tax authorized by section 1 of Public Act No. 298 of 1917 (MCL 123.261), the city shall also charge for the pickup and collection of garbage or waste on the following basis:

(1) A fee, established by city council resolution, will be charged on a monthly basis for a single-family residential dwelling.

(2) A fee, established by city council resolution, will be charged on a monthly basis for each dwelling unit in any duplex or apartment house or apartment complex, unless the same is fully served by a dumpster. The dumpster must be approved by the director of the department of public works as to safety, size, appearance, cleanliness, weight and construction.

(3) A fee per dump, established by city council resolution, will be charged on any commercial dumpster.

(Prior Code, § 35.511; Ord. No. 81-D, § 11, 9-16-1987)

Sec. 32-48. Miscellaneous charges.

(a) *Industrial charges.*

(1) The city shall monitor garbage or solid waste dumped by industries at the transfer station. Should the amount of garbage or solid waste exceed the portion of the industry's property taxes paid for the use of the transfer station, then the industry shall pay a gate fee at the Greenville Transfer Station on a cubic yard basis.

(2) As commercial dumpsters are being charged on a per dump basis, it is incumbent on the city to protect dumpsters from being filled with garbage from other areas than the dumpsters serve. It is therefore unlawful for a person to dump or deposit garbage in a dumpster if that garbage originates or emanates from places other than the commercial building served by the dumpster.

(3) Upon approval of the director of public works, businesses which generate garbage in an amount which does not fill a dumpster twice a week can share dumpsters.

(4) The rate for compacted commercial garbage shall be set by the director of public works, the rate, however, is to be four times the rate for noncompacted garbage.

(b) *Tax exempt rate.* Schools, hospital buildings, churches, and other similar buildings or lands exempt from real estate property taxes, except for residential dwellings, shall be charged for garbage pickup services and for the cost to the city of operating the transfer station at 120 percent of the rate, set by city council resolution, under section 32-47. This charge is not a tax, but instead a fee for services actually rendered.

(c) *Fees charged to tax exempt residential dwellings and residential properties not located within the city.* If convenient and agreeable to the director of public works, city facilities may pick up garbage from premises located outside the city limits. Rates for pickup at such residences and for tax exempt dwelling units shall be set by the city council resolution and will be charged on a monthly basis.

(Prior Code, § 35.513; Ord. No. 81-D, § 13, 9-16-1987)

Sec. 32-49. Billings.

Billings for garbage and trash collection and waste disposal services shall be monthly or quarterly as determined by the city manager and said bills are to be paid by the 20th day of the month of date of billing.

(Prior Code, § 35.514; Ord. No. 81-D, § 14, 9-16-1987)

Sec. 32-50. Lien.

The charges for garbage and trash collection services are hereby recognized to constitute a lien on the premises served thereby, and whenever any such charge for any piece of property shall be delinquent for more than six months, the amount of such delinquency may be entered upon the next tax roll as directed by the city council, and such tax shall be collected in the same manner as city taxes.

(Prior Code, § 35.515; Ord. No. 81-D, § 15, 9-16-1987)

Secs. 32-51—32-73. Reserved.

ARTICLE III. COMPOST FACILITIES

Sec. 32-74. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Composting means the process of converting raw organic material to humus.

Food waste means any food product wastes from the household.

Household refuse means any regular wastes produced from the household and not considered a food product, i.e., containers, paper products, etc.

Side/rear lot lines means as defined in the zoning ordinance of the city.

Side/rear yard area means as defined in the zoning ordinance of the city.

Trash means any putrescible animal or vegetable waste resulting from handling, preparation, cooking and consumption of food.

Yard waste means any regular wastes produced from landscaping activities, i.e., lawn trimmings, leaves, small brush (must be less than 1½ inches in diameter).

(Prior Code, § 35.401; Ord. No. 136, § 1, 3-21-1991)

Sec. 32-75. Minimum requirements for construction and maintenance of compost facilities.

(a) The compost facility shall be allowed only in the side or rear yard areas.

(b) The compost facility shall not be nearer than three feet from any side or rear lot lines of the land upon which the facility is situated or to be situated. Likewise, a compost facility shall not be closer than six feet from any house, garage, building or residence.

(c) The compost facility shall be constructed of wood, fencing, wooden barrel or steel drum barrel. The size of the compost facility shall not exceed a dimension of 36 square feet. The height shall not exceed four feet as measured by the adjacent terrain.

(d) The compost facility must be operated as a compost pile, i.e., turned, the application of lime as needed, etc.

(e) The compost facility will be deemed unsanitary and a health hazard to the safety and general welfare of humans if any of the following defects shall be identified:

    (1) Becoming the source of odor problems to any adjacent homes;

    (2) Evidence of presence or breeding of vermin; and/or

    (3) Evidence of household refuse or trash.

(Prior Code, § 35.402; Ord. No. 136, § 2, 3-21-1991; Ord. No. 136-A, 11-6-1991)

Sec. 32-76. Right of inspection and enforcement.

All premises affected by these regulations shall be subject to inspection by an official of the city and the inspector may collect such samples for laboratory examination as he deems necessary for the enforcement of these regulations. No person shall refuse to permit the inspector to inspect any premises at reasonable times nor shall any person molest or resist the health officer in the discharge of his duty.

(Prior Code, § 35.403; Ord. No. 136, § 3, 3-21-1991)

Sec. 32-77. Cleanup charges.

Charges for cleanup services incurred by the city for any premises in violation shall be a lien upon said premises. The treasurer shall thereafter immediately enter the amount of the charges upon the next tax roll, said charge to be against the premises to which the service has been rendered and said charges shall be collected and said lien shall be enforced in the same manner as is provided in respect to real property taxes assessed upon such premises and stated in the city tax rolls.

(Prior Code, § 35.404; Ord. No. 136, § 4, 3-21-1991)

Sec. 32-78. Adequate storage facilities.

If a landowner, tenant or person in possession of land within the city chooses to engage in composting, or maintains areas, piles or sites on land where raw organic material is combined or stored or spread on the earth or near the earth, then such process of composting shall be carried on within a compost facility constructed as is required by this article, being the entire Ordinance No. 136.

(Prior Code, § 35.407; Ord. No. 91-I, 11-6-1991)

Sec. 32-79. Number of facilities per residence.

There shall be no more than one compost facility for each residential premises.

(Prior Code, § 35.408; Ord. No. 91-I, 11-6-1991)

Chapter 34 SPECIAL ASSESSMENTS[40]

Sec. 34-1. Initiation of special assessment project or district.

Initiation of a special assessment project or district shall be by resolution of council directing city administration to give public notice of its intent to consider a project which would be paid by special assessment.

(Prior Code, § 12.502; Ord. No. 125, § 3, 2-10-1986; Ord. No. 125A, 6-19-1986)

Sec. 34-2. Determination of necessity.

The public hearing mentioned in section 34-1 shall determine whether the project (for which the proposed special assessment will pay) is advisable and necessary. Should the council determine, in fact, that the proposed project and special assessment are advisable and necessary, then the council shall direct the city administration to create a proposed special assessment roll, and shall at that meeting or a subsequent meeting set a public hearing date on said special assessment roll.

(Prior Code, § 12.502A; Ord. No. 125, § 2A, 2-10-1986; Ord. No. 125A, 6-19-1986)

[40]State law reference(s)—Special assessment notice and hearings, MCL 211.741 et seq.

Sec. 34-3. Preparation by city staff.

Upon such resolution, city staff shall prepare and present to council:

(1) Plans of proposed project;

(2) Cost estimates of proposed project;

(3) Proposed special assessment district boundaries;

(4) Proposed assessment roll;

(5) Proposed date of levy and date of collection of assessments, subject to Public Act No. 120 of 1961 (MCL 125.981 et seq.); and

(6) Special assessments may be levied at any time in the calendar year.

(Prior Code, § 12.503; Ord. No. 125, § 3, 2-10-1986)

Sec. 34-4. Confirmation of special assessment roll.

Except as provided in Charter § 11.2, no special assessment roll shall be confirmed, except by affirmative vote of a majority of the councilmembers at the meeting where the roll is presented.

(Prior Code, § 12.505; Ord. No. 125, § 5, 2-10-1986)

Sec. 34-5. Collection of assessments.

Following approval of the special assessment roll, the city treasurer shall collect the same. Should an assessment not be paid, the city treasurer may, in addition to other means provided by law, collect the same by civil suit and/or record appropriate documents with the county register of deeds to give notice of the same.

(Prior Code, § 12.506; Ord. No. 125, § 6, 2-10-1986)

Sec. 34-6. Compliance with Charter.

The city assessment procedure shall comply with chapter 11 of the city Charter.

(Prior Code, § 12.507)

Sec. 34-7. Confirmation; council resolution.

Confirmation and adoption of a proposed special assessment shall be by council resolution.

(Prior Code, § 12.508; Ord. No. 125, § 8, 2-10-1986)

Sec. 34-8. Terms of payment.

The terms of payment for the special assessment shall be set by council.

(Prior Code, § 12.509; Ord. No. 125, § 9, 2-10-1986)

Sec. 34-9. Excess funds.

The special assessment may be calculated to pay part of or all of the cost of a public improvement, operation, or project. If funds generated from a special assessment are greater than needed for the cost of the special improvement, operation, or project, then:

(1) If said excess is over five percent of the project cost, the same shall be refunded, pro rata, to entities assessed.

(2) If said excess is less than five percent of the project cost, the same shall be placed in the general funds of the city.

(Prior Code, § 12.510; Ord. No. 125, § 10, 2-10-1986)

Sec. 34-10. Collection; council approval.

The city treasurer shall administer and collect the special assessment following approval thereof by the council.

(Prior Code, § 12.511; Ord. No. 125, § 11, 2-10-1986)

Chapter 36 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. IN GENERAL

Sec. 36-1. Street repairs; obstruction; permit; barriers and safeguards.

(a) No person, persons, firm or corporation shall place upon or along any street, alley or public highway within the city anything tending to obstruct said street, alley or public highway or to constitute an encumbrance in any such street, alley or public highway or tending to encroach upon any such street, alley or public highway unless such person, persons, firm or corporation shall obtain from the city council a permit in writing so to do.

(b) Application for said permit shall be made in writing to the city council and the application shall state the nature of the proposed obstruction, encumbrance or encroachment, the purpose of the same, the length of time during which the same shall continue, and an agreement by the person, persons, firm or corporation making such application that after the completion of the project, the street, alley or public highway will be returned to the same condition as to surface or otherwise as previously existed, and that such person, persons, firm or corporation will, at their own expense, maintain warning lights, barriers or other safeguards so long as the same are reasonably necessary and in accordance with the requirements of the city council in this regard.

(c) The city council shall, upon the making of such application, issue to the applicant a permit in accordance with the application, provided the city council shall be satisfied of the necessity for the same, and provided the applicant shall satisfy the city council by bond or otherwise of his financial ability to perform the agreements contained in the application.

(d) Such permit must be furnished on demand of any public safety officer. If any such obstruction, encumbrance or encroachment shall be placed upon any such street, alley or public highway without such permit, it shall be the duty of the director of public safety to see that the same is immediately removed and that safeguards

are put around the same pending removal; provided, however, that this section shall not apply to work done under the direction of any duly authorized governmental body.

(Prior Code, § 20.651; Ord. No. 13, § 1, 2-15-1930)

Sec. 36-2. Tree planting in streets; overhanging limbs prohibitions.

No person, persons, firm or corporation shall plant or maintain a tree within the limits of any street, alley or public highway within the city, nor shall any person plant or maintain a tree which shall endanger or obstruct public travel upon any such street, alley or public highway either by overhanging limbs or otherwise.

(Prior Code, § 20.652; Ord. No. 13, § 2, 2-15-1930)

Sec. 36-3. Poles or wires.

No person, persons, firm or corporation shall place any telegraph, telephone or light poles or wires in or over any street, alley or public highway within the city, when such placing shall constitute an interference with or a danger to public travel upon the said street, alley or public highway. It shall be the duty of any such person, persons, firm or corporation desiring so to place such things first to confer with the director of public safety concerning the same and to obtain his approval. It shall be the duty of the director of public safety to determine whether the same will not interfere with or endanger public travel before approving.

(Prior Code, § 20.654; Ord. No. 13, § 4, 2-15-1930)

Sec. 36-4. Permission to use streets, etc., required.

No person, persons, firm or corporation shall use any street, alley or public highway within the city for the purpose of any sport, amusement, or the like, nor shall any persons gather in numbers in any such street, alley or public highway without first obtaining the permission of the director of public safety so to do. The director of public safety shall only give his permission when he considers the same reasonably safe and shall see that all proper safeguards are erected.

(Prior Code, § 20.655; Ord. No. 13, § 5, 2-15-1930)

Sec. 36-5. Moving buildings; permit required; conditions.

(a) Any person or organization desiring to move a building or structure or other obstruction across, upon, or along any street, road or alley shall, prior to such moving, apply for and obtain a permit from the city assessor/code administrator on forms provided by that office.

(b) Prior to receipt of a permit, the owner or his agent shall:

(1) File application on proper forms provided by the city;

(2) Show that satisfactory arrangements have been made for temporary removal of all wires, cables, appliances and other obstructions along the route that may be affected by the moving;

(3) Show proof of notice of said moving schedule to all utility companies affected by the moving;

(4) Show proof that satisfactory arrangements have been made with any person or organization whose property may be affected by such moving;

(5) Pay required permit fees.

(c) Prior to commencing such moving, the owner or his agent shall:

(1) Satisfy all conditions set forth in subsections (a) and (b) of this section;

(2) Notify the city department of public safety and complete arrangements with them for any necessary aid;

(3) Secure a bond to the city if the city should so require one.

(d) During such moving, the owner or his agent shall:

(1) Provide proper warning signals and provide some person to warn traffic and pedestrians at all times while in progress of moving;

(2) Move the structure or building with all possible dispatch and in a safe manner least calculated to obstruct travel on public rights-of-way.

(e) No building shall be left overnight in a public right-of-way.

(f) Proper barricades shall be immediately erected and other precautions shall be immediately taken when a building or structure has been removed or raised from its foundation and/or the earth surface, or when area of land has been excavated and is awaiting the affixing of a building or structure thereto in such manner as to create a danger.

(g) Permit fees shall be established by resolution adopted by the city council.

(h) The permit will become null and void if moving is not completed following 30 days of issuance.

(Prior Code, § 22.502; Ord. No. 2, §§ 1, 2, 2-15-1939; Ord. No. 2-A, 12-16-1981)

Secs. 36-6—36-28. Reserved.

ARTICLE II. EXCAVATIONS

Sec. 36-29. Permit.

(a) No person, firm or corporation shall dig into or otherwise disturb the surface of any street without having first obtained a written permit from the public services director for such digging into or disturbing of such surface.

(b) Any person, firm or corporation desiring to dig into or disturb the surface of any street shall apply to the public services director for a permit and shall state the reason for the digging into or disturbance of the surface of the street. When a permit is granted or issued by the public services director for such digging into or disturbance of the street surface, the digging or disturbance shall be under the direction of the public services director.

(Prior Code, §§ 20.671, 20.672; Ord. No. 27, §§ 1, 2, 5-20-1941)

Sec. 36-30. Bond.

(a) Upon receipt of an application for digging into or disturbance of any such street surface, the public services director shall make an estimate of the cost of repairing the street surface so dug up or disturbed and shall deliver said estimate to the city clerk.

(b) The person, firm or corporation seeking such permit shall deposit with the city clerk a cash bond or an indemnity bond in an amount equal to twice the estimate of the cost of repairs to indemnify the city for the cost of repairing the street as well as the surface of the street so dug up or disturbed.

(c) The public services director shall issue no permit for the digging into or disturbance of any street surface except upon written notice from the city clerk that the person, firm or corporation asking such permit has deposited the bond required by this article.

(Prior Code, §§ 20.673—20.675; Ord. No. 27, §§ 3—5, 5-20-1941))

Sec. 36-31. Repairs done by city; costs paid by permittee.

(a) The repairing of the street and the repairing of the surface of the street shall be done by the city under the direction and control of the public services director and a statement of the cost of such repairs shall be submitted to the person obtaining the permit, and such cost shall be paid by the person, firm or corporation having the permit.

(b) In the event of failure to pay the cost of such repairs; such cost may be deducted from the cash bond deposited with the city clerk and the balance of the money refunded to the owner or the city may take the necessary action against the principal and the sureties of the indemnity bond to obtain reimbursement for the cost of repairs.

(Prior Code, § 20.676; Ord. No. 27, § 6, 5-20-1941)

Secs. 36-32—36-50. Reserved.

ARTICLE III. SIDEWALK REPAIR, CONSTRUCTION AND MAINTENANCE

Sec. 36-51. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abutting owner means the owner of property abutting a public right-of-way.

Builder means that person, firm or corporation who has obtained a permit to construct sidewalk, as required by this article.

City sidewalk means the portion of the street right-of-way or along the street right-of-way and improved as a part of the pedestrian travel route.

Enforcing official means the city manager or his authorized representative.

Hairline crack means any crack that is less than one-eighth inch in width.

Hazardous means the condition of a sidewalk that has the potential to cause property or personal loss.

Inspect means the inspection and testing of sidewalk installation or repair.

Private sidewalk means any walk on private property that is not a part of the pedestrian travel route.

Property owner means the owner of property as identified by deed and/or city tax records.

(Prior Code, § 30.001(2); Ord. No. 126, § I, 10-23-1986)

Sec. 36-52. Compliance.

All sidewalks constructed within the city shall be constructed in accordance with this article.

(Prior Code, § 30.001(3); Ord. No. 126, § I, 10-23-1986)

Sec. 36-53. Administration.

The enforcing official shall administer this article.

(Prior Code, § 30.001(4); Ord. No. 126, § I, 10-23-1986)

Sec. 36-54. Waiver of charges.

The city council may at their discretion waive any charges under this article for elderly or handicapped people due to extreme financial difficulties such costs might create.

(Prior Code, § 30.005(1); Ord. No. 126, § I, 10-23-1986)

Sec. 36-55. Permit.

No person shall remove, construct, rebuild, or repair any sidewalk, except in accordance with the line, grade, slope, and specifications established by the city engineer, nor without first obtaining a permit from the enforcing official. A permit is required in order to ensure uniformity in sidewalk installation, ensure pedestrian safety, and to ensure good workmanship. There will be no charge for such permit if obtained prior to repair or construction. In the event that work is started or completed without first obtaining a permit, then a fee as established by city council resolution shall be charged for administrative and inspection purposes.

(Prior Code, § 30.001(5); Ord. No. 126, § I, 10-23-1986)

Sec. 36-56. Supervision and inspection.

The enforcing official shall at all times have access to the work and the right to inspect the work. The builder shall have a responsible representative in charge of the work on the site at all times who shall have the necessary qualifications and authority to execute, adhere to, and carry out the requirements of the specifications of this article.

(Prior Code, § 30.001(6); Ord. No. 126, § I, 10-23-1986)

Sec. 36-57. Stop work order.

Construction work that is being done contrary to the provisions of this article shall be immediately stopped upon order of the enforcing official. After a permit is obtained, the enforcing official will inspect any completed work, and if it does not meet city specifications and desired workmanship, then that sidewalk will be removed and replaced to city specifications at the cost of the property owner.

(Prior Code, § 30.001(7); Ord. No. 126, § I, 10-23-1986)

Sec. 36-58. Sidewalk specifications.

(a) All sidewalk construction within the city shall be a minimum of five bag, ready-mix.

(b) All sidewalks shall not be less than four inches in thickness, nor less than six inches at driveway crossings; expansion joint material shall be placed in the joints as often as may be required by the enforcing official, but in no event further apart than 15 feet.

(c) Within 28 days after construction all concrete used in sidewalk construction shall be capable of resisting a pressure of 3,500 pounds per square inch without failure; provided, however, that these specifications shall not apply to commercial or industrial districts if the enforcing official determines that thicker, sturdier sidewalk is required within any of these areas.

(d) The enforcing official may establish additional detailed specifications, in addition to the provisions of this chapter and not inconsistent with such provisions.

(Prior Code, § 30.001(8); Ord. No. 126, § I, 10-23-1986)

Sec. 36-59. Construction and repair program.

(a) Prior to March 1 of each year, the enforcing official will present an annual improvement program to the city council for the purpose of determining which new city sidewalks should be constructed during each year and which existing city sidewalks that should be repaired for consideration during the annual budget process. Upon order by the city council, it shall be the duty of the enforcing official to give the owner or occupant of the premises in front of or adjoining the street in which the city sidewalk is to be constructed, written notice of the city's intent to construct. The special assessment process for new construction shall be in accordance with the city's special assessment provisions in chapter 34. A private sidewalk is intended to be for the sole benefit of the property owner and, therefore, it will not be considered as part of the new construction program.

(b) A city sidewalk as identified within the annual construction program cannot be performed by the property owner or his agent. The property owner may appeal the need for such sidewalk at the public hearing of necessity or present a request for a waiver in accordance with section 36-54.

(c) The intent of this article is not to prohibit new sidewalk placement at the initiation of individual property owners whether the construction be city sidewalk or private sidewalk. If the property owner makes improvements not identified as a portion of the current fiscal year city sidewalk improvement program, the city will not financially participate. Sidewalks constructed under this option must meet all other provisions of this article.

(d) In any case where the council orders the enforcing official to cause any city sidewalk to be constructed as a part of an annual sidewalk improvement program, the city shall levy special assessments according to the provisions of chapter 34 and according to the following schedules:

(1) *New sidewalks, except newly platted areas.* The abutting owners and the city shall be responsible for the cost of repairs or replacement of existing or new sidewalks. The apportionment of such cost shall be decided on a project-by-project basis by a resolution of the city council. The cost-apportioning resolution may be adopted following a public hearing on the sidewalk project, with prior first-class mail notice to abutting owners sent to the addresses of the owners on file with the city assessor.

(2) *Newly platted areas.* In any pedestrian-traveled newly platted areas, sidewalks will be required as determined by the planning commission as a condition of plat acceptability with all costs being absorbed by the developer.

(Prior Code, § 30.002; Ord. No. 126, § II, 10-23-1986)

Sec. 36-60. Repair and maintenance by property owners.

(a) *Generally.* All city and private sidewalks, the primary intent of which is public pedestrian travel, shall be maintained in good repair by the owner of the land adjacent to and abutting the same. Sidewalks in need of repair shall be those cited as unsafe or dangerous by the enforcing official.

(b) *Unsafe, dangerous condition prohibited.* Whenever the enforcing official shall determine that a sidewalk, crosswalk, or driveway approach is unsafe for public pedestrian travel or is required to be repaired or replaced, the enforcing official shall give written notice thereof by first-class mail to the owner of the subject property to the mailing address as shown on the most current records of the city assessor. Notice shall specify the exact area of sidewalk to be repaired or replaced and include sidewalk construction specifications and a time limit to complete the required work. Such notice shall provide a procedure to petition for review of the necessity for said work.

(c) *Petition for review of necessity.* Within ten days of receipt of notice to repair or replace a sidewalk, the property owner or his agent may petition the city for review of the need for said work. The petition shall be filed on a form, supplied upon request, with the enforcing official and be completed in full by the petitioner. Within 45 days of receipt of the petition, the city council or designated committee of the council shall, at public hearing, review and decide on said petition. A filing fee shall be as established by city council resolution.

(d) *Costs of repairs and replacements.* Total costs for repairs and/or replacement of sidewalks shall be the burden of the property owner. If said repairs or replacement are not completed within the time limit specified in said notice, the city may cause the same to be completed, and all costs incurred shall be billed to the property owner. Said costs shall be a lien on said real property. If the bill is not paid within 30 days, all costs may be added to the property tax bill and collected therewith.

(e) *Damage by property owner.* Should any sidewalk be damaged or destroyed through the act or negligence of the adjacent or abutting property owners, their tenants, employees or agents, or should the construction or alteration of a building necessitate the changing of the grade of any existing sidewalk, as determined by the city engineer, then the full cost of such repair, replacement or changing of grade shall be assessed as provided in section 36-60 against the adjacent or abutting property owner.

(f) *Damage by city.* Should any sidewalk be damaged or destroyed as a result of any action by a city employee or its agent, or if a section of sidewalk becomes raised as a result of roots from a tree located within the city right-of-way at a height determined by the enforcing official to be unsafe for public pedestrian travel, the city shall be liable for the costs of repair.

(g) *Snow and ice removal.*

(1) The owner of every lot or parcel of land adjoining any sidewalk, shall clear all ice and snow from sidewalks adjoining such lot or parcel of land within the time herein required:

a. When any snow shall fall or drift upon any sidewalk, the owner of the lot or parcel of land adjacent to said sidewalk shall remove such snow as shall have fallen or accumulated within 16 hours of snow falling or drifting.

b. When any ice shall form on any sidewalk, the owner of the lot or parcel of land adjoining such sidewalk shall, if practicable, immediately remove said ice, and, when immediate removal is impracticable, shall immediately cause salt, sand or sifted ashes to be spread upon the ice in such manner and in such quantity as to prevent the sidewalk from being slippery and dangerous to pedestrians, and shall remove the said ice as soon as shall be practicable.

(2) If any occupant or owner shall neglect or fail to clear ice or snow from the sidewalk adjoining his premises within the time limit, or shall otherwise permit ice or snow to accumulate on such sidewalk, he shall be guilty of a misdemeanor. In addition, the enforcing official may cause the same to be cleared, and the expense of removal shall be collectable as provided in this section.

(Prior Code, § 30.003; Ord. No. 126, § III, 10-23-1986)

Sec. 36-61. Sidewalk obstructions prohibited.

(a) *Generally.* The owners or occupants of any lots or premises within the city which adjoin any sidewalk in the city must remove all snow and ice from the sidewalks in front of or adjacent to such lot or premises, and shall keep the same free from all obstructions, encumbrances, encroachments, filth and nuisances, except as otherwise provided herein.

(b) *Awnings; etc., over sidewalk.* No person or persons, firm or corporation shall place or maintain any awning, awning post, or other thing upon or over any sidewalk in the city, the primary intent of which is public pedestrian travel, when such placing or maintaining shall interfere with public travel upon such sidewalk or shall constitute a danger to such public travel, or shall constitute a nuisance, except as otherwise provided herein.

(c) *Vaults.* No person or persons shall construct or use any vaults, structures or excavations under any of the sidewalks of the city without first obtaining the consent of the council or of a committee of the council having jurisdiction over such sidewalks.

(d) *Miscellaneous obstructions or nuisances.* No person or persons shall place or maintain any obstruction, encumbrance or other nuisance upon any sidewalk in the city without first obtaining the consent of the council or of that committee of the council having jurisdiction over such sidewalks.

(Prior Code, § 30.004; Ord. No. 126, § IV, 10-23-1986))

Secs. 36-62—36-80. Reserved.

ARTICLE IV. TELECOMMUNICATIONS PROVIDERS[41]

Sec. 36-81. Terms defined.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (MCL 484.3101 et seq.).

City council means the City Council of the City of Greenville or its designee.

Permit means a non-exclusive permit issued pursuant to the Act and this article to a telecommunications provider to use the public rights-of-way in the city for its telecommunications facilities.

(b) All other terms used in this article shall have the same meaning as defined or as provided in the Act.

[41]State law reference(s)—Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, MCL 484.3101 et seq.

(Prior Code, § 20.1103; Ord. No. 03-03, § 3, 12-16-2003)

Sec. 36-82. Purpose.

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (MCL 484.3101 et seq.) (the "Act") and other applicable law, and to ensure that the city qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(Prior Code, § 20.1101; Ord. No. 03-03, § 1, 12-16-2003)

Sec. 36-83. Conflict.

Nothing in this article shall be construed in such a manner as to conflict with the Act or other applicable law.

(Prior Code, § 20.1102; Ord. No. 03-03, § 2, 12-16-2003)

Sec. 36-84. Reservation of police powers.

Pursuant to section 15(2) of the Act (MCL 484.3115(2)), this article shall not limit the city's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the city's authority to ensure and protect the health, safety, and welfare of the public.

(Prior Code, § 20.1118; Ord. No. 03-03, § 18, 12-16-2003)

Sec. 36-85. Authorized city officials.

(a) A person who violates any provision of this article or the terms or conditions of a permit is responsible for a municipal civil infraction.

(b) The city manager or his designee is hereby designated as the authorized city official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal chapter violations bureau) for violations under this article as provided by this Code.

(Prior Code, §§ 20.1120, 20.1121; Ord. No. 03-03, §§ 20, 21, 12-16-2003)

State law reference(s)—Authority to designate municipal ordinance a municipal civil infraction, MCL 117.4l; municipal civil infractions, MCL 600.8701 et seq.

Sec. 36-86. Permit required.

(a) *Permit required.* Except as otherwise provided in the act, a telecommunications provider using or seeking to use public rights-of-way in the city for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.

(b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the STATE PUBLIC SERVICE COMMISSION in accordance with section 6(1) of the Act (MCL 484.3106(1)). A telecommunications provider shall file one copy of the application with the city clerk, one copy with the city

manager and one copy with the city attorney. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with section 6(5) of the Act (MCL 484.3106(5)).

(c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary or confidential information, which is exempt from the Freedom of Information Act (MCL 15.231 et seq.), pursuant to section 6(5) of the Act (MCL 484.3106(5)), the telecommunications provider shall prominently so indicate on the face of each map.

(d) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time, non-refundable application fee in the amount of $500.00.

(e) *Additional information.* The city manager may request an applicant to submit such additional information which the city manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the city manager. If the city and the applicant cannot agree on the requirement of additional information requested by the city, the city or the applicant shall notify the state public service commission as provided in section 6(2) of the Act (MCL 484.3106(2)).

(f) *Previously issued permits.* Pursuant to section 5(1) of the Act (MCL 484.3105(1)), authorizations or permits previously issued by the city under section 251 of the Michigan Telecommunications Act (MCL 484.2251), and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of section 251 of the Michigan Telecommunications Act (MCL 484.2251), but after 1985, shall satisfy the permit requirements of this article.

(Prior Code, § 20.1104; Ord. No. 03-03, § 4, 12-16-2003)

Sec. 36-87. Issuance of permit.

(a) *Approval or denial.*

(1) The authority to approve or deny an application for a permit is hereby delegated to the city manager. Pursuant to section 15(3) of the Act (MCL 484.3115(3)), the city manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under section 36-86(b) for access to a public right-of-way within the city.

(2) Pursuant to section 6(6) of the Act (MCL 484.3106(6)), the city manager shall notify the state public service commission when the city manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The city manager shall not unreasonably deny an application for a permit.

(b) *Form of permit.* If an application for permit is approved, the city manager shall issue the permit in the form approved by the state public service commission, with or without additional or different permit terms, in accordance with sections 6(1), 6(2) and 15 (MCL 484.3106(1), (2), 484.3115) of the Act.

(c) *Conditions.* Pursuant to section 15(4) of the Act (MCL 484.3115(4)), the city manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) *Bond requirement.* Pursuant to section 15(3) of the Act (MCL 484.3115(3)), and without limitation on subsection (c) of this section, the city manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Prior Code, § 20.1105; Ord. No. 03-03, § 5, 12-16-2003)

Sec. 36-88. Construction/engineering permit.

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the city without first obtaining a construction or engineering permit as required under city codes and section 5 of the Act (MCL 484.3105) for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Prior Code, § 20.1106; Ord. No. 03-03, § 6, 12-16-2003)

Sec. 36-89. Conduit or utility poles.

Pursuant to section 4(3) of the Act (MCL 484.3104(3)), obtaining a permit or paying the fees required under the Act or under this article does not give a telecommunications provider a right to use conduit or utility poles.

(Prior Code, § 20.1107; Ord. No. 03-03, § 7, 12-16-2003)

Sec. 36-90. Route maps.

Pursuant to section 6(7) of the Act (MCL 484.3106(7)), a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the city, submit route maps showing the location of the telecommunications facilities to both the state public service commission and to the city. The route maps should be in paper or electronic format unless and until the state public service commission determines otherwise, in accordance with section 6(8) of the Act (MCL 484.3106(8)).

(Prior Code, § 20.1108; Ord. No. 03-03, § 8, 12-16-2003)

Sec. 36-91. Repair of damage.

Pursuant to section 15(5) of the Act (MCL 484.3115(5)), a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the city, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below or within the public right-of-way and shall promptly restore the public right-of-way to its pre-existing condition.

(Prior Code, § 20.1109; Ord. No. 03-03, § 19, 12-16-2003)

Sec. 36-92. Establishment and payment of maintenance fee.

In addition to the non-refundable application fee paid to the city set forth in section 38-86(d), a telecommunications provider with telecommunications facilities in the city's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to section 8 of the Act (MCL 484.3108).

(Prior Code, § 20.1110; Ord. No. 03-03, § 10, 12-16-2003)

Sec. 36-93. Modification of existing fees.

In compliance with the requirements of section 13(1) of the Act (MCL 484.3113(1)), the city hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the authority. In compliance with the requirements of section 13(4) of the Act (MCL 484.3113(4)), the city also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the city's boundaries, so that those providers pay only those fees required under section 8 of the Act (MCL 484.3108). To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the city's policy and intent, and upon application by a provider or discovery by the city, shall be promptly refunded as having been charged in error.

(Prior Code, § 20.1111; Ord. No. 03-03, § 11, 12-16-2003)

Sec. 36-94. Use of funds.

Pursuant to section 10(4) of the Act (MCL 484.3110(4)), all amounts received by the city from the authority shall be used by the city solely for rights-of-way related purposes. Depositing the amounts received into the major street fund and/or local street fund maintained by the city under Public Act No. 51 of 1951 (MCL 247.651 et seq.) would help ensure compliance with this requirement.

(Prior Code, § 20.1113; Ord. No. 03-03, § 13, 12-16-2003)

Sec. 36-95. Annual report.

Pursuant to section 10(5) of the Act (MCL 484.3110(5)), the city manager shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Prior Code, § 20.1114; Ord. No. 03-03, § 14, 12-16-2003)

Sec. 36-96. Cable television operators.

Pursuant to section 13(6) of the Act (MCL 484.3113(6)), the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband Internet transport access services.

(Prior Code, § 20.1115; Ord. No. 03-03, § 15, 12-16-2003)

Sec. 36-97. Existing rights.

Pursuant to section 4(2) of the Act (MCL 484.3102(2)), except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the city may have under a permit issued by the city or under a contract between the city and a telecommunications provider related to the use of the public rights-of-way.

(Prior Code, § 20.1116; Ord. No. 03-03, § 16, 12-16-2003)

Sec. 36-98. Compliance with Act.

The city hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The city shall comply in all respects with the requirements of the Act, including but not limited to the following:

(1) Exempting certain route maps from the Freedom of Information Act (MCL 15.231 et seq.), as provided in section 36-86(c);

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with section 36-86(f);

(3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the application fee;

(4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the city, in accordance with section 36-87(a);

(5) Notifying the state public service commission when the city has granted or denied a permit, in accordance with section 36-87(a);

(6) Not unreasonably denying an application for a permit, in accordance with section 36-87(a);

(7) Issuing a permit in the form approved by the state public service commission, with or without additional or different permit terms, as provided in section 36-87(b);

(8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with section 36-87(c);

(9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with section 36-87(d);

(10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 36-88;

(11) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this article, in accordance with section 36-93;

(12) Submitting an annual report to the authority, in accordance with section 36-95; and

(13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 36-96.

(Prior Code, § 20.1117; Ord. No. 03-03, § 17, 12-16-2003)

Chapter 38 SUBDIVISIONS AND OTHER DIVISIONS OF LAND[42]

ARTICLE I. IN GENERAL

[42]State law reference(s)—Land Division Act, MCL 560.101 et seq.

Sec. 38-1. Definitions.

The definitions in the Land Division Act (MCL 560.101 et seq.) are hereby included and made a part of this chapter. Additionally, the following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Land Division Act (MCL 560.101 et seq.).

Applicant means the proprietor as defined by the Land Division Act (MCL 560.101 et seq.).

As-built plans means revised construction plans drawn in accordance with all approved field changes.

City engineer means the professional engineer for the City of Greenville.

Commission means the City of Greenville Planning Commission.

Improvements means grading, street surfacing, curbs, gutters, sidewalks, sanitary sewers, storm drainage systems, culverts, bridges, utilities, and other additions to the natural state of land which increases its value, utility, or habitability.

Master plan means the City of Greenville Master Plan.

Natural features and amenities means, but is not limited to, lakes, ponds, watercourses, floodplains, woodlands, and topography of the land.

Soil Erosion and Sedimentation Control Act means part 91 of the Natural Resources and Environmental Protection Act (MCL 324.9101 et seq.).

(Prior Code, §§ 17.200, 17.201; Ord. No. 36, art. II, §§ 1, 2, 7-6-2004)

Sec. 38-2. Penalty.

(a) Any violation of any provision of this chapter is hereby declared to be a nuisance per se. A violation of this chapter is a municipal civil infraction, for which the fine shall be not less than $100.00 nor more than $500.00 for the first offense and not less than $500.00 nor more than $1,000.00 for subsequent offenses, in the discretion of the court, and in addition to all other costs, damages, and expenses provided by law.

(b) For purposes of this section, the term "subsequent offense" means a violation of the provisions of this chapter committed by the same person within 12 months of a previous violation of the same provision of this chapter for which said 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.

(Prior Code, § 17.602; Ord. No. 36, art. VI, § 2, 7-6-2004)

State law reference(s)—Authority to designate municipal ordinance a municipal civil infraction, MCL 117.4l; municipal civil infractions, MCL 600.8701 et seq.

Sec. 38-3. Purpose.

The purpose of this chapter is to provide regulations dealing with the subdivision or platting of land within the city and to further promote and protect the public health, safety, and general welfare of the people of the city by providing for the orderly development of land within the city.

(Prior Code, § 17.103(B); Ord. No. 36, art. I, § 3, 7-6-2004)

Sec. 38-4. Compliance.

The approvals and requirements of this chapter shall be satisfied prior to the construction or installation of any subdivision or replatting within the city.

(Prior Code, § 17.103(A); Ord. No. 36, art. I, § 3, 7-6-2004)

Sec. 38-5. Administration and interpretation.

(a) This chapter shall be administered by the city council and planning commission in accordance with the procedures of this chapter and the Land Division Act (MCL 560.101 et seq.). The rules, regulations, and standards imposed by this chapter shall be considered to be the minimum requirements for the protection of the public health, safety, and welfare of the citizens of Greenville, and, in interpreting and applying them, primary consideration shall be given to these factors.

(b) The city council shall establish inspection fees, inspection requirements, specification standards, and administrative procedures as provided by law and such shall be deemed to be requirements of this chapter.

(c) In addition to all other applicable fees, the city council hereby establishes a fee in the amount of $135.00 for the examination and inspection of plats and land proposed to be subdivided, and related expenses pursuant to this chapter and the Act.

(Prior Code, §§ 17.104, 17.601; Ord. No. 36, art. I, § 4, art. VI, § 1, 7-6-2004; Ord. No. 19-04 , § 1, 4-16-2019)

State law reference(s)—Local fees authorized, MCL 560.246.

Sec. 38-6. Variances.

(a) A variance from the applicable provisions of this chapter may be granted if the applicant demonstrates that literal enforcement of any of the provisions of this chapter is impractical, or will impose undue hardship in the use of the land because of special or peculiar conditions pertaining to the land. Upon application, the city council, after recommendation by the planning commission, may permit a variance or variances which are reasonable and within the general policies and purposes of this chapter. The city council may attach conditions to the variance.

(b) Any other variances from applicable sections of chapter 46 shall be subject to the requirements of section 46-36.

(Prior Code, § 17.500; Ord. No. 36, art. V, 7-6-2004)

Sec. 38-7. Lot splits in a recorded plat.

(a) Any proprietor or property owner who desires to partition or split a lot, outlot, or other parcel located in a recorded plat shall apply to the city clerk. The application shall include a detailed statement of the reasons for the requested partition or division, a sketch, map or maps prepared to scale showing the proposed division or partition and all adjoining lots, streets, and parcels of land.

(b) If the lot to be partitioned or split is not served by public water and sanitary sewer, the applicant shall submit a report from the county health department indicating the effect of the proposed division upon the safe operation of necessary septic systems and wells. The report shall be submitted to the city clerk as part of the application.

(c) The city clerk shall notify adjacent property owners of the request. Said notice shall indicate that an application has been filed to partition or split a lot within the recorded plat. The notice shall also include the name of the applicant, legal description and address of the lot to be partitioned or split, and the date, time, and place at which the planning commission will formally consider the request.

(d) The city clerk shall transmit the application and county health report, if applicable, to the planning commission, which shall make a recommendation to the city council. In reviewing the application, the planning commission and city council shall consider whether the request is consistent with all city ordinances, the Land Division Act (MCL 560.101 et seq.) and with the general public welfare.

(e) Upon receiving the recommendation of the planning commission, the city council shall either approve or reject the application.

(f) The city council may condition its approval of a division upon such reasonable conditions as shall be deemed desirable by the city council.

(g) Approval of the division shall not relieve the applicant from complying with applicable state or federal laws. Should the city be aware of noncompliance with state or federal laws, approval may be withheld.

(Prior Code, § 17.400; Ord. No. 36, art. IV, 7-6-2004)

State law reference(s)—Lot splits, MCL 560.263.

Secs. 38-8—38-32. Reserved.

ARTICLE II. PLATS[43]

Sec. 38-33. Tentative preliminary plat application.

(a) An application for a tentative preliminary plat approval shall be submitted to the city clerk at least 30 days prior to the next regularly scheduled meeting of the commission.

(b) The application shall consist of the following materials listed in this subsection. Applications which do not have all of the materials noted below shall be considered incomplete and shall not be accepted.

(1) A completed application form, supplied by the city.

(2) An application fee which may be set by the council.

(3) Fifteen copies of a tentative preliminary plat drawing at a scale of not more than one inch equals 200 feet that complies with the Land Division Act (MCL 560.101 et seq.) and shows, at a minimum, the following:

a. A scaled location map showing the location of the proposed tentative preliminary plat within the city relative to streets, section lines, watercourses, and other subdivisions within one mile of the proposed plat.

b. The names of adjoining subdivisions, or the owners and addresses of abutting parcels of land, if not within a subdivision.

[43]State law reference(s)—Preliminary plats, MCL 560.111 et seq.; final plats, MCL 560.131 et seq.

c. A statement of the intended use for the land represented on the proposed plat including land intended to be dedicated or set aside for public use or for the common use of property owners in the subdivision, and a statement describing the location, dimensions and purpose such land.

d. The names, locations, dimensions, approximate grade and curve radii of all proposed streets, alleys, and access drives, including right-of-way, pavement and driveway widths, and curve radii and design of proposed deceleration lanes.

e. Location of abutting streets, rights-of-way, service drives, curb cuts and access easements serving the site, as well as driveways opposite the site, and driveways within 100 feet on either side of the site.

f. Exterior dimensions of the lot or lots being subdivided.

g. The location, type, and dimensions of any easements or streets crossing the lot or lots being subdivided, if any.

h. The location and description of any natural features on the site including significant vegetation, watercourses and water bodies, including county and city drains and human-constructed drainage ways; floodplains; and wetlands, including any wetlands within 100 feet of the site.

i. Locations and dimensions of all proposed lots, and location of all setback lines. Lot widths shall be shown for each lot at the required front setback line.

j. The location and dimension of all existing and proposed drainage easements; the direction of stormwater drainage and how stormwater runoff will be handled, as well as a statement describing where stormwater will be ultimately discharged, such as a creek, stream, body of water, wetland, or city stormwater system.

k. The location and size of all existing and proposed public water, sanitary sewer and storm drainage pipes, fire hydrants, catchbasins and any other facilities.

l. The location and size of all existing and proposed underground utilities, and any existing and proposed utility easements.

m. A site report as described in the rules of the state department of public health, if the proposed subdivision is not to be served by public sewer and water systems.

n. Existing and proposed topographic elevations at two-foot intervals on the site and to a distance of 50 feet outside the boundary lines of the site.

o. Location of existing and proposed slopes of 20 percent or greater, and the extent to which these slopes will or will not be altered by the proposed development or by the construction of buildings within the development.

p. Property lines within 100 feet of the site, and dimensions and buildings within 100 feet of the site.

q. Street lighting proposed, including the type of fixture as well as roadways.

r. Zoning, land use, and uses planned according to the City of Greenville Master Plan on adjacent properties.

s. The date of preparation, and the names of the plat, applicant, and the firm or individual preparing the plat.

t. Scale, north arrow, permanent parcel number, and legal description.

(Prior Code, § 17.301; Ord. No. 36, art. III, § 1, 7-6-2004)

Sec. 38-34. Review process.

(a) *Commission review of tentative preliminary plat.*

(1) The commission shall conduct at least one public hearing for the purpose of receiving public comments on the proposed plat. Notification of the public hearing shall be the same as that required for special land uses in chapter 46, Zoning.

(2) Following the public hearing the commission shall recommend the tentative preliminary plat to the council with its approval, denial, or approval with conditions. The commission shall state its reasons for such recommendation. The minutes containing the record of the public hearing and the commission's recommendation shall be forwarded to the council and to the applicant prior to the council's consideration of the plat.

(b) *Council review of tentative preliminary plat.*

(1) The council shall not consider the tentative preliminary plat until receiving the recommendation of the commission.

(2) The council shall consider the tentative preliminary plat at its next regularly scheduled meeting after receiving the recommendation of the commission.

(3) The reasons for approval, approval with conditions, or denial of tentative plat approval shall be based upon the standards of section 38-35 and shall be submitted to the applicant.

(c) *Council review of final preliminary plat review.*

(1) An application for a final preliminary plat shall be submitted to the city clerk at least 20 days prior to the next regularly scheduled meeting of the council.

(2) The application shall consist of the materials in the list which follows. Applications which do not have all of the materials noted below shall be considered incomplete and shall not be accepted.

a. The requirements of section 38-33(b).

b. Proof of approval of the final preliminary plat from each of the authorities having jurisdiction as required by sections 112—119 of the Land Division Act (MCL 560.112—560.119). These proofs of approval shall include copies of all permits as may be required and issued by these authorities.

(d) *Final plat application and review.*

(1) An application for a final plat approval shall be submitted to the city clerk at least 20 days prior to the next regularly scheduled meeting of the council.

(2) The application shall consist of the materials in the list which follows. Applications which do not have all of the materials noted below shall be considered incomplete and shall not be accepted.

a. One electronic copy and three paper copies of the as-built plans of all installed improvements and/or final plans for all required improvements not installed but indicated in the final plat.

b. Two paper copies of as-built plans for all improvements.

c. An abstract of the title certified to date, or, at the option of the applicant, a policy of title insurance, for examination in order to ascertain whether or not the proper parties have signed the final plat.

d. Certification of a qualified individual indicating that construction of improvements has been satisfactorily completed, including evidence of inspections.

e. Cost estimates for any improvements that have not been completed.

(3) The council shall consider the final plat at its next regularly scheduled meeting or within 20 days after the filing of the application, whichever occurs first.

(4) The council shall grant final plat approval provided that the standards of section 38-35 are met.

(5) In lieu of completion of all or a portion of all improvements and with the specific consent of the council, final plat approval may be granted, provided that as a condition of such approval, the applicant shall deposit with the city a true copy of an agreement showing that the applicant has deposited with a bank or other agent acceptable to the city, cash, certified check, irrevocable bank letter of credit, or other form of surety in an amount deemed by the council to be sufficient to guaranty the city the satisfactory construction, installation, completion and dedication of required improvements.

a. The amount of such deposit shall represent 100 percent of the estimated construction costs of completion of the required improvements with a reasonable contingency, as determined by the city engineer. The applicant shall be responsible for providing a cost estimate to the city engineer for review.

b. Such deposit shall comply with all statutory requirements and shall be satisfactory to the city attorney as to form, sufficiency and manner of execution, as set forth in this chapter.

c. The city shall not accept dedication of required improvements, nor release nor reduce the guaranty or surety until:

1. The applicant has certified in a manner approved by the city attorney that the improvements have been completed and are free and clear of all liens and encumbrances;

2. The city engineer has certified that the required improvements have been satisfactorily completed as required by this chapter; and

3. The applicant shall have provided certification indicating that construction of required improvements has been satisfactorily completed. This certification shall include evidence of inspections as required by the Act.

d. The guaranty or surety shall be reduced and refunded upon actual completion of required improvements and then only to the ratio that the completed improvement bears to the total improvements for the plat. In no event shall the surety be reduced below ten percent of the principal amount before final acceptance of all improvements by the council.

e. The city building inspector shall not issue building permits for construction of buildings or structures as regulated by the city building code, except for signs permitted by the zoning regulations in chapter 46, Zoning.

(Prior Code, § 17.302; Ord. No. 36, art. III, § 2, 7-6-2004)

Sec. 38-35. Review standards.

(a) *Tentative preliminary plat approval.* The commission shall recommend, and council shall grant tentative preliminary plat approval upon reaching the following findings:

(1) That the proposed lots comply with the requirements of the chapter 46, Zoning.

(2) That the design of the streets within the plat provide adequate and safe circulation within the plat and that sufficient consideration has been given to providing access to adjacent streets and parcels within the same or compatible zoning district.

(3) That streets are designed and lots oriented to:

a. Ensure safety of access to any street;

b. Provide the most efficient and safe traffic flow;

c. Take best advantage of existing topography; and

d. Preserve existing natural features and amenities.

(4) That the plat conforms to the requirements of this chapter and any other applicable local laws or ordinances. Approval of the plat shall not relieve the applicant from complying with applicable state or federal laws. Should the city be aware of noncompliance with state or federal laws, approval may be withheld.

(5) That the council has received the recommendation of the commission regarding the tentative preliminary plat.

(6) That the proposed plat complies with the goals of the City of Greenville Master Plan.

(b) *Preliminary plat approval.* The council shall grant final preliminary plat approval upon reaching the following findings:

(1) That the final preliminary plat substantially conforms to the tentative preliminary plat approval, including any conditions placed on such approval.

(2) That all required review have been completed and appropriate documentation of such approvals is provided.

(3) That the plat conforms to the requirements of this chapter and any other applicable local laws or ordinances. Approval of the plat shall not relieve the applicant from complying with applicable state or federal laws. Should the city be aware of noncompliance with state or federal laws, approval may be withheld.

(c) *Final plat approval.* The council shall grant final plat approval upon reaching the following findings:

(1) That the final plat substantially conforms to the preliminary plat approval, including any conditions placed on such approval.

(2) That all required reviews have been completed and appropriate documentation of such approvals is provided.

(3) That the plat conforms to the requirements of this chapter and any other applicable local laws or ordinances. Approval of the plat shall not relieve the applicant from complying with applicable state or federal laws. Should the city be aware of noncompliance with state or federal laws, approval may be withheld.

(4) That construction of all improvements as required by this chapter has been completed and financed, or a surety submitted in accordance with the provisions of section 38-35(5).

(Prior Code, § 17.303; Ord. No. 36, art. III, § 3, 7-6-2004)

Secs. 38-36—38-58. Reserved.

ARTICLE III. REQUIRED IMPROVEMENTS AND DESIGN STANDARDS[44]

[44]State law reference(s)—Improvements, MCL 560.188 et seq.

Sec. 38-59. Streets and access.

(a) All streets within the plat and improvements to streets adjoining the plat shall be constructed to the standards required by the city, the county road commission, or the state department of transportation, whichever is applicable.

(b) Any plat shall be designed so that no lots have direct access to an existing arterial public street. Access to lots within the plat shall be provided only by streets proposed as part of the plat. The council may grant direct access to existing public arterial streets, provided that all of the following conditions are met:

(1) Approval for such direct access is obtained from the county road commission or the state department of transportation for each lot where such approval is required;

(2) The proposed plat contains fewer than five lots;

(3) The proposed plat has less than 400 feet of frontage on the existing public street; and

(4) No practical alternative exists for access due to physical features located on the site.

(c) Street improvements within the subdivision shall be provided by the proprietor in accordance with the following standards and requirements:

(1) Streets shall be constructed with a standard, six-inch concrete curb and gutter. A concrete, rolled curb and gutter may be constructed with the approval of the city council.

(2) Minimum street standards:

Street Classification	*Right-of-Way*	*Pavement Width*	
Arterial	86 feet	36 feet	
Collector	66 feet	30 feet	
Local	60 feet	24 feet	
Cul-de-sac			
	Less than 500 ft. in length	50-foot radius	24-foot radius
	Greater than 500 ft. in length	60-foot radius	24-foot radius
	Cul-de-sac turnaround (residential)	53-foot radius	35-foot radius
	Cul-de-sac turnaround (commercial, industrial)	78-foot radius	60-foot radius
Boulevard	120 feet	30 feet (each direction)	

(3) Pavement widths shall be measured from the back of the curbs.

(4) Street grades shall comply with the following requirements, unless waived by the city council, after receiving a recommendation from the city engineer:

a. Minimum street grade: 0.4 percent.

b. Maximum street grade: 6.0 percent.

(5) Street geometrics, grading, and centerline gradients shall be determined by the city engineer.

(6) Maximum length for a street block shall not exceed 500 feet. A block may be increased to no more than 800 feet if a pedestrian walkway is provided in the middle of the block.

(7) A ten-foot wide utility easement shall be included on any right-of-way less than 86 feet in width.

(8) Street names shall be approved by the city or the county road commission before printing on the final plat. All streets which are extensions of existing streets must carry the names of such existing streets.

(9) The layout of streets within the plat shall conform to the City of Greenville Master Plan and any other city documents or plans which recommend street or thoroughfare layout and location.

(10) All proposed public and private streets shall be continuous and in alignment with existing, planned or platted streets insofar as practicable.

(11) A sufficient number of public and private streets shall extend to the boundary of the subdivision so as to provide sufficient access to adjoining property and to future development on contiguous land.

(12) No dead-end street or street terminating in a cul-de-sac shall provide access to more than 50 dwelling units.

(13) Intersections of public or private streets shall be at angles of 90 degrees, or as close to such angle as possible, but in no case more than 30 degrees from perpendicular.

(Prior Code, § 17.304(A); Ord. No. 36, art. III, § 4, 7-6-2004)

Sec. 38-60. Lots.

(a) All lots shall face upon and have direct access to a public or private street.

(b) The side lines of lots shall be approximately at right angles or radial to the street upon which the lots face.

(c) All lots shall conform to the requirements of the zoning ordinance for the zone in which the plat is located. This article shall not be construed as providing for lots smaller than as specified in the zoning provisions in chapter 46. If public water and sewer are available or are not available, the provisions of chapter 46 shall control.

(d) Corner lots for residential use shall have the minimum required frontage on both streets adjacent to the lot.

(e) Corner lots shall have sufficient extra width so as to permit appropriate building setbacks from both streets.

(f) The maximum depth of a lot shall not exceed four times its width.

(g) Greenbelts or landscaped areas shall be located between a residential subdivision and adjacent arterial streets or railroad rights-of-way. The location of such greenbelts or landscaped areas, and the type and size of plantings proposed, shall be shown on the subdivision plan.

(Prior Code, § 17.304(B); Ord. No. 36, art. III, § 4, 7-6-2004)

Sec. 38-61. Utilities.

(a) Public sanitary sewer and/or water shall be extended at the applicant's expense to serve the proposed plat where an appropriate connection is available within 100 feet of the boundary of such plat.

(b) Where such connections are not available the applicant may either pay for the extension of such utilities, or provide suitable private utility systems, subject to the approval of the county health department or the city.

(c) All other utilities shall be installed underground at the applicant's expense. All such utilities shall be placed within private easements provided to such utility agencies, or within dedicated public rights-of-way, as permitted by the agencies governing such rights-of-way.

(d) All utilities shall be designed, constructed, and maintained to the standards of the county board of public works, the city, or other appropriate agency or ordinance, whichever is applicable.

(e) Public utility easements shall be provided along rear lot lines and along side lot lines unless the applicant demonstrates that these locations are not practical. The total width of such easements shall comply with city standards.

(Prior Code, § 17.304(C); Ord. No. 36, art. III, § 4, 7-6-2004)

Sec. 38-62. Storm drainage and erosion control.

(a) All storm drainage systems shall be designed, constructed, and maintained to the standards required by the county drain commissioner, the state department of natural resources, the city, and any applicable city ordinance.

(b) Minimum standards shall be based on a ten-year storm, but not less than 12 inches in diameter, with a grade necessary to maintain a flow of at least three feet per second.

(c) The applicant shall demonstrate their intention to comply with the Soil Erosion and Sedimentation Control Act and provide a general description of that intent.

(Prior Code, § 17.304(D); Ord. No. 36, art. III, § 4, 7-6-2004)

Sec. 38-63. Existing natural features and amenities.

(a) To the extent possible, existing natural features and amenities shall be preserved within the plat.

(b) Where such features are required to be removed or altered as part of the installation of public plat improvements, the applicant shall certify to the council:

(1) That the properties of the land which is part of the plat are such that no practical alternative design is possible that would preserve such features.

(2) That the removal or alteration of such features will not have an adverse effect on adjacent properties with respect to drainage, views, or other significant environmental effect.

(3) That the removal or alteration of such features complies with all applicable federal, state, and local laws and ordinances.

(4) That financial considerations alone are not used to justify the removal or alteration of such features.

(c) Street trees.

(1) Street trees shall be provided along both sides of streets and access drives within the subdivision. Street trees may be required along walkways within the subdivision when those walkways are not otherwise adjacent to existing trees or proposed street trees. The locations of street and walkway trees shall be approved by the city engineer.

(2) Street trees shall be installed by the developer within one planting season following street construction unless the city council approves an alternative planting program.

(3) A landscape plan prepared by a registered landscape architect or other qualified landscaping professional with evidence of landscaping design skills shall be submitted and approved as part of the

preliminary plat indicating such installation. Credit shall be given for existing vegetation preserved in the plat where such vegetation substantially serves the same purpose as street trees.

(4) The following trees are not permitted as they split easily, their wood is brittle and breaks easily; their roots clog drains and sewers or they are unusually susceptible to disease or insect pests:

Common Name	*Horticultural Name*
Box Elder	Acer negundo
Ginkgo	Ginko biloba, female only
Honey Locust	Gleditsia triacanthos (with thorns)
Mulberry	Morus species
Poplars	Populus species
Black Locust	Robinia species
Willows	Salix species
American Elm	Ulmus americana
Siberian Elm	U. pumila
Slippery Elm; Red Elm	U. rubra
Chinese Elm	U. parvifola
Tree of Heaven	Ailanthus altissima
Catalpa Black	Catalpa bignonioides
Russian Olive	E. angustifolia
Osage Orange	Maclura pomifera
Walnut	Juglans nigra L.
Silver Maple	Acer saccharinium

(5) All plant material shall be hardy to the conditions of this county, free of disease and insects and conform to the standards of the American Association of Nurserymen.

(6) All plant materials shall be installed in such a manner so as not to alter drainage patterns on the site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.

(7) All plant material shall be planted in a manner so as to not cause damage to utility lines (above and below ground) and public roadways.

(8) Minimum plant sizes at time of installation:

Tree Type	*Minimum Size at Planting*
Deciduous canopy tree	2 ½-inch caliper
Deciduous ornamental tree	2-inch caliper
Evergreen tree	6-foot height
Deciduous shrub	2-foot height
Upright evergreen shrub	2-foot height
Spreading evergreen shrub	12—24-inch spread

(Prior Code, § 17.304(E); Ord. No. 36, art. III, § 4, 7-6-2004)

Sec. 38-64. Street lighting.

(a) Street lighting shall be installed in accordance with the standards of the city, the county road commission, state department of transportation, or other applicable agency or utility.

(b) Alternative street lighting, such as decorative lamps or other similar design may be installed if approved by the city engineer upon determination that lighting levels will be equivalent to standard street lights.

(Prior Code, § 17.304(F); Ord. No. 36, art. III, § 4, 7-6-2004)

Sec. 38-65. Sidewalks.

Sidewalks shall be required in any subdivision subject to the following requirements.

(1) Subdivisions bordering on any existing street designated as a collector or arterial street in the City of Greenville Master Plan shall be required to install sidewalks along such collector or arterial street.

(2) Subdivisions which provide a new street designated by the planning commission as a collector or arterial street or which is an extension of an existing designated collector or arterial street in the City of Greenville Master Plan shall be required to install sidewalks along at least one side of such new or extended collector or arterial street.

(3) Sidewalks shall be required to be installed along both sides of any street designated by the planning commission as a local street or any new street which is an extension of a existing local street as designated in the City of Greenville Master Plan that is greater than 500 feet in length, as measured along the centerline of the street from the beginning point of the street at the subdivision boundary extended in a continuous linear manner.

(4) Cul-de-sac streets that are less than 500 feet in length, as measured along the centerline of the street from the beginning point of the street to the beginning of the radius of the cul-de-sac turnaround, shall not be required to install sidewalks. Cul-de-sac streets 500 feet or greater in length shall be considered local streets and subject to the sidewalk requirements for such streets.

(5) In addition to the above requirements, the installation of sidewalks may be required where, in the opinion of the planning commission, one or more of the following conditions are present:

a. There is obvious continuity of existing sidewalk on any street connecting to any street in the proposed subdivision.

b. A street connects to or is along a route regularly traveled by students to reach any nearby school.

c. The possibility exists for a street to be extended onto adjacent properties, including cul-de-sacs, where a location for a future street extension is dedicated on the plat and including cul-de-sacs of less than 500 feet in length measured as required by subsection (4) of this section.

(6) Sidewalks shall be concrete, at least four feet in width, and located in the public right-of-way one foot from the front lot line.

(7) Sidewalks shall conform to other applicable construction standards of the city.

(8) At the discretion of the proprietor or the lot owner, sidewalks may be constructed with the initial improvements of the plat or at any time prior to the request for a certificate of occupancy for the first main building or use constructed on a lot. When weather or other conditions prevent the sidewalk from being constructed prior to a request for a certificate of occupancy, the proprietor or lot owner may submit a surety in accordance with the provisions of section 38-34(5).

(9) Where sidewalks are required along one side of a street, the planning commission shall, after receipt of a recommendation from the city engineer, recommend to the council on which side of the street the sidewalks are to be constructed.

(10) Where a portion of the Flat River Trail, or any other trail, is recommended by the City of Greenville Recreation Plan or other plan in the area of the proposed plat, the plat shall include construction of that portion of the trail or plans for future location and construction of the trail. The city council may require that the plat shows an easement provided for a future trail that may be constructed by an entity other than the developer.

(Prior Code, § 17.304(G); Ord. No. 36, art. III, § 4, 7-6-2004)

Sec. 38-66. Usable land.

All land shall be platted such that it is usable for building lots or required improvements. Land may be platted for common or public areas if adequate provision is made for continued maintenance of such areas, unless such provision for continued maintenance is waived or deemed unnecessary by the city. For private streets and other areas under the control of a subdivision property owners association or similar organization, the city may require a recorded agreement whereby the city may maintain the area and charge the cost thereof as a lien against all properties in the subdivision if the association fails to adequately maintain the areas.

(Prior Code, § 17.304(H); Ord. No. 36, art. III, § 4, 7-6-2004)

Chapter 40 TAXATION

Sec. 40-1. Tax exemption for certain housing projects abolished.

(a) The tax exemption established by section 15a(1) of Public Act No. 346 of 1966 (MCL 125.1415a(1)) shall not apply and does not apply to:

(1) Any housing project financed with a federally-aided or Michigan Housing Authority-aided mortgage;

(2) A housing project aided by an advance or grant from the Michigan Housing Authority.

(b) The provisions of this chapter do not apply to land with residential housing units owned and operated by the Greenville Housing Commission.

(Prior Code, §§ 12.122, 12.123; Ord. No. 97, §§ 2, 3, 6-1-1977)

State law reference(s)—Authority to so provide, MCL 125.1415a(5).

Sec. 40-2. Exception to the abolishment of tax exemption for certain housing projects.

(a) *Exception.* Notwithstanding section 40-1, this section authorizes and approves an annual service charge in lieu of taxes for the Greenbriar Apartments for Low Income Persons and Families because the development:

(1) Serves low income persons or families (as defined in the State Housing Development Authority Act, Act 346 of the Public Acts of Michigan of 1966 (1966 PA 346, as amended; MCL 125.1401 et seq.), and this section);

(2) Is financed with a mortgage loan and is assisted by the United States Department of Housing and Urban Development or the Michigan State Housing Development Authority in accordance with Act 346;

(3) Is located within the city;

(4) Complies with this section;

(5) Pre-exists the adoption of section 40-1;

(6) Has made payments in lieu of taxes for many years, since being removed from the city's taxable property; and

(7) Has since been operated in compliance with state and city requirements with a minimal impact upon the city's law enforcement services.

(b) *Preamble.* It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for low income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with Act 346. The City is authorized by Act 346 and this section to establish or change the annual service charge to be paid in lieu of taxes by any and all classes of housing exempt from taxation under Act 346 at any amount it chooses, not to exceed the taxes that would be paid but for Act 346. It is further acknowledged that housing for low income persons and families is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real-estate tax exemptions for such housing is a valid public purpose. The continuance of the provisions of this section for tax exemption and the annual service charge in lieu of taxes during the period contemplated in this section are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption. Although the city has not chosen to participate in the provision of housing under Act 346, it is willing to cooperate with the sponsor of at least certain housing in the city that existed before the adoption of section 40-1.

The city acknowledges that Wellington Limited Dividend Housing Association Limited Partnership (the "sponsor" as defined in subsection (c) below) has committed to rehabilitate, own, and operate a housing development identified as "Greenbriar Apartments" on certain property located at 1112 Wellington Street, Greenville, Michigan, which is legally described in subsection (c)(7) below, to serve low income persons and families. The city further acknowledges that the sponsor has offered to pay and will pay to the city, on account of the housing development, an annual service charge for public services in lieu of all taxes.

(c) *Definitions.* The terms used within this section shall have the following meanings.

(1) *Act* means the State Housing Development Authority Act, being Act 346 of the Public Acts of Michigan of 1966, (1966 PA 346, as amended; MCL 125.1401 et seq).

(2) *Authority* means the Michigan State Housing Development Authority.

(3) *Class* means the housing development known as Greenbriar Apartments for Low Income Persons and Families.

(4) *Contract rents* means the total contract rents (as defined by HUD in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of the housing development governed by this section during an agreed annual period, exclusive of utilities.

(5) *Mortgage loan* means a loan that is federally-aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the authority to the sponsor for the construction, rehabilitation, acquisition, and/or permanent financing of the housing development governed by this section and secured by a mortgage on the housing development.

(6) *Housing development* means Greenbriar Apartments for Low Income Persons and Families which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the authority

determines to improve the quality of the housing development as it relates to housing for persons of low income. The housing development is located on the property legally described as:

Land in the City of Greenville, Montcalm County, Michigan, described as: That part of the Southeast ¼ of Section 15, Town 9 North, Range 8 West, Eureka Township, Montcalm County, City of Greenville, Michigan, described as follows:

Commencing at a point which bears North 89 degrees 49' West 1284.52 feet from the Southeast corner of said Section 15 and on the South line thereof and North 01 degrees 10' East 409.5 feet to the point of beginning, said point being on the East line of Edgewood Street; thence North 01 degrees 10' East 300.00 feet on the East line of Edgewood Street; thence South 89 degrees 49' East 544.00 feet; thence South 39 degrees 41' West 175.00 feet; thence South 50 degrees 19' East 70.00 feet; thence South 39 degrees 41' West 363.14 feet; thence North 50 degrees 19' West 251.24 feet; thence North 89 degrees 49' West 67.00 feet to the point of beginning.

(7) *Low income persons and families* means persons and families eligible to move into and reside in the housing development.

(8) *Sponsor* means persons or entities which have applied to the authority for the tax credits to finance a housing development. For the purposes of this section, the sponsor is Wellington Limited Dividend Housing Association Limited Partnership.

(9) *Tax credits* means the low-income housing tax credits made available by the authority to the sponsor for rehabilitation of the housing development by the sponsor in accordance with the low income housing tax credit program administered by the authority under Section 42 of the Internal Revenue Code of 1986, as amended.

(10) *HUD* means the United States Department of Housing and Urban Development.

(11) *Utilities* means fuel, water, sanitary sewer service, and/or electrical service, which are paid by the housing development.

(d) *Class of housing development.* It is determined that the class of housing development to which the tax exemption shall apply and for which an annual service charge shall be paid in lieu of such taxes shall be the housing development defined in this section, that is financed with a mortgage loan and known as Greenbriar Apartments for Low Income Persons and Families. This section shall apply only to this housing development to the extent that the housing development provides housing for low income persons and families and is financed or assisted by HUD and the authority pursuant to the Act.

(e) *Establishment of annual service charge.*

(1) The city acknowledges that the sponsor and HUD and/or the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this section and the qualification of the housing development for exemption from all ad valorem property taxes and payment of an annual service charge in lieu of ad valorem taxes in an amount established in accordance with this section. In consideration of the sponsor's offer to rehabilitate, own, and operate the housing development, the city agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes that would otherwise be assessed to the housing development under Michigan law.

Effective upon the adoption of this section and subject to the receipt by the city of the "notification of exemption" (or such other similar notification) by the Sponsor and/or the authority, the annual service charge shall be equal to ten percent of contract rents.

(2) The housing development, and the property on which it is constructed, shall be exempt from all ad valorem property taxes from and after the commencement of rehabilitation of the housing development by the sponsor under the terms of this section.

(f) *Limitation on the payment of annual service charge.* Notwithstanding subsection (e), if any portion of the housing development is occupied by other than low income persons and families, the full amount of the taxes that would be paid on those units of the housing development if the housing development were not tax exempt shall be added to the annual service charge in lieu of taxes.

(g) *Contractual effect of section.* Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, and subject to the terms of this section, including but not limited to subsection U), this section constitutes a contract between the city and the sponsor to provide an exemption from ad valorem property taxes and to accept the payment of an annual service charge in lieu of such taxes, as previously described in this section. It is expressly recognized that the authority and HUD are third party beneficiaries to this section.

(h) *Payment of annual service charge.* The annual service charge in lieu of taxes shall be payable to the city in the same manner as ad valorem property taxes are payable to the city and distributed to the several units levying the general property tax in the same proportion as paid with the general property tax in the previous calendar year. The annual payment shall be paid on or before May 1 of each year for the previous calendar year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.11, et seq.).

(i) *Duration.* This section shall remain in effect and shall not terminate for so long as the housing development remains subject to a mortgage loan and so long as the housing development submits the required annual notification of exemption pursuant to MCL 125.1415a(l), as amended. The term of this section shall commence upon the issuance of the notification to local assessor of exemption as issued by the authority.

(j) *Filing of annual audit.* The sponsor, or its successor, shall file a copy of any and all annual audits required to be provided to the federal government, the State of Michigan, and/or the authority simultaneously with the city. The audit shall include detail with respect to occupancy of the housing development, contract rents received from the housing development, and the cost for utilities during the audit period.

(Ord. No. 19-03 , § 1, 3-5-2019)

Chapter 42 TRAFFIC AND VEHICLES[45]

ARTICLE I. IN GENERAL

Sec. 42-1. Michigan Vehicle Code adopted.

(a) The Michigan Vehicle Code, 1949 PA 300, as amended, (MCL 257.1—257.923) are incorporated and adopted by reference.

(b) References in the Michigan Vehicle Code (MCL 257.1—257.923) to "local authorities" shall mean the City of Greenville. "Traffic Engineer" shall mean the City Manager or his or her designee.

(c) The penalties provided by the Michigan Vehicle Code (MCL 257.1—257.923) are adopted by reference; provided, however that the city may not enforce any provision of the Michigan Vehicle Code (MCL 257.1—257.923) for which the maximum imprisonment is greater than 93 days.

[45]State law reference(s)—Michigan Vehicle Code, MCL 257.1 et seq.

(c) Section 525(1)(c) of the Michigan Vehicle Code, 1949 PA 300, MCL 257.625, is hereby adopted by reference, including the provisions that provide a violation of this section and this specific section is punishable by one or more of the following:

(1) Community service for not more than 360 hours;

(2) Imprisonment for not more than 180 days;

(3) A fine of not less than $200.00 or more than $700.00;

(4) Any and all penalties and provisions as provided by the Michigan Vehicle Code and the ordinances of the City of Greenville, including cost recovery.

(Prior Code, §§ 21.521, 21.522, 21.524; Ord. No. 03-02, §§ 1, 2, 4, 2-4-2003; Ord. of 5-20-2008(2); Ord. No. 15-03, 6-2-2015)

State law reference(s)—Authority to adopt Michigan Vehicle Code by reference, MCL 117.3(k); powers of local authorities, MCL 257.605, 257.606.

Sec. 42-2. Uniform Traffic Code for Cities, Townships and Villages adopted.

The Uniform Traffic Code for Cities, Townships and Villages as promulgated by the Director of the Michigan State Police pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201—24.328 and made effective October 30, 2002 is hereby adopted by reference. The penalties provided by the Michigan Vehicle Code (MCL 257.1—257.923) are adopted by reference; provided, however, that the city may not enforce any provision of the Michigan Vehicle Code (MCL 257.1—257.923) for which the maximum imprisonment is greater than 93 days.

(1) References in the Uniform Traffic Code for Cities, Townships and Villages to a "governmental unit" shall mean the City of Greenville.

(2) The penalties provided by the Uniform Traffic Code for Cities, Townships and Villages (MCL 257.951—257.955) are adopted by reference; provided, however, that the city may not enforce any provision of the Uniform Traffic Code for Cities, Townships and Villages (MCL 257.951—257.955) for which the maximum imprisonment is greater than 93 days.

(3) Section 525(1)(c) of the Michigan Vehicle Code, 1949 PA 300, MCL 257.625, is hereby adopted by reference, including the provisions that provide a violation of this section and this specific section is punishable by one or more of the following:

a. Community service for not more than 360 hours;

b. Imprisonment for not more than 180 days;

c. A fine of not less than $200.00 or more than $700.00;

d. Any and all penalties and provisions as provided by the Michigan Vehicle Code and the ordinances of the City of Greenville, including cost recovery.

(Prior Code, §§ 21.501, 21.502, 21.504; Ord. No. 03-01, §§ 1, 2, 4, 2-4-2003; Ord. No. 15-03, 6-2-2015)

State law reference(s)—Authority to adopt the Uniform Traffic Code for Cities, Townships, and Villages by reference, MCL 257.951.

Sec. 42-3. Exhibition driving.

(a) It shall be unlawful for the driver of any motor vehicle to do exhibition driving within the city. The term "exhibition driving" means the driving of a motor vehicle in such an unusual manner or out of the usual flow of traffic, whether or not traffic is present, so as it is likely to attract the attention of the public, whether or not there is anyone present, or it shall consist of any two or more of the following acts:

(1) Rapid acceleration.

(2) Squealing, peeling or burning of the tires.

(3) The swaying of the motor vehicle from side to side, commonly referred to as "fishtailing."

(4) Racing or running of the engine of a motor vehicle at high revolutions per minute, combined with the engaging of the gears causing excessive or unusual noise.

(5) Unnecessary and excessive changing of lanes.

(6) The omission of any unreasonably loud or raucous or disturbing and unnecessary noise from the engine or exhaust system of any motor vehicle.

(b) A person who violates this section is responsible for a civil infraction, punishable by a civil fine of not more than $100.00 and costs. Prosecution of a person for a violation of this section shall be pursuant to the procedure established by the Michigan Vehicle Code (MCL 257.1 et seq.).

(Prior Code, §§ 20.801, 20.803; Ord. No. 96, §§ 1, 3, 1-2-1976; Ord. No. 96-A, 2-21-1980)

State law reference(s)—Authority to designate municipal ordinance a civil infraction, MCL 117.4l.

Sec. 42-4. Truck traffic.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Streets means any highway, road or thruway except state trunk line highways.

Tractor truck means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn, except that a tractor truck and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power.

(b) It shall be unlawful for any person to drive, operate or cause to be used a tractor truck upon any street within the city that the city council has prohibited tractor truck use and is so designated by appropriate signage.

(c) This section does not apply to:

(1) Tractor trucks making or receiving deliveries to or from any business, residence or governmental facility along streets upon which the city council has prohibited tractor trucks.

(2) Tractor trucks that are used by commercial moving lines for the transport of residential or commercial property and are making or receiving deliveries to or from:

a. Residences along streets upon which the city council has prohibited tractor trucks;

b. Businesses along streets upon which the city council has prohibited tractor trucks.

(d) Any person who shall violate this section shall be responsible for a civil infraction.

(Prior Code, §§ 20.1081, 20.1083—20.1085; Ord. No. 148, §§ 1, 3—5, 10-30-1996)

State law reference(s)—Authority to designate municipal ordinance civil infraction, MCL 117.4l.

Sec. 42-5. Snowmobiles.

The provisions of part 821 of the Natural Resources and Environmental Protection Act (MCL 324.82101 et seq.) are hereby adopted by reference. No person shall violate any of such provisions.

State law reference(s)—Authority to adopt state laws by reference, MCL 117.3(k).

Sec. 42-6. Storage of inoperable motor vehicles.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Inoperable motor vehicle means motor vehicles which do not bear valid registration plates pursuant to the Michigan Vehicle Code (MCL 257.1 et seq.) or which, by reason of dismantling, disrepair or other cause, are incapable of being propelled under their own power (including, without limitation, vehicles without a working battery or tires capable of holding air), or are unsafe for operating on the streets and highways of this state because of inability to comply with the Michigan Vehicle Code.

Motor vehicle means any vehicle designed or intended to be operated as a self-propelled vehicle, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks.

Storing means parking, placing or allowing the presence of a motor vehicle.

(b) Except as provided in subsection (c) of this section, it shall be unlawful for:

(1) Any person who is the owner, tenant, occupant, or manager of private property, to store or permit the storing of an inoperable motor vehicle on such private property.

(2) A person who is the last registered owner or transferee of an inoperable motor vehicle to store or permit the storing of such vehicle on private property.

(3) Any person to park or place an inoperable motor vehicle on any public or private street in the city.

(c) It shall not be a violation of this section to permit an inoperable motor vehicle to remain within a completely enclosed building or garage, nor shall it be a violation for a licensed junk dealer or a new or used automobile dealer or a bona fide commercial garage or repair shop to store inoperable motor vehicles upon premises completely enclosed by an opaque fence or wall not less than six feet in height, subject to all applicable provisions of chapter 46, Zoning.

(d) Any person who violates the provisions of this section shall be responsible for a municipal civil infraction.

(Ord. No. 05-02, §§ 1—4, 11-3-2005)

State law reference(s)—Authority to designate municipal ordinance a municipal civil infraction, MCL 117.4l; municipal civil infractions, MCL 600.8701 et seq.

Secs. 42-7—42-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Secs. 42-31—42-48. Reserved.

DIVISION 2. AUTOMOBILE PARKING SYSTEM

Sec. 42-49. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

The system shall be understood to mean the complete automobile parking system, including parking meters, collecting and accounting devices, vehicles used in policing the system, lots which may be owned or leased, and intangible property of every nature acquired or used in connection with the operation of the system, including franchises, permits, licenses, leases, contracts and agreements.

(Prior Code, § 20.522; Ord. No. 83, § 2, 10-15-1973)

Sec. 42-50. Combining of facilities.

It is hereby declared to be for the public benefit and welfare of the city, to combine all municipal automobile parking facilities, including both metered street parking and metered and non-metered off-street parking, into one system to be known as the automobile parking system.

(Prior Code, § 20.521; Ord. No. 83, § 1, 10-15-1973)

Sec. 42-51. Operating year.

The system shall be operated on the basis of an operating year commencing July and ending June.

(Prior Code, § 20.523; Ord. No. 83, § 3, 10-15-1973)

Sec. 42-52. Income and revenue; depository fund.

All income and revenue of every nature derived from the operation of the system shall be deposited in the automobile parking system fund.

(Prior Code, § 20.524)

Sec. 42-53. Operation and maintenance costs.

All operation and maintenance costs of the parking system shall be paid by one or more of the following:

(1) Special assessment in the downtown area per state statute;

(2) Subsidy from the parking fund;

(3) Revenue from parking meters and fines; and

(4) Subsidy from the general fund.

(Prior Code, § 20.525; Ord. No. 83, § 5, 10-15-1973)

Sec. 42-54. Liability insurance.

The city will maintain and carry sufficient public liability insurance covering the operation of said system.

(Prior Code, § 20.526; Ord. No. 83, § 6, 10-15-1973)

Sec. 42-55. City manager; duties.

The administration, operation and management of the system shall be by the city manager.

(Prior Code, § 20.527; Ord. No. 83, § 7, 10-15-1973)

Sec. 42-56. Recordkeeping; authority.

The city will maintain and keep proper records in accordance with the Michigan Uniform Accounting Procedures for Local Units of Government as established by the Uniform Budgeting and Accounting Act (MCL 141.421 et seq.).

(Prior Code, § 20.528; Ord. No. 83, § 8, 10-15-1973)

Sec. 42-57. Rates and charges; method of financing system.

The city shall, by separate ordinance, establish rates and charges for all services supplied by the parking system and shall establish by resolution or budget process, annually, a method of financing the parking system as may be necessary to preserve the system in good repair, to keep the lots attractive and the system in good working order, and to pay leases, interest and debt on the same. The rates and charges for parking in parking meter zones may be set so as to provide funds for acquisition of more parking areas and parking lot facilities, beautification and improvements thereto. Such rates may be revised by the city council when necessary.

(Prior Code, § 20.529; Ord. No. 83, § 9, 10-15-1973)

Secs. 42-58—42-87. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING[46]

[46]State law reference(s)—Stopping, standing and parking, MCL 257.672 et seq.; authority to regulate standing or parking of vehicles, MCL 257.606(1)(a).

Sec. 42-88. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approved vehicle means any motor vehicle which is 20 feet in length or less and does not exceed eight feet in width.

Commercial vehicle includes all motor vehicles used for the transportation of passengers for hire, or constructed or used for transportation of goods, wares or merchandise, and/or all motor vehicles designed and used for drawing other vehicles and not so constructed as to carry any load thereon, either independently or any part of the weight of a vehicle or load so drawn.

Motor vehicle means every vehicle which is self-propelled.

Motorcycle means every motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor.

Motor-driven cycle means every motorcycle, including every motor scooter, with a motor which produces not to exceed five maximum brake horsepower, and every bicycle with a motor attached.

Municipal off-street parking lot means any area designated for the parking of motor vehicles which is owned or operated by the city, which area is not within or along the side of the traveled right-of-way of any public street in the city.

Parking means standing a vehicle, whether occupied or not, upon a highway along a street or in a municipal off-street parking lot, when not loading or unloading, except when making necessary repairs.

Parking zones means all on-street parking spaces and all spaces in a lot designated as an off-street parking lot.

Semi-trailer means a vehicle with or without motive power, other than a pole-trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(Prior Code, § 20.552; Ord. No. 99-01, art. I, § 1, 6-15-1999)

Sec. 42-89. Violation and penalty.

(a) Any person, firm or corporation violating any provisions of this article, shall be liable for a civil infraction under the Michigan Vehicle Code (MCL 257.1 et seq.).

(b) Any approved vehicle parked in a parking zone in violation of this article may, in lieu of any other penalty, pay to the traffic bureau of the city the following:

(1) If paid within seven days from the date and time written on the parking ticket: $10.00.

(2) If paid within the time period of seven days through 30 days from the date and time written on the parking ticket: $25.00.

(c) Authority to seize for unpaid parking violations.

(1) If the owner or operator of a vehicle which has been ticketed shall not within 30 days from issuance of the parking ticket pay or cause to be paid the fees or penalties for the violation, then any police officer of the city may seize such vehicle at any time thereafter anywhere within the city. Seizure may be by disabling the motor vehicle, towing or impounding.

(2) In order that the owner or operator may remove any vehicle which has thus been impounded, he shall pay to the traffic bureau all overdue parking tickets which have accrued against the vehicle during the time of his ownership and, in addition thereto, the cost of impounding, towing and storage. If at the time of seizure the vehicle has been sold to a bona fide purchaser and transfer of title has been duly made, such new owner may have the car released forthwith by showing his new certificate of title to the proper officers and by satisfying any parking tickets which have been issued from the date of issuance of his new certificate of title.

(3) In the event the owner or operator disputes liability as to any impoundment fees or any previously incurred impoundment fees, fines, cost, forfeiture or penalty, such owner or operator may have the vehicle released from impoundment by posting a bond, to be approved by the district judge or magistrate in an amount not to exceed $500.00, pending final adjudication of disputed liability.

(4) Any vehicle impounded by seizure under any city ordinance may, after one month from date of seizure, be sold by the department of public safety either at private or public sale to the highest bidder, after first giving the owner of the car, as is shown to be in the office of the secretary of state in which the car is licensed on the day of seizure, a notice of seizure and proposed sale, in writing, delivered in person or sent by certified mail, return receipt requested, addressed to such person at the owner's place of business or residence as shown in said secretary of state's office.

(d) Impoundment. Any motor vehicle parked in violation of this section may be removed from its parking place and impounded by the city.

(Prior Code, §§ 20.504, 20.563, 20.564; Ord. No. 99-01, art. I, § 1, art IV, § 1, 6-15-1999)

State law reference(s)—Authority to designate municipal ordinance a civil infraction, MCL 117.4l.

Sec. 42-90. Vehicles; position in parking zones.

In parking upon a highway or along a street, the driver of the vehicle shall park the same with the front bumper at a 90 degree angle with the sidewalk or, in a municipal off-street parking lot, shall park between the lines with the bumper parallel to the front or back of such space.

(Prior Code, § 20.552; Ord. No. 99-01, art. II, § 1, 6-15-1999)

Sec. 42-91. Lawful vehicles only.

It shall be unlawful for any vehicle other than an approved vehicle to use or occupy a parking space at any time.

(Prior Code, § 20.552; Ord. No. 99-01, art. II, § 2, 6-15-1999)

Sec. 42-92. Parking within lined spaces.

The city may place lines on the curb and/or on the street and on the off-street parking lots, about or alongside of each parking zone to designate the parking space which is to be used and each vehicle parked shall park within the lines so established. It shall be unlawful to park any vehicle across any such lines or to park such vehicle in such a way that the same shall not be within the area so designated by such lines.

(Prior Code, § 20.552; Ord. No. 99-01, art. II, § 3, 6-15-1999)

Sec. 42-93. Vehicles over 20 feet; conditions for parking.

Unapproved vehicles, semi-trailers and/or trucks measuring over 20 feet in length may park in municipal free off-street parking lots only under the following conditions:

(1) Such vehicles may park in any areas of said lot designated by appropriate signs; and

(2) Such vehicles when parked may not operate gasoline or diesel engines and may not carry animal freight, which freight is offensive in smell or unreasonable in sound or volume of sound.

(Prior Code, § 20.552; Ord. No. 99-01, art. II, § 4, 6-15-1999)

Sec. 42-94. Municipal parking lot; authority to close.

(a) The city council may, by written resolution or posted signage, close a municipal off-street parking lot or lots to parking pedestrian or vehicular traffic during certain hours of the day. It shall be a violation of this article to enter or park in a municipal off-street parking lot, whether in a vehicle or otherwise, in a manner contrary to the resolution or posted signage.

(b) During December, January, February, and March, overnight parking is allowed only on the designated side of parking lots according to the day of the week at 2:00 a.m. Overnight parking shall be defined as being between the hours of 2:00 a.m. and 5:00 a.m. for Lots 1, 2, 5, 6, 7 and 8. Overnight parking shall be defined as being between the hours of 4:00 a.m. and 5:00 a.m. for Lots 3 and 4. Alternate side parking shall be designated as follows:

Lots 1, 2, 3 and 4 (West of Lafayette Street): Monday, Wednesday, Friday, and Sunday parking shall be allowed only on the north or west side of the lot. Tuesday, Thursday, and Saturday parking shall be allowed only on the south or east side of the lot.

Lots 5, 6, 7 and 8 (East of Lafayette Street): Monday, Wednesday, Friday, and Sunday parking shall be allowed only on the north or east side of the lot. Tuesday, Thursday, and Saturday parking shall only be allowed on the south or west side of the lot.

Notwithstanding the above, the following apply:

Lot 2: The small parking area nearest the north-south alley leading to Washington Street shall be split with parking allowed only on the west half on Monday, Wednesday, Friday and Sunday and the east half on Tuesday, Thursday and Saturday.

Lot 3: The parking area nearest Cass Street shall be split with parking allowed only on the north half on Monday, Wednesday, Friday and Sunday and the south half on Tuesday, Thursday and Saturday.

Lot 4: The parking area nearest the middle of the Lot shall be split with parking allowed only on the north half on Monday, Wednesday, Friday and Sunday and the south half on Tuesday, Thursday and Saturday.

Lot 6: The parking area nearest Cass Street shall be split with parking allowed only on the north half on Monday, Wednesday, Friday and Sunday and the south half on Tuesday, Thursday and Saturday.

Lot 7: The parking area nearest Clay Street shall be split with parking allowed only on the west half on Monday, Wednesday, Friday and Sunday and the east half on Tuesday, Thursday and Saturday.

Designated barrier-free spaces are not subject to alternate day parking.

(c) Overnight parking shall be allowed in all city lots during the months of April, May, June, July, August, September, October, and November of each year.

(Prior Code, § 20.558; Ord. No. 99-01, art. II, § 5, 6-15-1999; Ord. of 8-15-2006; Ord. No. 19-06 , § 1, 10-15-2020)

Sec. 42-95. Damage to street or lot prohibited.

(a) No person shall, by the parking of any motor vehicle upon any street or in any municipal off-street parking lot, suffer or permit damage to the surface of any street or lot, from or by way of said wheeled vehicle's construction, condition, cargo or load.

(b) No person shall, by the parking of any motor vehicle upon any street or in any municipal off-street parking lot, damage, suffer or permit damage to the surface of any street or lots by permitting or suffering the loss of any portion of the load or cargo of said vehicle.

(Prior Code, § 20.561; Ord. No. 99-01, art. III, § 1, 6-15-1999)

Sec. 42-96. Overnight parking.

(a) No person or persons, firm or corporation shall park or permit to remain parked, any motor vehicle on any street of the city between the hours of 2:00 a.m. and 5:00 a.m., at any time during the year. As used in this subsection the term "street" means:

(1) On curbed streets, the whole width area between the curbs.

(2) On streets without curbs on each side, that portion of the street open for, developed for, or maintained for vehicular travel.

(b) Any motor vehicle parked in violation of this section may be impounded by the department of public safety of the city and may be caused to be removed by the public safety officers to any motor vehicle pound within the city.

(c) The registered owner of any motor vehicle parked in violation of this section shall be presumed to have parked such motor vehicle in violation of this section.

(d) The posting of suitable signs at the north, south, east and west main entrances into the city, setting forth that no parking is permitted in the city from 2:00 a.m. until 5:00 a.m., shall constitute conclusive notice of the provisions of this section.

(Prior Code, §§ 20.501—20.503, 20.505, 20.506; Ord. No. 50, §§ 1—3, 5, 6, 12-13-1995)

Sec. 42-97. Parking area adjacent to West Baldwin Lake Drive.

No person, firm or corporation or persons shall park, permit to be parked, stand, or stop a motor vehicle between the hours of 11:00 p.m. and 6:00 a.m., at the parking area adjacent to West Baldwin Lake Drive at the municipal beach located on Baldwin Lake in the city.

(Prior Code, § 20.508; Ord. No. 50, § 8, 12-13-1995; Ord. No. 50-C, 5-7-1987)

Secs. 42-98—42-122. Reserved.

ARTICLE IV. BICYCLES[47]

[47]State law reference(s)—Operation of bicycles, motorcycles and toy vehicles, MCL 257.656 et seq.; authority to regulate bicycles, MCL 257.606(1)(i).

DIVISION 1. GENERALLY

Sec. 42-123. Violations and penalties.

A person who violates this article is responsible for a civil infraction, punishable by a civil fine of not more than $100.00 and costs. Prosecution of a person for a violation of this article shall be pursuant to the procedure established the Michigan Vehicle Code (MCL 257.1 et seq.).

(Prior Code, § 20.359; Ord. No. 93, § 9, 2-20-1975; Ord. No. 93-A, 9-6-1979)

State law reference(s)—Authority to designate municipal ordinance a civil infraction, MCL 117.4l.

Sec. 42-124. Applicability of traffic laws and ordinances.

Each person riding a bicycle upon a roadway shall be granted all the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the city applicable to the driver of a vehicle, except as to special regulations in this article pertaining to bicycles, and except as to those provisions of laws and regulations which, by their nature, can have no application.

(Prior Code, § 20.361A; Ord. No. 93, § 12, 2-20-1975; Ord. No. 93-B, 3-20-1980)

Sec. 42-125. Obedience to traffic-control devices.

(a) Each person operating a bicycle shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(b) Whenever authorized signs are erected indicating that no right or left or "U" turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

(Prior Code, § 20.362; Ord. No. 93, § 13, 2-20-1975; Ord. No. 93-B, 3-20-1980)

Sec. 20-126. Use of bicycle paths required.

Whenever a usable path for bicycles has been provided adjacent to a street or highway, bicycle riders shall use such path and shall not use the street or highway.

(Prior Code, § 20.363; Ord. No. 93, § 15, 2-20-1975; Ord. No. 93-B, 3-20-1980)

Sec. 42-127. Speed.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Prior Code, § 20.363A; Ord. No. 93, § 16, 2-20-1975; Ord. No. 93-B, 3-20-1980)

Sec. 42-128. Emerging from alley or driveway.

The operator of a bicycle, emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.

(Prior Code, § 20.364; Ord. No. 93, § 17, 2-20-1975; Ord. No. 93-B, 3-20-1980)

Sec. 42-129. Parking.

No person shall park a bicycle upon a street other than upon the roadway parallel to the curb, or upon the sidewalk in a rack to support the bicycle, or against a building in such manner as to afford the least obstruction to pedestrian traffic, except that no person shall park any bicycle against a glass window. A person who violates this section is responsible for a civil infraction.

(Prior Code, § 20.365A; Ord. No. 93, § 20, 2-20-1975; Ord. No. 93-B, 3-20-1980)

State law reference(s)—Authority to designate municipal ordinance a civil infraction, MCL 117.4l.

Sec. 42-130. Riding on sidewalks.

The director of the department of public safety is authorized to erect signs on any sidewalk, street or roadway, prohibiting the riding of bicycles thereon by any person.

(Prior Code, § 20.366; Ord. No. 93, § 21, 2-20-1975; Ord. No. 93-B, 3-20-1980)

Sec. 42-131. Bells, horns, etc.

No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with, nor shall any person use upon a bicycle, a siren or whistle.

(Prior Code, § 20.366A; Ord. No. 93, § 22, 2-20-1975; Ord. No. 93-B, 3-20-1980)

Secs. 42-132—42-160. Reserved.

DIVISION 2. LICENSE

Sec. 42-161. License required.

It shall be unlawful for any person to operate a bicycle upon any of the streets, sidewalks, alleys or public highways of the city, without first obtaining a license from the department of public safety.

(Prior Code, § 20.351; Ord. No. 93, § 1, 2-20-1975)

Sec. 42-162. Issuance.

The department of public safety or its designee, is hereby authorized and directed to issue bicycle licenses which shall be effective from the May 1, 1975, for a three-year period, and thereafter said licenses shall be issued on May 1 of each third year. Said licenses, when issued, shall entitle the licensee to operate such bicycle for which said license has been issued upon all the streets, sidewalks (except sidewalks where posted), alleys and public highways in the city.

(Prior Code, § 20.352; Ord. No. 93, § 2, 2-20-1975)

Sec. 42-163. Numerical sequence; year.

The city shall provide licenses having numbers stamped thereon in numerical order and indicating the years for which the same are issued. Said licenses shall be attached to said bicycle. The department of public safety shall also keep a record.

(Prior Code, § 20.353; Ord. No. 93, § 3, 2-20-1975)

Sec. 42-164. License fees.

The license fee to be paid for a bicycle license shall be as established by the city. All license fees collected under this article shall be paid into the general fund of the city.

(Prior Code, § 20.356; Ord. No. 93, § 6, 2-20-1975)

Sec. 42-165. Transfer.

The license shall expire upon sale or transfer of ownership of the licensed bicycle from the immediate family of the licensee.

(Prior Code, § 20.354; Ord. No. 93, § 4, 2-20-1975)

Sec. 42-166. Malicious altering or destruction of license.

It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the number of any bicycle frame licensed pursuant to this article. It shall also be unlawful for any person to remove, destroy, mutilate or alter any license during the time for which such license is operative; provided, however, that nothing in this article shall prohibit the department of public safety from stamping numbers on the frames of bicycles on which no serial number can be found or on which said number is insufficiently legible for identification purposes.

(Prior Code, § 20.355; Ord. No. 93, § 5, 2-20-1975)

Chapter 44 UTILITIES

ARTICLE I. IN GENERAL

Secs. 44-1—44-18. Reserved.

ARTICLE II. CROSS CONNECTION CONTROL

Sec. 44-19. Violations.

Violations of this article posing an imminent and extreme hazard will be corrected immediately or termination of water service shall occur.

(Prior Code, § 25.007; Ord. of 3-3-2009)

Sec. 44-20. State rules adopted.

The city adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Environmental Quality being Mich. Admin. Code R 325.11401—325.11407.

(Prior Code, § 25.001; Ord. of 3-3-2009)

Sec. 44-21. Inspections required; frequency.

It shall be the duty of the city to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinsertions based on the potential health hazards involved shall be as established by the city's water department and as approved by the state department of environmental quality.

(Prior Code, § 25.002; Ord. of 3-3-2009)

Sec. 44-22. Right of access.

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

(Prior Code, § 25.003; Ord. of 3-3-2009)

Sec. 44-23. Discontinue service; reasonable notice.

The city's water department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this article exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this article.

(Prior Code, § 25.004; Ord. of 3-3-2009)

Sec. 44-24. Testing assemblies/devices.

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 water department and in accordance with state department of environmental quality requirements. Only individuals that hold a valid state plumbing license and/or have successfully passed an approved backflow testing class shall perform such testing. Each tester shall be also approved by the city water department. Individuals performing assembly testing shall certify the results of his testing.

(Ord. of 3-3-2009, § 4.1)

Sec. 44-25. Posted notice; unsafe water.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this article and by the state plumbing code. Any water outlet, which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as: WATER UNSAFE FOR DRINKING.

(Prior Code, § 25.005; Ord. of 3-3-2009)

Sec. 44-26. Supplementary powers herein.

This article does not supersede the state plumbing code but is supplementary to it.

(Prior Code, § 25.006; Ord. of 3-3-2009)

Secs. 44-27—44-55. Reserved.

ARTICLE III. WATER SERVICE

DIVISION 1. GENERALLY

Sec. 44-56. Rules and regulations authorized.

The city council may by resolution, make such regulations as it deems necessary pertaining to the supply of water from the city water department, which rules and regulations shall apply equally to all inhabitants of such city, and all persons who are connected to the city's water distribution system, except as otherwise herein provided.

(Prior Code, § 25.011; Ord. No. 60-F, § 1, 5-20-1976)

Sec. 44-57. Water department employees; access to buildings.

Employees of the city water department shall have free access at all reasonable hours to all parts of houses or buildings in which water is delivered or consumed to examine the pipes and fixtures, and no person or persons shall interfere with such employees or refuse them access.

(Prior Code, § 25.019; Ord. No. 60-F, § 9, 5-20-1976)

Sec. 44-58. Nonresident service.

The city shall not be required to furnish services to premises located outside the city, but may, after a written resolution from the Eureka Township Board approving the same and after a written request from the owner of land without the city that the land outside the city limits be served with city water, at the discretion of and upon the resolution of the city council, furnish services to one or any premises without the city. The furnishing of services to one or more premises without the city shall not require or obligate the city to serve other locations outside the city.

(Prior Code, § 25.013; Ord. No. 60-F, § 3, 5-20-1976)

Sec. 44-59. Service deposits for service.

No deposit shall be required of property owners on application for water and/or sewer service. Deposits shall be required of all other users as determined by the city manager. Initial and minimum deposit shall be $100.00. Maximum deposit is not to exceed two times the average of four quarterly water/sewer bills or 12 monthly water/sewer bills as determined by the water department. Any increases in a deposit shall be calculated based on estimated bills to be calculated based on monthly/quarterly billings until four quarterly or 12 monthly bills have been billed. Any deposit increase will be added to the monthly or quarterly billings. Any deposit upon discontinuance of water and/or sewer service shall be applied to the final bill, and then any remaining deposit balance shall be refunded.

(Prior Code, § 25.016; Ord. No. 60-F, § 6, 5-20-1976; Ord. No. 60-J, § III, 1-16-2001)

Sec. 44-60. Tampering with meters.

No person or persons shall install, remove, connect, disconnect, alter or tamper with any water meter or the incoming pipes carrying water to such meter, unless such person be authorized so to do by the properly constituted authority of the city.

(Prior Code, § 25.017; Ord. No. 60-F, § 7, 5-20-1976)

Sec. 44-61. Use of hydrants.

No person or persons shall turn on or use water from any hydrant, open or close any valve on a water main, or open or close any curb stop valve in the city, unless authorized by the city.

(Prior Code, § 25.018; Ord. No. 60-F, § 8, 5-20-1976)

Secs. 44-62—44-80. Reserved.

DIVISION 2. RATES AND CHARGES

Sec. 44-81. Establishment.

Water rates for all users within the corporate limits of the city shall be established by council resolution. Water rates for all users outside the corporate limits shall be twice the rate established by council resolution for users within the city. At the end of each fiscal year, an annual audit shall be made of all operating and maintenance

costs and fixed charges and the income for the water department for the past fiscal year. A financial analysis shall be made, and based upon the analysis, rate adjustments shall be made in order that the water fund will maintain itself as a self-supporting fund. The council shall by resolution, adopt these adjusted water rates, to be effective no later than the following January 1st.

(Prior Code, § 25.012; Ord. No. 60-F, § 2, 5-20-1976)

Sec. 44-82. Billing; frequency; turn on and off; costs.

Water bills shall be paid monthly or quarterly, as determined by the water department, for the water used in the preceding month or quarter. If said water bills are not paid within 30 days of the date of billing, a billing service charge of five percent of the outstanding balance of the bill shall be added. If the bill continues to be delinquent for 25 days past the due date, the water shall be shut off from the premises of the consumer in default and shall not be turned on again until the full amount due, together with a service charge in the amount established by the city for the cost of turning the water off and for the cost of turning the water on again, has been paid.

(Prior Code, § 25.014; Ord. No. 60-F, § 4, 5-20-1976; Ord. No. 60-H, 4-2-1982; Ord. No. 60-I, 6-17-1992; Ord. No. 60-J, § I, 1-16-2001)

Sec. 44-83. Service fees.

A service fee in the amount established by the city shall be charged for turning on and for turning off yard meters used for lawn sprinkling. This fee shall be included in the final bill for the year. Also a service fee in the amount established by the city shall be charged for turning off water service for temporary or long term service if requested by the customer, for the cost of turning the water service back on as well. This fee will be added to the ensuing water bill.

(Prior Code, § 25.015; Ord. No. 60-F, § 5, 5-20-1976; Ord. No. 60-J, § II, 1-16-2001)

Sec. 44-84. Water tap and connection fees.

The water tap fees or connection fees as established by the city shall be the same for users within and without the limits of the city.

(Prior Code, § 25.021; Ord. No. 60-F, § 11, 5-20-1976)

Sec. 44-85. Responsibility and liability for payment of water bills.

The city council finds that water service to a premises or structure benefits of the owner of the premises or structure in that sanitation, fire protection and property value are added to a premises or structure by having water service at and upon such premises or structure. Therefore the owner of a premises or structure and the premises or structure shall itself be ultimately responsible and liable for payment of water bills as is provided hereinafter.

(Prior Code, § 25.024; Ord. No. 60-F, § 14, 5-20-1976; Ord. No. 60-G, 2-18-1982)

Sec. 44-86. Delinquent charges; lien.

Charges for water services furnished by the city water system to any premises shall be a lien upon said premises and on April 1 of each year, the city water superintendent shall certify in writing any charges which have

been delinquent for six months or more, said certification to be made to the city treasurer. The treasurer shall thereafter immediately enter the amount of the delinquency for water charges upon the next tax roll, said charge to be against the premises to which the water service has been rendered and said charges shall be collected and said lien shall be enforced in the same manner as is provided in respect to real property taxes assessed upon such premises and stated in the city tax rolls.

(Prior Code, § 25.025; Ord. No. 60-F, § 15, 5-20-1976; Ord. No. 60-G, 2-18-1982)

State law reference(s)—Liens, MCL 141.121(3).

Secs. 44-87—44-115. Reserved.

ARTICLE IV. SEWER USE AND PRETREATMENT[48]

DIVISION 1. GENERAL PROVISIONS

Sec. 44-116. Purpose and scope.

(a) The purposes of this chapter include, but are not limited to, the following:

(1) To establish uniform requirements for discharges by all users to the City of Greenville Publicly Owned Treatment Works ("POTW"), and to enable the POTW to comply with applicable state and federal laws as required by the Federal Water Pollution Control Act (also known as the "Clean Water Act"), as amended, 33 USC 1251, et seq.; the General Pretreatment Regulations (40 CFR Part 403); Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., as amended ("Water Resources Protection"); and the rules, Michigan Administrative Code, R 323.2301 et seq., as amended, promulgated pursuant to Sections 3103, 3106 and 3109 of Part 31 of Act 451 of the Public Acts of Michigan of 1994, as amended.

(2) To prevent the discharge of pollutants into the POTW that do not meet applicable pretreatment standards and requirements; that could interfere with the operation of the POTW; that could pass through the POTW into the receiving waters or the atmosphere, the environment, or otherwise be incompatible with the POTW; that could inhibit or disrupt the POTW's processing, use, or disposal of sludge; that could cause health or safety problems for POTW workers; or that could result in a violation of the POTW's NPDES permit or of other applicable laws and regulations.

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the POTW.

[48]Editor's note(s)—Ord. No. 13-04 , § 1, adopted July 16, 2013, repealed the former Art. IV, §§ 44-116—44-119, 44-137—44-140, 44-164—44-167, 44-188—44-199, 44-222—44-225, 44-244—44-251, and enacted a new Art. IV as set out herein. The former Art. IV pertained to sewer use requirements and derived from Prior Code, §§ 25.110, 25.131, 25.132—24.134, 25.141, 25.142, 25.144, 25.152—25.162, 25.171—25.174, 25.191, 25.201, 25.221—25.223, 25.251—25.256, 25.259, 25.260; Ord. No. 59, arts. I—VIII, adopted March 1, 1960; Ord. No. 61-F, §§ 1—5, 9, 10, 16, adopted May 20, 1976; Ord. No. 59-A, adopted March 1, 1980; Ord. No. 59-B, adopted Jan. 23, 1981; Ord. No. 61-G, adopted Feb. 18, 1982; Ord. No. 59-C, adopted April 3, 1985; and Ord. No. 61-H, adopted June 17, 1992.

(4) To regulate the discharge of wastewater and/or pollutants to the POTW and to enforce the requirements of this chapter through the issuance of permits and through other means as provided by this chapter.

(5) To authorize and require all inspection, monitoring, reporting and enforcement activities as necessary to ensure compliance with applicable pretreatment standards and requirements and other applicable laws and regulations.

(6) To provide for the equitable distribution and recovery of costs from users of the POTW sufficient to administer regulatory activities and to meet the costs of the operation, maintenance, repair, replacement, and improvement of the POTW.

(b) This chapter applies to any person, whether located within the city or outside the city, that discharges to the POTW.

(c) This chapter also applies to any person owning, using, constructing or maintaining any private system or facility intended or used for the disposal of sewage or wastewater within the city or under the city's jurisdiction.

(d) Any other local unit of government that discharges into the POTW (or that has users or premises that discharge into the POTW) shall, as a condition to discharge, adopt, and to keep continually in force and up-to-date, an ordinance that, except as specifically provided by this subsection, shall be identical to the sewer use regulations as provided by this chapter (and as this chapter is amended from time to time by the city). The ordinance adopted by the local unit shall expressly designate, empower and authorize the city to act as the agent and representative of the local unit for purposes of administering and enforcing the local unit's ordinance within the local unit. This shall include, but shall not be limited to, the power and authority of the city, as deemed necessary by the city, to immediately and independently investigate, enforce, and prosecute (administratively or judicially, and civilly or criminally) any violation of the local unit's ordinance or of any notice, order, permit, decision or determination promulgated, issued or made by the city under this chapter or the local unit's ordinance, and to otherwise implement the requirements of this chapter and the local unit's ordinance. The only other deviations and differences permitted between this chapter and the local unit's ordinance shall be those that reflect the fact that the local unit's ordinance is being adopted as an ordinance by the local unit, and any other deviations or differences that are approved in advance by the city.

(e) It shall be unlawful for any person to discharge any wastewater or pollutant to the POTW or to any storm sewer or natural outlet within the city or in any area under the jurisdiction of the city, except in accordance with the provisions of this chapter and other applicable laws and regulations.

(f) If any user discharges or proposes to discharge wastewaters or pollutants that are prohibited or limited by this chapter, the city may take any action as provided by this chapter or other applicable laws or regulations to assure and require compliance with the provisions of this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-117. Definitions.

Unless the context specifically indicates otherwise, the following terms shall have the following meanings as used in this chapter:

Act or *the Act* means the Federal Water Pollution Control Act, also known as the "Clean Water Act," as amended, 33 USC 1251 et seq.

Alternative discharge limits means limits set by the city in lieu of the limits promulgated by national categorical pretreatment standards, for integrated facilities in accordance with the combined waste stream formula as set by the EPA.

Alternative FOG Pretreatment Technology or *AFPT* means a device to trap, separate, and hold FOG from wastewater and prevent it from being discharged into the POTW, other than an outdoor FOG interceptor.

Approval authority means The Department of Environment, Great Lake and Energy (EGLE) is designated as the approval authority.

Authorized representative. When used in reference to a nondomestic user, "authorized representative" means as follows:

(a) If the user is a corporation, a responsible corporate officer. "Responsible corporate officer" means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or proprietorship, a general partner or proprietor, respectively.

(c) If the user is a federal, state or local governmental entity, the principal executive officer, ranking elected official, or director having responsibility for the overall operation of the discharging facility.

(d) A duly authorized representative of an individual designated in (a), (b) or (c) above, if the representative is responsible for the overall operation of the facilities from which the discharge to the POTW originates.

(1) To be considered "duly authorized," the authorization must be made in writing by an individual designated in (a), (b) or (c) above. The authorization must specify either an individual or a position having responsibility for the overall operation of the facility (such as the position of plant manager, operator of a well or well field, or a position of equivalent responsibility, or having overall responsibility for the environmental matters for the company or entity). The written authorization must be submitted to the POTW superintendent prior to or together with any reports to be signed by the authorized representative.

(2) If an authorization under (d)(1) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company or entity, a new written authorization must be submitted to the POTW superintendent prior to or together with any reports to be signed by the newly authorized representative.

Best management practice or *BMP* means any practice, program, procedure, control, technique or measure (used singularly or in combination), that a user is required to adopt or implement to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants or other substances to the POTW, as determined necessary by the POTW superintendent. BMPs include, but are not limited to: schedules of activities; pollution treatment practices or devices; prohibitions of practices; good housekeeping practices; pollution prevention, minimization and reduction measures; educational practices and programs; maintenance procedures; other management programs, practices or devices; treatment requirements; notice, reporting, and record-keeping requirements; and operating procedures and practices to control or contain site runoff, spillage or leaks, batch discharges, sludge or water disposal, or drainage from product and raw materials storage. BMPs may be structural, non-structural, or both. In determining what BMPs will be required of a user in a particular case, the POTW superintendent may consider all relevant technological, economic, practical, and institutional considerations as

determined relevant and appropriate by the POTW superintendent, consistent with achieving and maintaining compliance with the requirements of this chapter and other applicable laws and regulations.

BOD (denoting Biochemical Oxygen Demand) means the quantity of dissolved oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C., expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system that receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to a building sewer. The building drain shall be deemed to begin five feet outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal (such as a grinder pump). The building sewer shall be deemed to begin five feet outside the inner face of the building wall and connects the building drain to the proper public sewer or other place of disposal.

Bypass means the intentional diversion of waste streams from any portion of a user's treatment process or facility needed for compliance with pretreatment standards or requirements.

Categorical pretreatment standard or *categorical standard* means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 301 or 307(b) and (c) of the Clean Water Act, 33 USC 1311 or 1317, which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Categorical industrial user (CIU) means an industrial user subject to a categorical pretreatment standard or categorical standard.

Cesspool means an underground pit into which domestic waste is discharged and from which the liquid seeps into the surrounding soil or is otherwise removed.

CFR means Code of Federal Regulations.

Chemical oxygen demand or *COD* means a measure of oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. Also known as oxygen consumed (OCR) and dichromate oxygen consumed (DO), respectively.

City means the City of Greenville, Montcalm County, Michigan, or the city's authorized representatives.

City manager means the city manager of the city or the city's manager's Designee.

Combined wastestream means the waste stream at facilities where effluent from one regulated process is mixed, prior to pretreatment or treatment, with wastewaters other than those generated by that regulated process. Where required by federal or state law, the combined wastestream formula provided in 40 CFR 403 will apply to limits applicable to a combined wastestream.

Compatible pollutant means a pollutant that, as determined by the POTW superintendent, is susceptible to effective treatment by the POTW as designed, and which will not interfere with, or pass through, the POTW, and which is otherwise not incompatible with the treatment processes or in excess of the capacity at the POTW. The term "compatible" is a relative concept that must be determined on a case-by-case basis. In determining whether or not a pollutant is compatible with the POTW, the POTW superintendent may consider, without limitation, the nature and qualities of the pollutant, and the concentration, mass, and flow rate at which the pollutant is (or is proposed to be) discharged. Thus, for example, even pollutants such as BOD, fats, oils or grease, phosphorous, suspended solids, and fecal coliform bacteria, which may typically be considered "compatible," may be determined incompatible by the POTW superintendent if discharged in concentrations or flows that would cause interference or pass through or exceed the POTW's capacity. Specifically excluded from the definition of compatible pollutant

are "heavy" metals, TTOs, and any pollutants that will likely contribute or cause operational or sludge disposal problems or unacceptable discharges to the receiving waters.

Composite sample means a series of individual samples, collected on a flow or time proportional basis, taken at regular intervals over a specific time period and combined into a single sample (formed either by continuous sampling or by mixing discrete samples) representative of the average stream during the sampling period. For categorical sampling, a composite sample shall consist of at least four individual samples taken within a 24-hour period.

Control authority means and refers to the publicly owned treatment works (POTW) or City of Greenville, which has been designated by the approval authority (MDEQ) to implement a pretreatment program.

Cooling water means water used for cooling purposes only, including both contact and non-contact cooling water.

Cooling water (contact) means water used for cooling purposes only that may become contaminated or polluted either through the use of water treatment chemicals (such as corrosion inhibitors or biocides) or by direct contact with process materials and/or wastewater.

Cooling water (non-contact) means water used for cooling purposes only that has no direct contact with any raw material, intermediate product, final product, or waste, and that does not contain a detectable level of contaminants higher than that of the intake water (for example, the water discharged from uses such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat).

County health department means the Montcalm County Health Department or its successor agency.

Daily maximum means the maximum discharge of pollutants or flow (expressed in terms of concentration, mass loading, pounds, gallons or other unit of measurement) that shall not be exceeded on any single calendar day. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged during the day. If a composite sample is required for a parameter, the determination whether the daily maximum limitation for that parameter has been exceeded on a single calendar day shall be based on the composite sample collected for that parameter on that calendar day. If grab samples are required for a parameter, the determination whether the daily maximum limitation for that parameter has been exceeded on a calendar day shall be based on the average of all grab samples collected for that parameter on that calendar day. If only one grab sample is collected for a parameter on a given day, the determination whether the daily maximum limitation for that parameter has been exceeded for the day shall be based on the results of that single grab sample.

Days means, for purposes of computing a period of time prescribed or allowed by this chapter, consecutive calendar days.

DEQ or *EGLE* means The Department of Environment, Great Lakes and Energy, formerly known as the Department of Environmental Quality, or any successor governmental agency having similar regulatory jurisdiction.

Dilute means to weaken, thin down or reduce the concentration of pollutants in wastewater by the addition of water.

Discharge means the introduction of waste, wastewater, effluent, or pollutants into the POTW, whether intentional or unintentional, and whether directly (such as through an approved sewer connection or other approved discharge point as authorized by this chapter) or indirectly (including, but not limited to, sources such as inflow and infiltration).

Domestic septage means liquid or solid material removed from a septic tank, cesspool, portable toilet, type III marine sanitation device, or similar storage or treatment works that receives only domestic waste. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar facility that

receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease interceptor, grease trap, or other appurtenance used to retain grease or other fatty substances contained in restaurant waste.

Domestic treatment plant septage means biosolids generated during the treatment of domestic waste in a treatment works and transported to a receiving facility or managed in accordance with a residuals management program approved by the MDEQ.

Domestic user means a user that discharges only segregated normal strength domestic waste into the POTW.

Domestic waste means wastewater (or water-carried waste) of human origin generated by personal activities from toilet, kitchen, laundry, or bathing facilities, or by other similar facilities used for household or residential dwelling purposes ("sanitary sewage"). Domestic waste shall not include any waste resulting from industrial or commercial processes, including, without limitation, any hazardous or toxic pollutants. Wastes that emanate from sources other than residential dwelling units may be considered domestic wastes only if they are of the same nature and strength and have the same flow rate characteristics as wastes that emanate from residential dwelling units, as determined by the POTW superintendent.

Dwelling (as in "residential dwelling") means any structure designed for habitation, including but not limited to houses, mobile homes, apartment buildings, condominiums, and townhouses where each dwelling unit contains, at a minimum, sleeping facilities, a toilet, a bath or shower, and a kitchen.

Effluent means wastewater or other liquid, partially or completely treated, flowing from a reservoir, basin treatment process, treatment plant, disposal facility or toilet device.

EPA means the United States Environmental Protection Agency.

Excessive means at such a flow, rate, magnitude or amount that, in the judgment of the POTW superintendent, it may cause damage to any facility or the POTW; may be harmful to the wastewater treatment processes; may adversely affect the management or operation of the POTW or POTW sludge management or disposal; may cause pass through or interference; may violate any pretreatment standard or requirement; may adversely affect the quality of the receiving waters or the ambient air quality; may endanger worker health and safety; may constitute a public nuisance; may be inconsistent with the requirements, purposes or objectives of this chapter; or may otherwise adversely impact the public health, safety or welfare or the environment.

Existing source means any source of discharge that is not a "new source" as defined by this chapter.

Fats or *FOG* means fats, oil or grease consisting of any hydrocarbons, fatty acids, soaps, fats, waxes, oils, or any other non-volatile material of animal, vegetable or mineral origin that is extractable by solvents in accordance with standard methods.

Flow-proportional composite sample means a combination of individual samples of equal volume taken at equal intervals of flow without consideration of the time between individual samples.

Food establishment septage means material pumped from a grease interceptor, grease trap, or other appurtenance used to retain grease or other fatty substances contained in restaurant wastes and which is blended into a uniform mixture, consisting of not more than one part of that restaurant-derived material per three parts of domestic septage, prior to land application or disposed of at a receiving facility.

Food service establishment or *FSE* means any premises where food or beverages are prepared and served or consumed, whether fixed or mobile, with or without charge, and whether on or off the premises. FSEs shall include, but are not limited to, restaurants, hotels, taverns, bars, rest homes, schools, factories, institutions, camps, grocery stores with onsite food preparation, and ice cream parlors. The following shall not be subject to the interceptor/APT requirements under section 44-215 of this chapter except as otherwise determined necessary by the City to meet the purposes and objectives of this chapter:

(a) A private residential dwelling unit where the food is prepared and served or consumed solely by the occupants of the dwelling unit;

(b) A premises where the only food prepared and served or consumed is dispensed from automatic vending machines; and

(c) A "temporary food service establishment" meaning an FSE operating at a fixed location for not more than 14 consecutive days in conjunction with a single event or celebration.

Footing drain means a pipe or conduit which is placed around the perimeter of a building foundation and which intentionally admits ground water.

Garbage means solid wastes from the storage, preparation, cooking, serving, dispensing, canning, or packaging of food, or from the growing, handling, storage, processing or sale of produce or other edible products. It is composed largely of putrid organic matter and its natural or added moisture content.

General user permit means a permit issued to any user other than a significant industrial user as provided by this chapter to control discharges to the POTW and to ensure compliance with applicable pretreatment standards and requirements.

Grab sample means an individual sample that is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

Grease trap means a device designed to separate and retain fats, oils, and grease from liquid waste and permit the liquid waste to discharge into the POTW.

Grinder pump means, in a grinder pump system, the device to which the building sewer connects and which grinds and pumps the sewage to the public sewer for transportation to the POTW.

Grinder pump system means the publicly owned grinder pump, controls and pressure discharge pipe, including all control boards, controls, floats, pumps, storage tanks and appurtenances thereto which provides the connection between the privately owned building sewer and the public sewer system.

Hazardous waste means any substance discharged or proposed to be discharged into the POTW, that (1) if otherwise disposed of would be a hazardous waste under 40 CFR Part 261 or under the rules promulgated under the state hazardous waste management act (Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended); or (2) is otherwise a waste or a combination of waste and other discarded material including solid, liquid, semisolid, or contained gaseous material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed, as determined by the POTW.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Incompatible pollutant means any pollutant that is not a compatible pollutant.

Industrial user (IU) means any nondomestic user that, by any means, contributes, causes or permits the contribution, introduction or discharge of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether directly or indirectly. For purposes of this chapter, the term industrial user also includes municipalities or other units of local government that contribute, cause or permit the contribution or introduction of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether direct or indirect.

Infiltration means any waters entering the POTW from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.

Inflow means any waters entering the POTW from sources such as, but not limited to, building downspouts; roof leaders; cellar, yard, and area drains; foundation and footing drains; cooling water discharges; drains from springs and swampy areas; manhole covers; cross connections from storm sewers; catch basins; storm waters; surface runoff; street wash waters; or drainage.

Instantaneous maximum limit means the maximum concentration or other measure of pollutant magnitude of a pollutant allowed to be discharged at any instant in time (independent of the flow rate or duration of the sampling event). If the concentration or other measure of pollutant magnitude determined by analysis of any grab sample, composite sample, or discrete portion of a composite sample exceeds the instantaneous maximum limit, the instantaneous maximum limit shall be deemed to have been exceeded.

Instantaneous minimum limit means the lowest measure of pollutant magnitude of a pollutant allowed to be discharged at any instant in time (independent of the flow rate or duration of the sampling event). If the concentration or other pollutant magnitude determined by analysis of any grab sample, composite sample, or discrete portion of a composite sample is below the a specified instantaneous minimum limit, the instantaneous minimum limit shall be deemed to have been violated.

Interceptor device means a device, including but not limited to, grease traps, sand traps, oil water separators, etc., designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter. In case of acid or caustic wastes, an interceptor is a device in which the wastes are neutralized prior to their discharge into the wastewater collection system of the premises, the building drain, the building sewer, private sewer, or public sewer.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources either:

(a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or

(b) Is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued there under (or more stringent state or local regulations) Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Lateral sewer means that portion of the sewer system located under the street or within the public right-of-way from the property line to the trunk line and which collects sewage from a particular property for transfer to the trunk line. (A lateral sewer is sometimes also referred to as a sewer stub or sewer lead.)

lbs/day means pounds per day.

Local limit means a specific enforceable prohibition, standard or requirement (numerical or non-numerical) on discharges by nondomestic users established by the POTW to meet the purposes and objectives of this chapter and to comply with applicable state and federal laws and regulations listed in 40 CFR 403.5(a)(1)(b).

May is permissive.

MAC means the Michigan Administrative Code.

MDEQ or *EGLE* means the Michigan Department of Environment, Great Lakes and Energy, formerly known as the Michigan Department of Environmental Quality, its successor governmental entity having similar jurisdiction, or EGLE's authorized representatives.

Medical waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, or dialysis wastes, and includes any medical or infectious wastes as defined by the MDEQ.

mg/l means milligrams per liter.

Monthly average means the sum of the concentrations (or mass loadings, expressed in terms of pounds per day, or such other unit of measurement) of a pollutant divided by the number of samples taken during a calendar month. The concentrations (or loadings) that are added are single numbers for single calendar days for all days during the calendar month for which analyses are obtained (whether by the user or the POTW), but the concentrations (or loadings) may be based upon a sample or samples taken over either all or part of that day and upon single or multiple analyses for that day, as determined by the POTW superintendent. If no samples are taken during particular months because less than monthly sampling is required for a pollutant parameter (e.g., a specified quarterly monitoring period), the monthly average for each month within the specified monitoring period shall be deemed to be the sum of concentrations (or loadings) for the monitoring period divided by number of samples taken during the monitoring period.

NAICS or *North American Industrial Classification System* means the system of classification for business establishments adopted by the U.S. Office of Management and Budget, as amended.

Natural outlet means any naturally formed outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

New source means 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 Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (b) or (c) of this section, above, but otherwise alters, replaces, or adds to existing process or production equipment. Commencement of construction of a new source shall be determined in a manner consistent with 40 CFR 403.3(k)(3).

ng/l means nanograms per liter.

Non-contact cooling water. See "cooling water (non-contact)."

Nondomestic user means any user other than a domestic user (i.e., any user that discharges anything other than segregated normal strength domestic waste into the POTW). The determination of whether or not a user is a "nondomestic user" shall be made by the city or POTW superintendent at the city manager's sole discretion as determined necessary by the city manager and the POTW superintendent to achieve the purposes and objectives of this chapter. Any user that has the reasonable potential, as determined by the city manager and the POTW superintendent, to discharge any waste other than normal strength domestic waste into the POTW, may be deemed a nondomestic user for purposes of this chapter.

Nondomestic user permit means a permit issued to a significant industrial user, or to such other user as determined appropriate by the city and the POTW superintendent, as provided by this chapter to control discharges to the POTW and to ensure compliance with applicable pretreatment standards and requirements.

Nondomestic waste means any wastewater (or water- or liquid-carried waste) other than domestic waste. The determination of whether or not a waste is a "nondomestic waste" shall be made by the POTW superintendent at the city manager's sole discretion as determined necessary by the POTW superintendent to achieve the purposes and objectives of this chapter. Any waste that has the reasonable potential, as determined by the city manager or the POTW superintendent, to be not entirely composed of normal strength domestic waste may be deemed nondomestic waste for purposes of this chapter.

Normal strength domestic waste means a domestic waste flow for which the levels of pollutants (including, without limitation, BOD, TSS, ammonia nitrogen, or phosphorous) are below the surcharge levels for any parameter as established by this chapter. Further, to be considered normal strength, the wastewater must have a pH between 6.0 and 9.5, must not exceed any local limit, and must not contain a concentration of other constituents that would interfere with POTW treatment processes. The determination of whether or not a waste stream is "normal strength domestic waste" shall be made by the POTW superintendent at the city manager's sole discretion as determined necessary by the POTW superintendent to achieve the purposes and objectives of this chapter.

NPDES permit means a National Pollutant Discharge Elimination System permit issued pursuant to Section 402 of the Act.

NREPA means the Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, which is codified at MCL 324.101 et. seq.

Nuisance means any condition or circumstance defined as a nuisance pursuant to Michigan statue, at common law or in equity jurisprudence which includes, but is not limited to, any condition where sewage, industrial waste, or the effluent from any sewage disposal facility or toilet device is exposed to the surface of the ground or is permitted to drain on or to the surface of the ground or into any ditch, storm drain, lake or watercourse, or when the odor, appearance, or presence of this material has an obnoxious or detrimental effect on or to the senses or health of persons, or when it shall obstruct the comfortable use or sale of adjacent property, except as otherwise permitted.

Obstruction means anything of whatever nature that impedes the flow of wastewater from the point of origination to the trunk line and anywhere else within the POTW. This includes, but is not limited to, objects, sewage, garbage, FOG, tree roots, rocks and debris of any type.

Operation, maintenance, repair, replacement, and improvement means all work, materials, equipment, utilities, and other efforts required to operate and maintain the POTW consistent, at a minimum, with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable state and federal regulations, and includes the cost of repair, replacement, and improvement, in whole or in part.

Outfall means the point (or points) of discharge by a user to the POTW, approved by the POTW and specified in a user permit.

Owner means the owner of record of the freehold of a premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of a premises.

Pass through means a discharge that exits the POTW into waters of the state (or waters of the United States) in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit or of any requirement of applicable local, state or federal laws and regulations (including an increase in the magnitude or duration of a violation), or otherwise detrimentally impacts the receiving stream and/or as further defined in 40 CFR 403.3(n).

Person means any individual, partnership, co-partnership, firm, company, association, society, corporation, 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 means the logarithm (base 10) of the reciprocal concentration of hydrogen ions expressed in moles per liter of solution.

Pollutant includes, but is not limited to, any of the following:

(a) Any material that is discharged into water or other liquid, including, but not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural wastes.

(b) Properties of materials or characteristics of wastewater, including, but not limited to, pH, heat, TSS, turbidity, color, BOD, COD, toxicity, or odor.

(c) Substances regulated by categorical standards.

(d) Substances discharged to the POTW that are required to be monitored by a user under this chapter, that are limited in the POTW's NPDES permit, or that are required to be identified in the POTW's application for an NPDES permit.

(e) Substances for which control measures on users are necessary to avoid restricting the POTW's residuals management program; to avoid operational problems at the POTW; or to avoid POTW worker health and safety problems.

POTW (publicly owned treatment works). The complete sewage disposal, transportation and treatment system of the city as defined by the Act and this chapter, including any devices, processes and systems used in the storage, treatment, recycling or reclamation of wastewater, sewage or sludge, as well as sewers (including all mains and intercepting sewers), pipes and other conveyances used to collect or convey wastewater or sewage to the treatment works, as now or hereafter added to, extended or improved. The term "POTW" shall also include any sewers outside the city that convey wastewaters to the POTW from persons who are, by contract or agreement with the city, users of the POTW. References in this chapter to approvals, determinations, reviews, etc., "by the POTW" shall mean by the city manager, or the city manager's authorized representatives. The term "POTW" may also be used to refer to the city as the municipality that has jurisdiction over the discharges to, and discharges from, the treatment works, or to the wastewater treatment plant and its designated representatives, as appropriate to the context in which the term is used.

POTW treatment plant. The portion of the POTW that is designed to provide treatment (including recycling or reclamation) of wastewater.

POTW superintendent or *superintendent* means the city's POTW superintendent, or his or her designees or authorized representatives. References to "POTW superintendent" or "superintendent" shall include the superintendent's authorized representatives.

Premises means a lot, tract, parcel or plot of land, or a building or structure, or any part thereof, having any connection, directly or indirectly, to the POTW, or from which there is a discharge to the POTW.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or instead of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process changes; or other means, except as prohibited by 40 CFR Section 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings, all subject to applicable requirements of local, state and federal laws and regulations.

Pretreatment requirement means any substantive or procedural requirement imposed on a user related to pretreatment, other than a national pretreatment standard.

Pretreatment standard means any regulation containing pollutant discharge limits promulgated in accordance with Section 307(b) and (c) of the Act or Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., including general and specific prohibitive discharge limits and local limits established in this Chapter pursuant to MAC R 323.2303, and categorical standards.

Private sewer line means any sewer service line, equipment, or facilities for the disposal of wastewater installed or located on any premises and/or within the street right-of-way that transports wastewater from the premises to the public sewer, such as the building sewer and the lateral sewer, an including any structure or facility that exists on the premises.

Private wastewater disposal system means a cesspool, septic tank, cesspool or similar device, or part thereof, not connected to a public sewer.

Process wastewater means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Properly shredded garbage or other solid material means garbage or other solid material that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the POTW (or so as to otherwise not result in interference), with no particle greater than one-half inch in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

Reasonable potential. As used in this chapter, a determination of "reasonable potential" by the city means a determination made by the city manager or the POTW superintendent that a certain condition, state, result or circumstance exists, or is likely to exist, based upon the quantitative or qualitative factors or information deemed by the city manager or the POTW superintendent to be relevant and appropriate to the determination, consistent with the purposes and objectives of this chapter.

Receiving facility means a structure that is designed to receive septage waste for treatment at a wastewater treatment plant or at a research, development and demonstration project authorized under section 1151 1b of the NREPA to which the structure is directly connected, and that is available for that purpose as provided for in an ordinance of the local unit of government where the structure is located or in an operating plan. Receiving facility does not include either of the following:

(a) A septic tank.

(b) A structure or a wastewater treatment plant at which the disposal of septage waste is prohibited by order of the DEQ under section 11708 or 11715b of the NREPA.

Replacement costs means expenditures for obtaining and installing equipment, accessories, or appurtenances that are necessary to maintain the capacity or performance during the service life of the system for which the system was designed or constructed.

Residential dwelling means any structure designed for habitation, including but not limited to houses, mobile homes, apartment buildings, condominiums, and townhouses where each dwelling unit contains, at a minimum, sleeping facilities, a toilet, a bath or shower, and a kitchen.

Sanitary sewage. See "domestic waste."

Sanitary sewer means a sewer intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, and to which storm, surface and ground waters are not intentionally admitted.

Sanitary sewer cleanout septage means sanitary sewage or cleanout residue removed from a separate sanitary sewer collection system that is not land applied and that is transported by a vehicle licensed under Part 117 of Act 451 of the Public Acts of Michigan of 1994 (MCL §§ 324.11701 et seq., as amended; "Septage Waste Servicers") elsewhere within the same system or to a receiving facility that is approved by MDEQ.

Seepage pit means a cistern or underground enclosure constructed of concrete blocks, bricks or similar material loosely laid with open joints so as to allow the overflow or effluent to be absorbed directly into the surrounding soil.

Septage waste means the fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin which is removed from a wastewater system. Septage waste consists only of food establishment septage, domestic septage, domestic treatment plant septage, or sanitary sewer cleanout septage, or any combination of these. Septage waste does not include food establishment septage or any substances or mixture not expressly defined as septage waste in this ordinance.

Septic tank means a watertight receptacle receiving sewage and having an inlet and outlet designed to permit the separation of suspended solids from sewage and to permit such retained solids to undergo decomposition therein.

Service area means:

(a) The entire area within a 15 mile radius of the city wastewater treatment plant; to later be set to the state set area of 25 mile radius of the city wastewater treatment plant upon the plant reaching treatment capacity for those additional septage wastes.

Service connection means the portion of the public sewer which extends either to or onto the parcel of land adjacent to the path of the public sewer, and includes the sewer main, tee/wye, valve, check valve, connector pipes, the sewer lead, the grinder pump system, electrical controls and connections at the electric meter (but not including the meter) and appurtenances, but not including the building sewer.

Severe property damage means substantial physical damage to property, or damage to treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean an economic loss caused by delays in production.

Sewage. See "wastewater."

Sewer means any pipe, tile, tube or conduit for carrying wastewater or drainage water.

Sewer lead means that portion of the service connection that connects to the sewer main located in the public right-of-way and extends to the property line.

Sewer rates, fees and charges means the rates, fees, charges and surcharges for use of the POTW as established from time to time by resolution of the city council. Such rates, fees and charges include debt service charges required to retire debts resulting from capital or other costs incurred to contract, improve, expand, repair, maintain or replace a part of the POTW and sufficient and proportionate use charges required of all users for the cost of POTW operation, maintenance, repair, replacement, and improvement. Surcharges and other rates and fees may also be charged for wastes in amounts or concentrations regarding extra treatment services or costs or as required for exceeding established limits.

Shall is mandatory.

SIC or *Standard Industrial Classification Code* means a classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

Significant industrial user or *SIU* means any user:

(a) Subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or

(b) Any other user that:

(1) Discharges to the POTW an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater); or

(2) Contributes a process waste stream that makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(3) Is otherwise designated by the POTW as a significant industrial user on the basis that the user has a reasonable potential to adversely affect the operation of the POTW, to violate any pretreatment standard or requirement, or because the POTW determines that a nondomestic user permit for the user's discharge is required to meet the purposes and objectives of this chapter. The POTW superintendent may determine that a user that meets the criteria of subsections (b)(1) and (b)(2) of this definition above is not currently an SIU, if the POTW superintendent finds that the user has no reasonable potential to adversely affect the operation of the POTW, to violate any pretreatment standard or requirement, or that a nondomestic user permit is not required to meet the purposes and objectives of this chapter and as defined in 40 CFR 403.12[a]. A determination that a user is not an SIU (or that a permit is therefore not required) shall not be binding and may be reversed by the POTW superintendent at any time based on changed circumstances, new information, or as otherwise determined necessary by the POTW superintendent to meet the purposes and objectives of this chapter.

Significant non-compliance (SNC) The event of any one or more of the following having occurred.

(a) Chronic violations of wastewater discharge limits, defined as where 66 percent or more of all the measurements accepted by the city taken for the same pollutant parameter during a six month period exceed (by any magnitude) any applicable maximum limit including an instantaneous limit.

(b) Technical review criteria (TRC) violations, defined as where 33 percent or more of all the measurements accepted by the city for each pollutant parameter taken during a six month period equal or exceed the product of any applicable TRC (1.4 for BOD, TSS, fats, oil and grease; and 1.2 for any other pollutant except pH).

(c) Any other violation of a pretreatment limit that the superintendent determines has caused, alone or in combination of other discharges, interference or pass through, or endangerment of the health of WWTP personnel or the general public.

(d) Discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the city's exercise of its emergency authority to halt or prevent such discharge under 40 CFR 403.8(f)(1)(vi)(B).

(e) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order (administrative or judicial) for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within 30 days after the due date, required reports, including, without limitation, such reports as BMR's, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately or fully report non-compliance.

(h) Any other violation or group of violations, which may include violation(s) of BMP's which the city determines will, or has, an adverse effect on the operation of the wastewater system or implementation of the local pretreatment program.

(i) Any other violation which meets one or more of the listed criteria to assure compliance as set forth in 40 CFR 403.8(f)(2)(vii).

Sludge means accumulated solid material separated from liquid waste as a result of the wastewater treatment process.

Slug discharge means any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

State means the State of Michigan. The term shall include, where applicable, any administrative agency of the state having jurisdiction in the subject matter of this chapter, including (but not limited to) the MDEQ.

Storm sewer or *storm drain* means a sewer or drain, either natural or artificial, intended to carry storm water, snowmelt, and surface runoff and drainage, but not wastewater.

Storm water means any flow (such as storm water runoff, snow melt runoff, and surface runoff and drainage, but excluding wastewater) occurring during or following, and resulting from, any form of natural precipitation, and is that portion of flow in excess of that which infiltrates into the soil of the drainage area.

Surcharge means the additional charges made by the POTW for the treatment of wastewater containing pollutants in excess of specified concentrations, loadings or other applicable limits, or for other purposes specified by this chapter.

Suspended solids (SS) or *total suspended solids (TSS)* means solids that float on the surface of, or are suspended in, water, wastewater, or other liquids and which can be removed by laboratory filtering or other standard methods.

Time-proportional composite sample means a combination of individual samples of equal volume taken at equal intervals of time, without consideration of the volume or rate of flow.

Toxic pollutant means any pollutant or combination of pollutants that is or can potentially be harmful to the public health, the POTW, or the environment, including, without limitation, those listed in 40 CFR 401.15 as toxic under the provisions of the Clean Water Act, or listed in the Critical Materials Register promulgated by the MDEQ, or as provided by local, state or federal laws, rules or regulations.

Trucked or hauled waste or pollutants. Any waste or wastewater proposed to be discharged to the POTW from a mobile source, including, without limitation, holding tank waste, septage waste or leachate.

Trunk line means the main public sewer line located under any street or within any public right-of-way that collects and transmits the sewage of the various properties served by the sewer system.

ug/l means micrograms per liter.

Upset means an exceptional incident in which there is unintentional and temporary non-compliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof and as further defined in 40 CFR 403.16.

User means any person who contributes, causes or permits the contribution, introduction or discharge of wastewater into the POTW, whether intentional or unintentional, and whether directly or indirectly.

User permit means a nondomestic user permit or a general user permit.

Wastewater means the liquid and water-carried industrial or domestic waste from residential dwellings, commercial buildings, industrial facilities, and institutions (including, without limitation, contaminated groundwater and landfill leachate), whether treated or untreated, that is contributed, introduced or discharged into the POTW. The term includes any water that has in any way been used and degraded or physically or chemically altered.

Wastewater system means the WWTP as well as all public sewers and other facilities owned by or over which the city has operational responsibility and control for collecting, sampling, monitoring and pumping wastewater.

Wastewater treatment plant or *WWTP* The City of Greenville's WWTP, located at 205 E. Fairplains, Greenville, MI. 48838.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Waters of the state means all rivers, 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 of Michigan or any portion thereof, and as otherwise specified by applicable laws and regulations.

Waters of the United States means all waters as defined by 40 CFR 122.2 and as otherwise specified by applicable laws and regulations.

Wye Branch means a local service connection to the sewer that is made at an angle similar to a "Wye" so that a sewer cleaning rod will not come into the sewer at a right angle and penetrate the far side, but will travel down the course of the sewer.

(Ord. No. 13-04 , § 2, 7-16-2013; Ord. No. 20-01 , § 1, 2-18-2020)

DIVISION 2. USE OF PUBLIC SEWERS REQUIRED

Sec. 44-118. Unlawful deposition.

It shall be unlawful for any person to place, deposit or permit to be deposited, any human or animal excrement, garbage, wastewater pollutants, or other objectionable waste, upon or below, the surface of public or private property within the jurisdiction of the city, except by discharging such wastewater into an approved connection to a public sanitary sewer where available or an approved private wastewater disposal system.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-119. Discharge prohibited without required approvals, permits, and treatment.

Except as otherwise expressly permitted by local, state and federal laws and regulations, and subject to obtaining all required permits and approvals from governmental agencies (including, without limitation, the city, the MDEQ, and the U.S. EPA) and providing any required treatment, it shall be unlawful to discharge, or permit or cause to be discharged, either directly or indirectly:

(a) Polluted water, sewage or wastewater to any natural outlet within the city, to any waters of the state (or waters of the United States), or to any public sewer; or

(b) Unpolluted water of any kind, including, without limitation, storm water, surface water, groundwater, roof runoff, artesian well water, drainage water (surface or subsurface), industrial non-contact cooling water, air-conditioning water, swimming pool water, or industrial process waters to any sanitary sewer. Unpolluted water may be discharged only to a sewer that is specifically designated as a storm sewer or to a natural outlet, and only if all applicable permits and approvals have first been obtained from the POTW and other governmental bodies or agencies, and only if not prohibited by applicable local, state or federal laws or regulations.

(c) If any person drains or discharges any unpolluted water by means of conductors, eaves troughs, roof downspouts, footing drains, or otherwise, directly or indirectly, into a storm sewer, or natural outlet in

violation of applicable laws or regulations, or into a sanitary sewer, the POTW shall order its disconnection at the property owner's expense, and if the property owner refuses to obey the order of the POTW, then the POTW shall disconnect the connection and the costs shall be charged to the property owner.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-120. Unlawful construction.

Except as hereinafter provided, and unless specifically authorized by the county health department, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for disposal of wastewater.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-121. Required connection to available sanitary sewer.

(a) The owner of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located a public sanitary or combined sewer of the city, is hereby required at his expense to install suitable toilet facilities and other sanitary conveniences, therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this division, Michigan law and Michigan health regulations or codes.

(b) The requirement of public sewer connection set forth in subsection (a) shall not apply to properties comprised of 20 or more acres engaged in agricultural use, with one or more building(s) existing prior to the adoption of this ordinance, located more than 250 feet from the nearest existing public sewer connection that will be used for office or storage purposes with water use and wastewater production limited to restroom use by employees. Such properties shall be governed by chapter 44, article IV, division 3 of this Code regarding private sewage disposal.

(Ord. No. 13-04 , § 2, 7-16-2013; Ord. No. 17-02 , § 1, 5-2-2017)

Sec. 44-122. Waste discharge prohibited except through approved sewer connection.

All discharges to a sewer shall be through an approved sewer connection or at another discharge point expressly approved by the city in accordance with this chapter. No person shall discharge any waste or other substances into a manhole, catch basin or inlet.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 3. PRIVATE WASTEWATER DISPOSAL

Sec. 44-123. Private treatment and disposal requirements.

If a public sanitary sewer is not available under the provisions of division 2, or if the city has determined that connection to the public sewer is otherwise impractical, the building sewer shall be connected to a private sewage disposal system complying with all requirements of this division, the county health department, and any other applicable laws and regulations.

(a) Before commencement of a private sewage disposal system, the property owner shall first apply to the county health department for a soil evaluation test. If the soil evaluation test shows positive results, the property owner shall then apply to the county health department for a permit for installation for the proposed sewage system. The application shall include plans, specifications and other information as deemed necessary by the county health department. All fees for the soil evaluation test and the permit for installation shall be fully paid by the property owner to the county health department when and in the amounts specified by the county health department.

(b) A permit shall not be issued for any private wastewater disposal system employing subsurface soil absorption facilities if the area of the lot is less than determined necessary by the city, the county health department, or the state, as applicable.

(c) A permit for a private sewage disposal system shall not become final and effective until the installation is completed to the satisfaction of the county health department. The county health department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the county health department when the work is ready for final inspection, and before covering any underground portions. Any person receiving a permit for a private sewage disposal system from the county health department shall provide the city with copies of the final approved inspection report issued by the county health department.

(d) The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations and requirements of the city, the county health department, and the state, as applicable.

(e) No septic tank, cesspool, subsurface disposal facility or other private sanitary sewer system shall be permitted to discharge to any public sewer or natural outlet.

(f) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-124. Additional public health requirements.

Nothing in this division shall be construed to interfere with any additional requirements that maybe imposed by the city, the Michigan Department of Public Health, or any other governmental agency.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-125. Public sewer becomes available.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in division 2, a direct connection shall be made to the public sewer in compliance with this chapter at the user's sole expense; and any septic tanks, cesspools and similar private sewage disposal facilities shall be cleaned of any sludge, abandoned, and filled with clean bank-run gravel or dirt, at the user's sole expense.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 4. BUILDING SEWERS AND CONNECTIONS

Sec. 44-126. Permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any part or appurtenance of the sanitary sewer system without first obtaining a written building sewer connection permit from the city.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-127. Building sewer connection permits; plumbing permits; street openings.

The property owner or the owner's agent shall make application for a building sewer connection permit on a form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information determined necessary and appropriate by the city. A connection fee and an inspection fee in the amounts as prescribed by the city from time to time shall be paid to the city treasurer at the time the application is filed. A plumbing permit is also required. If a street opening is required to make the lead connection, an additional attachment to the permit application must be completed. If the plans and specifications are approved by the city, a temporary construction permit shall be issued, subject to a final inspection and approval by the city when construction is completed and ready for connection with the public sewer.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-128. Performance bonds; insurance.

(a) Before any permit is issued by the city for excavating for plumbing or drain laying in any public street, way, or alley, the person applying for the permit may be required to execute and deposit with the city a performance bond with corporate security in the amount of the contracted or estimated work, conditioned upon faithful performance of all work with due care and skill, and in accordance with the laws, rules, and regulations established by the city pertaining to sewers and plumbing. This bond shall state that the person will indemnify and save harmless the city and the owner of the premises against all damages, costs, expenses, outlays, and claims of every nature and kind arising out of mistake or negligence on the person's part in connection with plumbing, sewer line connection, or excavating for plumbing or sewer connection as prescribed in this section. The bond shall remain in force and must be executed for a period of one year, except that, upon expiration, it shall remain in force as to all penalties, claims, or damages that may have accrued there under prior to the expiration.

(b) The person applying for the permit shall also provide public liability insurance for the protection of the city, the property owner, and all persons, to indemnify them for all damages caused by accidents attributable to the work, with minimum limits of $1,000,000.00 for one person, $300,000.00 for bodily injuries per accident, and $50,000.00 for property damages.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-129. Multiple buildings; separate uses within buildings.

A separate and independent building sewer shall be provided for each building. However, if any existing building is located on an interior lot so that a separate, independent building sewer is not available for the building, and one cannot be constructed to the building through an adjoining alley, courtyard or driveway, more than one building may be served with the same building sewer, subject to approval by the city manager. In areas where laterals have not been made, or where unusual lot splits have occurred, leaving only one lateral for two properties, joint use of this lateral may be approved by the city manager with the connection to the city sewer

being allowed if determined consistent with the purposes and objectives of this chapter by the city manager. Independent building sewers and/or control manholes may also be required for separate uses within a building, as determined necessary by the city manager. All discharge limits contained in this chapter shall apply to that portion of the lateral emanating from a single building or from each separate use within a building, as applicable. Compliance with pretreatment standards or local discharge limits prescribed by this chapter shall be determined based on each separate discharge to the common lateral prior to commingling with discharges from other sources.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-130. Existing building sewers.

Old building sewers may be used in connection with new buildings only if they are found, on examination and tested by the city to meet all requirements of this chapter and other applicable laws and regulations. If an inspection by the city reveals that a connection may create a health or environmental hazard, nuisance, or is otherwise inconsistent with the purposes and requirements of this chapter, the building sewer shall be reconstructed or repaired at the owner's expense.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-131. Construction specifications.

The pipe size, slope, alignment, materials or construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes, or other applicable rules and regulations as specified and determined by the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing Materials (ASTM) and the Water Pollution Control Federation (WPCF) Manual of Practice No. 9 shall apply. All newly constructed building sewers shall have a properly sized cleanout at the head of said sewer that is accessible at all times. This cleanout shall allow access of sewer cleaning equipment of a size equivalent to the size of the building sewer.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-132. Building sewer elevation and location.

Whenever possible, the building sewer shall be brought to the buildings at an elevation below the basement floor. No building sewer shall be laid parallel to, or within three feet of, any bearing wall that might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade. The line shall be straight or laid with properly curved pipe and fittings. Changes in direction shall be made with no less than a 45 degree bend. Each bend of 45 degrees or more shall have an accessible cleanout. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the city. Pipe laying and backfill shall be performed in accordance with current ASTM specifications, except that no backfill shall be placed until the city has inspected the work.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-133. Floor drains; backflow valve devices.

Floor drains connected to the building sewer shall be required for all basements or cellars if the elevation of the public sanitary sewer will service the building. All required floor drains shall have check valves or backflow preventers that meet current laws and regulations as determined by the city.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-134. Low building sewers.

In all buildings in which any building sewer is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drains shall be lifted by artificial means and discharged to the building sewer, at the owner's expense, and subject to approval by the city.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-135. Connection specifications.

The connection of the building sewer into the sanitary sewer system shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications, which shall require that the connections shall be made gas-tight and watertight. All connections and joints, and any deviation from the prescribed procedures and materials, must be approved by the city before installation. The connection of the building sewer into the public sewer shall be made at the wye branch designated for the property if such branch is available at a suitable location. Any connection not made at the designated wye branch in the main sewer shall be made only as directed by the city.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-136. Notification; building sewer inspection.

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

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-137. Protection and restoration.

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

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-138. Capacity required.

Connection to a public sewer will not be allowed unless there is capacity available (in both wastewater volume and strength) at the POTW treatment plant and in all downstream sewers, pump stations, interceptors, and force mains, including, but not limited to, adequate capacity to accept, treat and dispose of BOD, TSS, or similar materials as required by applicable local, state or federal laws, rules or regulations, as determined by the POTW.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-139. Connection to sources of runoff prohibited.

No person shall connect (or allow to remain connected) roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain that in turn is connected directly or indirectly to a public sanitary sewer. Any such connection shall be permanently disconnected at the sole expense of the owner of the premises.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-140. Pretreatment of any discharge may be required.

Pretreatment of any discharge to the public sewer, including, but not limited to, grease, oil, and sand interceptors, shall be provided when, in the opinion of the POTW, they are necessary.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 5. CONDITIONS OF SERVICE

Sec. 44-141. Responsibilities and liabilities for private sewer lines.

(a) All costs and expenses incident to the installation, connection, maintenance, and repair of a building sewer, lateral sewer, and any other private sewer lines shall be borne solely by the property owner. Further, the property owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of any private sewer line.

(b) The City or a contractor hired or approved by the city shall construct any needed lateral sewer from the trunk line to the property line. The property owner shall pay all costs of such construction, including costs to construct any portion of the lateral within the public right-of-way.

(c) The property owner shall maintain, clean and repair any private sewer lines on the property at the property owner's expense as necessary to keep the private lines free and clear of obstructions and in good working order, and shall maintain and keep clear of obstructions the lateral sewers servicing the property.

(d) The city shall maintain, clean, and repair as necessary and at the city's expense the sewer trunk lines, but shall not be responsible for cleaning, maintenance, repair of, or liability for, private sewer lines, including, but not limited to, the building sewer and the lateral sewer.

(e) If there is a dispute as to whether needed maintenance, cleaning, or repair of a portion of sewer line is the responsibility of the property owner or the city under the provisions of this chapter, it shall be the duty of the property owner to establish that the obstruction, disrepair, or defect has occurred in that portion of the public sewer for which the city is responsible. If the property owner fails to establish the city's responsibility, it shall be the property owner's responsibility to perform the necessary cleaning, maintenance, and repair as provided in this chapter. If the city's responsibility is established, the city shall perform the necessary cleaning, maintenance, or repair and shall reimburse the property owner for reasonable expenses incurred in locating the defect in the line or in otherwise establishing the city's responsibility.

(f) Any property owner who violates the provisions of this chapter shall be liable to the city for all costs, expenses, and damages incurred by the city in correcting the problem. Further, if any property owner fails to maintain a private sewer line as required by this chapter, in addition to the other penalties prescribed, the private sewer may be declared a public nuisance by the county health department and the problem may be

corrected by the city. Any costs so incurred by the city shall be assessed against the property and become a lien on the property if not timely paid.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-142. Water meters.

All users shall have meters on all water sources that ultimately discharge into the POTW or shall meter the liquid wastes at the point of discharge into the POTW. All meters shall be approved by the city.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-143. Disruption of service.

The city shall not be held responsible for claims made against it by reason of the breaking of any sewer or service laterals, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-144. Service inspections.

All premises receiving sanitary sewer service shall at all times be subject to inspection by duly authorized personnel of the city.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 6. REGULATION OF DISCHARGES TO THE POTW

Sec. 44-145. Discharge prohibitions.

No person shall discharge to the POTW except in compliance with this chapter.

The general discharge prohibitions under section 44-145(a) and the specific discharge prohibitions under section 44-145(b) apply to every person whether or not the person is subject to any other national, state or local pretreatment standards or requirements, and whether or not the discharge is made pursuant to a user permit issued pursuant to this chapter. These prohibitions may be established or modified by resolution of the city council from time to time consistent with current national, state or local standards and requirements.

(a) *General prohibitions.* No person shall contribute or cause to be contributed, directly or indirectly to the POTW, any pollutant or wastewater that will pass through or interfere with the operation or performance of the POTW.

(b) *Specific prohibitions.* No person shall discharge or contribute to the POTW, directly or indirectly, any of the pollutants, substances, or wastewater as provided by this subsection. This subsection sets forth the minimum requirements for a user's discharges to the POTW. Additional or more restrictive requirements may be required of particular users by a user permit, or as otherwise authorized or required by this chapter or other applicable laws and regulations.

(1) *Concentration limits.* Except as otherwise provided by section 44-145(b)(2), pollutants in concentrations that exceed the daily maximum or monthly average concentrations ("standard local limits") listed below in this subsection:

Parameter	IM (mg/l)[1] /Daily Max. (mg/l)[1] /Monthly Avg. (mg/l)[1]
Ammonia Nitrogen	22
Arsenic	0.10
Cadmium	0.062
Chromium (T)	7.41
Copper	1.21
Cyanide	1.20
Lead	0.36
Mercury	NQ[2]
Molybdenum	0.05
Nickel	1.69
Selenium	1.15
Silver	0.41
Zinc	0.81
$CBOD_5$	270
Phosphorous (T)	10
TSS	225
FOG	100

Notes:

IM = Instantaneous Maximum Limit.

T = Total

1. Discharges that contain more than one pollutant that may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the POTW. The more restrictive discharge limits will be calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge, including, without limitation, the specific compounds, if any, listed in section 44-145(b) of this chapter. Also, see section 44-149, regarding application of most restrictive or additional standards or requirements under local, state, and federal laws and regulations. A user may request the city to develop alternative limits to the standard local limits for specific compatible pollutants ("special alternative limits" or "SALs") as provided by section 44-145(d).
2. NQ = Non-quantifiable concentration, defined as at or below the quantification level of 0.2 ug/l using U.S. EPA Method 245.1 (or at or below other quantification levels applicable under alternative test methods required by the POTW or by other applicable laws or regulations). Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring of a user's discharge shall be in accordance with U.S. EPA method 245.1, unless the POTW superintendent requires U.S. EPA Method 1631 (or other appropriate method). The quantification level shall be 0.2 ug/l for Method 245.1 or 0.5 ng/l for Method 1631, unless higher levels are approved by the POTW Superintendent because of sample matrix interference. Any discharge of mercury at or above the level of quantification is a specific violation of this chapter.
3. Any discharge of CBOD in excess of 225 mg/l shall be subject to surcharge as provided by this chapter.

4. Any discharge of phosphorus (T) in excess of 18.3 mg/l shall be subject to surcharge as provided by this chapter.

5. Any discharge of TSS in excess of 225 mg/l shall be subject to surcharge as provided by this chapter.

6. Any discharge of FOG in excess of 100 mg/l shall be subject to surcharge as provided by this chapter.

7. Any discharge of Ammonia Nitrogen in excess of 22 mg/l shall be subject to surcharge as provided by this chapter.

The IMC, daily maximum, and monthly average limits listed above in this section 44-145(b)(1) (or as listed elsewhere in this chapter or in any user permit or order) for each pollutant parameter are the concentrations which may not be exceeded and at which enforcement begins. The surcharge threshold concentrations as specified in notes 3 through 7 (above) are the concentrations above which surcharges may be imposed.

Discharges exceeding the surcharge thresholds, but which are less than the IMC, daily maximum, and monthly average limits (and which do not violate any other applicable prohibitions, limitations, standards, or requirements), are not violations of this chapter, but are subject to surcharges as provided by this chapter. All violations of applicable discharge prohibitions and limitations and all instances of non-compliance with applicable discharge requirements constitute a violation of this chapter, subject to applicable fines, penalties and other enforcement actions. In no event shall the imposition of a surcharge for a discharge that does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this chapter.

(2) *Headwork's mass limits.* In place of using the concentration limits provided in section 44-145(b)(1), the POTW superintendent may allocate specified portions of the available total load to individual users as provided by this section 44-145(b)(2).

a. As of the effective date of this chapter, the following total loads are available for the following pollutant parameters:

Parameter	Daily Maximum Load Limit (total lbs/day)/Monthly Average Load Limit (total lbs/day)	Daily Maximum Load Limit (total lbs/day)/Monthly Average Load Limit (total lbs/day)—Allocated to Existing Industries	Daily Maximum Load Limit (total lbs/day)/Monthly Average Load Limit (total lbs/day)—Available for Future Allocation
$CBOD_5$	1157	606	551
TSS	293	290	3
Phosphorus (T)	69	68.4	0.6
Ammonia Nitrogen	111	47	64

b. The POTW superintendent may allocate portions of the available total load for one or more of the parameters listed above to one or more individual users. The amounts of the load(s) allocated to each user shall be specified in the user's user permit, along with any conditions as determined necessary by the POTW superintendent. Any discharge by a user in excess of the loading allocated to the user in the user permit shall constitute a violation of the user permit and this chapter.

c. Before allocating any amount of the available total load as provided by this section, the POTW superintendent must determine that the proposed allocation will not cause the average composite loading of all users discharging to the POTW to exceed the available total loading for any pollutant as provided by section 44-145(b)(2)a.; will not interfere with the POTW's ability to accept and treat wastewater as required by the POTW's NPDES permit and other applicable laws and regulations; and that the allocation is otherwise reasonable and appropriate under all of the circumstances.

d. If the POTW superintendent allocates a portion of the available total loading for some, but not all, of the pollutants listed in section 44-145(b)(2)a. to a user, any pollutants not allocated a portion of the available total loading shall be subject to the concentration limits provided by section 44-145(b)(1).

e. The allocation of a portion of available total load for a pollutant to an individual user shall not affect the applicability of surcharges to the user's discharge of that pollutant as provided by section 44-145(b)(1).

f. Except as otherwise expressly provided by this section, an allocation of load for a pollutant parameter shall not affect a user's obligation to comply with the requirements and standards of this chapter and other applicable laws and regulations.

(3) Pollutants in concentrations that exceed the instantaneous maximum, daily maximum or monthly average concentrations listed below in this subsection:

Parameter:

PCBs: The instantaneous maximum, daily maximum, and monthly average discharge limit for PCBs is non-detect. Except as otherwise required by the POTW superintendent, compliance with this limit shall be determined as follows:

A compliance limit of "non-detect" shall be used for instantaneous maximum, daily maximum, and monthly average. Any discharge of PCBs at or above the quantification level is a specific violation of this chapter. PCB sampling procedures, preservation and handling, and analytical protocol for compliance monitoring of a user's discharge shall be in accordance with U.S. EPA method 608. The quantification level shall be 0.1 ug/l, unless higher levels are determined appropriate by the POTW Superintendent because of sample matrix interference. Total PCBs shall be defined as the sum of the Aroclors 1016, 1221, 1232, 1242, 1248, 1254 and 1260. In addition, any detected Aroclor specific measurements shall be reported.

(4) Any liquid, solid, gas or other pollutant (including, but not limited to, gasoline, benzene, naphtha, fuel or fuel oil) which by reason of its nature or quantity is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or be injurious in any other way to persons, the POTW, or to the operation of the sewerage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140º F or 60º C using test methods specified in 40 CFR 261.21.

(5) Pollutants that may cause corrosive structural damage to the POTW, or that due to their corrosive properties are capable of causing injury to persons or POTW personnel or harm to fish, animals or the environment. Discharges that have a pH lower than 6.0 s.u. (instantaneous minimum limit) or greater than 9.5 s.u. (instantaneous maximum limit) shall not be discharged.

(6) Any solid, insoluble or viscous substance in concentrations or quantities which may cause obstruction to the flow in the POTW, may create an encumbrance to the POTW operations, or which otherwise may result in interference, including, but not limited to, grease, animal entrails or tissues, bones, hair, hides or fleshings, whole blood, feathers, ashes, cinders, sand, cement,

spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes or tumbling and deburring stones; or any material that can be disposed of as trash.

(7) Any pollutant, including, but not limited to, oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration that may cause pass through or interference with the POTW or constitute a slug load, or is otherwise discharged to the POTW in excessive amounts.

(8) Wastewater (or vapor) having a temperature that will inhibit biological activity in the POTW or result in interference, or heat in such quantities that the temperature at any lift station or at the POTW treatment plant exceeds 104º Fahrenheit (40º C). No discharge to the POTW shall have a temperature less than 40º Fahrenheit (4.4º C) or greater than 135º Fahrenheit (57.2º C), unless approved in advance by the POTW Superintendent.

(9) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that may cause interference or pass through.

(10) Pollutants that result in the presence of gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems. This prohibition includes, but is not limited to, wastewaters which contain liquids, solids or gases that cause gases, vapors or fumes from the discharge to exceed ten percent of the immediately dangerous to life and health (IDLH) concentration. Discharges that contain more than one pollutant that may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the POTW. The more restrictive discharge limits shall be calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge.

(11) Trucked or hauled pollutants, except those introduced into the system at discharge points designated by the POTW, subject to the prior approval of the city and prior issuance of a user permit.

a. The POTW superintendent shall determine whether to allow the discharge of trucked or hauled pollutants based on the particular nature, character or quantity of the proposed discharge in accordance with the discharge prohibitions, limitations and requirements provided by this division.

b. The city may impose any conditions on the discharge determined necessary to ensure compliance with this division, including, without limitation, conditions regarding the time, place, and manner of discharge, restrictions on the quantity and quality of the discharge, and sampling requirements.

c. The discharge shall not commence without prior notice to, and authorization from, the city, and a representative of the POTW shall be present at all times during the discharge.

d. All trucked or hauled wastes to be discharged to the POTW must be accompanied by a completed waste manifest form signed by the permittee and the hauler as provided by the minimum requirements of this section. The permittee shall certify in writing on the manifest as to the source of all wastes in the load proposed to be discharged and that the wastes have been pretreated as required by applicable pretreatment standards and requirements. The hauler shall certify in writing on the manifest that the hauler has accepted no wastes other than those listed on the manifest. The manifest must be reviewed by the POTW superintendent prior to commencing discharge of the load. Failure to accurately record every load, falsification of data, or failure to transmit the form to the POTW superintendent for review prior to discharge shall constitute a violation of the

permit and may result in revocation of the permit and/or the imposition of fines and penalties as provided by this division.

e. The permittee's discharge of hauled wastes shall be subject to sampling by the POTW at any time, including, without limitation, prior to and during discharge. The POTW superintendent may require the permittee to refrain from, or suspend, discharging until the sample analysis is complete.

f. Trucked or hauled pollutants will be accepted only if transported to the POTW in compliance with state and federal hazardous waste and liquid industrial waste laws.

g. Each discharge of trucked or hauled pollutants will be accepted only after payment to the POTW of a trucked or hauled pollutant discharge fee to cover the POTW's administrative, consulting and legal expenses, and any additional treatment, handling or inspection expenses incurred by the POTW in connection with the discharge. The fee shall be established, paid, and collected as provided for IPP fees by division 23. This discharge fee shall be in addition to any sewer rates, fees, charges, or surcharges otherwise required by this chapter.

(12) Wastewater with objectionable color or light absorbency characteristics that may interfere with treatment processes or analytical determinations, including, without limitation, dye wastes and vegetable tanning solutions.

(13) Any garbage or other solid material that has not been properly shredded.

(14) Solvent extractibles, including, without limitation, oil, grease, wax, or fat, whether emulsified or not, in excess of applicable local limits; or other substances that may solidify or become viscous (with a viscosity of 110 percent of water) at temperatures between 32º Fahrenheit and 150º Fahrenheit in amounts that may cause obstruction to the flow in sewers or other interference with the operation of the POTW.

(15) Soluble substances in a concentration that may increase the viscosity to greater than ten percent over the viscosity of the water or in amounts that will cause obstruction to the flow in the POTW resulting in interference.

(16) Any substance that exerts or causes a high or unusual concentration of inert suspended solids, as determined by the POTW superintendent, including, but not limited to, lime slurries, diatomaceous earth and lime residues.

(17) Any wastewater that contains suspended solids of such character, quantity or concentration that special attention is required, or additional expense incurred, to process such materials at the POTW.

(18) Any substance that exerts or causes a high or unusual concentration of dissolved solids, including, but not limited to, sodium chloride or sodium sulfate.

(19) Noxious or malodorous liquids, gases, fumes, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance, cause workplace conditions in violation of any applicable workplace health or safety standard, pose a hazard to life, sufficient to prevent entry into the sewers for maintenance and repair, or cause any hazardous or unsafe conditions for the general public.

(20) Anti-freeze, motor oil, brake fluid, transmission fluid, hydraulic fluid, cleaning solvents, oil-based paint, water-based paint with mercury biocides and paint thinners.

(21) Any radioactive wastes or isotopes of a half-life or concentration that may exceed limits established by applicable city, state or federal laws, rules or regulations.

(22) Any pollutant that results in excess foaming during the treatment process. Excess foaming is any foam that, in the opinion of the POTW superintendent, may interfere with the treatment process.

(23) 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.

(24) Any hazardous waste as defined by this chapter.

(25) Any medical or infectious wastes, as defined by the MDEQ.

(26) Any substance that may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation, reuse or disposal, or otherwise interfere with the reclamation, reuse, or disposal process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; under the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; or any more stringent state or local regulations, as applicable.

(27) Any unpolluted water, including but not limited to, non-contact cooling water, air conditioning water, swimming pool water, stormwater, surface water, groundwater, roof runoff, and surface or subsurface drainage (except to a storm sewer as authorized by this chapter and other applicable local, state, and federal laws and regulations, and subject to the prior approval of the city and the MDEQ).

(28) Any contaminated groundwater or landfill leachate determined by the POTW to have a reasonable potential to adversely affect the operation of the POTW, to result in pass through or interference, or to violate any pretreatment standard or requirement.

(29) Any substance that will cause the POTW to violate its NPDES permit, the receiving water quality standards, or associated local, state or federal laws, rules or regulations.

(30) Any substance which causes a high chlorine demand, including, but not limited to, nitrite, cyanide, thiocyanate, sulfite and thiosulfate.

(31) Any wastewater that exceeds applicable categorical pretreatment standards, requirements or limits prescribed by local, state or federal laws, rules or regulations.

(32) Any compatible or incompatible pollutant in excess of the allowed limits as determined by applicable local, state or federal laws, rules or regulations.

(33) Any sludge, precipitate or waste resulting from any industrial or commercial treatment or pretreatment of any person's wastewater or air pollutants.

(34) Residue (total on evaporation) in an amount that will cause obstruction to the flow in the POTW resulting in interference.

(35) Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment to only such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(36) Any nondomestic wastewater before the POTW has approved a notice of intent submitted according to section 44-174.

(37) Waste not typically discharged to a sanitary sewer system unless specifically authorized by the POTW pursuant to policies and procedures established by the city and subject to limitations set forth in this chapter.

(38) Any mass, concentration or volume of a substance in excess of the amount allowed in a user permit.

(39) Any discharge with an average daily flow greater than two percent of the POTW's average daily wastewater flow, or having a rate of flow (gallons per day) greater than ten percent of the POTW's average daily wastewater flow for a period of one hour or more, except with the prior review and approval of the POTW.

(40) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to:

a. Create a chemical reaction with any materials of construction to impair the strength or durability of sewer structures;

b. Cause a mechanical action that will damage or destroy sewer structures;

c. Impede or restrict the hydraulic capacity of the POTW;

d. Interfere with normal inspection or maintenance of sewer structures;

e. Place unusual demands upon the wastewater treatment equipment or processes by biological, chemical or physical means; or

f. Cause a hazard to human life or create a public nuisance.

(c) *Pollutant reduction plans.* If the city determines that a user has the reasonable potential to discharge any regulated pollutant (including, but not limited to, mercury or PCBs) to the POTW in quantities or magnitude that may cause interference or pass through; adversely impact the POTW, its processes or beneficial use of biosolids; cause non-compliance with applicable federal or state laws or regulations; cause the POTW to violate its NPDES permit, or otherwise fail to meet the purposes and objectives of this chapter, then the city may require the user to develop, submit for approval, and implement a reduction plan ("RP") for the pollutant, as provided by this section. The RP may be imposed as a condition to a user permit, or may be required independently and even if a user permit has not been issued to the user.

(1) At a minimum, the RP shall contain such requirements and conditions, as determined necessary by the city to ensure that the pollutant reduction efforts will be effective in achieving the goals of this chapter (including, but not limited to, requirements and conditions regarding user source identification; best management practices; schedules of compliance; monitoring, sampling and analysis; reporting; treatment system for removal of the pollutant from the discharged wastewater; written procedures for disposal of contaminated wastes and wastewater; employee training, and on-going employee training requirements regarding pollutant related issues; elimination, if feasible, of any purchased materials containing the pollutant; and any other elements determined necessary and appropriate under the circumstances by the city).

(2) The goal of an RP shall be to maintain the amount of one or more pollutants or substances at or below the applicable discharge limits or levels, or such other goals as required by the POTW. The City may, in the city manager's or the POTW superintendent's discretion, consider cost-effectiveness during the development and implementation of an RP.

(3) The city may require any user to submit an RP that describes the control strategy designed to proceed toward achievement of the specified goal and shall at a minimum include, but shall not be limited to, all of the following as determined necessary by the City on a case-by-case basis:

a. Periodic monitoring for the pollutant in the user's discharge.

b. Periodic monitoring of the potential sources of the pollutant in the user's discharge.

c. A commitment by the user that reasonable control measures and/or best management practices will be implemented when sources of the pollutant are discovered. Factors to be considered by the POTW may include the following:

1. Significance of sources.

2. Economic considerations.

3. Technical and treatability considerations.

4. Such other factors as determined appropriate by the city.

d. An annual status report. The report shall be sent by the user to the POTW and shall include, at a minimum, all of the following:

1. All RP monitoring results for the previous year.

2. A list of potential sources of the pollutant in the user's discharge.

3. A summary of all actions taken by the user to reduce or eliminate the identified sources of the pollutant or substance.

(4) As determined necessary by the city, the city manager or the POTW superintendent may require a user to develop, submit and implement an RP for any pollutant or substance regulated by this chapter. The city manager or the POTW superintendent may also modify an approved RP at any time as determined necessary by the to meet the goals and objectives of this chapter.

(5) Failure to submit an approvable RP within the specified deadlines or to fully and timely comply with any condition or requirement of an approved RP shall constitute a violation of this Chapter, subject to the fine, penalty, and other enforcement provisions of this chapter.

(6) Holding enforcement action in abeyance. Except as provided for in subsection 44-145(c)(6)c.4 and 6, if the effluent sample analysis results of a user's discharge exceeds the applicable discharge limit, detection level, or quantification level for a pollutant, the city may, in the city manager's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance, subject to the terms, conditions, and requirements of this subsection 44-145(c)(6), as follows:

a. If an approved RP is already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is already in place, then the city may, in the city manager's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance for the period that the sample represents if the RP (and all terms, conditions and requirements thereof) is being fully and continually performed in good faith by the user, as determined by the city, and subject to all of the requirements and conditions of subsection 44-145(c)(6)c.

b. If an approved RP is not already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is not already in place, then the city may, in the city manager's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement regarding the prohibited discharge in abeyance, subject to all of the requirements and conditions of subsection 44- 145(c)(6)c., and provided further as follows: The user with the non-compliant discharge shall develop and implement an RP approved by the city manager

and or the POTW superintendent to minimize the user's discharges of the pollutant in question to the POTW. The RP shall meet all of the requirements of this Section 44-145(c).

c. The following requirements and conditions shall apply to any situation under this subsection 44-145(c)(6) in which an enforcement action is held in abeyance as provided by this subsection (regardless of whether or not an RP was in place at the time of the non-compliance):

1. The user with the non-compliant discharge shall have a POTW accessible point for monitoring all discharges from the user to the POTW, as approved by the city. All costs and expenses for and related to the installation and maintenance of this monitoring point and any required sampling devices shall be paid for solely by the user.

2. The user with the non-compliant discharge shall routinely self monitor its discharges to the POTW for the pollutant in question using the sampling methods, procedures, preservation and handling, and analytical protocol required by the POTW superintendent and at the frequency specified by the POTW superintendent. All costs and expenses of this sampling and analysis shall be paid for solely by the user.

3. The POTW may collect any additional samples of the user's discharge as determined necessary by the city, all costs and expenses to be paid for by the user.

4. If the user complies with all of the requirements and conditions for the RP as specified by the city; and if the city determines that all reasonable and cost-effective actions based on the economic, technical, and treatability considerations, including, but not limited to, all elements of the user's RP, have been, and continue to be, fully and satisfactorily implemented by the user; and if the user's discharge does not cause interference or pass through; adversely impact the POTW, its processes or beneficial use of biosolids; cause non-compliance with applicable federal or state laws or regulations; cause the POTW to violate its NPDES permit, or otherwise fail to meet the purposes and objectives of this chapter, then the POTW may, in its discretion, hold enforcement action in abeyance and allow the user to continue the non-compliant discharge.

5. Notwithstanding any provision of this subsection 44-145(c)(6) to the contrary, and regardless of whether a user fully complies with all requirements and conditions of this section and/or of an approved RP, the city shall have the unconditional right to prohibit and terminate any non-compliant discharge at any time and without prior notice, and to take any enforcement action in response thereto, including any enforcement action that had previously been held in abeyance under this subsection 44-145(c)(6).

6. Notwithstanding any provision of this subsection 44-145(c)(6) to the contrary, the city shall not hold an enforcement action in abeyance as provided by this subsection for any pollutant parameter other than mercury and PCBs unless the city has first obtained approval from the MDEQ to implement the requirements of this subsection 44-145(c)(6) for the specific pollutant parameter in question.

(d) *Special alternative limits.* Notwithstanding the standard local limits provided by section 44-145(b)(1) and the headworks mass limits provided by section 44-145(b)(2), the POTW may, but shall in no case

be required to, develop alternative user-specific maximum limits for specific compatible pollutants ("special alternative limits" or "SAL"), as provided by this section 44-145(d).

(1) *Prerequisites for SAL development.* Special alternative limits for specific compatible pollutants may be developed for a user, and the resulting SAL may be implemented, subject to meeting all of the following conditions, as determined by the city:

a. All costs and expenses, direct and indirect, associated with developing a SAL for a user shall be paid for by the user, including, but not limited to, the costs of reviewing the user's request for a SAL, all studies and reports, and all monitoring, sampling and generation of data; the full value of any city staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees (including the POTW's legal counsel and any special legal counsel), associated with developing the SAL for the user. At any time prior to or during the SAL development process, the POTW may require a user that requests the development of a SAL to post a performance bond (or other form of surety acceptable to the city manager) sufficient to cover all costs and expenses (direct and/or indirect) that might reasonably be incurred by the POTW as a result of the user's request, as determined necessary by the city manager.

b. A maximum allowable headworks loading (MAHL) study has been done that is representative of the current flow and loading conditions at the POTW and that demonstrates sufficient capacity for the change in the specific pollutant. The MAHL study shall take into consideration the total load from all users and the allocation of load from the study shall be divided as determined appropriate by the POTW superintendent.

c. Any change to the load limits resulting from the SAL shall not:

1. Significantly hinder the capacity of the POTW to accept additional waste from new or existing domestic or nondomestic customers; or

2. Exceed the capacity of the POTW.

d. The POTW has determined that the SAL is reasonable and appropriate under all of the circumstances, and that it is consistent with the purposes and objectives of this chapter, the POTW's NPDES permit, and other applicable laws and regulations.

e. The proposed change to the load limits as a result of the SAL has been submitted to the MDEQ and has received MDEQ approval before implementation.

(2) *SAL review process.* The process for the POTW to determine whether replacing a standard local limit with a SAL is reasonable and appropriate shall be as follows, as determined applicable by the POTW superintendent:

a. The user shall request in writing that the POTW develop a SAL for a particular specific compatible pollutant.

b. The POTW may review the user's request and may require the user to submit any additional information that the POTW determines will be necessary to adequately evaluate the user's request. This information may include, but shall not be limited to, any of the information that is required to be provided in a user permit application as set forth in section 44-154 of this chapter. If deemed necessary by the POTW, a site inspection may be required.

c. The POTW may require a review of historical data from sampling and monitoring the user's discharge, including, but not limited to, concentration and flow data. The user may be required to update this data using any means or methods determined necessary by the

POTW superintendent. The POTW may also require a review of typical discharge concentrations and flows for similar users, and any applicable categorical standards.

d. The POTW shall review the status of the current maximum allowable industrial loadings ("MAIL") for the pollutant for which the SAL is being requested to determine if sufficient loading remains to accommodate all, any part, or none, of the requested SAL.

e. After the proposed SAL and associated monitoring frequency have been prepared, the POTW shall determine whether or not to approve the SAL, or to approve the SAL only subject to whatever conditions the city deems appropriate.

f. If approved, or approved subject to conditions, the user may accept or reject the SAL and associated monitoring frequency. If the user accepts the SAL, the city may revise and reissue the user's discharge permit to incorporate the SAL and associated monitoring frequency, and any other conditions or requirements as determined appropriate by the city.

g. The development of a SAL or implementation of a SAL in a user's discharge permit shall not convey to any person any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, nor any violation of local, state or federal laws or regulations. A SAL may be reviewed, reevaluated, modified, and/or revoked without notice at any time and for any reason determined appropriate by the city. At a minimum, all existing SALs shall be reviewed whenever the POTW's NPDES permit is subject to renewal.

(Ord. No. 13-04 , § 2, 7-16-2013; Ord. No. 20-01 , §§ 2—4, 2-18-2020)

Sec. 44-146. Pretreatment standards and requirements.

(a) *Compliance with applicable standards and requirements.* The national categorical pretreatment standards as established for specific industries under 40 CFR chapter I, subchapter N are hereby made a part of the requirements of this chapter in accordance with federal and state laws and regulations, and are incorporated by reference as if fully set forth in this chapter. A user shall comply with all categorical pretreatment standards and any other pretreatment requirements established under the Act that are applicable to that user. A user shall also comply with all other applicable pretreatment standards and requirements established under this chapter or under state and federal laws and regulations.

(b) *Deadlines for compliance.* Compliance by existing sources with categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified by 40 CFR chapter I, subchapter N. Existing sources that become industrial users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of "new source." New sources shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards and requirements before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards and requirements.

(c) *Alternative categorical limits.* Categorical pretreatment standards shall apply to a user subject to categorical standards, unless an enforceable alternative limit to the corresponding national categorical standards is derived using any of the methods specified in MAC R 323.2313 (regarding removal credits, fundamentally different factor variances, net/gross calculations, equivalent mass per day limitations, and combined wastestream formula alternative limitations). The use of any alternative categorical limit shall be subject to the prior approval of the city. If local limits are more stringent than derived alternative categorical limits, the

local limits shall control. All costs incurred by the city in determining or applying an alternative limit shall be reimbursed to the city by the user.

(d) *Compliance with other applicable laws and regulations.* Users of the POTW shall comply with all local, state and federal laws and regulations that may apply to their discharges to the POTW, including, but not limited to, Article II, Air Pollution Control, Part 55 of Act 451 of the Public Acts of Michigan of 1994 (the Natural Resources and Environmental Protection Act).

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-147. Right of revision.

Notwithstanding any other provision of this chapter to the contrary, the city reserves the right to establish more restrictive prohibitions, limitations, standards or requirements for discharges to the POTW to prevent interference or pass through, to protect the POTW, to comply with applicable federal or state laws or regulations, to comply with the POTW's NPDES permit, or as otherwise determined necessary by the city.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-148. POTW'S right to refuse or condition discharge.

The POTW may refuse to accept, or may condition its acceptance of, all or any portion of any proposed or existing discharge to the POTW from any person, regardless of whether or not a user permit has been issued for the discharge, if the city determines that the discharge has a reasonable potential to: adversely affect the operation of the POTW; result in pass through or interference; violate any pretreatment standard or requirement; cause the POTW to violate its NPDES permit; or if the impacts of the discharge on the POTW or the POTW's discharge are uncertain or unknown (because, for example, no local limits or headworks analysis has been conducted for particular pollutants in the discharge). If the city denies any person permission to commence or continue all or any portion of a discharge to the POTW, the person shall refrain from commencing to discharge or shall immediately terminate the discharge to the POTW and shall not thereafter recommence discharge without written authorization from the city. Similarly, if the city denies any person permission to commence or continue all or any portion of a discharge to the POTW except subject to conditions determined necessary and appropriate by the city, the person shall refrain from commencing or continuing the discharge except in full compliance with those conditions. This includes, but is not limited to, the POTW's right to revise or revoke user permits.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-149. Most restrictive standards and requirements apply.

Notwithstanding any provision of this chapter to the contrary, the most stringent or restrictive standard or requirement applicable to a user's discharge shall control, whether established by this chapter, by any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this chapter, by state laws or regulations, including the POTW's NPDES permit, or by federal laws or regulations. Further, if state or federal laws or regulations provide for standards and requirements not covered by this chapter that are otherwise applicable to a user's discharge, those standards and requirements shall apply to the user in addition to those required by this chapter, and the most restrictive of those additional standards or requirements shall control and shall be complied with by the user immediately or within the time period specified by the law or regulation.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-150. Dilution prohibited as substitute for treatment.

Unless expressly authorized to do so by an applicable pretreatment standard or requirement and subject to the prior approval of the city, no user shall ever increase the use of process water, mix separate wastestreams, or in any other way attempt to dilute, thin, or weaken a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a federal, state or local standard, requirement or limitation. The POTW may impose mass limitations on nondomestic users that are using dilution to meet applicable pretreatment standards or requirements and in other cases where the imposition of mass limitations is appropriate. No user intending to use dilution as a substitute for treatment shall do so without the prior approval of the city consistent with the requirements of this section.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 7. USER PERMITS

Sec. 44-151. User permit required.

(a) *Nondomestic user permits.* It is unlawful and prohibited for any significant industrial user (SIU), or any other user as determined necessary by the city to carry out the purposes of this chapter, to discharge to the POTW without a nondomestic user permit as provided by this division.

(b) *General user permits.* The city may require any person other than a SIU to obtain a general user permit to discharge to the POTW, subject to such terms and conditions as are determined necessary and appropriate by the POTW to achieve the purposes, policies and objectives of this chapter.

(1) A general user permit may contain, but shall not be required to contain, any of the terms and conditions that would apply to a nondomestic user permit issued to a SIU as provided by this division to comply with the general and specific discharge prohibitions of this chapter, including, but not limited to, discharge limitations, and requirements regarding sampling and monitoring; pretreatment; pollution prevention, minimization or reductions plans; accidental discharge, spill prevention, and containment requirements; flow equalization; and implementation of best management practices or a best management practices plan.

(2) To the extent determined appropriate by the city on a case-by-case basis, a general user permit issued under this subsection shall be subject to provisions otherwise applicable to permits for SIUs. However, all general user permits shall be non-transferable, and are subject to the permit fee and permit appeals provisions of this chapter.

(3) It is unlawful and prohibited for any person required by the city to obtain a general user permit to discharge to the POTW without a general user permit as provided by this Division.

(4) Failure to comply with a general user permit issued under this Subsection constitutes a violation of this chapter.

(5) In no case shall a general user permit be construed to authorize the illegal discharge or otherwise excuse a violation of this chapter.

(c) Notwithstanding any provision of this chapter to the contrary, if determined necessary by the city to achieve the goals and purposes of this chapter, the city may issue a user permit to any person without first requiring the person to submit or complete a permit application.

(d) Any violation of the terms or conditions of a user permit is a violation of this chapter, subject to the fine, penalty, and other enforcement provisions of this chapter. Obtaining a user permit shall not relieve a person

of the obligation to obtain other permits or approvals that may be required by other local, state or federal laws or regulations.

(e) The issuance of a user permit shall not convey to any person any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, nor any violation of local, state or federal laws or regulations.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-152. Determination of user status.

(a) The POTW may require any person to submit information to the POTW for its use in determining the person's status as a user, including, but not limited to, whether the user is a SIU, as well as to determine changes or the absence or inadequacy of changes in a user's facilities.

(b) The POTW shall notify a nondomestic user of the POTW's belief that the user is, or may be, a SIU. Upon such notification, the user must complete and submit an application for a nondomestic user permit on a form furnished by the POTW. The failure of the POTW to so notify a nondomestic user shall not relieve any SIU of the duty to obtain a permit as required by this chapter.

(c) Upon determination that a user permit is required, no connection to the POTW shall be made and no discharge thereto shall occur until a permit is duly issued; provided, however, that the POTW may at its discretion issue a written authorization in place of a permit, which authorization shall be valid for a period not to exceed 60 days.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-153. Permit application deadlines.

Each user must file an application for a user permit on the form provided by the POTW within the following deadlines:

(a) *Existing SIUs.* Any SIU discharging into the POTW as of the effective date of this chapter shall submit a completed permit application form to the POTW as provided by this division within 60 days of being so directed and provided a form by the POTW.

(b) *Proposed new SIUs.* Any SIU proposing to commence (or recommence) discharging into the POTW after the effective date of this chapter shall, at least 60 days prior to the anticipated date on which discharging will commence (or recommence), request a permit application form and submit the completed application to the POTW.

(c) *Categorical users subject to new standard.* A user which becomes subject to a new or revised national categorical pretreatment standard, and which has not previously submitted an application for a permit as required herein, shall apply to the POTW for a nondomestic user permit within 90 days after the promulgation of the applicable national categorical pretreatment standard. The POTW may also initiate this action; however, the failure of the POTW to do so shall not relieve a user of its obligation to obtain a permit.

(d) *Other users.* Any other user directed by the POTW to complete and submit a user permit application shall do so within 60 days of being so directed by the POTW and provided a form by the POTW. Any user not required to obtain a user permit for existing discharges must apply for and receive a user permit prior to changing the user's discharge in such a manner that the resulting discharge would require a user permit. The city may also require any other person to file the information required by section 44-154 of this chapter (whether or not that person is currently a user, and whether or not that

person is otherwise currently discharging to the POTW, a storm sewer, or receiving waters), if the city determines that there is a reasonable potential for the person to discharge to the POTW, a storm sewer, or receiving waters, whether due to an accidental spill or for any other reason. Any person directed by the city to submit the required shall do so within the time frame as directed by the city. The failure or refusal of any person to submit or complete a permit application shall not in any way relieve the person from the duty to comply with a permit issued by the city. In no case shall the receipt or non-receipt of a completed permit application prevent the issuance of a permit by the city or relieve a person from the duty of fully complying with a permit that is issued by the city.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-154. Permit application requirements.

All users shall submit the information required by this section on the user permit application form supplied by the POTW (or attached thereto) at a level of detail and in units and terms as determined necessary by the POTW to adequately evaluate the application, accompanied by payment of a permit application review fee. A separate application and supporting documentation shall be submitted for each separate location for which a user permit is required.

(a) The name, address, and location of the facility or premises from which discharge will be made, including the names of the owner(s) and operator(s) of the facility or premises.

(b) Corporate or individual name, federal employer identification number, address and telephone number of the applicant.

(c) Whether the user is a corporation, partnership, proprietorship, or other type of entity, and the name of the person(s) responsible for discharges by the user.

(d) Name and title of the local authorized representative of the user who will have the authority to bind the applicant financially and legally, and who is authorized by the applicant as its agent to accept service of legal process, and the address and telephone number of such representative.

(e) The standard industrial classification (SIC) numbers of all processes at the location for which application is made, according to the Standard Industrial Classification Manual, as amended (or, if applicable, the North American Industrial Classification System (NAICS) designation.

(f) Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application, including, but not limited to, any pollutants that are limited or regulated by any federal, state, or local standards or requirements. The information provided for such parameters shall include all of the following:

(1) Pollutants having numeric or narrative limitations as provided by this chapter.

(2) Pollutants limited by National Categorical Pretreatment Standards regulations for similar industries.

(3) For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided.

(4) For industries subject to National Categorical Pretreatment Standards or requirements, the data required shall be separately shown for each categorical process wastestream and shall include all information required in section 44-167(a) for a baseline monitoring report.

(5) Combined wastestreams proposed to be regulated by the combined wastestream formula shall be specified.

(g) For purposes of information required by the application, sampling and analysis shall be performed in accordance with the following: Procedures established by U.S. EPA pursuant to Section 304 (g) of the Act and as contained in 40 CFR 136, as amended. If 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures in U.S. EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments or revisions thereto, or where appropriate and applicable, in accordance with any other sampling and analytical procedures approved by EPA, or as otherwise specified by the city.

(h) A listing and description of the following: plant activities, plant facilities, and plant processes on the premises for which the permit is being applied. Processes, which are subject to National Categorical Pretreatment Standards or requirements, shall be so designated, and identification of which pollutants are associated with each process shall be stated.

(i) A listing of raw materials and chemicals that are either used in the manufacturing process or could yield the pollutants referred to in this section. Any user claiming immunity from having to provide such information shall furnish proof of such immunity that is acceptable to the city and in accordance with all applicable local, state, and federal laws and regulations.

(j) A statement containing information on the spill containment and prevention of accidental/spill discharges program for each of the pollutants referred to in this section. The information provided shall include the following:

(1) The approximate average and maximum quantities of such substances kept on the premises in the form of the following: (a) raw materials; (b) chemicals; and/or (c) wastes there from; and

(2) The containment capacity for each of the above items.

The following requirements apply for purposes of the spill containment and prevention statement required by this Subsection:

For raw materials, chemical solutions or waste materials that do not contain any substance on the critical materials register promulgated by the MDEQ, only substances which are in a form which could readily be carried into the sewerage system and which constitute a concentration of five percent or greater on a dry weight basis in the raw material, chemical solution or waste material are required to be included in the statement. Volumes of less than 55 gallons or the equivalent need not be included unless lesser quantities could cause interference or pass through to the sewerage system. For raw materials, chemical solutions or waste materials that contain any amount of any substance on the Critical Materials Register promulgated by the MDEQ, the statement shall include the name of the substance and the expected concentration so that the city can determine whether or not it may constitute a threat to the POTW if a spill occurs.

(k) The name and address of each laboratory performing analytical work for the user submitting the application.

(l) A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the seven days of the week.

(m) Average and maximum 24 hour wastewater flow rates, including 30 minute peak wastewater flow rates, and daily, monthly and seasonal variations, if any; and a list of each national categorical process wastestream flow rate and the cooling water, sanitary water and storm water flow rates separately for each connection to the POTW, and a list showing each combined wastestream.

(n) A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW, storm sewer, or receiving waters.

(o) A flow schematic drawing showing which connections receive each national categorical process wastestream or other process wastestreams, and which connections receive storm water, sanitary water or cooling water.

(p) A schematic drawing showing which sewers handle each combined wastestream.

(q) Each product produced by type, amount, process or processes and the rate of production as pertains to processes subject to production-based limits under national categorical standards or requirements shall be specified.

(r) Actual or proposed hours of operation of each pretreatment system for each production process.

(s) A description and schematic drawing showing each pretreatment facility, identifying whether each such facility is of the batch type or continuous process type.

(t) If other than potable water is used, identification of the user's source of intake water together with the types of usage and disposal method of each water source and the estimated wastewater volume from each source.

(u) A statement certified by a qualified professional regarding whether the requirements of this chapter and the national categorical pretreatment standards and requirements are being met on a consistent basis; and if not, what additional operation and maintenance work and/or additional construction is required for the user to comply with applicable standards and requirements.

(v) A list of all environmental permits (and, if requested by the city, a copy of any environmental permit) held by the user applicable to the premises for which the user permit is being sought.

(w) Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable federal, state and local pretreatment standards and requirements. If additional O&M or additional pretreatment will be required to meet the applicable standards and requirements, then the user shall indicate the shortest time schedule necessary to accomplish installation or adoption of the additional O&M and/or pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

(1) The schedule shall contain progress increments 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 (including, without limitation, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to above shall exceed nine months, nor shall the total compliance period exceed 18 months.

(2) No 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 POTW including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than two months elapse between submissions of the progress reports to the POTW.

(x) Any other information determined necessary by the POTW to adequately evaluate the application. To the extent that actual data is not available for a new source, the applicant shall supply estimated or expected information.

(y) All applications (and reapplications) shall be signed and certified by an "authorized representative" of the user as defined by this chapter.

(z) All applications should include MSDS's for larger volumes of chemicals and wastes and any others that may pose a hazard or pass through potential to the POTW.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-155. Permit issuance, denial, or determination that permit not required.

(a) The POTW shall evaluate the application information furnished by a user and may require additional information as necessary to complete and properly review the application. No action shall be taken by the POTW on an application (and the 120 day review period as provided by this subsection shall not begin to run) until the application is determined to be complete by the POTW superintendent. Within 120 days after the submission of a complete application (unless the POTW and the applicant agree to extend this time period), the POTW shall either issue a user permit subject to terms and conditions provided by this chapter, deny the application, or determine that a permit is not required as provided by this chapter.

(b) A user permit may be denied by the POTW:

(1) If the POTW determines that the proposed discharge, or continued discharge, will not comply with all applicable standards and requirements of this chapter;

(2) If the user refuses, fails or declines to accept the terms and conditions of a permit as proposed to be issued by the POTW;

(3) For any reason that would support a suspension or revocation of the permit as provided by this chapter.

(4) If the POTW determines that the POTW cannot adequately or reasonably treat the user's discharge (due to insufficient capacity, the quality or quantity of the pollutants, available POTW resources etc.);

(5) If the POTW is not satisfied that the user has not taken all reasonable steps to prevent, minimize or reduce pollutants in the user's discharge;

(6) To prevent the discharge of pollutants into the POTW, singly or in combination with other pollutants, for which there is a reasonable potential, as determined by the city, to:

a. Not meet applicable pretreatment standards and requirements;

b. Interfere with the operation of the POTW;

c. Pass through the POTW into the receiving waters or the atmosphere;

d. Inhibit or disrupt the POTW's processing, use, or disposal of sludge;

e. Cause health or safety problems for POTW workers; or

f. Result in a violation of the POTW's NPDES permit or of other applicable laws and regulations;

(7) If the POTW determines that there is not, or will not be, sufficient capacity available (in both wastewater volume and strength) for a proposed discharge in all downstream sewers, pump stations, interceptors, and force mains, including, but not limited to, adequate capacity to accept, treat and dispose of CBOD, TSS, or similar materials as required by applicable local, state or federal laws, rules or regulations; or

(8) For any other reason determined by the city as necessary and appropriate to protect the POTW or to meet the purposes and intent of this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-156. Permit conditions.

(a) User permits shall be subject to all provisions of this chapter and all other applicable regulations, user charges, and fees established by the POTW. Further, user permits incorporate by reference all provisions, regulations and requirements of the Ordinance without setting them forth in full therein.

(b) Nondomestic user permits shall at a minimum include all of the conditions required by MAC 323.2306(a)(iii). In addition, user permits shall include any conditions determined reasonably necessary by the city to prevent pass through or interference, to protect the quality of the receiving waters, to protect worker health and safety, to facilitate POTW sludge management and disposal, to protect ambient air quality, to protect against damage to the POTW, or to otherwise achieve the objectives of this chapter, including, but not limited to, the following:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(2) Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties.

(3) Requirements for installation of pretreatment technology or construction of appropriate containment devices, or similar requirements designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(4) Development and implementation of slug discharge control plans, spill control plans, or other special conditions, including additional management practices necessary to adequately prevent accidental or unanticipated discharges.

(5) Requirements for installation, maintenance, repair, calibration and operation of inspection and sampling facilities and discharge flow monitors.

(6) Specifications for monitoring programs which shall include, but are not limited to, sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(7) Compliance schedules.

(8) Requirements for submission of technical reports or discharge reports.

(9) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the POTW and affording the POTW access to those records.

(10) Requirements for notifying the POTW if self-monitoring indicates a violation as provided by section 44-170 of this chapter, and for repeat sampling and analysis as provided by section 44-183 of this chapter.

(11) Requirements for notification of any new introductions of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW, including listed or characteristic hazardous waste for which the user has submitted initial notification under MAC R 323.2310(15).

(12) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.

(13) Requirements for notification of accidental or slug discharges, or discharges that exceed a discharge prohibition.

(14) Requirements for notification and need for prior approval from the POTW superintendent for any proposed change in a sampling location.

(15) A statement regarding limitations on transferability of the permit.

(16) A statement of the duration of the permit.

(17) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable pretreatment standards and requirements, including those that become effective during the term of the permit.

(18) Requirements for a written certification signed by the permittee that acknowledges that the permittee has read and fully understands all terms and conditions of the permit; and acknowledges that the permittee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying with the permit as approved.

(19) A statement of applicable civil and criminal penalties for violation of discharge limitations, pretreatment standards and requirements, and compliance schedules.

(20) Requirements regarding development by a user of a pollutant prevention, minimization or reduction plan (e.g., for mercury) or requirements regarding use of best management practices to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants or other substances to the POTW, or otherwise meet the purposes, policies and objectives of this chapter.

(21) Other conditions as determined necessary by the POTW superintendent to ensure compliance with this chapter and other applicable laws, rules and regulations. If the POTW determines that a user is discharging substances of a quality, in a quantity, or in a location that may cause problems to the POTW or the receiving stream, the POTW has the authority to develop and enforce effluent limits applicable to the user's discharge.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-157. Permit modifications.

A user permit may be modified by the POTW at any time and for any reason determined necessary by the city to assure compliance with the requirements of this chapter and other applicable laws and regulations, including, without limitation, any of the following reasons:

(a) To incorporate any new or revised federal, state or local pretreatment standards or requirements, or other applicable requirement of law or regulation.

(b) Material or substantial changes or additions to the permittee's operations, processes, or the character or quality of discharge that were not considered in drafting or issuing the existing permit. It shall be the duty of a user to request an application form and to apply for a modification of the permit within 30 days of any such change(s). The POTW may modify a permit on its own initiative based on its findings or upon reasonable cause to believe that any such change(s) has occurred or threatens to occur.

(c) A change in any condition in the permittee's discharge, facility, production or operations, or in the POTW, that requires either a temporary or permanent reduction or elimination of the permittee's discharge to assure compliance with applicable laws, regulations or the POTW's NPDES permit.

(d) Information indicating that the permitted discharge poses a threat to collection or treatment systems; the POTW's processing, use, or disposal of sludge; POTW personnel; or the receiving waters.

(e) Violation of any terms or conditions of the user's permit.

(f) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required report or notice.

(g) Revision of, or a grant of a variance from, applicable categorical standards pursuant to 40 CFR 403.13.

(h) To correct typographical or other errors in the permit.

(i) To reflect transfer of the facility ownership and/or operation to a new owner or operator.

(j) To add or revise a compliance schedule for the permittee.

(k) To reflect changes or revisions in the POTW's NPDES permit.

(l) To ensure POTW compliance with applicable sludge management requirements promulgated by EPA.

(m) To incorporate any new or revised requirements resulting from reevaluation of the POTW's local limits.

(n) To incorporate a request for modification by the permittee, as determined appropriate by the POTW and provided the request does not create a violation of any applicable requirement, standard, law, rule or regulation. The permittee shall be informed of any changes in the permit at least 30 days prior to the effective date of the change, unless a shorter time is determined necessary by the POTW to meet applicable laws, to protect human health or the environment, or to facilitate an enforcement action

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-158. Permit duration.

(a) Nondomestic user permits shall be issued for a specified time period, not to exceed five years, subject to modification, reissuance, suspension or revocation as provided by this division. At the discretion of the POTW, a nondomestic user permit may be issued for a period less than five years and may be stated to expire on a specific date.

(b) General user permits may be issued for any time period determined appropriate by the city, subject to modification, reissuance, suspension or revocation as provided by this division.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-159. Permit reissuance.

(a) To apply for reissuance of an existing user permit, a user must submit a complete permit application to the POTW accompanied by payment of an application fee at least 90 days prior to the expiration of the user's existing permit (or at least 180 days prior to the expiration of a five year permit). The application shall be submitted in a form prescribed by the POTW. It shall be the responsibility of the user to make a timely application for reissuance.

(b) All user permits issued to a particular user are void upon the issuance of a new user permit to that user.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-160. Continuation of expired permits.

An expired user permit will continue to be effective until the permit is reissued only if:

(a) The user has submitted a complete permit application at least 90 days prior to the expiration date of the user's existing permit (or at least 180 days prior to the expiration date of a five year permit); and

(b) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the user: provided, however, in no case may a permit continue for a period of more than five years from the date of issuance. In all other cases, discharge to the POTW following expiration of a permit is unlawful.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-161. Permit suspension and revocation.

User permits may be suspended or permanently revoked by the POTW for any reason determined necessary by the POTW to assure compliance with the requirements of this chapter, the POTW's NPDES permit, or other applicable laws and regulations, including, without limitation, any of the following reasons:

(a) Falsifying self-monitoring reports.

(b) Tampering with monitoring equipment.

(c) Failure to allow timely and reasonable access to the permittee's premises and records by representatives of the POTW for purposes authorized by this chapter, including, without limitation, inspection or monitoring.

(d) Failure to meet effluent limitations.

(e) Failure to pay fines or penalties.

(f) Failure to pay sewer charges.

(g) Failure to pay permit fees.

(h) Failure to meet compliance schedules.

(i) Failure to comply with any term or condition of the permit, an order, the requirements of this chapter, or any final judicial order entered with respect thereto.

(j) Failure to comply with any reporting or notice requirement.

(k) Failure to disclose fully all relevant facts in the permit application or during the permit issuance process, or misrepresentation of any relevant fact at any time.

(l) Failure to complete a wastewater survey or the user permit application.

(m) As determined by the POTW, the discharge permitted by the permit has a reasonable potential to endanger human health or the environment and the threat can be abated only by suspension or revocation of the permit. Upon suspension or revocation of a permit, a user shall immediately terminate its discharge to the POTW and shall not thereafter recommence discharge without further authorization from the POTW superintendent as provided by this chapter. The POTW may reissue a revoked permit upon a showing satisfactory to the POTW superintendent that the permittee has corrected the violation or condition that led to the revocation. A person who has had a permit revoked may apply for a new permit.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-162. Limitations on permit transfer.

(a) A user permit is issued to a specific user for discharge from a specific facility and operation and shall not be assigned or transferred or sold to a new or different owner, operator, user, discharger, facility or premises, or to a new or changed facility or operation, without the prior written approval of the POTW. If the transfer of a permit is approved, any succeeding transferee permittee must also comply with the terms and conditions of the existing permit. The POTW shall approve the transfer of a permit only if all of the following conditions are met:

(1) The transferor (permittee) shall give at least 60 days advance notice to the POTW of the proposed transfer of the permit (unless a shorter notice period is approved by the POTW in advance). The notice shall include a written certification signed by the proposed transferee that (a) states that the

transferee has no present intent to change the facility's operations and processes; (b) identifies the specific date on which the transfer is to occur; (c) acknowledges that the transferee has read and fully understands all terms and conditions of the permit; and (d) acknowledges that the transferee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying with the existing permit if the transfer is approved.

(2) As of the date of the proposed transfer, there are no unpaid charges, fines, penalties or fees of any kind due to the POTW from the transferor or the transferee related to use of the POTW.

(3) Except as to the identity of the new discharger (the transferee), the application materials for the permit to be transferred as originally filed by the transferor, as well as the terms and conditions of the permit itself, are completely accurate with respect to, and fully applicable to, the discharge, facilities, and activities of the transferee.

(4) The permit transfer fee as established by the POTW has been paid to the city.

(b) If the transfer of a permit is approved and the permit transfer fee has been paid to the city, the POTW shall make the necessary minor modifications to the permit to show the transferee as the permittee, and a copy of the permit shall be provided to the transferee for signature and certification by the transferee as provided by section 44-177 of this chapter. The transferor (permittee) shall remain liable for any discharges to the POTW from the facility (along with any other persons actually discharging from the facility to the POTW) until a transfer of the permit has been approved as provided by this section.

(c) This section is not intended to, and shall not be construed to, limit in any way the transfer of ownership of the property involved.

(d) Any attempt to transfer a user permit that does not comply with the requirements of this section renders the permit void as of the date of the invalid transfer.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-163. Duty to provide information.

Users shall furnish to the POTW any available information that the POTW requests to determine whether cause exists for modifying, revoking and reissuing, or terminating a user permit, to determine compliance with a permit, to determine whether a permit is required, or as otherwise determined necessary by the POTW. Users shall also, upon request, furnish to the POTW copies of any records required to be kept by a permit. The information and records requested by the POTW shall be provided by the user to the POTW within 24 hours of the request, unless an alternative time frame is specified by the POTW when making the request or unless the POTW allows additional time for the user to submit the requested information based on a showing by the user of good cause for any delay. The user's failure to submit the requested information to the POTW within 24 hours (or within any alternate time period approved by the POTW as provided by this Section) shall constitute a violation of this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-164. Permit appeals.

Except as otherwise provided by this section, an appeal to the wastewater board of appeals ("WBA") of any final decision made by the city in connection with issuing or implementing a user permit shall be governed by division 19 of this chapter. An appealing party must specify in its notice of appeal the action of the POTW being appealed and the grounds for the appeal. If a particular permit provision is objected to, the notice of appeal must specify the reasons for the objection, and the alternative provision, if any, sought to be placed in the permit. The

effectiveness of a permit or any final decision made by the city shall not be stayed pending a decision by the WBA. If, after considering the record on appeal including any statements provided by the POTW in response to the appeal, the WBA determines that a permit or any provision of a permit should be reconsidered, the WBA shall remand the matter to the city manager for further action as determined appropriate by the WBA. Specific provisions of a permit that are remanded by the WBA for reconsideration by the city manager shall be stayed pending further final action taken by the city manager as required by the decision of the WBA. A decision of the WBA not to remand any matter shall be considered final administrative action for purposes of judicial review.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-165. Permits not stayed.

Except as otherwise expressly provided by section 44-164, no action taken or request filed by any permittee shall operate to stay the effect of any permit or of any provision, term or condition of any permit, including, without limitation, a request for permit modification, reissuance, or transfer, or a notification of planned changes or anticipated non-compliance.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-166. Permit fees.

User permit fees shall be established, paid and collected as provided by this division and division 24.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 8. REPORTING AND NOTICE REQUIREMENTS

All users shall comply with the minimum reporting and notice requirements provided by this division, as follows:

Sec. 44-167. Reports by nondomestic users regarding categorical pretreatment standards and requirements.

(a) *Baseline monitoring reports.* Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under MAC R 323.2311(2) whichever is later, an existing nondomestic user subject to the categorical pretreatment standards and that currently discharges or is scheduled to discharge to the POTW shall submit a report to the POTW as required by MAC R 323.2310(2). At least 90 days prior to commencement of discharge, new sources, and sources that become nondomestic users subsequent to the promulgation of an applicable categorical pretreatment standard shall submit the reports to the POTW as required by MAC R 323.2310(2). Any changes to the information required to be submitted by a nondomestic user pursuant to MAC R 323.2310(2)(a) through (e) shall be submitted by the user to the POTW within 60 days of when the user becomes aware of the change.

(b) *Reports on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standard or, in the case of a new source, following commencement of the discharge to the POTW, any nondomestic user subject to categorical pretreatment standards and requirements shall submit the reports to the POTW required by MAC R 323.2310(3).

(c) *Periodic reports on continued compliance.* Any nondomestic user subject to a categorical pretreatment standard, after the compliance date of the categorical pretreatment standard, or, in the case of a new source, after commencement of the discharge into the public sewer or POTW, shall submit the periodic reports to the POTW required by MAC R 323.2310(4). These periodic reports shall be submitted at least once every six months (during the months of April and October unless alternate months are approved by the POTW), unless required more frequently by the applicable pretreatment standard, by the POTW, or by the state. The reports shall include a record of all average and maximum daily flows during the prior six month reporting period, except that the POTW may require more detailed reporting of flows. All flows shall be reported on the basis of actual measurement unless the POTW agrees, due to cost or non-feasibility, to accept verifiable estimates of the average and maximum flows estimated using techniques approved by the POTW. The combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the POTW, provided there has been no change to the elements composing the combined wastestream. The results of sampling of the discharge and analysis of pollutants appearing in the report shall be cross-referenced to the related flow and mass to determine compliance with National Categorical Pretreatment Standards. In cases where the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the user shall submit documentation required by the POTW or the pretreatment standard necessary to determine the compliance status of the user.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-168. Reports required for nondomestic users not subject to categorical pretreatment standards.

(a) All nondomestic users not subject to categorical pretreatment standards shall submit to the POTW periodic reports providing information regarding the quality and quantity of wastewater and pollutants discharged into the POTW (including, without limitation, information regarding the nature, concentration (or mass), and flow of the discharge). These reports shall be based on sampling and analysis performed in the period covered by the report in accordance with the sampling, analysis and monitoring requirements provided by Division 9 of this chapter.

(b) For significant industrial users, the reports shall be submitted at least once every six months for the preceding six months (during the months of April and October unless alternate months are specified by the POTW), unless required more frequently by the POTW.

(c) If required by the POTW for nondomestic users other than significant industrial users, the reports shall be submitted at least once every 12 months for the preceding 12 months (during the month of October unless an alternate month is specified by the POTW), unless required more frequently by the POTW.

(d) The reports for all nondomestic users shall be submitted on forms provided by (or in a format required by) the POTW, and shall include, without limitation, the volume of wastewater; the concentration of pollutants; the names of all person(s) responsible for operating and maintaining any pretreatment equipment, pretreatment processes, or responsible for wastewater management at the user's facilities, with a brief description of each person's duties; information regarding materials or substances that may cause interference or pass through; and any other information deemed necessary by the POTW to assess and assure compliance with applicable discharge requirements or to safeguard the operation of the POTW.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-169. Notice by user of potential problems.

All nondomestic users, whether or not subject to categorical pretreatment standards, shall notify the POTW immediately by telephone of all discharges by the user that could cause problems to the POTW, including, without limitation, accidental discharges, slug loadings, discharges of a non-routine, episodic nature, non-customary batch discharge, or discharges that exceed a discharge prohibition or limitation provided by this chapter. The notification shall include available information regarding the location of the discharge, its volume, duration, constituents, loading and concentrations, corrective actions taken and required, and other available information as necessary to determine what impact the discharge may have on the POTW. A detailed written report providing the same and any additional available information (including specifying the measures that will be taken by the user to prevent similar future discharges) shall also be provided by the user to be received by the POTW superintendent within five days of the incident.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-170. Notice by user of violation of pretreatment standards.

If sampling performed by a nondomestic user indicates a violation, the user shall notify the POTW within 24 hours of becoming aware of the violation (and shall comply with other applicable requirements provided by Section 44-183 regarding repeat sampling and analysis).

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-171. Notice by user of changed discharge or change in user status.

(a) A nondomestic user shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in its discharge, or of any facility expansion, production increase, or process modifications that could result in a substantial change in the volume or character of pollutants in its discharge.

(b) For purposes of this section, "promptly" means as soon as reasonably possible, but in no event less than 60 days before the change.

(c) For purposes of this section, "substantial change" includes, without limitation, any of the following:

(1) The discharge of any amount of a pollutant not identified in the user's permit application or in the permit issued.

(2) An increase in concentration (or degree) of any pollutant that exceeds ten percent of the concentration (or degree) for the pollutant as indicated in any report required under section 44-167 or 44-168;

(3) An increase in discharge volume that exceeds 20 percent of the volume as indicated in any report required under section 44-167 or 44-168.

(4) Any increase in the amount of any hazardous wastes discharged, including, without limitation, the hazardous wastes for which the user has submitted initial notification under section 44-172 of this chapter.

(5) The discharge of any ground waters purged for a removal or remedial action.

(6) The discharge of any pollutants that are present in the discharge due to infiltration.

(7) A change in discharge that may convert a nondomestic user into a significant industrial user, or a nondomestic user into a categorical user.

(8) A change in discharge that would cause a change in the categorical standards that apply to the user.

(d) In determining whether to accept any changed discharge, or, if so, under what conditions, the POTW shall evaluate the changed discharge pursuant to the general and specific discharge prohibitions under section 44-145 and other applicable provisions of this chapter. The user may be required to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a user permit application.

(e) No user shall implement the planned changed conditions until and unless the city manager or his/her designee has responded to the user's notice.

(f) This section shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation provided by this chapter or a permit.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-172. Notice by user regarding wastes that are otherwise hazardous.

Any nondomestic user that discharges to the POTW a substance that, if disposed of other than by discharge to the POTW, would be a hazardous waste under 40 CFR Part 261 or under the rules promulgated under the state hazardous waste management act (Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended) shall notify the city manager, the POTW superintendent, the U.S. EPA Region V Waste Management Division Director, and the state hazardous waste authorities of the discharge as required by MAC R 323.2310(15).

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-173. Notice by user regarding installation of new pretreatment facilities.

Within five days after completing installation of new pretreatment facilities, the user shall notify the POTW superintendent in writing of the time and date when it intends to commence operation of the new facilities, and the identity of the person who will conduct any tests to be performed. The pretreatment facilities shall not be placed in regular operation until adequate tests have been conducted to establish that the discharges will comply with the requirements of this chapter and other applicable laws and regulations. The user shall allow a representative of the POTW to observe the tests at the time they are conducted. The cost of the tests shall be paid by the user.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-174. Notice of intent.

(a) At least 60 days before commencing or changing a discharge, each of the following persons shall submit a notice of intent to the POTW for approval by the superintendent.

(1) A person proposing to discharge any nondomestic wastewater not previously reported to the POTW.

(2) A person taking possession or control of an existing facility that discharges or may discharge process wastewater into the POTW.

(3) A person constructing a new facility that will discharge process wastewater into the POTW.

(4) A person commencing or modifying a discharge of hazardous wastes that requires reporting under section 44-172.

(b) The notice of intent shall be submitted in writing on a form provided by the POTW and shall be accompanied by a payment of any fees established by the city. It shall include sufficient information to allow the city to evaluate the effect of the proposed discharge on the POTW and operations and to assure compliance with this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-175. Other reports and notices required by this division or by other applicable laws and regulations.

Users shall comply with all other reporting or notice requirements as provided by this chapter, by any notice, order or permit issued under this chapter, or as required by any other applicable law or regulation, including, without limitation, the reporting and notice requirements in connection with accidental discharge (Division 10), upset (Division 11), bypass (Division 12), and any other reports or notice requirements determined necessary by the POTW to assess and assure compliance with the requirements of this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-176. Requirements applicable to all required reports, notifications, and applications.

All reports, notifications, and applications submitted by a user to the POTW as required by this chapter (or by any order, permit or determination issued or made pursuant to this chapter) shall meet the following requirements:

(a) All reports, notifications, applications and requests for information required by this chapter shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, notification, application or request. The data shall be representative of conditions occurring during the applicable reporting period. If a pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the POTW or the applicable standard to determine compliance with the standard.

(b) If a user monitors any pollutant (or measures flow) more frequently than required by this chapter or a user permit, using the monitoring, sampling and analytical procedures as required by section 44-178, the results of all such additional monitoring shall be included in any report or notification submitted pursuant to this chapter.

(c) The POTW superintendent may require that reports, notifications, and other required documents and data be submitted in a standardized format, as specified by the POTW superintendent.

(d) If the POTW instead of a user collects all of the information, including flow data, required for a report required by sections 44-167 or 44-168, the POTW superintendent may in his or her discretion waive the requirement that the report be submitted by the user.

(e) The reports, notifications, and other documents and data required to be submitted or maintained by this chapter shall be subject to all of the provisions as specified by MAC R 323.2310(13).

(f) Written reports, notifications, and applications will be deemed to have been submitted to the POTW, unless otherwise specified by the city, as follows:

(1) If mailed, on the date postmarked.

(2) The date of receipt of the report shall govern for reports, notifications, or applications which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service,

including, but not limited to, reports, notifications, or applications that are hand-delivered, faxed, or emailed.

(3) Written reports, notifications, and applications may be submitted to the POTW by fax or email (or by any means other than mail or hand-delivery) only with the prior approval of the POTW on a case-by-case basis. The report or notification shall be sent to the fax number or email address specified by the POTW.

(g) All written reports, notifications, and applications submitted by mail or hand-delivery shall be sent or delivered to the address stated in the user permit, or if there is no user permit, then to the following address:

City of Greenville
Wastewater Treatment Plant
411 S. Lafayette Street
Greenville, MI 48838
Attn: WWTP Superintendent

(h) Failure to provide the reports, notifications, and applications required by this chapter constitutes an independent violation of this chapter. However, compliance with applicable reporting and notification requirements shall not relieve a user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such report or notification relieve a user of any fines, penalties, or other liability that may be imposed by applicable laws or regulations. Further, the reporting and notification requirements required by this chapter shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this chapter or other applicable laws or regulations.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-177. Signature and certification requirements.

All written reports, notifications, and applications required by this chapter shall be signed and certified as follows:

(a) *Required signatures.* The reports, notifications, and applications shall be signed by an "authorized representative" of the user as defined in section 44-117 of this chapter.

(b) *Required certification.* The reports, notifications, and applications shall include the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(c) *Exception.* If the POTW elects to perform instead of the user all or any portion of the sampling or analysis otherwise required for a report or notification, the user will not be required to comply with the certification requirements for the sampling and analysis (or portion thereof) performed by the POTW.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 9. SAMPLING, ANALYSIS AND MONITORING REQUIREMENTS

This division provides the sampling, analysis and monitoring requirements applicable to users of the POTW. It does not apply to domestic users except as may be determined appropriate in specific cases by the POTW. All users required by this chapter (or by any permit, order, decision or determination issued or made under this chapter) to sample, monitor and analyze their discharges to the POTW shall do so according to the minimum requirements provided by this division. Additional or more restrictive sampling, analytical or monitoring requirements may be required for a particular user by a permit, order, decision or determination issued or made under this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-178. Sampling and analytical techniques and procedures.

All sampling, measurements, tests, and analyses of the characteristics of discharges to the POTW shall be performed in accordance with the procedures approved by the U.S. EPA contained in 40 CFR Part 136. If, as determined by the POTW Superintendent, the sampling and analytical techniques contained in 40 CFR Part 136 are not available, do not apply to the discharge or pollutants in question, are not appropriate under the circumstances for application to the discharge or pollutants in question, or where one or more alternate techniques are available under 40 CFR Part 136, sampling and analysis shall be performed using validated sampling and analytical methods and procedures approved or required by the POTW superintendent.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-179. Sampling frequency.

Users shall sample their discharges to the POTW at a frequency necessary to assess and assure compliance with the requirements of this chapter, any permit or order issued pursuant to this chapter, all applicable pretreatment standards and requirements, other applicable state and federal laws and regulations, or as otherwise determined necessary by the POTW superintendent consistent with the purposes and intent of this chapter. At a minimum, all significant industrial users shall sample their effluent two times per year (once every six months) or as often as provided by their permits, whichever is more frequent, and report the results to the POTW. Each discharge point to the POTW shall be sampled and reported individually.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-180. Sample types.

Where representative samples are required to be taken for facilities for which historical sampling data does not exist (or if otherwise requested by the POTW superintendent), a user shall take a minimum of four grab samples for pH, temperature, cyanide, phenols (T), residual chlorine, oil and grease, sulfide, and volatile organics (and any other parameters designated by the POTW superintendent), unless a greater number of grab samples is required in advance by the POTW superintendent. For facilities for which historical sampling data is available, or under other circumstances determined appropriate by the POTW superintendent, the POTW superintendent may authorize a lower minimum number of grab samples. In all cases, users shall take the minimum number of grab samples determined necessary by the POTW to assess and assure compliance by users with applicable

pretreatment standards and requirements. Grab samples may be required to show compliance with instantaneous minimum or instantaneous maximum discharge limits. For all other pollutants and sampling, 24-hour composite samples must be obtained through flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols (T), and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the POTW, as appropriate.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-181. Sampling methods, equipment and location.

(a) *General.* A user shall use the sampling methods, sampling equipment, and sampling location specified by the user's user permit, or, in the absence of a permit, as otherwise required by the POTW superintendent.

(b) *Contaminated groundwater.* For discharges to the POTW from remedial actions related to leaking underground storage tanks or other sources of contaminated groundwater, the POTW superintendent may require the following analyses or such other analyses as determined appropriate by the POTW superintendent:

(1) Samples shall be analyzed for benzene, ethylbenzene, toluene and xylene using the latest methods approved by U.S. EPA.

(2) For total petroleum hydrocarbons, samples shall be analyzed according to the latest methods approved by U.S. EPA.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-182. Costs of monitoring, sampling and analyses.

All required monitoring, taking of samples, and sample analyses, whether performed by the POTW or by a user, including, but not limited to, the costs or fees associated with inspection or surveillance, shall be at the sole cost of the user. For users with more than one outfall, each outfall monitored shall be charged separately.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-183. Self-monitoring.

(a) Except as otherwise provided by this chapter, self-monitoring shall be conducted by each nondomestic user to ensure compliance with all applicable requirements of this chapter and other applicable laws and regulations.

(b) A user performing its own sampling shall submit the samples for analysis to a laboratory (which may include the user's own laboratory) approved by the POTW and the DEQ.

(c) A user performing its own sampling or monitoring shall record and maintain for all samples and monitoring (including any sampling and monitoring associated with best management practices) the date, exact location (which shall match sampling locations identified in the user's user permit, as applicable), time (including start

time and stop time) and method of sampling or measurement, and the name(s) of person(s) taking the samples or measurements; sampler programming information; the sample preservation techniques or procedures used; the full chain-of-custody for each sample; the dates the analyses were performed and completed; who performed the analyses; the analytical techniques and methods used; the detection limits and/or quantification level used per parameter; quality assurance/quality control (QA/QC) procedures used and QA/QC data; and the results of the analyses.

(d) If sampling performed by a user indicates a violation, the user shall notify the POTW superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW within 30 days after becoming aware of the violation. If the POTW has performed the sampling and analysis in lieu of the user, the POTW must perform the repeat sampling and analysis unless the POTW notifies the user of the violation and requires the user to perform the repeat sampling and analysis. The user shall not be required to resample if (a) the POTW performs sampling at the user at a frequency of at least once per month, or (b) the POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user or the POTW receives the results of the sampling that indicates the violation.

(e) If a user uses its own laboratory for sample analysis, the POTW superintendent may require the user to send split samples to an independent laboratory at a frequency specified by the POTW superintendent as a quality control check.

(f) Users required to do monthly sampling shall submit sample results to the POTW superintendent by the tenth day of the following month, unless specified otherwise in the user's user permit.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-184. Sampling and analyses performed by POTW.

(a) The sampling and analysis required by this chapter may be performed by the POTW instead of the user, as determined necessary by the POTW superintendent for purposes of this chapter. The POTW shall provide the user with copies of analytical results prepared by the POTW. If the results of any sampling and analysis performed by the POTW instead of the user show that a pretreatment standard has been violated, the POTW shall provide the user with copies of the analytical results within ten days after the results are available.

(b) If the POTW performs the required sampling and analysis for a user, the user shall pay a sampling fee to the POTW to fully reimburse the POTW for the sampling, including administrative and overhead costs. The POTW may contract with an independent firm to perform the sampling and analysis and the user shall fully reimburse the POTW for amounts paid by the POTW to the independent firm.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-185. Split samples and sample results.

(a) If requested by the POTW, the POTW shall be provided with splits of any sample taken by a user. The user shall provide splits to the POTW at no cost to the POTW.

(b) If requested by a user prior to the collection of a sample of the user's discharge, the POTW shall leave a portion of the sample of the discharge taken from any sampling point on or adjacent to the premises for the user's independent analysis.

(c) In cases of disputes arising over split samples, the portion taken and analyzed by the POTW shall be controlling unless proven invalid. The burden of proving the POTW's results invalid shall be on the user and at the user's sole cost.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-186. Maintenance, repair and calibration of equipment.

(a) A user who performs self-monitoring shall contract with an independent company (unless the requirement to use an independent company is waived in advance by the POTW superintendent as determined appropriate by the POTW superintendent) to maintain, repair, and calibrate the sampling and flow measurement equipment and instruments used to monitor the user.

(b) The maintenance, repair, and calibration shall be performed as often as necessary to ensure that monitoring data is accurate and representative, and consistent with the accepted capability of the type of equipment used, and shall be at the sole cost of the user.

(c) A user shall keep a complete and accurate written record of all calibrations, inspections and maintenance done (including, without limitation, the date and time of the activity, a description of what was done and the methods used, the names of persons conducting the activity, and any required or recommended follow-up). The record shall also include a description of all problems discovered regarding the equipment whether in response to a regularly scheduled inspection or otherwise.

(d) The POTW, in any event, may inspect and test a user's sampling and flow measurement equipment and instruments at all times.

(e) In no case shall a user's failure to keep its equipment, instruments and facilities in good working order constitute grounds for the user to claim that sample results are not representative of its discharge.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-187. Required sampling structures and devices.

(a) The POTW may require any user to install suitable control structures (such as sampling manholes or sampling vaults) and necessary measuring and sampling devices (including automatic devices) to facilitate the observation, sampling, and measurement of the quantity, composition, and concentrations of discharges to the POTW. The POTW may require the user to install control structures and measuring and sampling devices at every discharge point and/or outfall. Further, multiple separate and discrete building sewers, control structures, and measuring and sampling devices may be required for a single user, premises, building, facility or user, as determined necessary by the city. The structures and devices shall be maintained at all times in a safe, clean and proper operating condition at the sole expense of the user.

(b) There shall be ample room in or near the control structure to allow accurate monitoring, measuring, sampling and preparation of samples for analysis, as determined necessary by the POTW superintendent. At a minimum, all sewers shall have an inspection and sampling manhole or structure with an opening of no less than 24 inches in diameter and an internal diameter of no less than 36 inches containing flow measuring, recording and sampling equipment as required by the POTW superintendent to assure compliance with this chapter.

(c) Any temporary or permanent obstruction for safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the verbal or written request of the POTW and shall not be replaced. The costs of clearing such access shall be borne solely by the user.

(d) The location and complexity of the required control structure or devices may vary with sampling requirements determined necessary by the POTW superintendent to protect the POTW and to comply with applicable laws and regulations.

(e) The required sampling structures and devices shall be constructed and installed at the user's sole expense in accordance with plans submitted to the POTW, and in compliance with all applicable local construction standards and specifications. Users shall submit to the POTW plans and specifications for construction or modification of monitoring facilities at least 30 days before the proposed commencement of construction or modification. If a user constructs or modifies monitoring facilities before city approval or without an inspection during construction and the city determines that the monitoring facilities are not acceptable, then the user shall at its cost reconstruct or modify the monitoring facilities according to the requirements of the city. Construction shall be completed within 90 days following written notification by the city, or within such other shorter or longer time period specified by the city as required by the particular circumstances to meet the requirements of this chapter. The structures and devices shall be operated and maintained by the user at the user's sole expense so as to be safe and accessible to POTW personnel at all times and so as to provide accurate and representative monitoring data. If a user fails to install or maintain a required structure or device, the POTW may do so and charge the costs to the user. No person shall use a required control structure for any purpose other than the sampling and monitoring activities specifically approved by the POTW.

(f) The sampling structures and devices must be provided on the user's premises as approved by the city, but the city may, if it determines that such a location would be impractical or cause undue hardship to 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.

(g) Samples shall be taken at a control structure approved by the city. However, in the absence of a suitable control structure as required by this section, samples shall be taken immediately downstream from pretreatment facilities if pretreatment facilities exist, or immediately downstream from the regulated process if no pretreatment facilities exist. If other wastewaters are mixed with a regulated process wastestream prior to pretreatment, the user must measure the flows and concentrations necessary to allow use of the combined wastestream formula under MAC R 323.2311(7) or other methods required by the POTW to evaluate compliance with applicable pretreatment standards and requirements.

(h) No user shall change monitoring points or monitoring methods without first notifying and receiving the approval of the POTW superintendent. The POTW superintendent shall not approve any change in a user's monitoring point or points that would allow the user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

(i) A user shall allow the POTW access to all sampling and monitoring facilities as provided by section 44-222 of this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-188. Determination of flow.

The city may use any of the following methods to determine the amount of wastewater flow discharged to the POTW from a user's premises, as determined appropriate by the city:

(a) If the premises are metered, the amount of water supplied to the premises by the city or a private water company as shown by the water meter;

(b) If the premises are supplied with river water or water from private wells, the city may estimate the amount of water supplied from such sources based on the water, gas or electric supply to the premises;

(c) If the premises are used for an industrial or commercial purpose of such a nature that the water supplied to the premises cannot be (or is not) entirely discharged to the POTW, the city may estimate

the amount of wastewater discharged to the POTW based on the water, gas or electric supply to the premises;

(d) The city may determine the amount of wastewater discharged to the POTW based on measurements and samples taken by the city from a manhole installed by the owner of the premises, at the owner's sole expense, as required by the city under this chapter; or

(e) The city may determine the amount of wastewater discharged to the POTW from a premises using a combination of any of the above methods, or using any other method determined appropriate by the city.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 10. ACCIDENTAL DISCHARGES

Sec. 44-189. General.

This division sets forth minimum requirements for nondomestic users (and any other users as required by the city) to prepare for, respond to, and report, accidental discharges to the POTW. Additional or more restrictive requirements may be required for particular users under a user permit, a slug control plan, or by other applicable laws and regulations.

(a) Each nondomestic user shall provide and continuously maintain protection from accidental discharge of materials or other substances regulated by this chapter as provided by this division. The city may refuse to accept current or proposed discharges from any user that fails to comply with the requirements of this division.

(b) Detailed plans showing facilities and operating procedures to provide the protections required by this division shall be submitted to the POTW for review prior to construction of the facilities. All existing users shall submit the required plans and information with their permit applications or upon request of the POTW. For new sources, facilities and operating procedures to provide the protections required by this division shall be approved by the POTW prior to commencing discharge. No user who commences discharging to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge facilities and procedures as provided by this section are in place and have been approved by the POTW.

(c) Facilities to prevent accidental discharge of regulated materials or substances shall be provided and maintained at the user's cost and expense. Review and approval by the POTW of plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. Compliance with the requirements of this division shall not relieve a user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, or for any other damage to persons or property, or for any other liability that may be imposed under this chapter or under other applicable laws and regulations.

(d) No change shall be made in any plan or procedure approved by the POTW as provided by this section without the prior review and approval of the POTW.

(e) All users shall notify the POTW in writing within five days of any change in the information required to be provided to the POTW as set forth below in this section (including, without limitation, information regarding the person in charge of discharge operations, the description of chemicals stored, used or manufactured by the user, the description of user discharges, and the description of user premises).

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-190. Designation of person in charge of discharge operations.

Each nondomestic user shall designate at least one person to be in charge of and responsible for the user's discharges to the POTW, including responsibility for maintaining pretreatment facilities and operations, if any, and prevention of accidental discharges ("person in charge"). The person so designated shall be an individual with knowledge of all toxic wastes or hazardous substances routinely or potentially generated by the user, and of all process alterations that could, in any manner, increase or decrease normal daily flow or waste strength to the POTW. The names of the person (or persons) designated as provided by this section and a phone number where the person can be reached for 24-hour contact shall be submitted by each user to the POTW.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-191. Description of chemicals stored, used or manufactured by user; user discharges; user premises.

Unless the city determines that all of the following information has already been appropriately provided to the POTW pursuant to other requirements of this chapter, each nondomestic user shall:

(a) Catalog all chemicals stored, used, or manufactured by the user at the user's premises. The list of chemicals shall include specific chemical names (not just manufacturer's codes) and shall be provided to the POTW along with MSDS's.

(b) Provide the POTW with a written description of the user's discharge practices, including an estimate of daily average flows, waste strengths, and flow types, separated according to appropriate categories including process, cooling, sanitary, etc.

(c) Provide to the POTW a detailed, scaled professionally prepared drawing of the user's plant building(s), including the location of pretreatment equipment, process and chemical storage areas, waste storage areas, floor drains located near process and storage areas, manhole or other control structures, sewer locations at the user's point of discharge into the POTW, and a flow diagram of water usage throughout the facility to the point of discharge.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-192. Segregation of wastewaters requiring pretreatment.

Nondomestic users shall segregate wastewaters requiring pretreatment (including, without limitation, spent concentrates, toxics, and high strength organic wastes) as necessary to prevent pollutants from interfering with or passing through the POTW. All sludges generated by pretreatment shall be used and disposed of only as permitted by applicable local, state and federal laws and regulations.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-193. Secondary containment requirements.

(a) Each nondomestic user must provide and maintain at the user's sole expense secondary spill containment structures (including diking, curbing or other appropriate structures) adequate to protect all floor drains from accidental spills and discharges to the POTW of any pollutants or discharges regulated by this chapter.

(b) The containment or curbing shall be sufficient to hold not less than 150 percent of the total process area tank volume and not less than 150 percent of liquid polluting material stored or used, unless a lesser containment area or alternate control measures are approved in advance by the POTW superintendent.

(c) The containment area shall be constructed so that no liquid polluting material can escape from the area by gravity through the building sewers, drains, or otherwise directly or indirectly into the POTW. All floor drains found within the containment area must be plugged and sealed.

(d) Spill troughs and sumps within process areas must discharge to appropriate pretreatment tanks.

(e) Emergency containment shall also be provided for storage tanks that may be serviced by commercial haulers and for chemical storage areas.

(f) Solid pollutants shall be located in security areas designed to prevent the loss of the materials to the POTW.

(g) Detailed plans showing facilities and operating procedures to provide the protection required by this section shall be submitted to the POTW superintendent for review, and shall be approved by the POTW superintendent before construction. Construction of approved containment for existing sources shall be completed within the time period specified by the POTW superintendent.

(h) No new source shall be permitted to discharge to the POTW until emergency containment facilities have been approved and constructed as required by this section.

(i) The POTW superintendent may order a user to take interim measures for emergency containment as determined necessary by the POTW superintendent under the circumstances.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-194. Submission of pollution incident prevention plan.

(a) Each user required to develop a pollution incident prevention ("PIP") plan as provided by Part 5 of the Michigan Water Resources Commission Rules, 1979 ACR 323.1151 et seq., as amended (promulgated pursuant to Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., as amended), shall submit a copy of that plan to the POTW superintendent.

(b) The PIP Plan shall be submitted to the POTW superintendent within 60 days of the effective date of this chapter for an existing source, or 30 days prior to the date of discharge for a new source.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-195. Posting of accidental discharge information.

All nondomestic users shall post a clearly legible set of instructions in the area where the user manages wastewater so that the applicable reporting and notice requirements are made known and are available to the user's employees. In addition, all nondomestic users shall instruct their employees on the applicable reporting and notice requirements of this section.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-196. Notice of accidental discharge.

(a) In the case of an accidental discharge, a user shall immediately notify the POTW of the incident by telephone.

(b) The notification shall include the name of the person placing the call, the name of the user, and all available information regarding the location of the discharge, its volume, duration, constituents, loading and concentrations, corrective actions taken and required, and other available information as necessary to determine what impact the discharge may have on the POTW.

(c) A detailed written report providing the same and any additional available information (including specifying the measures that will be taken by the user to prevent similar future discharges) shall also be provided by the user to the city manager and the POTW superintendent within five days of the incident.

(d) Providing notice of an accidental discharge shall not relieve a user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notice relieve a user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-197. Slug control plan.

(a) Each significant industrial user shall prepare and implement an individualized slug control plan. Existing significant industrial users shall submit a slug control plan to the POTW for approval within 90 days of the effective date of this chapter. New sources that are significant industrial users shall submit a slug control plan to the POTW for approval before beginning to discharge. Upon written notice from the POTW, nondomestic users that are not significant industrial users may also be required to prepare and implement a slug control plan, and the plan shall be submitted to the POTW for approval as specified in the notice. All slug control plans shall contain at least the following elements:

(1) A description of discharge practices, including non-routine batch discharges;

(2) A description of stored chemicals, raw materials, and waste;

(3) The procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate any discharge prohibition, limitation or requirement under this division, and procedures for follow-up written notification within five days of the discharge;

(4) The procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.

(b) If a user has submitted to the POTW plans or documents pursuant to other requirements of local, state or federal laws and regulations which meet all applicable requirements of subsection 44-197(a), the POTW may in its discretion determine that the user has satisfied the slug plan submission requirements of this section.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 11. UPSET AND ADDITIONAL AFFIRMATIVE DEFENSES

Sec. 44-198. Upset.

An upset shall constitute an affirmative defense to an action brought for non-compliance with categorical pretreatment standards if all of the requirements of section 44-198(a), below, are met. However, in the event of an upset, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by

this chapter. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(a) *Conditions necessary to demonstrate upset.* A user seeking to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, all of the following:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

(3) The user has submitted the following information to the POTW within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission containing the same information must be provided within five days of becoming aware of the upset):

a. A description of the discharge and cause of non-compliance;

b. The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and

c. The steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.

(b) *User responsibility in case of upset.* The user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable limits upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-199. Additional affirmative defenses.

A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions under section 44-145(a) and specific prohibitions under sections 44-145(b)(6), (7), (8) or (9) if the user can demonstrate that all of the conditions necessary to establish the defense under MAC R 323.2303(3)(a) and (b) are met. However, even if the affirmative defense is established, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by this chapter. In any enforcement proceeding, the user seeking to establish the affirmative defenses provided by MAC R 323.2303(3) shall have the burden of proof.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 12. BYPASS

Sec. 44-200. Bypass not violating applicable pretreatment standards or requirements.

A nondomestic user may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if the bypass is for essential maintenance to assure efficient operation. A bypass that meets the requirements of the preceding sentence of this section is not subject to the provisions in sections 44-201, 44-202, and 44-203. However, nothing in this section shall be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this chapter or other applicable laws or regulations; nor to relieve a user for any expense, loss, damage, or liability that may be incurred as a result of the bypass, such as

damage to the POTW, fish kills, or any other damage to person or property; nor to relieve the user of any fines, penalties or other liability that may be imposed by applicable laws or regulations as a result of the bypass.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-201. Bypass prohibited.

Except as provided by section 44-200, the bypass of industrial wastes from any portion of a user's facility is prohibited, and shall be subject to enforcement action, unless all of the following apply:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. (This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance.)

(c) The user submitted the notices as required under section 44-202.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-202. Required notices.

(a) *Anticipated bypass.* If a user knows in advance of the need for a bypass, it must submit prior notice of the bypass to the POTW. Such notice shall be submitted to the POTW as soon as the user becomes aware of the need for the bypass, and if possible, at least ten days before the date of the bypass.

(b) *Unanticipated bypass.* A user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-203. POTW approved bypass.

The POTW superintendent may approve an anticipated bypass after considering its adverse effects, if the POTW superintendent determines that it meets the conditions set forth in section 44-201(a) through (c). It shall be a violation of this chapter for a user to allow an anticipated bypass to occur without the prior approval of the POTW superintendent.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 13. CONFIDENTIAL INFORMATION

Sec. 44-204. Confidential information.

The following provisions shall apply regarding the treatment by the POTW of confidential information submitted to or obtained by the POTW in the administration of this chapter:

(a) Information and data regarding 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 at the time of submission and is able to demonstrate to the satisfaction of the city, and in accordance with applicable state and federal laws and regulations, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(b) Information submitted by a user for which confidentiality is requested shall be clearly marked on each page as to the portion or portions considered by the user to be confidential and shall be accompanied by a written explanation of why the user considers the information to be confidential or why the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(c) Information that may disclose trade secrets or trade secret processes, and for which the user has requested, and been granted, confidentiality as provided by this section, shall not be made available for inspection by the general public; however, that information shall be made available upon written request to governmental agencies for uses related to matters regulated by this chapter and shall be made available for use by the state, any state agency, or the POTW in judicial review or enforcement proceedings that involve the user that furnished the information. The POTW shall notify the user ten days in advance if it intends to release confidential information to another governmental agency as authorized by this section.

(d) Information furnished to the POTW on the volume or characteristics of wastewater or pollutants discharged or proposed to be discharged into the POTW shall be available to the public or other governmental agency without restriction.

(e) If a user has mass-based limits as allowed by certain categorical pretreatment standards on a production basis, the production data necessary to determine compliance must also be provided by the user to the POTW, and shall be available to the public. If application of the combined waste stream formula is necessary to apply categorical pretreatment standards to a user, the flow measurements and other data used in the calculation must be provided by the user to the POTW, and shall be available to the public.

(f) Observations made by POTW inspectors shall be subject to the confidentiality provisions of this section as if they were in writing if the user specifies to the POTW in writing for which particular observations made by the inspector the user seeks confidentiality.

(g) All confidential information and/or data with respect to a particular user that is on file with the POTW shall be made available upon written request by that user or its authorized representative during regular business hours.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 14. RECORDS RETENTION

Sec. 44-205. Maintenance of records.

All users shall retain and preserve records, including, without limitation, all books, documents, memoranda, reports, correspondence and similar materials, related to matters regulated by this chapter as provided by the minimum requirements of this section or as provided by a permit or order issued pursuant to this chapter.

(a) *Discharge records.* A nondomestic user shall retain, preserve, and make available to the POTW for inspection and copying, for the period specified in section 44-205(c) all records related to matters regulated by this chapter, including, without limitation, all documents, memoranda, correspondence and similar materials; copies of all required reports, notifications, and applications; all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of results of all sampling, monitoring, measurements and analyses; all documentation associated with best management practices; and records of all data used to complete the application for a permit. Any nondomestic user subject to the sampling, monitoring, analysis, or reporting requirements of this chapter shall maintain copies of all records and information pertaining to those requirements or resulting from any monitoring activities (whether or not such monitoring activities are required by this chapter). For all samples, the records shall include, at a minimum, the information required to be recorded by section 44-183 of this chapter.

(b) *Hazardous or solid waste.* A nondomestic user shall retain and preserve all records regarding its generation, treatment, storage, or disposal of hazardous waste or solid waste for the period specified in section 44-205(c), and shall make them available to the POTW for inspection and copying, subject to the provisions in this chapter regarding confidential information. (As used in this section, the terms "hazardous waste" and "solid waste" shall have the same definition as provided in the state hazardous waste management act, Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended, and the rules promulgated under that act.)

(c) *Retention period.* Users subject to the reporting requirements of this chapter (or of any permit or order issued pursuant to this chapter) shall retain the records specified in sections 44-205(a) and 44-205(b) for a period of at least three years from (a) the date the record was created or (b) the date the record was first used or relied upon by the user, whichever is later. The three year retention period shall be extended during any administrative or judicial action, enforcement proceeding or litigation regarding matters regulated by this chapter (or regarding discharges of the POTW under its NPDES permit), until all such actions, proceedings, or activities have concluded and all periods of limitation with respect to any and all appeals have expired. The three-year retention period may also be extended at any time at the request of the POTW, the MDEQ, or the U.S. EPA. The POTW shall retain all records, notices and other information regarding discharges to the POTW submitted to it by nondomestic users of the POTW for a period of not less than three years.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 15. ADMINISTRATION OF THE POTW

Sec. 44-206. Operation and management of POTW.

Except as otherwise expressly provided by this chapter, the operation, maintenance, alteration, repair and management of the POTW shall be under the direct supervision and control of the city. The city has the exclusive right to establish, maintain and collect rates, charges and surcharges for use of the POTW which rates, charges and surcharges may be established and amended from time to time by resolution of the city council, and the city may employ the persons in the capacities as the city deems necessary and advisable to ensure the efficient

establishment, operation, maintenance, and management of the POTW, to comply with the POTW's NPDES permit, and to discharge its financial obligations. The city may establish any rules, regulations and procedures as determined necessary to assure the efficient management and operation of the POTW.

(Ord. No. 13-04 , § 2, 7-16-2013; Ord. No. 20-01 , § 5, 2-18-2020)

Sec. 44-207. Powers of city manager.

As directed by the city, the city manager shall (either directly, through, or in conjunction with other authorized representatives of the city) take the following actions:

(a) Supervise the implementation of this chapter.

(b) Review plans submitted by users for pretreatment equipment.

(c) Make inspections and tests of existing and newly installed, constructed, reconstructed, or altered sampling, metering, or pretreatment equipment to determine compliance with the provisions of this chapter.

(d) Verify the completeness, accuracy and representativeness of self-monitoring data submitted and/or maintained by users.

(e) Investigate complaints of violations of this chapter, make inspections and observations of discharges, and maintain a record of the investigations, complaints, inspections and observations.

(f) Issue orders and notices of violation and take other actions as necessary to require compliance with this chapter.

(g) Develop and implement a Control Authority Enforcement Response (CAER) Plan as required by 40 CFR 403.8(f)(5). The CAER Plan shall provide procedures for the POTW to investigate and respond to instances of non-compliance by users. The CAER Plan and any associated regulations developed by the POTW superintendent shall become effective upon approval by the city.

(h) With the approval of the city, and in conjunction with the city's legal counsel, institute necessary civil or criminal judicial legal actions and proceedings in a court of competent jurisdiction against all users violating this chapter to prosecute violations of this chapter, to compel the abatement or prevention of violations, to compel compliance with this chapter and any order, determination, permit or agreement issued or entered into under this chapter, and to pursue any other necessary or advisable legal and/or equitable judicial relief or remedies with respect to violations of this chapter.

(i) In conjunction with the city's legal counsel, commence a municipal civil infraction action against any user violating this chapter, and issue municipal civil infraction citations and municipal civil infraction violation notices for violations of this chapter.

(j) Perform any other actions authorized by this chapter, or as necessary or advisable for the supervision, management and operation of the POTW and the enforcement of this chapter and other applicable laws and regulations.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 16. USER POLLUTION CONTROLS

Sec. 44-208. Provision by users of necessary pretreatment facilities.

Users shall provide necessary wastewater treatment as required to comply with all applicable pretreatment standards and requirements within the time limitations specified by applicable law or regulation, and as required to comply with the requirements of a user permit or order issued pursuant to this chapter. All facilities required to pretreat discharges shall be provided, operated, and maintained at the user's sole expense. Detailed, professionally signed and sealed plans showing the pretreatment facilities, specifications, and operating procedures shall be submitted to the city for review and approval prior to construction. The POTW superintendent may approve, approve with conditions, or disapprove the plans, specifications and operating procedures. A user shall not begin discharging from the treatment facilities until facilities have been approved and all conditions and requirements of the approval have been met as determined by the city. The review and approval by the city of such plans and operating procedures does not in any way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the POTW under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW prior to the user's initiation of the changes. (Users shall notify the POTW regarding the installation of new pretreatment facilities or modification of existing facilities as provided by section 44-173 of this chapter.)

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-209. Proper operation and maintenance.

A user shall at all times properly operate and continuously maintain, at the user's sole expense, all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the user to comply with the requirements of this chapter. Proper operation and maintenance includes, without limitation, effective performance, adequate funding (including replacement costs), adequate operator staffing, and adequate quality assurance/quality control (QA/QC) procedures for sampling and analysis, so as to provide adequate wastewater collection and treatment on a continuing basis, to conform with all local, state and federal laws and regulations, and to assure optimum long-term management of the facilities and system.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-210. Removed substances.

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in accordance with Section 405 of the Clean Water Act and Subtitles C and D of the Resource Conservation and Recovery Act, and other applicable local, state, and federal laws and regulations.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-211. Duty to halt or reduce activity.

Upon reduction of efficiency of operation, or loss, or failure of all or part of a user's pretreatment equipment or facility, the user shall, to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable standards, requirements, and limits, control its production and all discharges until operation of the equipment or facility is restored or an alternative method of treatment is provided. This requirement applies in situations, including, without limitation, where the primary source of power for the pretreatment equipment or facility is reduced, lost, or fails. It shall not be a defense for a user in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-212. Duty to mitigate.

A user shall take all reasonable steps to minimize or correct any adverse impact to the POTW or the environment resulting from non-compliance with this chapter, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-213. Duty to pretreat prior to discharge to POTW.

Except as otherwise expressly required by this chapter, by a user permit, by an order or other determination of the city, or by other applicable law or regulation, the prohibitions and limitations provided by this chapter or a user permit shall apply at the point where wastewater and pollutants are discharged or caused to be discharged into the POTW and any required pretreatment shall, at a minimum, be completed before that point of discharge is reached.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-214. Implementation of best management practices or best management practices plan.

(a) The city may require any user to develop and implement best management practices to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants or other substances from the user's premises to the POTW, as determined necessary by the city.

(b) In addition, the city may require a user to develop and submit a best management practices plan ("BMPP"), including an enforceable implementation schedule, for review and approval by the POTW superintendent. The BMPP shall be submitted within 30 days after notification by the city or as otherwise required by a user permit. The BMPP shall be directed at preventing the entrance of pollutants, directly or indirectly, into the POTW. The BMPP shall be available for inspection at all times at the user's premises. At a minimum, a user's BMPP shall contain all of the following elements, as determined necessary by the city, at a level of detail and in units and terms as determined necessary by the city to adequately evaluate the plan:

(1) A statement of the purpose and objectives of the plan.

(2) A description of the strategies, methods, policies and procedures to prevent, minimize or reduce the introduction of pollutants into the user's discharge and to minimize waste generation.

(3) A description of the options available to the user to control accidental spillage, leaks and drainage.

(4) A description of best available or practicable control technologies available for the user's specific circumstances.

(5) A detailed facility layout and site diagram showing points of entry into the POTW.

(6) A description of the waste handling, treatment and discharge disposal facilities, including flow diagrams and process schematics.

(7) A description of operating and maintenance processes and procedures.

(8) Inventory of raw materials and a list of waste sources, including a list of all chemicals used or stored at the facility.

(9) A description of employee training programs, policies and procedures; continuing education programs; and participation.

(10) A description of documentation, including record keeping and forms.

(11) A description of monitoring activities.

(12) Information log of facility personnel, organization chart, emergency phone numbers, contact persons and maintenance or service representatives.

(13) Certification by a qualified professional that the plan is adequate to prevent spills, leaks, slug loads, or non-customary discharges of regulated substances, directly or indirectly, to the POTW.

(14) Such other information, documents or diagrams as required by the city manager or the POTW superintendent, including, but not limited to, any of the information required under section 44-154 of this chapter.

(c) The BMPs or BMPP required of a user or approved for a user shall be incorporated in a user permit issued to the user. If the user already has a user permit, the existing permit may be modified to incorporate the BMP requirements. If the user does not currently have a user permit, a permit shall be issued for that purpose.

(d) The city may require revisions to users BMPP if the city determines that the plan contains elements that are inadequate, or as otherwise determined necessary by the city to ensure compliance with applicable requirements of this chapter. Review of a BMPP by the POTW superintendent shall not relieve the user from the responsibility to modify its facility as necessary to comply with local, state and federal laws and regulations.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-215. Fog interceptors; alternate fog pretreatment technology; sand traps.

(a) *General requirements applicable to all FOG interceptors; alternate FOG pretreatment technology; and sand traps.*

(1) Any user required to install a FOG interceptor, an Alternate FOG Pretreatment Technology ("AFPT"), or a sand trap to prevent the discharge of fats, oils, grease, sand, or other materials to the POTW shall comply with the minimum requirements as provided by this section or as otherwise specified by the POTW superintendent.

(2) Interceptors, AFPTs, and traps that are required by this section shall be provided, cleaned, maintained in proper operating condition, and kept in continuously efficient operation at all times, at the sole expense of the owner of the premises.

(3) All interceptors, AFPTs, and traps shall be of a design, type, construction, and capacity approved in advance by the POTW superintendent.

(4) The installation of all interceptors, AFPTs, and traps shall be subject to the POTW superintendent's review and approval.

(5) All interceptors, AFPTs, and traps shall be located so as to be readily and easily accessible for maintenance, cleaning and inspection.

(6) All users required to install and maintain an interceptor, AFPT, or trap shall develop and carry out a system of maintenance and cleaning for the interceptor, AFPT, or trap, and shall keep accurate, detailed written records of the following:

a. The maintenance and cleaning schedule;

b. The names of the persons who maintained and cleaned the interceptor, AFPT, or trap, and the dates that the interceptor, AFPT, or trap was maintained and cleaned; and

c. The method of cleaning and disposal location for removed materials for each maintenance and/or cleaning.

(7) At a minimum, all interceptors, AFPTs, and traps shall be inspected, cleaned and maintained according to the manufacturer's specifications or as otherwise provided by this section, whichever requirements are more stringent, at the property owner's expense.

(8) All written records and documentation required to be kept by this section with regard to interceptors, AFPTs, and traps shall be kept by the user on the premises for at least three years and shall be available for review by the POTW superintendent during all operating hours. The user shall provide copies of required records to the POTW superintendent upon the POTW superintendent's request at the user's sole cost.

(9) Any problems with or damage to an interceptor, AFPT, or trap shall be reported immediately to the property owner and to the POTW superintendent.

(10) Any problems with or damage to an interceptor, AFPT, or trap shall be rectified and/or repaired immediately by the property owner at the owner's sole cost.

(11) Interceptor, AFPT, or trap clean-out material, including, but not limited to, accumulated fats, oils, grease, and sand, shall not be discharged into the POTW.

(12) Bacteriological, chemical, or enzymatic products shall not be used to maintain or clean interceptors, AFPTs, or traps.

(b) *Requirements for FOG interceptors and AFPTs.* A FOG interceptor or AFPT shall be required for all food service establishments (FSEs), and may also be required for any other user, premises, or establishment determined by the POTW superintendent to have a reasonable potential to adversely affect the POTW due to discharges of FOG.

(1) *Outdoor FOG interceptors.*

a. *Outdoor FOG interceptors required.* All FSEs shall install, operate, and maintain an outdoor FOG interceptor of a type, design, construction, and size approved in advance by the POTW; provided that if the POTW superintendent determines that installation of an outdoor FOG interceptor would not be economically and/or technically feasible due to existing circumstances unique to the premises in question, the POTW superintendent may instead allow the installation of alternate FOG pretreatment technology as provided by section 44-215(b)(2). In all cases, the user shall bear the burden of demonstrating to the POTW superintendent, at the user's sole cost, that the installation of an outdoor FOG interceptor is not feasible and that an alternate FOG pretreatment technology should instead be allowed.

b. *Compliance schedule.* Existing FSEs/Users: Any FSE discharging into the POTW as of the effective date of this chapter (and any other existing user determined by the POTW superintendent to have a reasonable potential to adversely affect the POTW due to discharges of FOG) shall, upon notification from the POTW superintendent, submit plans for an outdoor FOG interceptor for approval by the POTW superintendent, and shall install and begin operation of the interceptor, in compliance with the schedule specified by the POTW superintendent.

New FSEs/Users: Any FSE that proposes to commence discharging into the POTW after the effective date of this chapter (and any other new user determined by the POTW superintendent to have a reasonable potential to adversely affect the POTW due to discharges of FOG) shall submit plans for an outdoor FOG interceptor to the POTW superintendent for the POTW superintendent's approval, and shall install and begin operation of the interceptor in compliance

with the schedule specified by the POTW superintendent. In all cases, the interceptor plans must be approved by the POTW superintendent prior to submitting plans to the city for a building permit; and the city shall not issue a building permit for the premises until the POTW has approved the proposed interceptor plans. Further, the city shall not issue a certificate of occupancy for the premises until the interceptor has been installed and deemed acceptable by the POTW superintendent.

c. *Minimum design and installation requirements for outdoor FOG interceptors.* Outdoor FOG interceptors shall comply with all of the following minimum design and installation requirements:

1. The interceptor shall provide a minimum capacity of 1,500 gallons, unless the POTW superintendent determines that a smaller minimum capacity is adequate for the premises.
2. The interceptor shall have a minimum of two compartments with fittings designed for FOG retention.
3. The interceptor shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature.
4. The interceptor shall be installed at a location, subject to the prior approval of the POTW superintendent, where it can be easily accessible for inspection, cleaning, and removal of intercepted FOG, but shall not be located in any part of a building where food is handled.
5. Access manholes, with a minimum diameter of 24 inches, shall be provided over each outdoor FOG interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade, and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, FOG removal, and sampling which, when bolted into place, shall be gastight and watertight.

d. *Minimum inspection, maintenance, and cleaning requirements for outdoor FOG interceptors.* Outdoor FOG interceptors shall comply with all of the following minimum maintenance, cleaning, and inspection requirements:

1. At a minimum, an outdoor FOG interceptor shall be inspected monthly by the property owner, or more often if dictated by site specific conditions or if required more frequently by the POTW superintendent.
2. Pump-out of all accumulated FOG, water, and sludge shall occur quarterly at a minimum, or more often if the combined height of floatables and settled solids (including both the top and bottom layers of solids) exceed 25 percent of any interceptor compartment operating depth; if there is a visible discharge of FOG; or if required more frequently by the POTW superintendent. The operating depth of a trap shall be determined by measuring the internal depth from the outlet water elevation to the bottom of the trap.
3. Each pump-out of the interceptor shall be complete and remove all contents, including removal of the entire grease mat, liquids, sludges, and solids from screens, baffles, air-relief chambers, and wash down of interior walls. The interceptor shall be refilled with clear water before being returned to service.
4. The interceptor shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could reduce the effective volume for FOG and sludge accumulation.
5. Water removed during pump-out shall not be returned to the interceptor, and accumulated FOG and sludge shall not be reintroduced into any drainage piping leading to the public sewer.

6. Sanitary wastes shall not be discharged to sewer lines serviced by an outdoor FOG interceptor without specific prior approval by the POTW superintendent.

7. The pump-out operation and disposal of the accumulated FOG, water, and sludge shall be done only by a licensed contractor. The POTW superintendent shall be notified prior to any scheduled pump-out so that the operation can be witnessed if desired.

(2) *Alternate FOG pretreatment technology.* If the city manager determines that installation of an outdoor FOG interceptor is not required as provided by section 44-215(b)(1)a., then the POTW superintendent may instead authorize the installation of an alternate FOG pretreatment technology ("AFPT") approved by the POTW superintendent as provided by this section. The design, type, construction, capacity, installation, operation, and maintenance requirements for an AFPT for a user's proposed or existing discharge shall be as determined by the POTW superintendent based on nature of the discharge and the unique circumstances applicable to the premises in question.

a. *Indoor grease traps.* If the AFPT approved by the POTW superintendent is an indoor grease trap, the following requirements shall apply:

1. Indoor grease traps shall be installed in all waste lines from sinks, drains, and other fixtures or equipment where grease may be discharged to the POTW; provided that no food waste disposal unit, dishwasher, wastewater or other liquid in excess of 140 degrees Fahrenheit (60 degrees Centigrade) shall be discharged into an indoor grease trap. Further, no acidic or caustic cleaners shall be discharged into an indoor grease trap.

2. Traps shall never be operated without the flow restrictor supplied by the unit's manufacturer.

3. Sizing and installation of the indoor grease traps shall be subject to the POTW's prior review and approval.

4. Traps shall be inspected and cleaned at least once per week, or more often if dictated by site-specific conditions, as needed to be maintained in fully functional and efficient operation, or as otherwise specifically required by the POTW superintendent.

5. FSEs with indoor grease traps shall employ kitchen best management practices (BMPs) for pre-cleaning of plates, pots, pans, and similar methods to minimize grease loadings to the drainage system.

b. *Other AFPT.* If the proposed AFPT is a technology other than indoor grease traps, the FSE shall submit design plans, installation details, and operation and maintenance procedures to the POTW superintendent for prior review and approval.

(c) *Sand and oil interceptors and traps.* Oil and sand interceptors and traps may be required by the POTW superintendent in any premises where the POTW superintendent has determined that there is a reasonable potential for sand, oil, flammable wastes, or other harmful ingredients to enter the premises discharges. If a plug or backup occurs that is caused by sand and/or oil, the POTW superintendent may require that premises to install an oil and sand interceptor or trap. Oil and sand interceptors and traps shall be required for all premises engaged in the washing of motor vehicles.

(d) *Failure to comply.*

(1) The city shall have the right to enter and inspect any premises where an interceptor, AFPT, or trap is required to be installed for purposes of determining compliance with the requirements of this section and as otherwise provided by section 44-217 of this chapter.

(2) If a user fails to provide or maintain a required interceptor/AFPT, the city may do so (or cause the same to be done) and charge all of the costs to the user.

(3) The failure of any premises where an interceptor/AFPT is required to comply with this section may subject the violator to enforcement action and the remedies that are available by law and the terms of this chapter, including, but not limited to, termination of the discharges from the premises to the POTW.

(e) *Permits.* The POTW superintendent may issue and/or require user discharge permits for any user discharging FOG or sand to the POTW. The user discharge permits may include requirements that are more stringent than, or in addition to, the requirements specified by this section, as determined appropriate by the POTW superintendent.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-216. Additional pretreatment measures.

The POTW may require users to take additional pretreatment measures, as determined necessary by the POTW, including, but not limited to, the following:

(a) Whenever deemed necessary, the POTW may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(b) The POTW may require any person discharging into the POTW to install and continually maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow, subject to approval by the POTW.

(c) Users with the reasonable potential to discharge explosive or flammable substances may be required to install and maintain an approved explosion hazard meter, combustible gas detection meter, or similar device, as determined appropriate by the POTW.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 17. SEPTAGE WASTE

Sec. 44-217. Disposal of septage waste.

All septage waste collected within the city shall be disposed of at the Greenville Wastewater Plant Septage Receiving Facility, except as provided below. Further, all septage waste collected in the portion of the service area not within the boundaries of the city may be accepted for disposal at the city wastewater plant septage receiving facility and septage outside of those boundaries may be on a case by case basis. The city wastewater plant septage receiving facility is an "available" receiving facility for the purpose of receiving septage wastes from the service area, as provided by NREPA section 11701(r).

A person shall not dispose of septage at the city wastewater plant septage receiving facility if the:

(a) DEQ has issued an order prohibiting the operation of the city wastewater plant septage receiving facility, or

(b) City wastewater plant septage receiving facility has no capacity to accept additional septage. In addition, no load of septage waste may be accepted by the city wastewater plant unless:

(1) Such septage waste has been made available for inspection by personnel of the city wastewater plant;

(2) Disposal of such septage waste is consistent with the requirements of NREPA, the license of the city wastewater plant under NREPA, the DEQ-approved septage receiving operational plan for the city wastewater plant, and the ordinance; and

(3) All rates, fees, charges, or other costs for septage waste disposal and treatment that are established as described in section 44-219 of this chapter are paid simultaneously with, or in advance of, delivery of that load of septage waste to the city wastewater treatment plant septage receiving facility.

The city wastewater plant may reject any load of septage waste that in not in conformance with this division. Nothing in this ordinance precludes the lawful disposal of septage waste outside the state.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-218. Disposal of additional waste at the septage receiving facility.

As to any waste that is a fluid mixture of untreated and partially treated sewage solids, liquids, or sludge that is removed from a wastewater system and that does not meet the definition of a septage waste, shall not be disposed of at the city wastewater treatment plant septage receiving facility unless, (a) prior to disposal each load has been inspected, (b) sampled, (c) tested, (d) documented as required by the city staff at the wastewater treatment plant and (e) disposal of each load has been approved in advance by POTW superintendent.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-219. Rates, fees, charges, or other costs.

Rates, fees, charges, or other costs of disposal of septage waste at the city wastewater plant shall be those established by resolution of the city council from time to time. At the reasonable discretion of the city, a person or business seeking to dispose of septage waste at the city's septage receiving facility may be required to establish and maintain financial assurance for payment of rates, fees, charges, or other costs of such disposal in an amount not to exceed $25,000, consisting of a performance bond, cash in escrow, or a third-party guarantee satisfactory to the city. To the extent a person or business prepays any rates, fees, charges, or other costs for disposal of septage waste at the city wastewater plant septage receiving facility, and the

(a) DEQ issues an order prohibiting the operation of the city wastewater plant septage receiving facility, for any reason, or

(b) the city wastewater plant septage receiving facility has no capacity to accept additional septage, the city shall reimburse any user who has prepaid for septage disposal services a pro rata amount of unused septage disposal credit that a user has at the city's septage receiving facility.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-220. Violations and penalties.

Any person who violates any provisions of this division shall be fined an amount not to exceed $1,000.00 for each violation (or such lower limit as may exist by virtue of state law limitations). Fines may be obtained as city administrative fines, or through the procedure for municipal civil infractions, or through proceedings in a court of law. If a violation is of a continuing nature, each day the violation occurs is a separate offense. The penalties for violation of this division shall be in addition to any penalties, fines, forfeiture, injunctions and/or license sanctions

that may be imposed by sections 44-222, 44-223 and 44-224 or any other laws or regulations of the state or federal government. Nothing in this division shall be construed to relieve any person from any licensing requirements imposed by any other local, state or federal ordinance, regulation, or law.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-221. Recovery of additional costs incurred by the city.

In addition to any other rates, fees, charges, fines, penalties or other costs, a person who has disposed of any material at the city wastewater plant septage receiving facility or violated any provision of this division shall be responsible for any additional costs incurred by the city as a result of such activity, including without limitation expenses for any additional monitoring, sampling or analysis, expenses for additional investigation, costs for additional reports, costs for storing, dumping or treating material, costs for damages to or loss of the treatment process, or natural resources, or fines or penalties incurred by the city. Any such person shall be notified of all such charges and shall pay them within 30 days of notification.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 18. ENFORCEMENT

Sec. 44-222. POTW inspection, surveillance and monitoring authority; right of entry.

(a) *In general.* The POTW is authorized to carry out all inspection, surveillance, sampling and monitoring activities and procedures, as necessary to determine, independent of information supplied by users or any other persons, compliance or non-compliance with applicable pretreatment standards and requirements, with this chapter, and with other applicable laws and regulations. This authority includes, without limitation, the authority:

(1) To verify the completeness, accuracy and representativeness of self-monitoring data submitted by users.

(2) To determine compliance with the terms, conditions and requirements of this chapter or of any permit, order, notice or agreement issued or entered into under this chapter.

(3) To support enforcement actions taken by the POTW against non-compliant users.

(4) To determine if users have corrected problems identified in previous inspections.

(5) To identify which (and to what degree) users influence the quality of the POTW's influent, effluent and sludge quality.

(6) To evaluate the impacts of the POTW's influent on its treatment processes and receiving stream.

(7) To evaluate the need for revised local limits.

(8) To maintain current data on each user.

(9) To assess the adequacy of each user's self-monitoring program and user permit.

(10) To provide a basis for establishing sampling and monitoring requirements for users.

(11) To evaluate the adequacy of each user's operation and maintenance activities on its pretreatment system.

(12) To assess the potential for spills and/or slug discharge control measures, and evaluate the effectiveness of spill and slug discharge control measures.

(13) To gather information for user permit development.

(14) To evaluate compliance with existing enforcement actions.

(15) To require any user to submit one or more representative samples of the wastewater discharged or that the user proposes to discharge into the POTW.

(16) To determine compliance with requirements regarding implementation of best management practices; accidental discharge controls and protections; spill prevention or containment measures; and pollution prevention, minimization or reduction measures.

(b) *Right of entry.* The city manager and other authorized representatives of the city bearing proper credentials and identification are authorized to enter a user's premises (and any other person's premises, as determined necessary by the city manager) to conduct inspection, surveillance and monitoring activities as necessary to determine compliance with this chapter, and in that regard shall have, without limitation, the following minimum authority:

(1) To enter into any premises of any person in which a discharge source, treatment system or activity is located or in which records are required to be kept as provided by this chapter, for the purpose of inspecting, observing, measuring, sampling and testing the wastewater discharge, removing samples of wastewater for analysis, and inspecting and making copies of required records. This shall include the right to take photographs or video.

(2) To set up and maintain on the person's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations, or to require the person to do so, at the person's sole expense.

(3) To randomly sample and analyze the effluent from persons and conduct surveillance activities to identify occasional and continuing non-compliance with applicable standards and requirements. The POTW shall inspect and sample the effluent from each significant industrial user at least once a year.

(4) To inspect any production, manufacturing, fabrication, or storage area where pollutants, subject to regulation under this chapter, could originate, be stored, or be discharged to the POTW.

(5) To enter all private properties through which the POTW, the City, or other governmental agency holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the POTW or wastewater transmission facilities lying within the easement. POTW representatives entering a person's premises for purposes authorized by this chapter shall comply with the person's plant safety requirements regarding such matters as entry into confined spaces, use of safety glasses, and hearing protection requirements, as requested by the person. Entry shall be commenced and completed as expeditiously as practicable, consistent with the purposes for which the entry was made.

(c) *Access without delay required.* Persons shall allow the POTW ready access at all times to all parts of the person's facility or premises where wastewater governed by this chapter is created, handled, conveyed, treated or discharged, or where any production, manufacturing, fabrication, or storage area where pollutants regulated under this chapter could originate, be stored, or be discharged to the POTW, or where wastewater records are kept, for the purposes of inspection, sampling, records examination, or in the performance of any of the POTW's duties. If a person has security measures in force that would require proper identification and clearance before entry into the premises by the POTW, the person shall make necessary arrangements in advance with its security guards so that upon presentation of suitable identification, authorized representatives of the POTW (or authorized state or federal personnel) will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Upon arrival at a person's premises, POTW representatives shall inform the person or the person's employees that inspections, sampling, compliance monitoring, metering or other POTW procedures are to be performed and

that the person has the right to accompany the POTW employee or representative during the performance of the person's duties.

(d) *Refusal to allow entry.* If a person refuses to permit access (or unreasonably delays access) to an authorized POTW representative or to permit the representative to obtain, take, and remove samples or make copies of documents or undertake other authorized inspection, surveillance and monitoring activities as provided by this chapter, the city may order the termination of the discharge of wastewater to the POTW; order the person to permit access within a time certain; issue the person a notice of violation of this section; or take other appropriate action as provided by this chapter and other applicable laws and regulations (including, but not limited to, seeking the issuance of a search warrant). Further, the refusal to permit access (or causing an unreasonable delay in access) as provided by this section shall constitute a violation of this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-223. Notice of violation.

(a) Any person found to be violating a provision of this chapter may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. The person shall, within the period of time stated in notice, permanently cease all violations. The notice of violation (NOV) shall be served and shall contain the information as provided by section 44-225 of this chapter.

(b) Unless otherwise specified by the NOV, the following provisions shall apply: Within 30 days of the date of the NOV, the person shall submit to the POTW a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. Submission of the required plan shall not in any way relieve the person of liability for any violations occurring before or after receipt of the notice of violation.

(c) Nothing in this section shall limit the authority of the city or the POTW to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation, or otherwise require the city or the POTW to first issue a notice of violation before initiating a civil or criminal action against a person for violating this chapter. Further, receipt, or non-receipt, of a notice of violation shall in no way relieve the affected user of any and all liability associated with any violation.

(d) Failure to comply with any requirement of a notice of violation shall constitute a separate violation of this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-224. Orders and supplemental enforcement tools.

The city may issue an order to any person as determined by the POTW superintendent to be appropriate under the circumstances, as provided by this section. Multiple orders may be issued simultaneously or in combination as a single order with respect to a single person.

(a) *Service.* An order shall be served upon a person and shall contain the information as provided by section 44-225 of this chapter. However, orders to immediately cease and desist discharge, or to terminate sewer services, or other emergency orders where delay might endanger human health, the environment, or the POTW, may be oral and may be served by telephone, to be followed within five days by written confirmation of the oral order by the city manager or the POTW superintendent.

(b) *Types of orders.* The city may issue the following types of orders:

(1) *Order to immediately cease and desist discharge.* The city manager or the POTW superintendent may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this chapter. The order shall have immediate effect if the POTW superintendent determines that the actual or threatened discharge to the POTW presents, or may present, imminent or substantial endangerment to the health or welfare of persons or to the environment; or causes, or may cause, interference or pass through; or may cause the POTW to violate any term or condition of its NPDES permit. The POTW superintendent shall implement whatever action is necessary to halt or prevent the discharge, including, but not limited to, emergency suspension of service. The person shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this chapter.

(2) *Order to cease discharge within a time certain.* The city may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this chapter by a certain time and date.

The proposed time for remedial action shall be specified in the order. In addition to any other circumstances as determined appropriate by the city, an order may be issued under this Section for the failure to pay applicable permit fees or to comply with any term of a user permit.

(3) *Order to effect pretreatment.* The city may issue an order to a user requiring the user to pretreat its discharge in accordance with this chapter. Any user subject to an order to pretreat shall prepare a plan to pretreat its discharge so that the discharge complies with the requirements of the order and this chapter. The plan shall be submitted to the POTW superintendent within a reasonable period as specified in the order. The plan shall be prepared in accordance with good engineering practice and shall state whether construction is necessary, as well as identify measures that can be completed without construction. The plan shall contain a schedule of compliance for completion of each of the various phases necessary to implement full pretreatment. The schedule of compliance must be approved by the city. The schedule of compliance shall consist of one or more remedial measures, including enforceable timetables for a sequence of actions or operations leading to compliance with an effluent standard, or other prohibition or standard. The following steps or phases shall be included in the schedule of compliance as determined necessary by the city:

a. Retain a qualified engineer and/or consultant.

b. Obtain any engineering or scientific investigation or surveys deemed necessary.

c. Prepare and submit a preliminary plan to achieve pretreatment.

d. Prepare plans and specifications, working drawings, or other engineering or architectural documents that may be necessary to effect pretreatment.

e. Establish a time to let any contract necessary for any construction.

f. Establish completion times for any construction necessary.

g. Establish a time limit to complete full pretreatment pursuant to the final order.

h. If a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phase or unit.

(4) *Order to affirmatively respond.* The city may issue an order requiring a person to perform any action required under this chapter, including, without limitation, requiring a person to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.

(5) *Order to terminate sewer services.* The city may issue an order to terminate the sewer services of a user, including, but not limited to, immediate physical blockage of the user's sewer connection, for reasons including, without limitation, the following:

a. A discharge that violates any general or specific discharge prohibition, including any pretreatment standard or requirement, and that reasonably appears to present an imminent endangerment to human health, the environment or the POTW.

b. Failure of a user to notify the POTW of any discharge as described in section 44-224(b)(5)a. of which the user was aware or reasonably should have been aware.

c. Failure of a user to sample, monitor, pretreat or report, or failure to install monitoring or pretreatment facilities, as required by an order of the city.

d. A knowing, willful violation of any term, condition or requirement of an order or user permit, or any provision of this chapter.

e. A negligent violation of any major term, condition or requirement of an order or user permit. For purposes of this section, a "major" term, condition or requirement is one the violation of which is reasonably likely to endanger human health, the environment, the POTW, or cause the POTW to violate its NPDES permit. If the POTW determines that physical blockage is necessary, the POTW shall make a reasonable attempt to deliver to the person who appears to be in control of the user's facility a written notice describing the reason for the physical blockage order. After delivery of the notice (or after a reasonable attempt to deliver the notice, even if delivery was unsuccessful), the POTW may immediately install the physical blockage. No person shall remove or tamper with a physical blockage installed by the POTW without prior written permission from the city.

(6) *Order to show cause.* The city may issue an order requiring a person to appear and explain any non-compliance with the requirements of this chapter or any permit, order, decision or determination promulgated, issued or made under this chapter, and to show cause why more severe enforcement actions against the person should not go forward. A show cause hearing shall be held within ten days after the order to show cause is issued, as follows:

a. The wastewater board of appeals shall conduct the hearing and take evidence. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing.

b. Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.

c. After reviewing the evidence taken at the hearing, the wastewater board of appeals shall decide whether further enforcement action is required and, if so, the nature and extent of that further action, including, without limitation, the issuance of any order or imposition of any fines, fees, surcharges or penalties, as authorized by this chapter.

(c) *Immediate response to order by user may be required.* Any user issued an order as provided by this section to immediately suspend its discharge to the POTW shall immediately stop or eliminate the discharge using whatever means are necessary to do so, or take any other action as required by the order. If the user fails to comply voluntarily with the order to immediately suspend its discharge, the POTW shall take any action determined necessary as authorized by this chapter, including, without limitation, immediate suspension of water service and/or severance of the sewer connection or commencement of judicial proceedings, to prevent or minimize damage to the POTW or endangerment to public health, safety or the environment. The POTW may reinstate the wastewater treatment service and terminate any judicial proceedings, as applicable, upon satisfactory proof or

other demonstration by the user that the non-complying discharge has been eliminated or will not reoccur. A detailed written statement submitted by the user describing the causes of the non-complying discharge and the measures taken to prevent any further occurrence shall be submitted to the POTW superintendent within 15 days of the occurrence.

(d) *Non-compliance due to factors beyond user's control.* If non-compliance with an order is unintentional and temporary and due to factors beyond the reasonable control of a user, and the user can demonstrate the conditions necessary for demonstration of an upset as provided by section 44-198(a), the city may modify the order or take other actions as determined appropriate. However, a user shall not be relieved of liability for non-compliance with an order to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(e) *Amendment, suspension and revocation of orders.* An order shall be subject to amendment, suspension or revocation as determined appropriate by the city. Notice of the amendment, suspension or revocation shall be served upon the person in the same manner as notice was provided for the original order. An amendment, suspension or revocation of an order shall be subject to the same procedures for review and appeal as the original issuance of the order, as provided by this chapter.

(f) *Consent orders and agreements.* The city may enter into a consent order or agreement with a person to resolve disputed claims and address identified and potential deficiencies in the person's compliance status. The order or agreement shall be in the form of a written agreement with the person and may contain appropriate provisions, including, without limitation, compliance schedules and stipulated fines and remedial actions.

(g) *POTW authority to require financial assurances.* The city may require any user to post a performance bond (or other form of surety acceptable to the city manager) sufficient to cover expenses (direct and/or indirect) that might reasonably be incurred by the POTW as a result of the user's discharges to the POTW (including, but not limited to, the costs to restore or repair any damage to the POTW) or sufficient to achieve consistent compliance with applicable laws and regulations, as determined necessary by the city. Further, any person that has in the prior two years been responsible for causing interference or pass through at the POTW may be required to obtain liability insurance sufficient to cover the reasonable costs of responding or restoring the POTW in the event of a second such incident. These financial assurance requirements may also be made conditions of a user permit.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-225. Service of notices of violations, orders and notices of assessments.

Except as otherwise expressly provided by this chapter, all orders, notices of violations and notices of assessments shall be served upon persons and shall contain the information as provided by this section.

(a) *Service.* Service shall be by personal delivery or certified mail (return receipt requested), addressed to the user, alleged violator or other person, as applicable, at the person's last known address as shown by POTW's records. The person served shall sign and date the order or notice and shall return the signed original copy to the POTW; provided, that the failure to do so shall not affect in any way the person's obligation to comply with the order or notice. Further, a notice or order served by mail may not actually be received by the person, but this shall not nullify in any way any enforcement action subsequently taken by the city against the person under authority of this chapter. Receipt, or nonreceipt, of a notice or order shall not in any way relieve the affected person of any liability associated with the violation. Further, the issuance of a notice or order will not be a bar against, or a prerequisite for, any other enforcement actions by the city against the affected person.

(b) *Contents.* All orders and notices shall contain at least the following information, to the extent known by the POTW and as determined by the POTW to be applicable to the situation:

(1) The name and address of the violator;

(2) The location and time that the violation occurred or was observed, and the duration of the violation;

(3) The nature of the violation, including the provisions of this Chapter or of any permit, order, decision, determination or agreement violated;

(4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);

(5) The amount of the fine, penalty or charge assessed or due, if any;

(6) The manner in which, and time and date by which, any fine, penalty or charge must be paid, including any penalty or charge for late payment;

(7) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so.

(8) The right to appeal the issuance of the order or notice and a summary of the procedures for appeal, or other applicable administrative procedures.

(9) The date and time the order or notice was issued.

(c) *Request for additional information.* A person served may request additional information from the city regarding the contents or requirements of any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-226. Publication of users in significant non-compliance.

The POTW shall publish once per year in the largest newspaper circulated in the city, a list of nondomestic users that, at any time during the previous 12 months, were in significant non-compliance with applicable pretreatment standards or requirements. For the purposes of this section, a user shall be considered to be in significant non-compliance if its violations meet one or more of the following criteria:

(a) Chronic violation of discharge limits, defined as results of analyses in which 66 percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the numeric daily maximum limit, instantaneous limit, or the average limit for the same pollutant parameter;

(b) Technical review criteria (TRC) violations, defined as results of analyses in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a six month period equal or exceed the product of the daily maximum limit, instantaneous limit, or the average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants, except pH);

(c) Any other violation of a pretreatment effluent limit (instantaneous minimum, instantaneous maximum, daily maximum, or long-term average, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of department personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority to halt or prevent the discharge;

(e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order, for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide any required reports within 30 days after the due date;

(g) Failure to accurately report non-compliance; or

(h) Any other violation or group of violations, which may include a violation of best management practices, that the POTW superintendent determines will adversely affect the POTW or the operation or implementation of the POTW's pretreatment program.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-227. Municipal civil infractions and administrative fines.

(a) *Violation; municipal civil infraction.* Except as provided by section 44-228, and notwithstanding any other provision of the city's laws, ordinances and regulations to the contrary, a person who violates or fails to comply with any provision of this chapter (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this chapter) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than $1,000.00 per day for each infraction and not more than $10,000.00 per day for each infraction, plus costs and other sanctions.

(b) *Repeat offenses; increased fines.* Increased fines may be imposed for repeat offenses. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this chapter (i) committed by a person within any 90-day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this chapter shall be as follows:

(1) The fine for any offense that is a first repeat offense shall be not less than $2,500.00, plus costs.

(2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than $5,000.00, plus costs.

(c) *Amount of fines.* Subject to the minimum fine amounts specified in sections 44-227(a) and 44-227(b), the following factors shall be considered by the court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this chapter: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.

(d) *Authorized local official.* Notwithstanding any other provision of the city's laws, ordinances and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations directing alleged violators to appear in district court for violations of this chapter (or, if applicable, to issue municipal civil infraction notices directing alleged violators to appear at a municipal ordinance violations bureau): the city manager, any sworn law enforcement officer, and any other persons so designated by the city.

(e) *Other Requirements and Procedures.* Except as otherwise provided by this section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court ordered fines, costs and expenses; appearances

and payment of fines and costs; failure to answer, appear or pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.

(f) *Administrative fines.* Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, shall be fined in an amount not to exceed $500.00 per violation. Each day on which non-compliance shall occur or continue shall be deemed a separate and distinctive violation. Such assessments may be added to the user's next scheduled sewer service charge and the POTW superintendent shall have other collection remedies as he has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the user's property.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-228. Criminal penalties; imprisonment.

Any person who:

(1) At the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this chapter, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this chapter; or

(2) Intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this chapter, or in any other correspondence or communication, written or oral, with the POTW regarding matters regulated by this chapter; or

(3) Intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this chapter; or

(4) Commits any other act that is punishable under state law by imprisonment for more than 93 days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of $500.00 per violation, per day, or imprisonment for up to 93 days, or both in the discretion of the court.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-229. Continuing violation.

Each act of violation, and each day or portion of a day that a violation of this chapter (or of any permit, order, notice or agreement issued or entered into under this chapter) exists or occurs, constitutes a separate violation subject to the fines, penalties and other sanctions and remedies as provided by this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-230. Number of violations.

The number of violations resulting from a user's non-compliance with applicable discharge prohibitions or effluent limitations shall be determined as follows:

(a) Applicable concentration limitations and mass (or loading) limitations shall be treated as separate limitations, and a user may be liable and penalized separately for exceeding any of those limitations for a single pollutant or sampling parameter.

(b) Each violation of a daily maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each day on which the violation occurs or continues.

(c) Each violation of an instantaneous minimum or instantaneous maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each such occurrence, and there may be multiple violations for each day on which such a violation occurs or continues.

(d) Each violation of a monthly average limit (or of some other average limit period) for a single pollutant or sampling parameter shall constitute a separate violation for each day of the month (or other stated period) during which the violation occurred, regardless of the number of days on which samples were actually taken. (For example, in a month with 31 days, a violation of the monthly average limit for that month constitutes 31 violations for each pollutant parameter for which the monthly average limit was exceeded during the month.)

(e) Except with regard to violations of average limits as provided by section 44-230(d), a violation will be deemed to have continued to occur each day beginning with the first day the violation occurred to the day the user is able to demonstrate through appropriate sampling results that the violation is no longer occurring.

(f) If for any period a user has violated both a daily maximum limit and an average limit for a particular pollutant parameter, then the total number of violations is the sum of the days on which the daily maximum limit was violated plus the number of days in the averaging period.

(g) If a user permit regulates more than one outfall, each outfall shall be considered separately in computing the number of violations as provided by this section.

(h) If a user is discharging a wastestream that is required to be monitored and analyzed under continuous monitoring procedures then all of the following shall apply:

(1) If at any time during a daily 24-hour period the continuous monitoring shows that the monitored parameter exceeded the instantaneous minimum, instantaneous maximum, or daily maximum limit for that parameter, then a violation has occurred.

(2) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds the instantaneous minimum, instantaneous maximum, or daily maximum limit more than once after returning to compliance during that period, then each such exceedance shall be considered a separate violation.

(3) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds the instantaneous minimum, instantaneous maximum, or daily limit into the next daily 24-hour period (i.e., the exceedance occurs both before and after midnight), then the exceedance will be considered a separate violation on both days.

(4) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds instantaneous minimum, instantaneous maximum, or the daily limit for more than 66 percent of the 24-hour, as determined in minutes of the day, then the user will be considered to be in significant non-compliance.

(i) One violation occurs on: each day that a report is late; and each day after an action required to be completed is not completed.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-231. Nuisance.

A violation of this chapter, or of any permit, order, notice or agreement issued or entered into under this chapter, is deemed to be a public nuisance and shall be corrected or abated as directed by the city. In addition to any other legal or equitable remedies available under the law, any person creating a public nuisance shall be

subject to the provisions of state law, this chapter, or other ordinance of the city governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance, as applicable.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-232. Reimbursement.

(a) Any person who discharges to the POTW (including, but not limited to, any person who causes or creates a discharge that violates any provision of this chapter, produces a deposit or obstruction, or otherwise damages, injures, or impairs the POTW, or causes or contributes to a violation of any federal, state or local law governing the POTW, whether any such act is intentional or unintentional) shall be liable to and shall fully reimburse the POTW for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the POTW as a result of any such discharge, deposit, obstruction, damage, injury, impairment, violation, exceedance, non-compliance, or act. The costs that must be reimbursed to the POTW shall include, but shall not be limited to, all of the following:

(1) All costs incurred by the POTW in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, or non-compliance.

(2) All costs to the POTW of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, or non-compliance.

(3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the POTW, or any POTW representative, by any governmental agency or third party as a result of a violation of the POTW's NPDES permit (or other applicable law or regulation) that is caused by or contributed to by any discharge, violation, or non-compliance.

(4) The full value of any city staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the POTW's legal counsel and any special legal counsel), associated with reviewing, responding to, investigating, verifying, and/or prosecuting any discharge, violation, or non-compliance or otherwise incurred by the POTW in administering and enforcing the requirements of this chapter. Further, the POTW is authorized to correct any violation of this chapter or damage or impairment to the POTW caused by a discharge and to bill the person causing the violation or discharge for the amounts to be reimbursed. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid by users under other sections of this chapter.

(b) In determining the amounts to be reimbursed, the POTW may consider factors such as, but not limited to, the following:

(1) The volume of the discharge.

(2) The length of time the discharge occurred.

(3) The composition of the discharge.

(4) The nature, extent, and degree of success the POTW may achieve in minimizing or mitigating the effect of the discharge.

(5) The toxicity, degradability, treatability and dispersal characteristics of the discharges.

(6) The direct and indirect costs incurred by the POTW, or imposed upon the POTW to treat the discharges, including sludge handling and disposal costs.

(7) Fines, assessments, levies, charges, expenses and penalties imposed upon and/or incurred by the POTW, including the POTW's costs of defense of actions, or suits brought or threatened against the POTW by governmental agencies or third parties.

(8) Such other factors, including the amount of any attorney's fees; engineering, consultant, and expert fees; expenses, costs, sampling and analytical fees; repairs; as the POTW deems appropriate under the circumstances.

(c) Costs to be reimbursed to the POTW as provided by this section may be assessed to the user as provided by section 44-224 of this chapter, or as otherwise determined appropriate by the city manager in conjunction with an enforcement action.

(d) The failure by any person to pay any amounts required to be reimbursed to the POTW as provided by this section shall constitute an additional violation of this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-233. Review or approval by city.

In no case shall the review and/or approval by the city of a user's plans, specifications or operating procedures entitle a user to relief from enforcement actions for failure to achieve compliance with the applicable pretreatment standards and requirements.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-234. Severance or suspension of sewer and/or water service.

If a user violates or continues to violate any provision of this chapter (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this chapter), or if the city determines that the user's actual or proposed discharge may present an imminent or substantial endangerment to the health or welfare of persons or the environment, the city may immediately, and without notice, sever or suspend sewer and/or water service provided to the user by the city. If severed or suspended, the sewer and/or water service shall recommence only after the user has satisfactorily demonstrated to the city the user's ability to comply with all applicable provisions of this chapter, and only at the user's sole expense.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-235. Judicial relief.

With the approval of the city, in conjunction with the city's legal counsel, the city manager may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this chapter or of any permit, order, notice or agreement issued or entered into under this chapter. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, that a court may order. The city may also seek collection of surcharges, fines, penalties and any other amounts due to the POTW that a person has not paid.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-236. Cumulative remedies.

The imposition of a single penalty, fine, notice, order, damage, or surcharge upon any person for a violation of this chapter, or of any permit, order, notice or agreement issued or entered into under this chapter, shall not

preclude (or be a prerequisite for) the imposition by the POTW or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 19. ADMINISTRATIVE REVIEW AND APPEALS

Sec. 44-237. Procedures available.

Any person aggrieved by a notice of violation, order, or other action taken by the city under this chapter may request review and reconsideration by the city and/or may appeal to the wastewater board of appeals as provided by this division. If review and reconsideration or appeal is not properly and timely requested in connection with an action as provided by this division, the action shall be deemed final. The person requesting the appeal shall pay an appeal fee in the amount determined from time to time by the city. The appeal fee shall be paid at the time that the appeal is requested.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-238. Review and reconsideration by the city manager.

A request for a review and reconsideration by the city manager must be made in writing within seven days from the date of the city's action in question. The request must state the reasons for the review and shall include all supporting documents and dates. A hearing on the request shall be scheduled at the earliest practicable date as determined by the city manager. The hearing shall be conducted on an informal basis at the wastewater treatment plant or at another location designated by the city manager. The city manager shall conduct the hearing. Following the informal hearing, the city manager may affirm or reverse, in whole or in part, the action appealed from, or may make any order, requirement, decision or determination as, in the city manager's opinion, ought to be made in the case under consideration. The city manager shall notify the aggrieved person of the decision on the request within 14 days of the hearing. The city manager may request additional information and extend the time for his/her decision by an additional seven days following the submission of the additional information. The decision of the city manager may be appealed to the wastewater board of appeals as provided by section 44-239. All supporting documentation and information shall be provided solely by the person requesting the appeal.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-239. Appeal to wastewater board of appeals.

(a) The city council of the City of Greenville shall serve as a wastewater board of appeals ("WBA"). The WBA shall consider appeals from final decisions of the city manager (and other appeals as expressly provided by this chapter). The WBA shall adopt its own rules of procedure, and keep a record of its proceedings, showing findings of fact, the action of the board, and the vote of each member upon each question considered. The presence of five members of the WBA shall be necessary to constitute a quorum.

(b) The following provisions shall govern appeals of final decisions of the city manager made to the WBA under this chapter:

(1) An appeal from any final action of the city manager must be made to the WBA within seven days from the date of the action appealed. The appeal may be taken by any person aggrieved by the action. The appellant shall file a written notice of appeal with the city manager and with the WBA. The notice of appeal shall specify the grounds for the appeal and shall be accompanied by a non-refundable appeal fee of $500.00. Failure to file a timely notice of appeal shall be deemed to be a waiver of the right to appeal.

(2) Prior to a hearing before the WBA regarding an appeal, the city manager shall transmit to the WBA a written summary of all previous action taken in connection with the action being appealed. The WBA may, at the WBA's discretion, request the city manager to provide further information regarding the action that is the subject of the appeal.

(3) The WBA shall fix a reasonable time for the hearing of the appeal. Notice of the hearing shall be provided at least ten days in advance of the hearing to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. The appellant must submit an exhibit and witness list to the WBA at least five days before the hearing or as directed by the WBA.

(4) The WBA shall conduct the hearing. At the hearing, attorneys may represent the parties and they may file briefs, present evidence, and call, examine and cross examine witnesses. Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.

(5) The WBA shall admit all testimony having reasonable probative value and shall exclude irrelevant or unduly repetitious testimony, as determined by the WBA. The WBA shall not be bound by common law or statutory rules of evidence. The appellant shall have the burden of proof and persuasion for showing that the city manager's decision was clearly erroneous.

(6) Within 30 days after the completion of the hearing, the WBA shall mail or otherwise deliver to all of the parties a written decision granting, denying or modifying the decision appealed and/or relief being sought. The decision of the WBA on the matter shall be final, and shall be a final determination for purposes of judicial review.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-240. Payment of charges, penalties, fines, and other costs or fees pending outcome of appeal.

All service charges, penalties, fines, fees, surcharges, costs or expenses outstanding during any appeal process shall be due and payable to the POTW and the city, as applicable. Upon resolution of any appeal, the amounts due and payable shall be adjusted accordingly, provided that any refunds shall be retroactive to the previous four monthly billings only. The POTW may terminate wastewater treatment services if a corrective course of action is not taken or if service charges, penalties, fines, fees, surcharges, costs, or expenses are not paid by a user.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-241. Finality of action.

If an appeal is not demanded as provided by this division within the periods specified by this division, the city manager's action shall be deemed final. If an appeal is properly demanded, the action appealed shall be suspended until a final determination has been made by the WBA, except for orders to immediately cease and desist

discharge; orders to terminate sewer services; other emergency orders or actions where a suspension or delay might endanger human health, the environment, or the POTW; and as otherwise expressly provided by this chapter (such as for permit appeals, section 44-164).

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-242. Appeals from determination of WBA.

Appeals from a final determination of the WBA may be made to circuit court as provided by law. All findings of fact made by the WBA, if supported by the evidence, shall be deemed conclusive.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 20. PROTECTION FROM DAMAGE

Sec. 44-243. Protection from damage.

It is a misdemeanor for any person to maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment that is part of the POTW. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct, and shall be subject to other sanctions and remedies as provided by this chapter, including, but not limited to, reimbursement of the POTW as provided by section 44-232 of this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 21. MUNICIPAL LIABILITY

Sec. 44-244. Municipal liability.

Neither the POTW nor the city (including, but not limited to, city staff, employees, and officials) shall be responsible for interruptions of service due to natural calamities, equipment failures, or the actions of users. It shall be the responsibility of the users that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 22. USE OF PUBLIC SEWERS CONDITIONAL

Sec. 44-245. Use of public sewers conditional.

The use of the public sewer is conditional upon the user complying with all applicable provisions of this chapter, the rules and regulations promulgated pursuant to this chapter, user permits and all other applicable federal, state and local laws, rules, regulations, standards and requirements. Use of the public sewer is also conditional upon the payment of all applicable charges, surcharges, rates, fees and penalties.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 23. VACATION OF HAZARDOUS PROPERTY

Sec. 44-246. Vacation of hazardous property.

If the city determines that there is a health or welfare hazard created by the emanation of sewage being exposed to the surface of the ground or the draining of sewage from property under the surface of the ground or into any ditch, storm sewer, lake or stream, and that the continuance of the use of the private sewage works by the property poses an immediate threat to humans, the city manager may order and require the occupants to vacate any structure on the property forthwith.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 24. INDUSTRIAL PRETREATMENT PROGRAM FEES

Sec. 44-247. Purpose.

It is a purpose of this chapter to provide for the recovery from users of the POTW of all costs incurred by the POTW for the administration and implementation by the POTW of the industrial pretreatment program (IPP) established by this chapter. The IPP fees provided for by this division are separate from, and in addition to, amounts chargeable to users for sewage disposal services by the city and/or the POTW, and costs required to be reimbursed to the city and/or the POTW under any other provisions of this chapter or other laws and regulations.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-248. IPP fees.

IPP fees payable by users shall be established from time to time by resolution of the city council, and shall be subject to amendment or revision by resolution of the city council from time to time. Such fees shall be sufficient to meet the costs to administer and implement the city's IPP and any associated regulations and written procedures as provided by this chapter and authorized by applicable law. IPP fees may include, but shall not be limited to, any of the following:

(a) Fees to reimburse the POTW for the costs of development and operation of an industrial pretreatment program, and fees to reimburse the POTW for monitoring, inspections and surveillance procedures, including expenses incurred for analysis of samples and writing up reports.

(b) Fees for reviewing discharge reports, and for related enforcement procedures.

(c) Fees associated with permit applications, permit renewals, and permit transfers.

(d) Fees for reviewing accidental discharge procedures and construction.

(e) Fees for appeals filed under this chapter.

(f) Such other charges or fees that the city deems necessary or required to fully perform the provisions of applicable federal and state laws or regulations, this chapter, and other city laws or regulations.

(Ord. No. 13-04 , § 2, 7-16-2013; Ord. No. 20-01 , § 6, 2-18-2020)

Sec. 44-249. IPP fee amounts.

(a) IPP fees shall be paid by users to the city in amounts determined necessary by the POTW from time to time to reimburse the POTW for all costs and expenses incurred by the POTW in administering the IPP program. To the extent practical, the fees shall be set in an amount to include at least the POTW's average total costs for that purpose. With regard to IPP activities undertaken by the POTW with regard to particular users, the fees shall be charged to the users on a time and materials basis, including, but not limited to, the full value of any city staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, testing fees, and actual attorney fees and defense costs, plus general administrative expenses, based on the nature and requirements of the IPP activities undertaken for each user.

(b) If the POTW determines that it is necessary to evaluate the ability or capacity of the POTW to accept any current or proposed discharge by means, including, but not limited to, a headworks analysis or treatability study, all such evaluation and analysis or other required work shall be at the sole cost of the user. Such costs shall be paid in full by the user according to the timetable and subject to any terms or conditions established by the city, and shall be paid whether or not the discharge (or any part thereof) is ultimately approved. The city manager may require the user to post a deposit or other form of surety, as determined sufficient and appropriate by the city manager, to ensure payment by the user of all such costs.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-250. Surcharges.

(a) Surcharges are intended to reimburse the POTW for all costs incurred by the POTW in handling or treating a discharge that contains pollutants in excess of specified surcharge concentrations, loadings or other applicable limits. These costs may include, but are not limited to, the actual cost of treatment including chemical, equipment, and personnel costs.

(b) Any user exceeding applicable surcharge limitations or other applicable limits shall be subject to the imposition of one or more surcharges as provided by this section to reimburse the POTW for any costs or expenses, direct or indirect, the POTW may incur in handling or treating the discharge, or which may be imposed upon the POTW, where the exceedance of applicable limits causes or contributes to those costs or expenses.

(c) The amount of a surcharge assessed shall be as specified in the surcharge rate schedule and associated surcharge provisions prepared by the POTW and approved from time-to time by the city.

(d) All violations of applicable discharge prohibitions and limitations and all instances of non-compliance with applicable discharge requirements shall constitute a violation of this chapter, subject to applicable fines, penalties and other enforcement actions provided by this chapter. In no event shall the imposition of a surcharge for a discharge that does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Sec. 44-251. Billing and collection of IPP fees.

User permit application fees shall be due upon submission of permit applications. Except as otherwise required by the POTW, all other IPP fees shall be due within 30 days of the date of the activity or service for which the fee is required. For fees not paid at the time of service, the amount of the fee shall be added to the user's sewage disposal service charges or billed separately. IPP fees provided for by this division shall be billed, collected

and enforced pursuant to the procedures as provided by the city for sewer service fees under this chapter, and other applicable city laws or regulations.

(Ord. No. 13-04 , § 2, 7-16-2013)

DIVISION 25. SEWER SERVICE AND CONNECTION FEES

Sec. 44-252. Sewer service and connection fees.

A monthly sewer service fee shall be charged to all users as established from time to time by resolution of city council or as otherwise required by applicable laws or regulations or these codified ordinances. This fee covers the city's cost of operation, maintenance, repair and replacement of the POTW, as well as any debt service charges.

(a) Sewer rates for all users outside the corporate limits shall be twice the rate established for users within the city.

(b) For non-residents, the city shall not be required to furnish services to the premises located outside the city, but may, after a written resolution from Eureka Township Board approving the same and after a written request from the owner of land without the city that the land outside the city limits be served with city sewers, at the discretion of and upon the resolution of the city council, furnish service to one or any premises without the city. The furnishing of services to one or more premises without the city shall not require or obligate the city to serve other locations outside the city.

(c) Connection charges for both users within and without the city limits to connect to the sewage works of the city shall be as established by the city.

(Ord. No. 13-04 , § 2, 7-16-2013; Ord. No. 20-01 , § 7, 2-18-2020)

DIVISION 26. DELINQUENT ACCOUNTS

Sec. 44-253. Delinquent accounts.

If any moneys owed to the city remain unpaid on their due date, the city may collect them by one or more of the following methods:

(a) The city may shut off and disconnect sewer or water, or both services, to the premises.

(b) The city clerk or city treasurer may turn any delinquent amounts under this section over to the county treasurer in the same way as delinquent ad valorem property taxes are reported and/or add them to the tax rolls and collect them in the same manner as ad valorem property taxes.

(c) The city may take all appropriate legal or equitable actions to collect any amounts due the city under this chapter.

(Ord. No. 13-04 , § 2, 7-16-2013)

Secs. 44-254—44-280. Reserved.

ARTICLE V. RESERVED[49]

Secs. 44-281—44-462. Reserved.

Chapter 46 ZONING[50]

ARTICLE I. IN GENERAL

Sec. 46-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a subordinate building on the same premises with a main building or portion of a main building and occupied or devoted to an accessory use; for example, a private garage.

Accessory use or accessory means a use of a lot, which is clearly incidental to the principal use and customarily found in connection with the main building. When "accessory" is used in this text, it shall have the same meaning as accessory use.

Adult use means an enclosed building used for an adult bookstore, adult live entertainment theater, massage parlor, or adult motion picture theater.

(1) *Adult bookstore* means an enclosed building used for the sale of motion picture films, videocassettes, magazines, posters, and other printed material, or tapes, or sex objects for other than contraceptive purposes, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this chapter, for sale to patrons therein.

(2) *Adult live entertainment theater* means an enclosed building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see-through clothing which

[49]Editor's note(s)—Ord. No. 13-04, § 1, adopted July 16, 2013, repealed Art. V, §§ 44-281—44-295, 44-324—44-327, 44-358—44-364, 44-387, 44-388, 44-420—44-424, and 44-447—44-462, which pertained to pretreatment and derived from Prior Code, §§ 25.411—25.415, 25.433, 25.436.1—25.436.4, 25.431, 25.432, 25.434.1—25.343.5, 25.435, 25.435.1—25.435.3, 25.437—25.441, 25.460, 25.462, 25.471—25.479, 25.491—25.493, 25.512, 25.513, 25.521, 25.531, 25.532; Ord. No. 141, §§ 1.01—1.03, 1.05, 2.01—2.11, 3.01, 3.02, 4.01—4.09, 5.01—5.03, 6.02, 7.01, 8.01, adopted June 30, 1993; Ord. No. 141-A, adopted Feb. 1, 1995; Ord. No. 141-B, adopted May 8, 1999; Ord. of 8-7-2007; Ord. No. 07-01, adopted Dec. 2, 2008.

[50]Editor's note(s)—Printed herein is the current Zoning Ordinance of the City of Greenville, Michigan, as updated through September 2014. History notes at the end of sections indicate the source for any amendments to said section. The absence of a history note indicates the material is unchanged from the original Zoning Ordinance.

State law reference(s)—Michigan Zoning Enabling Act, MCL 125.3101 et seq.

permits the view of "specified anatomical areas," individuals who are partially clothed and partially unclothed so as to permit the view of "specified anatomical areas," or individuals conducting "specified sexual activities."

(3) *Adult motion picture theater* means an enclosed building used for presenting motion picture films, videocassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this chapter, for observation by patrons therein.

(4) *Massage parlor* means any establishment having a fixed place of business where massages are administered for pay, including, but not limited to, massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barbershops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder.

This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet one or more of the following criteria:

a. Proof of graduation from a school of massage licensed by the State of Michigan;

b. Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;

c. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or

d. A current occupational license from another state.

(5) *Specified anatomical areas* means:

a. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and

b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(6) *Specified sexual activities* means:

a. Human genitals in a state of sexual stimulation or arousal;

b. Acts of human masturbation, sexual intercourse or sodomy;

c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Adult foster care facility means a governmental or nongovernmental establishment that provides foster care to adults. Adult foster care facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care.

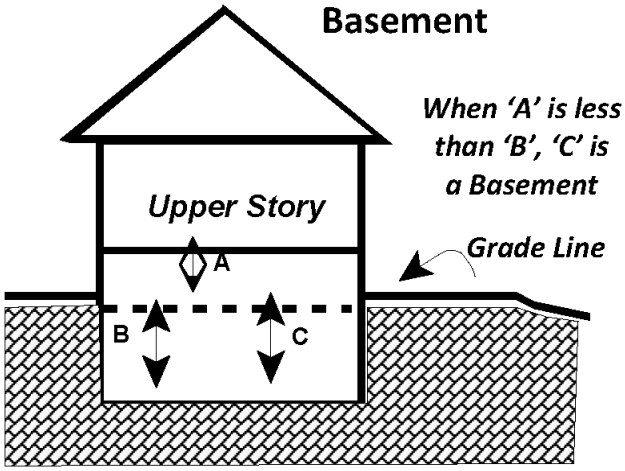
Alley means any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

Alteration means any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders.

Arterial street means an arterial roadway as designated in the City of Greenville Master Plan.

Automobile service and repair facility means a building and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and other similar motor vehicle accessories, along with minor vehicle repair, such as changing of oil, tire repair, engine tune-ups, and other similar activities.

Average grade means the average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.



Basement means that portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

Bed and breakfast inn means a house, or portion thereof, where short-term lodging rooms and meals are provided as a commercial operation.

Berm means a mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual or audible screening purposes.

Block means the property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the municipality.

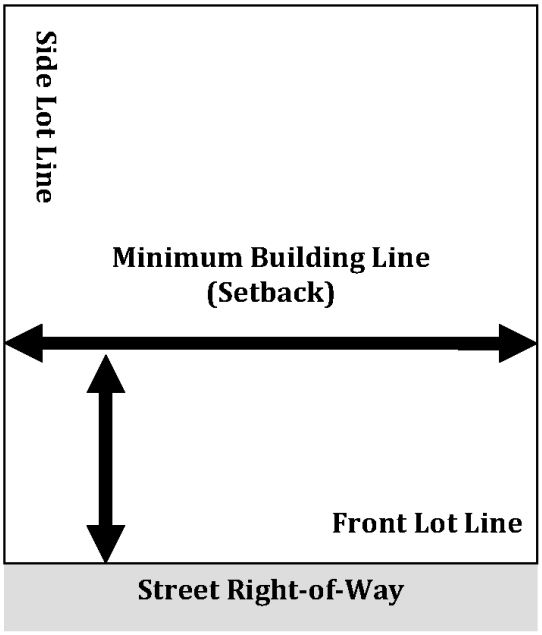
Body shop means any building, premises, or land in which or upon which the primary use is the servicing, major repair, or painting of motor vehicles.

Buffer zone means a strip of land of definite width and location required between certain zoning districts reserved for the planting of shrubs, trees, or grasses; berms; walls; or fencing to serve as a visual and noise barrier or an obscuring screen necessary to carry out the requirements of this chapter.

Building means a structure erected on site, pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals, or property of any kind.

Building Code means the code or codes governing the erection and maintenance of buildings as currently adopted by the City of Greenville.

Building Line
(Front Setback)



Building line means a line formed by the eaves of the building, or the most horizontal appendage of the building (except as otherwise permitted herein) and for the purposes of this chapter, a minimum building line is the same as the front setback.

Building official or *building inspector* means the person designated by the city council to administer the provisions of the adopted building codes for the City of Greenville.

Certificate of occupancy means a document signed by an authorized city official as a condition precedent to the commencement of a use or the occupation of a structure or building which acknowledges that such use, structure or building complies with the provisions of this chapter.

City means the City of Greenville.

City council or *council* means the city council of the City of Greenville.

City or Village Zoning Act; Zoning Act means Act 207 of the Michigan Public Acts of 1921, as amended.

Club means an organization of persons for special purposes such as sports, arts, sciences, literature, politics, or the like, but not operated for profit.

Commercial wireless telecommunication services means licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Community services center means licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public. An establishment operated by a charitable non-profit, religious, or governmental organization or agency which provides one or more of the following goods or services for homeless or needy persons:

(1) Food bank including clothing and other household necessities.

(2) Meals for homeless or needy persons.

(3) Short-term housing or shelter for homeless or needy persons provided that such housing or shelter is provided in conjunction with specific programs designed to assist homeless or needy persons such as counseling, job skill training, life management, self-help, religious, or other programs. However, a community corrections center or facility housing incarcerated persons shall not be considered a community service center.

(4) Other similar goods and services which are intended to assist the needy.

(5) A church, which operates a food or clothing bank or offers meals or other goods and services for the needy persons, but not housing or shelter, as an accessory use to the principal church use is not a community service center.

Convalescent or nursing home means a structure with sleeping rooms, where persons are housed or lodged on a full-time basis and are furnished with meals, nursing and medical care and whose residents are primarily over the age of 60.

Convalescent or nursing home also means:

(1) An assisted living facility which is licensed under Act 218 of 1979, as amended, as an adult foster care large group home or adult foster care congregate facility offering foster care primarily to adults over the age of 60;

(2) A nursing home and home for the aged licensed under the State of Michigan Public Health Code Public Act 368 of 1978 as amended.

Day care facility/child care center means any facility other than a dwelling unit in which one or more children are given care and supervision for periods of less than 24 hours per day on a regular basis. Day care facilities do not include family or group day care homes, or schools. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall be considered accessory to such principal use and shall not be considered to be a day care facility. A day care facility also does not include child care which is conducted within a church building when church services are not being conducted.

(1) *Family day care home:* A dwelling unit in which less than seven minor children are given care and supervision for periods less than 24 hours per day, operated by a person who permanently resides in the dwelling unit as a member of the household and who is registered with the State of Michigan to provide such care.

(2) *Group day care home:* A dwelling unit in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours per day, operated by a person who permanently resides in the dwelling unit as a member of the household, and who is registered with the State of Michigan to provide such care.

Drive-through; drive-through facility means a business establishment or use so developed that it provides a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle either exclusively or in addition to service within a building or structure, or to provide self-service for patrons and food carry-out.

Dwelling, multiple-family means a dwelling, or a portion of a building, designed exclusively for occupancy by three or more families living independently of each other.

Dwelling, single-family, detached means a dwelling designed exclusively for and occupied exclusively by one family.

Dwelling, two-family means a dwelling designed exclusively for occupancy by two families living independently of each other.

Erected means built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, etc.

Essential public services means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission, distribution, collection, communication, supply or disposal systems, including towers, poles, street lighting, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, street lights, traffic signals, hydrants and similar equipment, but not including buildings and storage yards, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. This definition does not include commercial wireless telecommunication services.

Excavation means any breaking of ground, except common household gardening and ground care.

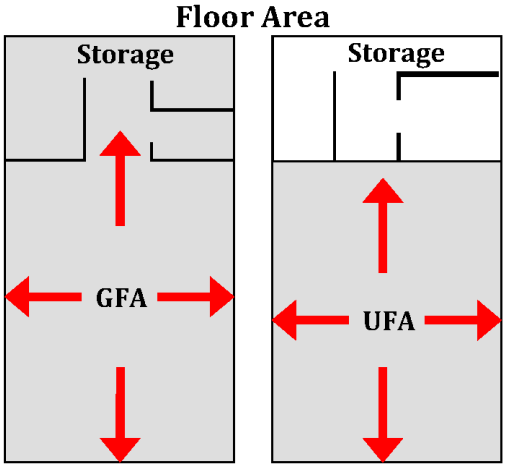
Family:

(1) An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single housekeeping unit in a dwelling unit;

(2) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individuals whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

Farm means a contiguous parcel of land of not less than ten acres in area, directly farmed or used for commercial agriculture by the owner-operator, manager, or tenant farmer by his own labor or with assistance of members of his household or hired employees. A farm includes a farm dwelling and accessory buildings necessary for the storage or housing of farm implements, products, or animals, or used for the operation of the farm. Farms may include greenhouses, nurseries, orchards, hatcheries, dairy farms, poultry farms, piggeries, commercial feedlots, apiaries, truck farms, and forestry operations. Fish hatcheries, stockyards, recreation parks, stone quarries, gravel, dirt or sand pits, keeping furbearing animals or game, kennels, stables, riding academies, or mineral extraction, are not considered farm uses.

Fence means an artificially constructed or natural vegetation barrier or combination of materials erected and/or planted to enclose or screen areas of land.



Floor area, gross, (GFA) means the sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.

Floor area, usable, (UFA) means that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities or sanitary facilities shall be excluded from the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.

Frontage. (See Lot width.)

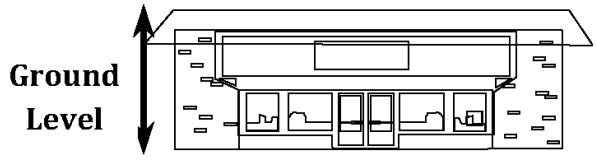
Grade means the gradient, the rate of incline or decline expressed as a percent. For example, a rise of 25 feet in a horizontal distance of 100 feet would be expressed as a grade of 25 percent.

Greenbelt means a strip of land of definite width and location reserved for the planting of shrubs, trees, or grasses to serve as an obscuring screen in carrying out the requirements of this chapter.

Height means the vertical distance measured from the average grade to the highest point of a structure. In the case of a building, height shall be measured from the average grade to the highest point of the roof surface for a flat roof; to the deck line of mansard roofs; and to the midpoint between the eaves and ridge for gable, hip, and gambrel roofs.

Building Height Flat Roof

Building Height Mansard Roof



Home occupation means an occupation or profession that is clearly a customary, incidental, and secondary use of a residential dwelling unit. Without limiting the foregoing, a dwelling unit used by an occupant of that dwelling unit to give instruction in a craft or fine art within the dwelling unit shall be considered a home occupation.

Hotel/motel means a facility offering lodging accommodations for travelers on a daily rate to the general public and which may or may not provide additional services, such as restaurants, meeting rooms, or recreational facilities.

Housing for the elderly/retirement community means a building or group of buildings containing dwellings where the occupancy of the dwellings is made up primarily of persons 60 years of age or older and which use is not licensed under Act 218 of 1979, as amended.

Inoperable vehicle means a motor vehicle, which can no longer propel itself.

Junk means any worn out or discarded materials including, but not necessarily limited to, scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage and discarded appliances, and yard debris.

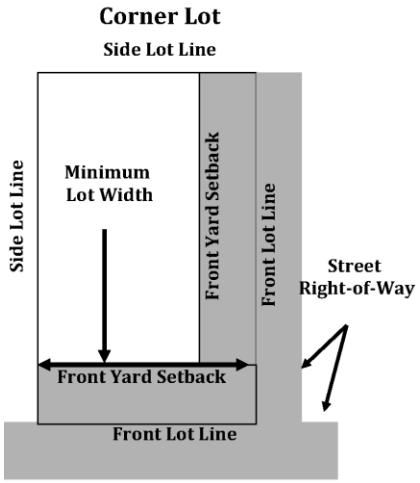
Junkyard means an open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled. These materials include, but are not limited to: Scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings.

Kennel means any lot or premises on which more than five dogs, cats, or other household pets, six months of age or older, are either permanently or temporarily boarded, housed, or bred for commercial purposes.

Loading space means an off-street space on the same lot with a building, or group of buildings, for the temporary parking of a vehicle while loading and unloading merchandise or materials.

Lot means a parcel, vacant land, occupied land, or land intended to be occupied by a building and accessory buildings, or utilized for the principal accessory uses together with yards and open spaces required under the provisions of this chapter. A lot may or may not be specifically designated as such on public records. A lot may also mean a portion of a condominium project, as regulated by Public Act No. 59 of 1978 (MCL 559.101 et seq.) designed and intended for separate ownership and use.

Lot area means the total horizontal area within the lot lines.



Lot, corner means any lot having at least two contiguous sides abutting upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees.

Lot coverage means the part of the lot, measured as a percentage of the total lot area, occupied by any building, including accessory buildings.

Lot, cul-de-sac means a lot having more than one-half of its required frontage on a cul-de-sac street right-of-way line.

Lot depth means the horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot, interior means a lot other than a corner, cul-de-sac, or through lot.

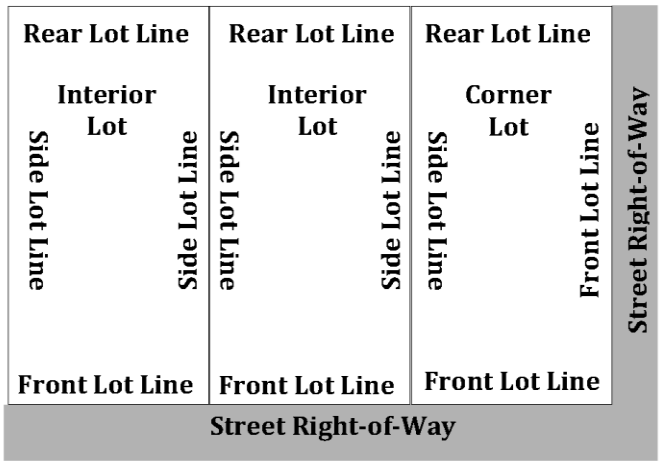
Lot line means the lines bounding a lot as defined herein:

(1) *Front lot line.* In the case of an interior lot, means the line separating the lot from the street. In the case of a through or corner lot, it is that line separating said lot from either street.

(2) *Rear lot line.* That lot line opposite the front lot line. In the case of a lot which is pointed in shape at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line and wholly within the lot.

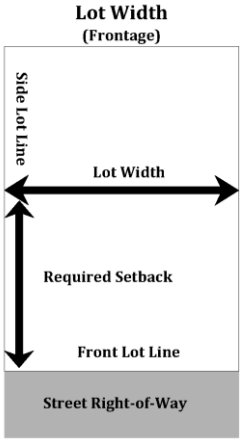
(3) *Side lot line.* Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot is an interior side lot line.

Lots and Lot Lines



Lot of record means a parcel of land, the dimensions of which are shown on a document or map on file with the county register of deeds or in common use by city or county officials, which actually exists as shown, or any part of such parcel held in a record of ownership separate from that of the remainder thereof.

Lot, through means any interior lot having frontage on two parallel streets. In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and through yard setbacks shall be provided as required.



Lot width (frontage) means the horizontal straight line distance between the side lot lines, measured between the two points where the front setback or minimum building line intersects the side lot lines.

Main building means a building in which is conducted the principal use of the lot upon which it is situated.

Manufactured home means a transportable factory-built home, designed to be used as a year-round residential dwelling.

Manufactured home park means a parcel or tract of land under the control of a person upon which three or more manufactured 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 therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home and is not intended for use as a temporary trailer park.

Marihuana, also known as *marijuana*, also known as *cannabis*. The term "marihuana" or "marijuana" or "cannabis" shall have the meaning given to it in section 7606 of the Public Health Code (MCL 333.7106 et seq.), as is referred to in section 3(d) of the Michigan Medical Marihuana Act (MCL 333.26423(d)). Any other term pertaining to marihuana used in this chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.

Marihuana, medical use of, means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act (MCL 333.26421 et seq.).

Massage parlor (see Adult uses).

Master plan means the master plan currently adopted by the City of Greenville, including graphic and written proposals, indicating the general location for streets, parks, schools, public buildings, and all physical development of the municipality, and includes any unit or part of such plan and any amendment to such plan.

Nonconforming building means a building or portion thereof lawfully existing on November 1, 1997, or the effective date of an amendment to this chapter and not conforming to the provisions of this chapter in the district in which it is located.

Nonconforming lot of record means a lot of record lawfully on November 1, 1997, or the effective date of an amendment to this chapter and not conforming to the provisions of the zoning ordinance in the district in which it is located.

Nonconforming use means a use or activity, which lawfully occupied a building or land on November 1, 1997, or the effective date of an amendment to this chapter and which does not conform to the use regulations of the district in which it is located.

Nonresidential district means the O-1, C-1, C-2, C-3, and IND districts.

Off-street parking lot or parking lot means a facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles for the parking of more than three vehicles.

Open air business means retail sales establishments operated substantially in the open air, including, but not necessarily limited to:

(1) Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sales, repair, storage, or rental services.

(2) Outdoor display area, storage, or sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools and similar activities, but not including farm implements or commercial construction equipment.

(3) Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment, but not including lumberyards.

(4) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement parks or similar recreational uses (transient or permanent).

Parking space means an area of definite length and width, said area shall be exclusive of lawn areas, or drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

Personal service establishment means a commercial business conducting services that are performed primarily on the premises.

Planned unit development (PUD) means a development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The planned unit development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

Planning commission or *commission* means the City of Greenville Planning Commission.

Principal use means the primary use to which the premises is devoted.

Public utility means a person, firm, or corporation, municipal department, board or commission duly authorized to furnish to the public under federal, state or municipal regulations, gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

Recreational vehicle or equipment means vehicles or equipment used primarily for recreational purposes. For the purpose of this chapter, recreational vehicle means:

(1) 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 such as a motor home or camper;

(2) Boats and trailers designed to transport boats;

(3) Snowmobiles, jet skis, and trailers designed to transport them;

(4) Off-road vehicles and trailers designed to transport off-road vehicles;

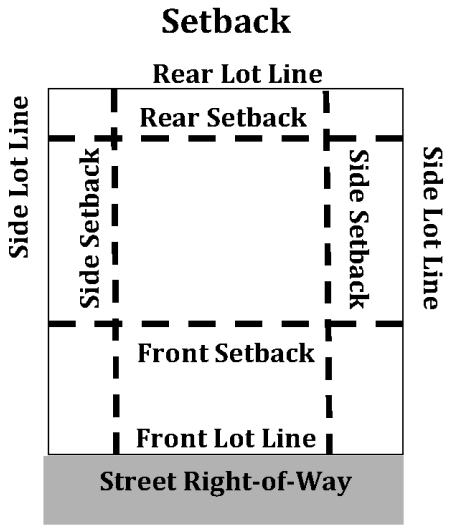
(5) Pop-up tent and camper trailers;

(6) Other similar vehicles deemed by the zoning administrator to be recreational vehicles except that this term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for daily on-street use.

Recycling center means a building or premises where used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Residential district means the R-1, R-2, R-3, MHP, and PUD districts.

Satellite dish antenna means an apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.



Setback means the distance established by this chapter as necessary to meet the minimum front, side, or rear yard provisions of the zone district.

Sign means a lettered board, drawing, message, placard, poster, or other device visible to the general public and designed to inform or attract the attention of persons.

Significant natural feature means a natural area as designated by the planning commission, city council, or the Michigan Department of Natural Resources, or other applicable state or federal agency which exhibits unique topographic, ecological, hydrological, cultural, or historical characteristics such as a wetland, floodplain, water features, or other unique natural or cultural features.

Specified anatomical areas (see Adult uses).

Specified sexual activities (see Adult uses).

State-licensed residential care facility means a facility defined as an adult foster care facility by the Adult Foster Care Licensing Act (MCL 400.701 et seq.), having as its principal function the receiving of adults for foster care and licensed by the state under the Act. It shall include facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care. It shall not include an establishment commonly described as an alcohol or substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

(1) A state-licensed residential family care facility is a state-licensed residential care facility which provides resident services or care for six or fewer persons.

(2) A state-licensed residential group care facility is a state-licensed residential care facility which provides resident services or care for more than six persons.

(3) The state-licensed residential family care licensee shall be a member of the household, and an occupant of the residence, but shall not be counted toward the total number of residents for purposes of the definition of the facility.

State-licensed residential facility means a structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act (MCL 400.701 et seq.) or Public Act No. 116 of 1973 (MCL 722.111 et seq.).

State-licensed residential family care facility means a state-licensed residential facility with the approved capacity to provide residential services for not more than six individuals. The adult foster care family home licensee shall be a member of the household and an occupant of the dwelling unit.

State-licensed residential group home care facility means a state licensed residential facility with the approved capacity to provide residential services for more than six but not more than 12 individuals. The adult foster care family home licensee shall be a member of the household and an occupant of the dwelling unit.

Story means that part of a building included between the surface of any floor above the average grade or ground at the foundation and the surface of the next floor, or if there is no floor above, then the ceiling next above.

Story, half means an uppermost story lying under a sloping roof having a usable floor area of at least 200 square feet with a clear height of seven feet six inches. For the purpose of this chapter, the usable floor area is only that area having at least five feet clear height between floor and ceiling.

Street means a public dedicated right-of-way other than an alley, which affords the principal means of access to abutting property. The term "street" shall be synonymous with the terms "road," "avenue," "place," "way," "drive," "lane," "boulevard," "highway" or "other thoroughfare."

Street, collector, means a collector as designated in the City of Greenville Master Plan. A street that conducts and distributes traffic between other residential streets of lower order in the street hierarchy.

Street, private, means an undedicated, privately controlled and maintained right-of-way, easement, or other interest in land, which affords the principal means of access to one or more lots or parcels.

Structure means anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term "substantial improvement" does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.

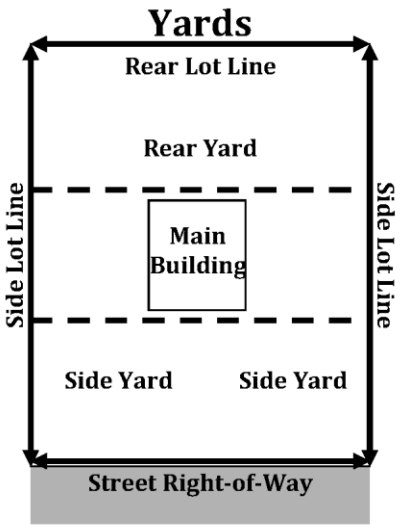
Truck/freight terminal means a building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semitrailers, including tractor and/or trailer units and other trucks, are parked or stored.

Vehicle means a motorized conveyance designed and intended for the purpose of moving people or goods.

Waste dumpster or *dumpster* means a container used for the temporary storage of rubbish and/or materials to be recycled pending collection, having capacity of at least one cubic yard.

Yard, required means the required yard shall be that which is set forth in this chapter as the minimum setback requirement for each district. The required yard is measured from the lot line to the building line or setback line. (See also Setback, building line.)

Yards means the open spaces on the same lot with a main building that are unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter, and as defined herein.



(1) *Front yard.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest horizontal appendage of the main building.

(2) *Rear yard.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest horizontal appendage of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

(3) *Side yard.* An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest horizontal appendage of the main building.

Zoning Act means Act 110 of the Michigan Public Acts of 2006, as amended, the Michigan Zoning Enabling Act.

Zoning administrator means the person designated by the city council to administer the provisions of this chapter.

Zoning board of appeals or *board* or *board of appeals* means the zoning board of appeals of the City of Greenville.

(Prior Code, §§ 15.0202—15.0224; Ord. No. 150, §§ 2.02—2.24, 11-1-1997; Ord. No. 150-C, 11-19-2002; Ord. No. 150-O, § 1, 8-17-2010; Ord. No. 150-P, §§ 1, 2, 2-1-2011; Ord. No. 14-02, § 1, 12-2-2014)

Sec. 46-2. Construction of language.

(a) In the case of any difference in meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

(b) The term "building" or "structure" includes any part thereof.

(Prior Code, § 15.0201; Ord. No. 150, § 2.01, 11-1-1997)

Sec. 46-3. Enforcement.

(a) A violation of this chapter is a municipal civil infraction, for which the fine shall be not less than $100.00 or more than $500.00 for the first offense and not less than $200.00 nor more than $1,500.00 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 section, the term "subsequent offense" means a violation of the provisions of this chapter committed by the same person within 12 months of a previous violation of the same provision of this chapter for which said 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.

(b) Each day during which any violation continues shall be deemed a separate offense.

(c) Any building or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to November 1, 1997, and is in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se and may be abated by order of any court of competent jurisdiction.

(d) The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Prior Code, § 15.2203(A); Ord. No. 150, § 22.03(A), 11-1-1997)

State law reference(s)—Authority to make zoning violations a municipal civil infraction, MCL 125.3407.

Sec. 46-4. Intent.

This chapter, enacted under the authority of the Michigan Zoning Enabling Act (MCL 125.3101 et seq.), is intended to ensure that uses of land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision of transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare.

(Prior Code, § 15.0102; Ord. No. 150, § 1.02, 11-1-1997)

Sec. 46-5. Interpretation.

(a) *Generally.* In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare.

(b) *Vested rights.* Except as otherwise noted in this chapter, nothing in this chapter shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and all rights are hereby declared to be subject to such subsequent amendment, change or modification hereof as may be necessary to the preservation or protection of public health, safety, and welfare.

(Prior Code, § 15.0103; Ord. No. 150, § 1.03, 11-1-1997)

Sec. 46-6. Buildings and land affected.

(a) Except as hereinafter provided, buildings and/or structures shall be erected or altered, and buildings and/or structures and lands shall be used or altered only in conformance with all the regulations of the district in which such lands and buildings and/or structures are located.

(b) The lawful use of any existing building or land on November 1, 1997, or the effective date of an amendment to this chapter may be continued as a nonconforming use or building, subject to the applicable requirements of this chapter for such nonconforming uses or buildings.

(Prior Code, § 15.0406; Ord. No. 150, § 4.06, 11-1-1997)

Sec. 46-7. Nonconforming lots, buildings, structures, and uses.

(a) *Intent.*

(1) It is recognized that there exists within zoning districts certain lots, buildings and structures, and uses which were lawful before this chapter was passed or amended, which would be prohibited, regulated, or restricted under the terms of this chapter. It is the intent of this chapter to permit legal, nonconforming lots, buildings and structures, and uses to continue until they are removed, but not to encourage their survival.

(2) Nonconforming lots, buildings, structures, and uses are declared by this chapter to be incompatible with permitted uses in the districts in which they are located. It is the intent of this chapter that these nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the district.

(3) Nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to November 1, 1997, or the effective date of an amendment to this chapter and upon which actual building construction has been diligently conducted.

(b) *Nonconforming lots of record.*

(1) Where a residential lot of record in existence at the time of the adoption or amendment of this chapter does not meet the minimum requirements for lot width or lot area, such lot of record may be used for any purposes permitted by the district in which the lot is located, provided that the lot meets at least 80 percent of the required lot area, lot width, and side yard required by that district, and further provided that any building or structure constructed on the lot complies with all other yard setback requirements.

(2) If two or more lots of record or combination of lots and portions of lots of record, in existence on November 1, 1997, or the effective date of an amendment to this chapter, with continuous frontage do not meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this chapter.

(c) *Nonconforming uses.*

(1) No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on November 1, 1997, or the effective date of an amendment to this chapter.

(2) No part of any nonconforming use shall be moved unless such movement eliminates the nonconformity.

(3) If a nonconforming use is abandoned for any reason for a period of more than one year, any subsequent use shall conform to the requirements of this chapter. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:

a. Utilities, such as water, gas and electricity to the property, have been disconnected;

b. The property, buildings and grounds, have fallen into disrepair;

c. Signs or other indications of the existence of the nonconforming use have been removed;

d. Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;

e. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.

(4) A nonconforming use may be changed to another nonconforming use provided that all of the following determinations are made by the board of appeals:

a. The proposed use shall be as compatible or more compatible with the surrounding neighborhood than the previous nonconforming use.

b. The proposed nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than the previous nonconforming use.

c. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this chapter.

(d) *Nonconforming buildings and structures.*

(1) *Continuation.* Where a lawful building or structure exists on November 1, 1997, or the effective date of an amendment to this chapter, or an amendment thereto, that does not comply with the requirements of this chapter because of restrictions such as lot area, coverage, width, height, or yards, such building or structure may be continued so long as it remains otherwise lawful.

(2) *Alterations, enlargements and extensions of nonconforming buildings and structures.*

a. No such building or structure may be enlarged or altered in a way that increases its nonconformity, except as noted in subsection (2)b. of this section.

b. Where the setback of a building or structure is nonconforming by a distance equal to or less than one-half of the distance required by this chapter, the nonconforming setback may be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.

(3) *Reconstruction of nonresidential buildings.*

a. Should a nonconforming building or structure be destroyed to an extent of more than 60 percent of its replacement value, exclusive of the foundation, it shall be reconstructed only in conformance with the provisions of this chapter.

b. Should a nonconforming building or structure be destroyed to an amount equal to or less than 60 percent of its replacement value, exclusive of the foundation, it may be reconstructed in its previously nonconforming location.

(4) *Reconstruction of residential buildings in nonresidential districts.* Should a nonconforming residential building or structure be destroyed, it may be reconstructed in its previously nonconforming location, provided, however, the degree of nonconformity shall not be increased.

(5) *Moving of residential building.* Should a nonconforming residential building or structure be moved for any reason and for any distance, it shall be moved to a location which complies with the requirements of this chapter.

(6) *Normal repairs and maintenance.* None of the provisions of this section are meant to preclude normal repairs and maintenance on any nonconforming building or structure or repairs that would strengthen or correct any unsafe condition of the building or structure.

(Prior Code, § 15.0301; Ord. No. 150, § 3.01, 11-1-1997; Ord. No. 150-B, 4-16-2002)

State law reference(s)—Nonconforming uses and structures, MCL 125.3208.

Sec. 46-8. Prohibited uses.

Where a use is defined or listed as a permitted use or a special land use in a given zoning district, such use shall not be permitted in any zoning district where it is not listed. This is true even if such use might be similar to a listed permitted use.

(Ord. No. 150-O, § 1(4.07), 8-17-2010)

Secs. 46-9—46-34. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 46-35. Zoning administrator; authority.

(a) Except where herein otherwise stated, the provisions of this chapter shall be administered by the zoning administrator, or such other official or officials as may be designated by the city council.

(b) The zoning administrator shall have the power to:

(1) Grant certificates of occupancy;

(2) Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this chapter;

(3) Issue and serve appearance tickets on any person with respect to any violation of this chapter where there is reasonable cause to believe that the person has committed such an offense;

(4) Maintain and safely keep copies of all plans, other than for single-family dwellings, and copies of documents proving payment of fees submitted with such application, and the same shall form a part of the records of his office and shall be available to the council and all other officials of the city;

(5) Perform such other functions necessary and proper to enforce and administer the provisions of this chapter.

(Prior Code, § 15.2201; Ord. No. 150, § 22.01, 11-1-1997)

State law reference(s)—Mandatory that zoning ordinance provide for enforcement officer, MCL 125.3407.

Sec. 46-36. Zoning board of appeals; membership; meetings, powers, procedures, standards, and fees.

(a) *Membership and meetings.*

(1) *Composition and terms.* The zoning board of appeals shall consist of seven members appointed by the city council. An employee or contractor of the city council may not serve as a member of the zoning board of appeals.

(2) *Alternate members.*

a. A member of the city council may serve as an alternate to the zoning board of appeals.

b. Up to two alternate members may be appointed by the city council for three-year terms. If two alternate members have been appointed, they may be called on a rotating basis, as they are available to sit as regular members of the zoning board of appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest.

c. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the zoning board of appeals.

(3) *Vacancies.* Any vacancies in the zoning board of appeals shall be filled by appointment by the council. The appointed member shall serve out the term of the vacated position.

(4) *Officers.* The zoning board of appeals shall annually elect its own chairperson, vice-chairperson, and secretary.

(5) *Meetings.*

a. The zoning board of appeals shall meet once each month at dates specified in January of each year unless no applications for board actions are pending for the scheduled meeting. Special meetings may be held at the call of and at such time as the chairperson may determine. The full costs of all special meetings shall be borne by the applicant.

b. The zoning administrator or his representatives shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions.

c. Three members of the zoning board of appeals shall constitute a quorum for the conduct of its business.

d. The zoning board of appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

(6) *Public hearings.*

a. The zoning board of appeals shall make no decision regarding any application except after a public hearing is conducted.

b. All public hearings conducted by the zoning board of appeals shall be held after normal business hours for the convenience of the public.

c. Notification of public hearings shall be made in accordance with the requirements of section 46-43, herein.

d. For a request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, a notice of a public hearing shall be published in a newspaper of general circulation within the city and shall be sent to the person seeking the interpretation or appeal not less than 15 days before the public hearing.

e. In addition to the newspaper notice required by the above paragraph, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and notice of the public hearing on the interpretation request shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question.

(7) *General rules.*

a. The city council representative on the zoning board of appeals shall not serve as the chair of the zoning board of appeals.

b. A member of the zoning board of appeals who is also a member of the planning commission or the city council shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the planning commission or the city council. The member may consider and vote on the other unrelated matters involving the same property.

(b) *Jurisdiction and powers.*

(1) The zoning board of appeals shall not have the power to make any change in the terms of this chapter, but does have the power to act on those matters where this chapter provides for an administrative review or interpretation and to authorize a variance as defined in this section and the laws of the state.

(2) The powers of the zoning board of appeals include:

a. *Appeals.* To 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 building inspector or any other administrative official in carrying out or enforcing any provisions of this chapter.

b. *Variances.* A variance from the strict requirements of this chapter may be granted by the zoning board of appeals in accordance with the standards, requirements and procedures of this chapter.

c. *Chapter interpretation.* The zoning board of appeals may interpret the provisions of this chapter to carry out the intent and purposes of this chapter where the meaning of the provisions is uncertain.

d. *Other matters.* Any other matters referred to them or upon which they are required to consider under the terms of this chapter.

(3) The zoning board of appeals shall not be permitted to consider any requests for variances from the approvals, requirements, or conditions of planned unit developments, as noted in section 46-164.

(4) Variances to the specific requirements of special land uses:

a. The zoning board of appeals may grant a variance from the requirements set forth for the specific standards for special land uses, in division 2 of article VI of this chapter, provided the zoning board of appeals finds that the request meets all of the standards noted in subsection 46-36(d).

b. The zoning board of appeals shall not be empowered to hear appeals from the final decision made by the planning commission with respect to special land uses.

c. Decisions by the zoning board of appeals on requests for variances from the specific standards for special land uses shall be made prior to the planning commission's consideration of the special land use.

(c) *Application and review procedures.*

(1) *Applications.*

a. An application for an appeal may be submitted by a person aggrieved, or by an officer, department, or board of the city. Such application shall be submitted within ten days of the action being appealed. The application shall be filed with the zoning board of appeals and shall specify the grounds for the appeal.

b. Variances, and other actions requiring a decision of the zoning board of appeals shall be submitted to the city on a form provided for that purpose and shall include a fee, as may be determined by the city council from time to time.

c. Applications shall immediately be transmitted to the zoning board of appeals, along with all the papers constituting the record upon which the action appealed was taken, and a hearing scheduled in accordance with the procedures of this chapter.

d. Applications shall not be accepted unless all of the following information is submitted:

1. A completed application form (provided by the city);

2. An accurate, scaled site plan with enough information to clearly indicate the nature of the issue being considered. The zoning administrator shall determine the completeness of such plans.

3. An application fee as may be determined by the city council from time to time.

4. A written explanation from the applicant indicating why the application meets the standards of subsection (d) of this section.

(2) An application for an appeal or variance, or any other action requiring board approval shall stay all proceedings in furtherance of the matter to which the application applies unless the zoning administrator certifies to the zoning board of appeals, after the application of appeal is filed, that by reason of facts present a stay would, in the opinion of the zoning administrator, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the zoning board of appeals or circuit court on application and with due cause shown.

(3) The zoning board of appeals shall render its decision upon any appeal or application submitted to it within 60 days after the hearing thereon, and in any event, within 90 days after the date of filing of the appeal or application unless the applicant and board of appeals mutually agree to an extension.

(4) All decisions of the zoning board of appeals shall become final five days after the date of entry of an order, unless the zoning board of appeals shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.

(5) No request which has been denied by the zoning board of appeals shall be submitted for reconsideration within a six-month period from the date of the original application unless the zoning board of appeals finds that at least one of the following conditions exist:

a. That the conditions involving all of the reasons for the original denial have been significantly altered; or

b. That new conditions or circumstances exist which change the nature of the original request.

(6) For each decision of the zoning board of appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:

a. Description of the applicant's request;

b. The zoning board of appeals' motion and vote, including written justification for the decision, in accordance with each of the standards of subsection (d) of this section;

c. A summary or transcription of all competent material and evidence presented at hearing; and

d. Any conditions attached to an affirmative decision.

(7) The decision of the zoning board of appeals shall be final. However, any party aggrieved by any such decision may appeal to the Circuit Court for Montcalm County, as provided under PA 110 of 2006 as amended. The records of the zoning board of appeals shall be made available for the court's review. Such appeal shall be filed within 30 days after the zoning board of appeals certifies its decision in writing signed by the chairperson, or 21 days after the zoning board of appeals approves the minutes of the decision.

(d) *Variance review standards.*

(1) *Authority of zoning board of appeals to grant variances.* The zoning board of appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this chapter where it is proved by the applicant that there are practical difficulties in the way of carrying out the strict letter of this chapter relating to the construction, equipment, or alteration of buildings or structures so that the spirit of this chapter shall be observed, public safety secured and substantial justice done.

(2) *Non-use variance.* A non-use variance may be allowed by the zoning board of appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:

1. Exceptional narrowness, shallowness or shape of a specific property on November 1, 1997;

2. By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; or

3. By reason of the use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this chapter would involve practical difficulties;

b. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

c. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

d. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

e. The variance will not impair the intent and purpose of this chapter.

f. That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.

(3) *Use variances.* A use variance may be allowed by the zoning board of appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing that all of the following conditions are met:

a. That the building, structure, or land cannot yield a reasonable return if required to be used for a use allowed in the zone district in which it is located;

b. That the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is unique to that property and not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Such unique conditions or situations may include:

1. Exceptional narrowness, shallowness or shape of a specific property on November 1, 1997;

2. Exceptional topographic conditions or other extraordinary situation on the land, building or structure;

3. The use or development of the property immediately adjoining the property in question;

c. That the proposed use will not alter the essential character of the neighborhood or the intent of the master plan.

(4) *Planning commission consideration and report.* Prior to zoning board of appeals decision on a request for a use variance, the board of appeals may request that the planning commission, upon presentation of the application by the applicant, consider such request and forward a report to the zoning board of appeals. If requested by the board of appeals, such report shall be limited to the planning commission's review of the effect of the proposal on the existing or intended character of the neighborhood and the ability of the property owner to use the property for a use already permitted under the existing zoning classification.

(5) *Period of validity.* No variance granted by the zoning board of appeals shall be valid for a period longer than 12 months from the date of its issuance. However, the applicant may, request, at no cost, up to one six-month extension of said variance from the zoning board of appeals. The zoning board of appeals may grant such extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the control of the applicant.

(e) *Conditions of approval.*

(1) The zoning board of appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision which they are required to make.

(2) Conditions imposed shall be those necessary to ensure that the decision meets the standards of subsection (d) of this section and, therefore, shall be directly related to those standards. Conditions shall also meet the requirements of the Michigan Zoning Enabling Act (MCL 125.3101 et seq.).

(f) *Fees.* The city council may prescribe and amend a reasonable schedule of fees to be charged to applicants for applications to the zoning board of appeals. The fee shall be paid to the city treasurer at the time the application is filed. No actions regarding the application shall be undertaken until such fee is submitted.

(g) *Voting requirements.*

(1) Except as noted in subsection (g)(2) of this section, a majority of the membership of the zoning board of appeals shall be necessary to: Reverse an order, requirement, decision, or determination of an administrative official or body;

a. Decide in favor of an applicant on any matter upon which they are required to pass under this chapter; or

b. Effect a non-use variance.

(2) A concurring vote of two-thirds of the membership of the zoning board of appeals shall be necessary to grant a use variance.

(Prior Code, §§ 15.2101—15.2107; Ord. No. 150, §§ 21.01—21.07, 11-1-1997; Ord. No. 150-D, 11-19-2002; Ord. No. 150-R, §§ 1—6, 9-20-2011)

Sec. 46-37. Withholding of approval.

The planning commission or city council may withhold granting of approval of any approval required by this chapter pending approvals, which may be required by county, state or federal agencies or departments.

(Prior Code, § 15.0326; Ord. No. 150, § 3.26, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-38. Amendments.

(a) Written applications for the adoption of a zoning change or amendment to this chapter may be initiated by:

(1) Any public agency;

(2) Any interested person;

(3) The planning commission; or

(4) The city council.

(b) If said application is for a zoning change, the term "interested person" shall either be the owner of the property which will be considered for the zoning change or, if not the owner of the property, the applicant shall submit a written statement from the property owner indicating his permission to submit such application.

(c) An application for a zoning change shall consist of:

(1) A written statement from the property owner indicating his permission to submit such application, if applicable.

(2) Payment of a fee, as established from time to time by the city council.

(3) A map clearly showing the property to be considered for the zoning change, including all properties within one-quarter mile of the subject property and the current zoning of all such properties.

(4) A legal description of the property to be considered for the zoning change.

(d) The planning commission, after public hearing conducted in accordance with the requirements of the Michigan Zoning Enabling Act (MCL 125.3101 et seq.) shall forward said application, with its recommendation and report, to the city council for its consideration.

(e) Upon receipt of the recommendation of the planning commission, the city council shall either approve or deny the requested rezoning in accordance with the procedures adopted by the council.

(Prior Code, § 15.2204; Ord. No. 150, § 22.04, 11-1-1997)

State law reference(s)—Amendments, MCL 125.3403.

Sec. 46-39. Permits.

(a) *Building permits.*

(1) No building, structure, or commercial sign shall be erected, altered, moved, or substantially repaired unless a building permit shall have been first issued for such work.

(2) No building permit shall be issued for the erection, alteration, or use of any building or structure or for the use of any land, which is not in accordance with all provisions of this chapter.

(3) The holder of every building permit for the construction, erection, alteration, repair, or moving of any building or structure shall notify the building inspector immediately upon completion of the work authorized by the permit for a final inspection.

(b) *Certificate of occupancy.*

(1) No vacant land shall be used and no existing use of land shall be changed to a different class of use unless a certificate of occupancy is first obtained for the new or different use.

(2) No building or structure which is hereafter erected or altered shall be occupied or used unless and until a certificate of occupancy shall have been issued for such building or structure.

(3) Certificates of occupancy, as required by the currently adopted building code for the city, shall also constitute certification of compliance with this chapter.

(4) A record of all certificates of occupancy issued shall be kept on file in the office of the zoning administrator and copies shall be furnished upon request to any person owning or renting the property, which is the subject of the certificate.

(5) Applications for certificates of occupancy shall be made in writing to the building inspector on a form furnished by the city. Certificates shall be issued within ten days after receipt of such application if the building or structure or use of land is in accordance with the provisions of this chapter and the other applicable ordinances of the city.

(c) Fees for the inspection and issuance of building permits or certificates of occupancy, or copies required or issued under the provisions of this chapter, may be collected by the city in advance of issuance. The amount of such fees shall be as established by the city and shall cover the cost of inspection and supervision resulting from the enforcement of this chapter.

(Prior Code, § 15.2202; Ord. No. 150, § 22.02, 11-1-1997)

State law reference(s)—Permit fees, MCL 125.3406.

Sec. 46-40. Performance guarantees.

(a) As a condition of approval of a site plan review, special land use, or planned unit development, the planning commission, city council, or zoning administrator, whichever is designated as the approving authority, or the zoning board of appeals, may require a financial guarantee of sufficient sum to ensure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.

(b) Performance guarantees shall be processed in the following manner:

(1) Prior to the issuance of a certificate of occupancy, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee, which shall then be reviewed by the zoning administrator. The amount of the performance guarantee shall be 100 percent of the cost of purchasing of materials and installation of the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.

(2) The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the city.

(3) Upon receipt of the required performance guarantee, the zoning administrator shall issue a building permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this chapter and other applicable ordinances of the city.

(4) The zoning administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.

(5) When all of the required improvements have been completed, the obligor shall send written notice to the zoning administrator of completion of said improvements. Thereupon, the zoning administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be stated. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.

(6) A record of required performance guarantees shall be maintained by the zoning administrator.

(Prior Code, § 15.2203(B); Ord. No. 150, § 22.03(B), 11-1-1997)

State law reference(s)—Performance guarantees authorized, MCL 125.3505.

Sec. 46-41. Site plan review.

(a) *Purpose.* The purpose of this section is to provide for consultation between the applicant and the planning commission or city staff to review an applicant's planned objectives in the utilization of land within the regulations of this chapter.

(b) *Uses subject to site plan review.* A building permit for any proposed use or building requiring a site plan shall not be issued until a final site plan has been reviewed and approved in accordance with the requirements of this chapter.

(1) The following uses shall be subject to site plan review by the planning commission:

a. All uses proposed on a parcel or lot or combination of parcels or lots which total three acres or more, except the following:

1. Single- and two-family dwellings.

2. State-licensed residential family care facilities.

3. Family child care homes.

4. Farms.

5. Accessory uses or structures.

6. Properties located within any city-owned industrial park.

b. Site condominium developments.

c. Special land uses within any zone district.

(2) All site plans not reviewed by the planning commission shall be subject to site plan review by the zoning administrator. Such review shall be limited to ensuring that the setbacks, yards, parking, and other requirements of this chapter are met.

(c) *Application and review procedures for site plans reviewed by the planning commission.*

(1) *Application procedures.*

a. An application for site plan review by the planning commission shall be submitted at least 30 days prior to the next scheduled planning commission meeting through the zoning administrator, who will review the application materials to ensure that the requirements of subsection (1)b. of this section are met, and then transmit it to the planning commission.

b. An application for either a preliminary or final site plan review shall consist of the following:

1. A completed application form, as provided by the city.

2. Fifteen copies of the preliminary or final site plan.

3. Payment of a fee, in accordance with the fee schedule as determined by the city council.

4. A legal description, including the permanent parcel number, of the subject property.

5. Other materials as may be required by this chapter, the zoning administrator, or the planning commission.

c. Incomplete applications shall be returned to the applicant with an indication of the items necessary to make up a complete application.

(2) *Site plan review procedures.*

a. *Preliminary site plan review.*

1. A preliminary site plan may be submitted to the planning commission for review prior to final site plan review. The purpose of the preliminary site plan review is to allow discussion between the applicant and the commission to inform the applicant of the general acceptability of the proposed plans prior to incurring extensive engineering and other costs, which may be necessary for the review of the final site plan.

2. Preliminary site plans shall include the following, unless deemed unnecessary by the zoning administrator:

i. Small-scale sketch of properties, streets and use of land within one-quarter mile of the subject property.

ii. Fifteen copies of a site plan at a scale of not more than inch equals 100 feet (1"=100') showing any existing or proposed arrangement of:

A. Existing adjacent streets, proposed streets, and existing curb cuts within 100 feet of the property.

B. All lot lines with dimensions.

C. Parking lots and access points.

D. Proposed buffer strips or screening.

E. Significant natural features and other natural characteristics, including, but not limited to, open space, stands of trees, brooks, ponds, floodplains, hills, and other significant natural features.

F. Location of any signs not attached to the building.

G. Existing and proposed buildings, including existing buildings or structures within 100 feet of the boundaries of the property.

H. General topographical features, including contour intervals no greater than ten feet.

I. Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.

J. Dwelling unit densities by type, if applicable.

K. Proposed method of providing sewer and water service, as well as other public and private utilities.

L. Proposed method of providing storm drainage.

M. Written description of the computation for required parking.

3. The commission shall review the preliminary site plan and make such recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this section and this chapter.

i. To this end, the commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan.

ii. Such material may include, but need not be limited to, aerial photography; photographs; traffic impacts; impact on significant natural features and drainage; soil tests and other pertinent information.

b. *Final site plan review.*

1. A final site plan shall be reviewed by the planning commission. Final site plans shall include the following information, unless deemed unnecessary by the zoning administrator:

i. Small scale sketch of properties, streets and use of land within one-quarter mile of the area.

ii. Fifteen copies of a site plan at a scale not to exceed one inch equals 100 feet. The following items shall be shown on the plan:

A. Date of preparation/revision.

B. Name and address of the preparer.

C. The topography of the site at a minimum of five-foot intervals and its relationship to adjoining land.

D. Existing manmade features.

E. Dimensions of setbacks, locations, heights and size of buildings and structures, including the locations of existing buildings or structures within 100 feet of the boundaries of the property.

F. Street rights-of-way, indicating proposed access routes, internal circulation, relationship to existing rights-of-way, and curb cuts within 100 feet of the property.

G. Proposed grading.

H. Location, sizes, and type of drainage, sanitary sewers, water services, storm sewers, and fire hydrants.

I. Location, sizes, and type of fences, landscaping, buffer strips, and screening.

J. Location, sizes, and type of signs and on-site lighting.

K. Proposed parking areas and drives. Parking areas shall be designated by lines showing individual spaces and shall conform with the provisions of section 46-258.

L. Easements, if any.

M. Dimensions and number of proposed lots.

N. Significant natural features and other natural characteristics, including, but not limited to, open space, stands of trees, brooks, ponds, floodplains, hills, and other significant natural features.

2. The planning commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography photographs; traffic impacts; impact on significant natural features and drainage; soil tests and other pertinent information.

3. The planning commission shall approve, deny, or approve with conditions the final site plan based on the requirements of this chapter, and specifically, the standards of subsection (c)(3) of this section.

c. *Public information meeting.*

1. Upon receipt of a valid application for a final site plan review, the planning commission shall hold a public information meeting for the purpose of receiving comments relative to the site plan review application.

2. Notice of the public information meeting for the final site plan review shall be given in accordance with the following requirements:

i. A written notice of the public information meeting shall be sent by mail or personal delivery to the applicant, the owners of property for which approval is being considered, and to all occupants and persons to whom real property is assessed within 300 feet of the boundary of the subject property. Multiple-family complexes need only be sent a single copy with directions for posting of the notice in a conspicuous location in the complex.

ii. Such notice shall be given not less than ten days prior to the public information meeting.

iii. The notice shall describe the nature of the site plan review request, indicate the location of the subject property, and state when and where the site plan review request will be considered, and where and when written comments will be received concerning the request.

(3) *Site plan review standards.* All final site plans reviewed by the planning commission shall be approved, approved with conditions, or denied, based on the purposes, objectives and requirements of this chapter, and, specifically, the following considerations when applicable:

a. The proposed site plan will not adversely affect the public health, safety, or welfare. The relationship of proposed uses and structures located on the site shall be planned to take into account topography, size of the property, the uses on adjoining property and the relationship and

size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.

b. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.

c. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the city.

d. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this chapter. The planning commission or zoning administrator may require that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

e. Satisfactory assurance shall be provided that the requirements of all other applicable ordinances, codes, and requirements of the city will be met.

f. The general purposes and spirit of this chapter and the master plan shall be maintained.

(d) *Approved plans and amendments.*

(1) Upon approval of the final site plan, the chairperson of the planning commission shall sign three copies thereof. One signed copy shall be made a part of the city's files; one copy of the final site plan shall be forwarded to the building official for issuance of a building permit; and one copy shall be returned to the applicant.

(2) Each development shall be under construction within one year after the date of approval of the final site plan, except as noted in this subsection.

a. The planning commission may grant one six-month extension if the applicant applies for such extension prior to the date of the expiration of the final site plan and provided that:

1. The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and

2. The site plan requirements and standards, including those of this chapter and master plan, that are reasonably related to said development have not changed.

b. Should neither of the provisions of subsection 46-41(d)(2) be fulfilled, or a six-month extension has expired without construction underway, the final site plan approval shall be null and void.

c. Amendments to an approved final site plan may occur only under the following circumstances:

1. The holder of a valid final site plan approval shall notify the zoning administrator of any proposed amendment to such approved site plan.

2. Minor changes may be approved by the zoning administrator upon certification in writing to the planning commission that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the planning commission. In considering such a determination, the zoning administrator shall consider the following to be a minor change:

i. Reduction of the size of any building and/or sign.

ii. Movement of buildings and/or signs by no more than ten feet.

iii. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.

iv. Changes in floor plans, which do not alter the character of the use or increase the amount of required parking.

v. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.

vi. Changes required or requested by the city for safety reasons.

3. Should the zoning administrator determine that the requested modification to the approved site plan is not minor; a new site plan shall be submitted and reviewed as required by this chapter.

(Prior Code, §§ 15.1701—15.1704; Ord. No. 150, §§ 17.01—17.04, 11-1-1997)

State law reference(s)—Site plans, MCL 125.3501.

Sec. 46-42. Site condominiums.

(a) *Purpose and scope.*

(1) Site condominiums are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site, which is the functional equivalent of a "lot" for purposes of determining compliance with the requirement of this chapter and other applicable laws, ordinances and regulations. Site condominiums may also include general common elements consisting of common open space, recreational areas, streets, and other areas and amenities available for use by all owners of condominium units within the development.

(2) This chapter requires preliminary review by the Planning Commission followed by final review and approval by the City Council of site condominium plans to ensure that site condominiums comply with this chapter and other applicable city ordinances.

(b) *Definitions.*

(1) Except as otherwise provided by this chapter, the following words and phrases, as well as any other words or phrases used in this chapter which are specifically defined in the Condominium Act, shall conform to the meaning given to them in the Condominium Act (MCL 559.101 et seq.): "Common elements," "condominium documents," "condominium unit," "contractible condominium," "general common elements," and "master deed."

(2) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Building envelope. Means the area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium. In a single-family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built.

Building site means either:

1. The area within the site condominium unit by itself, exclusive of any appurtenant limited common element, including the area under the building envelope; or
2. The area within the condominium unit, taken together with any contiguous and appurtenant limited common element.
3. For purposes of determining compliance with the applicable requirements of this chapter (including, without limitation, height, area, yard, and density requirements) or with other applicable laws, ordinances or regulations, the term "building site" shall be considered to be the equivalent of the term "lot".

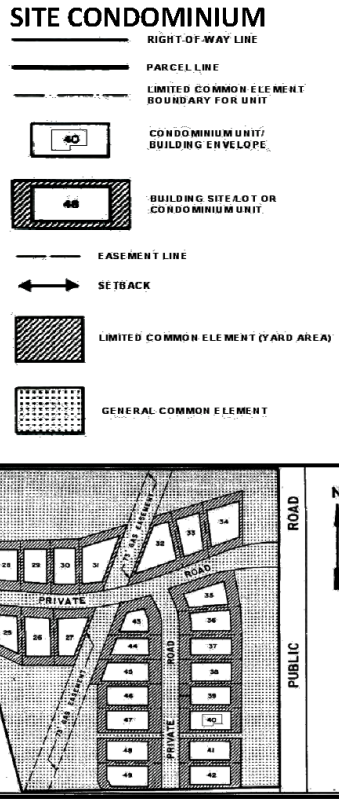
Condominium Act means Public Act No. 59 of 1978 (MCL 559.101 et seq.).

Convertible area means a unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created in accordance with the Condominium Act.

Expandable condominium means a condominium project to which additional land may be added in accordance with the Condominium Act.

General common element means the common elements other than the limited common elements.

Limited common element means an area which is appurtenant to a site condominium unit and which is reserved in the master deed for the site condominium development for the exclusive use of the owner of the site condominium unit.



Site condominium development means a plan or development consisting of not less than two site condominium units established in compliance with the Condominium Act.

Site condominium development plan means the plans, drawings and information prepared for a site condominium development as required by section 66 of the Condominium Act (MCL 559.166) and as required by this chapter for review of the development by the planning commission and the city council.

Site condominium unit means a condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of vacant air space, designed and intended for separate ownership and use as described in the site condominium master deed, and within which a building or other improvements may be constructed by the condominium unit owner.

(c) *Review of preliminary plans by the planning commission.*

(1) Prior to final review and approval of a site condominium development plan by the city council, a preliminary site condominium development plan shall be reviewed by the planning commission in accordance with the procedures, standards and requirements provided by this chapter. As part of the review, the planning commission shall hold a public hearing on the preliminary plan. The commission, however, may review the plan prior to the public hearing in order to provide direction to the applicant in preparing the plan for the hearing. Notification of the hearing shall be in accordance with the notification requirements for a special land use as set forth in this chapter.

(2) Application for review and approval of a site condominium development plan shall be initiated by submitting to the city clerk. The application shall include a minimum of 15 copies of a preliminary site condominium development plan which complies with the requirements of subsection 38-33(b).

(3) The planning commission shall review the preliminary site condominium development plan in accordance with the standards and requirements contained in section 38-35 and article III of chapter 38, pertaining to subdivisions. All of the requirements for plats, as set forth in section 38-35 and article III of chapter 38, shall be requirements for site condominium developments. In addition, a condominium development plan shall include the documents and information required by section 66 of the Condominium Act (MCL 559.166) and by section 38-33 and shall also include the following:

a. The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.

b. A narrative describing the overall objectives of the proposed site condominium development.

c. A street construction, paving and maintenance plan for all private streets within the proposed condominium development. Private streets shall be constructed according to the requirements of section 46-98.

(4) In its review of a site condominium development plan, the planning commission may consult with the zoning administrator, city attorney, engineer, fire chief, planner or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, development layout and design, or other aspects of the proposed development.

(5) The building site for each site condominium unit shall comply with all applicable provisions of this chapter, including minimum lot area, minimum lot width, required front, side and rear yards, and maximum building height.

(6) If a site condominium development is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval and maintenance requirements for platted public streets as required by the city. All private streets in a site condominium development shall be developed as required by section 46-98.

(7) The planning commission shall require that portions of the plan relevant to the reviewing authority in question be submitted to the county health department, county road commission, county drain commissioner, state department of natural resources, state department of public health and other

appropriate state and county review and enforcement agencies having direct approval or permitting authority over any aspect of the proposed site condominium development.

(d) *Planning commission recommendation.* After reviewing the preliminary site condominium development plan, the planning commission shall prepare a written statement of recommendations regarding the proposed site condominium development, including any suggested or required changes in the plan. The planning commission shall provide a copy of its written recommendations to the applicant and to the city council.

(e) *Review and approval of final plans by city council.*

(1) After receiving the planning commission's recommendations on the preliminary plan, the applicant shall submit to the city clerk a minimum of 15 copies of a final site condominium development plan which complies with the requirements of this section and of subsection 38-33(b). All of the requirements for plats, as set forth in article III of chapter 38, shall be requirements for site condominium developments. The city clerk shall forward the copies of the final plan to the city council.

(2) The final site condominium plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the planning commission based on its prior review of the preliminary plan. If any of the planning commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why these recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the planning commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the planning commission. Changes made to the plan other than those necessary to incorporate the recommendations of the planning commission shall be reviewed by the planning commission prior to approval of the plan by the city council.

(3) After receiving the planning commission's recommendations on the preliminary plan and a final site condominium development plan from the applicant, the city council shall proceed to review and may approve, deny or approve with conditions the plan in accordance with the standards and requirements provided by subsection 38-35(b) and article III of chapter 38, and other applicable procedures, standards and requirements provided by this chapter.

(4) As a condition of approval of a final site condominium development plan the city council may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the board covering the estimated cost of improvements associated with the site condominium development for which approval is sought to be deposited with the city as provided by subsection 38-34(d)(5).

(f) *Construction in compliance with approved final site condominium development plan.* No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium development except in compliance with a final site condominium development plan as approved by the city council, including any conditions of approval.

(g) *Commencement of construction.*

(1) No construction, grading, soil striping, tree removal or other site improvements or changes shall be commenced by any person until:

a. A final preliminary site condominium plan has been approved by the city council;

b. All conditions to commencement of construction imposed by the city council have been met;

c. Documentation is provided to the city council that all pertinent and applicable approvals of detailed construction plans or permits from appropriate county and state review and enforcement agencies have been obtained for the project;

d. A construction schedule is submitted to the city indicating the general schedule of the timing and sequence for the installations of required improvements. The schedule must satisfy the needs of the city, county and state inspection agencies.

(2) The developer shall supply the city with an electronic copy of the as-built plans of all installed improvements and/or final plans for all required improvements not installed in the final site condominium.

(3) Construction of an approved site condominium development shall commence within two years after such approval and be diligently pursued to completion in accordance with the terms and conditions of the approval. Such two-year period may be extended by the city council in its discretion for additional periods of time as determined appropriate by the city council. Any such extension shall be applied for by the applicant within such two-year period.

(h) *Issuance of permits.* No building permit shall be issued, and no public sewer or public water service shall be provided for any dwelling or other structure located on a parcel established or sold in violation of this chapter. The sale, or the reservation for sale, of site condominium units shall be as regulated by the Condominium Act. No building in a site condominium development may be occupied or used until all required improvements have been completed and all necessary utilities installed.

(i) *Expandable or convertible condominium developments.* Approval of a final site condominium development plan shall not constitute approval of expandable or convertible portions of a site condominium development unless the expandable or convertible areas were specifically reviewed and approved by the planning commission and city council in compliance with the procedures, standards and requirements of this chapter.

(j) *Changes in condominium developments.* Any change proposed in connection with a development for which a final site condominium plan has previously been approved shall be regulated by this section. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Exempt change means a change to a site condominium project (other than a major or minor change) that is exempt from review and approval as required for major or minor changes under this chapter. Exempt changes shall be limited to the following:

(1) A change in the name of the development, in the name of a street within the development, or in the name of the developer;

(2) A change in the voting rights of co-owners or mortgagees; or

(3) Any other change in the site condominium development which, as determined by the zoning administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a development which is subject to regulation under this chapter.

Major change means a major change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that could result in:

(1) An increase in the number of site condominium units;

(2) Any other change in the site configuration, design, layout, topography, or other aspect of the project which is subject to regulation under this chapter, including, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the zoning administrator to constitute a major change to the site condominium project.

Minor change means a minor change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that will result in:

(1) A decrease in the number of site condominium units;

(2) A reduction in the area of the building site for any site condominium unit;

(3) A reduction of less than ten percent in the total combined area of the general common elements of the site condominium;

(4) A reduction in the total combined area of all limited common elements of the site condominium;

(5) Any other minor variation in the site configuration, design, layout, topography or other aspect of the development which is subject to regulation under this chapter, and which, as determined by the zoning administrator, does not constitute a major change;

(6) Any change which constitutes a major change shall be reviewed by the planning commission at a public hearing and with the notice required for an original approval of a site condominium development, and shall also be reviewed and approved by the city council as provided in this chapter for the original review and approval of preliminary and final plans;

(7) Any change, which constitutes a minor change, shall be reviewed and approved by the zoning administrator who shall notify the planning commission of such action. In the discretion of the administrator, any such minor change may be reviewed and approved by the planning commission at a public meeting, but without the public hearing or mailed notice requirement otherwise provided in this chapter for an original approval;

(8) Any change, which constitutes an exempt change, shall not be subject to review by the city under this chapter, but a copy of the exempt changes shall be filed with the city clerk.

(k) *Incorporation of approved provisions in master deed.* All provisions of a final site condominium development plan which are approved by the city council as provided by this chapter shall be incorporated by reference in the master deed for the site condominium project. Further, all major changes to a development shall be incorporated by reference in the master deed. A copy of the master deed as recorded with the county register of deeds shall be provided to the city within ten days after recording.

(l) *Variances.*

(1) A variance from the applicable provisions of chapter 38, may be granted if the applicant demonstrates that literal enforcement of any of the provisions of the subdivisions chapter is impractical, or will impose undue hardship in the use of the land because of special or peculiar conditions pertaining to the land. Upon application, the city council, after recommendation by the planning commission, may permit a variance or variances which are reasonable and within the general policies and purposes of this chapter. The planning commission and city council may attach conditions to the variance.

(2) Any other variances from applicable section of this chapter, including those required by subsection (c)(5) of this section, shall be subject to the requirements of section 46-36.

(Prior Code, §§ 15.1701A—15.1713S; Ord. No. 150F, §§ 17A.01—17A.13, 7-6-2004)

State law reference(s)—Condominiums, MCL 559.101 et seq.

Sec. 46-43. Public notice and requirements.

(a) *[Compliance of application.]* All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 as amended and the other provisions of this section with regard to the public notification.

(b) *Responsibility for public notification.* The clerk or their agent shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the City of Greenville and mailed or delivered as provided in this section.

(c) *Notice requirements.* Notice of a public hearing for a rezoning, special land use, text amendment, planned unit development, variance, appeal, or ordinance interpretation shall be given not less than 15 days before the date of the public hearing. The notice shall be given as follows.

(1) *Newspaper notice:* The notice shall be published in a newspaper that circulates in the City of Greenville.

(2) *Mail and personal notice:* Except for rezoning requests that are proposed for 11 or more adjacent parcels, the notice shall be sent by first class mail or personal delivery to:

a. The owner of the property for which approval is being considered, and the applicant, if different than the owner(s) of the property.

b. To all persons to whom property is assessed within 300 feet of the boundary of the property, regardless of whether the property or occupant is located within the boundaries of the City of Greenville. In structures containing four or fewer dwelling units, only one occupant of each unit must be given notice for a public hearing.

c. If the name of the occupant is not known, the term "occupant" may used in making the notification. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance of the structure.

d. All neighborhood organizations, public utility companies, airports, railroads, and other persons, which have requested to receive notice pursuant to subsection (c) of this section, registration to receive notice by mail.

(3) *Record of mailing:* The clerk shall prepare an affidavit of mailing which shall include those to whom the public notice was mailed and the date of mailing.

(4) *Content of notice:* The public notice shall:

a. Describe nature of request. Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.

b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

c. Indicate the date, time and place of the public hearing(s).

d. Include a statement describing when and where written comments will be received concerning the request and a statement that the public may appear at the public hearing in person or by council.

(d) *Registration to receive notice by mail.* Any neighborhood organization, public utility, company, railroad or any other person may register with the clerk to receive written notice of all applicants for development approval pursuant to subsection (c)(2)c. of this section.

Sec. 46-44. Effective date.

Public hearing having been held hereon, the provisions of this chapter are hereby adopted, and this chapter shall take effect on the first day November, 1997.

Secs. 46-45—46-72. Reserved.

ARTICLE III. GENERAL AND SUPPLEMENTAL REGULATIONS

Sec. 46-73. Required accesses and frontage.

(a) Any lot created shall have a minimum lot width equal to that required by the zone district in which it is located. In no case shall a lot have less than 80 percent of the required lot width as measured at the front lot line, except as may be otherwise specifically permitted in this chapter.

(b) Any lot created shall have direct access to a public or private street.

(Prior Code, § 15.0302; Ord. No. 150, § 3.02, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-74. Required areas or space.

(a) No lot, adjacent lots in common ownership, required yard, parking area or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this chapter.

(b) If already less than the minimum requirements of this chapter, a required yard, parking area or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this chapter.

(c) Lots or yards created after November 1, 1997, shall comply with the requirements of this chapter.

(d) A lot which is platted, or otherwise lawfully of record as on November 1, 1997, may be used as specified in the district in which it is located. The main building on such lot shall be located so that it meets at least 80 percent of the side yard requirements of this chapter. In all cases, the minimum front and rear yard requirements of this chapter shall be met.

(e) If two or more lots of record or combination of lots and portions of lots of record in existence on November 1, 1997, or the effective date of an amendment to this chapter, are:

(1) In common ownership;

(2) Adjacent to each other or have continuous frontage; and

(3) Individually do not meet the lot width or lot area requirements of this chapter;

Then the lands involved shall be considered to be an undivided parcel for the purposes of this chapter. Such parcels shall be combined into such lot or lots meeting the lot width and lot size requirements of this chapter. No portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements of this chapter.

(Prior Code, § 15.0303; Ord. No. 150, § 3.03, 11-1-1997; Ord. No. 150-B, 4-16-2002)

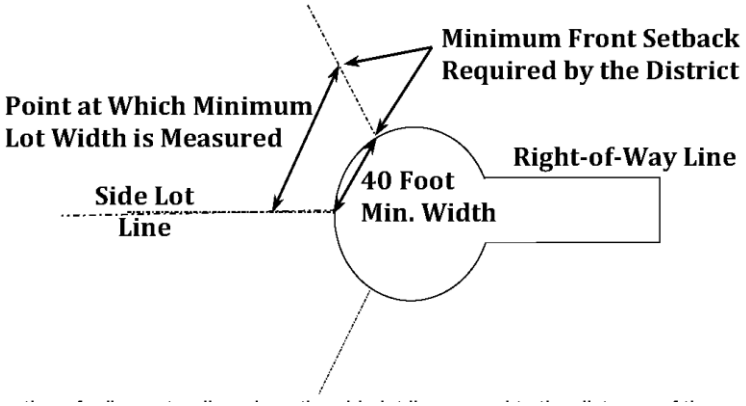
Sec. 46-75. Cul-de-sac lots.

(a) The cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.

(b) A lot on a cul-de-sac shall have frontage, which is not less than 80 percent of the minimum lot frontage required for the zoning district in which it is located.

(c) The minimum lot width shall be measured at a line drawn between the two points located at the intersection of a line extending along the side lot lines equal to the distance of the required front setback.

Minimum Lot Width for Cul-De-Sac Lots



(Prior Code, § 15.0304; Ord. No. 150, § 3.04, 11-1-1997; Ord. No. 150-B, 4-16-2002)

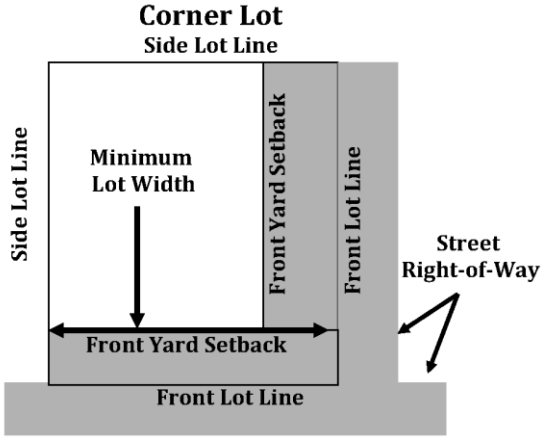
Sec. 46-76. Corner lots.

(a) A corner lot shall have two (2) front lot lines, two (2) side lot lines, and no rear lot line.

(b) Required front yard setbacks shall be measured from both front lot lines.

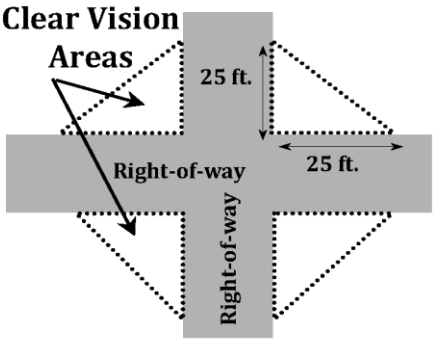
(c) For a corner lot with three (3) front lot lines, the remaining lot line shall be a rear lot line.

(d) The minimum lot width of a corner lot shall be determined at the shorter of the two (2) front lot lines.



(Prior Code, § 15.0305; Ord. No. 150, § 3.05, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-77. Clear vision areas.



(a) No plantings shall be established or maintained on any lot, which will obstruct the view of a vehicle driver approaching a street intersection. There shall be maintained an unobstructed triangular area formed by the street property lines and a line connecting them at points 15 feet from the intersection of the street lines, or, in the case of a rounded property corner, from the intersection of the street property lines extended. This provision shall not prohibit the planting of landscaping which will be less than 30 inches in height at maturity and maintained at that height or lower.

(b) No vegetation shall be maintained in any yard, which in the opinion of the zoning administrator, will obstruct the view from or of vehicles entering or leaving the site from driveways or adjacent roadways.

(Prior Code, § 15.0306; Ord. No. 150, § 3.06, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-78. Projections into yards.

(a) Certain architectural features, such as cornices, bay windows, or windows without foundations, gutters, chimneys, pilasters, and similar features may project no further than four feet into a required front, rear, or side yard.

(b) An open, unenclosed, and uncovered porch, paved terrace, deck, balcony or window awning may project no further than:

(1) Five feet into a required front yard; provided, however, a barrier-free access ramp may extend seven feet into a required front yard. Said ramp shall be removed within a reasonable period of time when no longer required by the occupants or patrons of the facility to which the ramp is attached;

(2) Fifteen feet into a required rear yard; and

(3) Shall not project into a required side yard.

(c) In no case shall a open, unenclosed, and uncovered porch, paved terrace, deck, balcony or window awning be placed closer than five feet to any front or rear lot line, with the exception of the C-3 district where such structures may extend to any lot line except where a lot line abuts a residential district, in which case a five-foot setback shall be maintained from such lot line.

(Prior Code, § 15.0307; Ord. No. 150, § 3.07, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-79. Permitted front setback reductions.

(a) Where the front setbacks for existing main buildings entirely or partially within 200 feet of the side lot lines, on the same side of the street and in the same zoning district of the subject lot are less than the required front setbacks for the zoning district of the subject lot, the required front setback for the subject lot shall be the average of the front setbacks of existing main buildings within the two hundred-foot distance, subject to subsection (b) and (c) of this section.

(b) The permitted front setback reduction shall only be permitted if there are two or more lots occupied by main buildings within the 200-foot distance.

(c) In no case shall the required front setback resulting from the application of this section be less than 15 feet.

(Prior Code, § 15.0308; Ord. No. 150, § 3.08, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-80. Main building or principal use.

Each parcel shall contain only one main building or principal use, except for groups of related commercial, industrial, and office buildings, and multiple-family dwellings contained within a single, integrated complex, sharing parking, signs, access, and other similar features, which together form a unified function and appearance.

(Prior Code, § 15.0309; Ord. No. 150, § 3.09, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-81. Accessory buildings, structures, and uses.

(a) *Accessory buildings generally.*

(1) Where accessory buildings or structures, including but not limited to, enclosed porches or garages, are attached to a main building in a substantial manner, such as by a wall or roof, they shall conform to all regulations of this chapter applicable to a main building.

(2) Accessory buildings shall not be permitted in the required front yard.

(3) Accessory buildings shall not be permitted on a lot or parcel which does not have a principal use or main building.

(b) *Accessory uses generally.*

(1) Accessory uses are permitted only in connection with, incidental to, and on the same lot with a principal use, which is permitted in the particular zoning district.

(2) An accessory use must be in the same zoning district as the principal use on a lot.

(3) No accessory use shall be occupied or utilized unless the main building to which it is accessory is occupied or utilized. No accessory use may be placed on a lot without a principal use.

(4) Unless otherwise specifically permitted by this chapter, accessory uses shall not be permitted in the required front yard.

(c) *Residential accessory buildings and structures.* Accessory buildings shall be permitted within the R-1, R-2, R-3, MHP, and PUD districts or with any residential use provided that the following restrictions are met:

(1) The total area of all detached accessory buildings shall not exceed the following:

a. For lots of 10,000 square feet in area or less: 674 square feet.

b. For lots greater than 10,000 square feet in area, up to one acre: 850 square feet.

c. For lots greater than one acre: 960 square feet.

(2) An accessory building located in the rear yard shall not occupy more than 25 percent of the required rear yard area.

(3) Accessory buildings in excess of 120 square feet must be designed, constructed, and finished such that the exterior appearance is compatible in terms of materials, color, and general construction with that of the main building.

(4) No detached accessory building shall be located closer than ten feet to any main building. The drip edge of any detached accessory building shall not be located closer than three feet to any side or rear lot line.

(5) No detached accessory building shall exceed 15 feet in height.

(d) *Other district accessory buildings and structures.* Accessory buildings shall be permitted within the O-1, C-1, C-2, and IND districts provided that the following restrictions are met:

(1) No more than two detached accessory buildings shall be permitted on any lot.

(2) The total area of all accessory buildings shall not exceed 25 percent of the floor area of the main building.

(3) Detached accessory buildings shall meet all setback requirements for the zone district in which it is located.

(4) No detached accessory building shall be located nearer than ten feet to any main building.

(5) No detached accessory building shall exceed the permitted height for main buildings in the district in which it is located.

(Prior Code, § 15.0310; Ord. No. 150, § 3.10, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-82. Fences.

(a) Fences in residential districts shall not exceed six feet in height in rear and side yards.

(b) Fences within front yards of all zoning districts shall not exceed three feet in height if solid and shall not exceed four feet in height if of an open type. Open type fencing shall include chain link fences, split rail fencing and other fencing types that are not more than 40 percent solid.

(c) Fences in residential district or enclosing residential uses shall not contain barbed wire or be electrified.

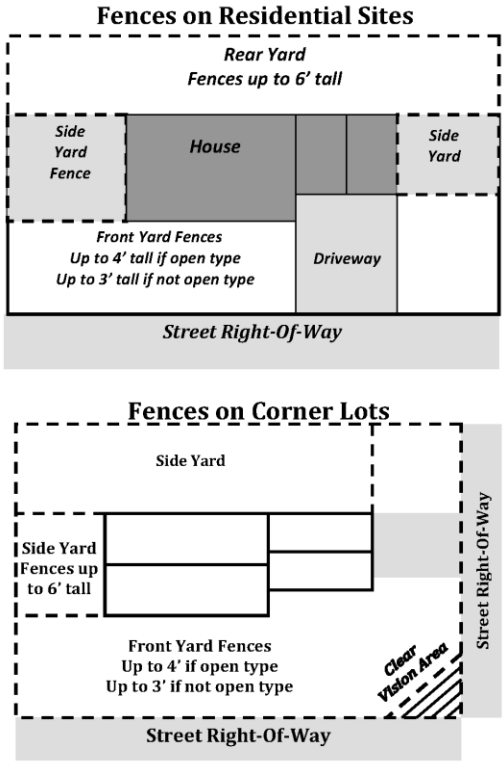
(d) Fences in the C-2, and IND districts, which enclose storage lots or other areas requiring security, may contain barbed wire, provided that the barbed portion of the fence not be nearer than six feet from the surface of the ground. The total height of fences in the C-2, and IND districts shall not exceed eight feet, including the barbed portion.

(e) Fences shall not be erected within any public right-of-way in any district.

(f) Fences shall not be erected or maintained in a clear vision area, as described in section 46-77.

(g) Fences shall not be erected within two feet from a sidewalk, where the sidewalk is within the public right-of-way.

(h) Fences shall be erected with the finished side facing adjacent properties and streets. Support poles shall be placed so that they face the inside of the owner's lot.



(Prior Code, § 15.0311; Ord. No. 150, § 3.11, 11-1-1997; Ord. No. 150-B, 4-16-2002; Ord. No. 150-C, 11-19-2002)

Sec. 46-83. Swimming pools.

Any swimming pool, spa, hot tub and other similar apparatus, which is below ground or above ground and which is either portable or permanent, which has a capacity in excess of 50 gallons and is capable of holding a depth of two feet or more of water at any one point, shall comply with the requirements of article II of chapter 8, Fencing of such swimming pools and similar apparatus shall comply with the requirements of section 46-82.

(Prior Code, § 15.0312; Ord. No. 150, § 3.12, 11-1-1997; Ord. No. 150-B, 4-16-2002; Ord. No. 150-L, § 1, 4-21-2009)

Sec. 46-84. Satellite dish antennas.

(a) *Placement.*

(1) In residential districts a satellite dish antenna shall be permitted only in a rear yard or mounted or attached to a building.

(2) In the O-1, C-1, C-2, and IND districts, a satellite dish antenna shall be located only in the side or rear yard or mounted on top of a building.

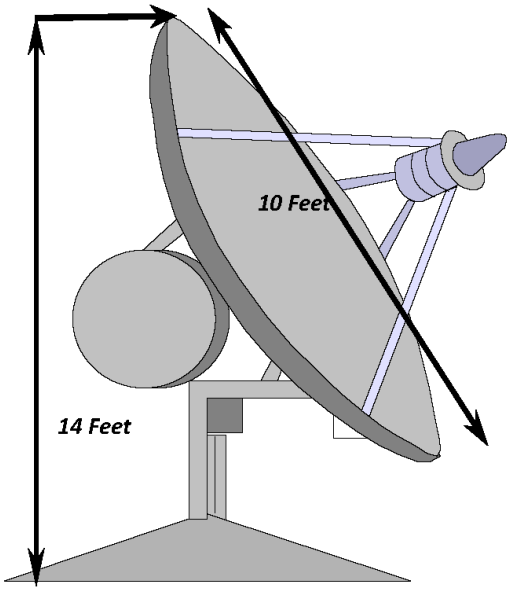
(3) A satellite dish antenna shall comply with the side and rear yard setback requirements applicable to main buildings in the district in which it is located.

(4) In nonresidential districts no more than three satellite dish antennas shall be located on the same lot as a main building. Satellite dish antennas are permitted only in connection with, incidental to, and on the same lot as, a principal use or main building.

Satellite Dish Antenna

Permitted

Dimensions Restricts



(b) *Height.*

(1) In residential districts, a ground-mounted satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed 14 feet in height, or ten feet in diameter.

(2) In the O-1, C-1, C-2, and IND districts, a satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed the maximum height permitted for main buildings in the district in which it is located.

(c) *General provisions.*

(1) No portion of a satellite dish antenna shall contain any name, message, symbol, or other graphic representation visible from adjoining properties, except as required by the manufacturer or federal regulations for safety purposes.

(2) A satellite dish antenna shall be anchored in a manner approved by the building inspector as being adequate to secure the satellite dish antenna during high winds.

(3) A satellite dish antenna shall not be erected, constructed, or installed until a building permit has been obtained from the building inspector.

(4) These regulations shall not apply to dish antennas that are one meter (39.37 inches) or less in diameter in residential districts or two meters (78.74 inches) or less in diameter in nonresidential districts.

(5) The building inspector may waive any provision of this section if its enforcement inhibits or prevents the proper operation of the satellite dish antenna.

(6) These regulations are formulated to ensure that adequate protection measures are provided in this chapter for ensuring that sight distance is not impaired, that such dish antennas are located and constructed in a manner, which will not afford the potential for injury, and to ensure that the intent and purposes of this chapter are met.

(Prior Code, § 15.0313; Ord. No. 150, § 3.13, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-85. Storage of recreation equipment.

Recreational equipment may be located outside of an enclosed building on any lot within a residential district provided that the following requirements are met:

(1) Recreational equipment shall not be located within the required front yard or nearer than three feet to a side or rear lot line.

(2) Notwithstanding the provisions of this section, recreational equipment may be parked within any yard, but not within the required yard, for cleaning, loading, or unloading purposes for not more than 48 hours within any seven-day period.

(3) Recreational equipment may be used for living or housekeeping purposes for a period not exceeding 14 days in any calendar year, provided that running water or indoor sewage facilities within such equipment is not utilized.

(4) Where physical features of a property, such as, but not limited to, immovable structures, or a tree with a diameter of four inches or greater, prohibit a recreational vehicle from being parked in compliance with this section, the owner may apply to the zoning administrator for permission to park the recreational vehicle on the lot. This permission shall be granted, provided that the following requirements are met:

a. A 20-foot setback shall be maintained from the recreational vehicle to the edge of the street pavement or curb, or, if a sidewalk exists, the 20-foot setback shall be measured from the inside edge of the sidewalk.

b. Parking approval, if granted by the zoning administrator, shall be effective for five years following the date of issuance. Additional approvals may be granted by the zoning administrator in accordance with this section.

(Prior Code, § 15.0314; Ord. No. 150, § 3.14, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-86. Storage and repair of vehicles.

(a) The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential district, when such work is not conducted entirely within the interior of a building, shall be subject to the following limitations:

(1) Procedures or projects exceeding 48 hours in duration or which require the vehicle to be immobile or inoperable in excess of 48 hours shall be carried out within a garage.

(2) Inoperable or unlicensed vehicles and vehicle parts shall be stored inside a building.

(b) It shall be unlawful for the owner, tenant or lessee of any lot in any residential district to permit the open storage or parking outside of a building of semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use in construction being conducted on such lot.

(Prior Code, § 15.0315; Ord. No. 150, § 3.15, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-87. Seasonal uses.

(a) The zoning administrator, upon receiving an application, may issue a permit for the temporary sale of merchandise in any nonresidential district, related to a seasonal or periodic event. Such seasonal uses shall include the sale of Christmas trees, fireworks, and similar activities, but shall not include roadside stands.

(b) In considering a request for a temporary permit, the zoning administrator must determine that the operation of such a use is seasonal in nature and will not be established as a permanent use. The zoning administrator will also determine that:

(1) The use does not have an unreasonable detrimental effect upon adjacent properties;

(2) The use does not impact the nature of the surrounding neighborhood;

(3) Access to the area will not constitute a traffic hazard due to ingress or egress; and

(4) Adequate off-street parking is available to accommodate the use.

(c) Each permit shall be valid for a period of not more than 90 days and may be renewed by the zoning administrator for up to one additional 30-day period, provided the season or event to which the use relates is continued.

(Prior Code, § 15.0316; Ord. No. 150, § 3.16, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-88. Construction buildings and structures.

Construction buildings and structures, including trailers, incidental to construction work on a lot, may be placed on such lot, subject to the following restrictions:

(1) Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot.

(2) No construction building or structure shall be used as a dwelling unit.

(3) A building permit shall be issued by the building inspector prior to installation of a construction building or structure.

(4) Construction buildings and structures shall be removed from the lot within 15 days after an occupancy permit is issued by the building inspector for the permanent structure on such lot, or within 15 days after the expiration of a building permit issued for construction on such lot.

(Prior Code, § 15.0317; Ord. No. 150, § 3.17, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-89. Regulations applicable to single-family dwellings outside manufactured home parks.

Any single-family dwelling, whether one constructed and erected on a lot or a manufactured home, shall be permitted outside a manufactured home park only if it complies with all of the following requirements:

(1) If the dwelling unit is a manufactured home, the manufactured home must either be new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced above, and

found, on inspection by the building inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.

(2) The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are or may be adopted by the city; provided, however, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by city codes, then and in such event such federal or state standard or regulation shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the building inspector.

(3) The dwelling unit and the lot on which it is placed shall comply with all restrictions and requirements of this chapter, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yards and maximum building height requirements of the zoning district in which it is located.

(4) If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels removed.

(5) The dwelling unit shall be firmly attached to a permanent and continuous foundation constructed on the building site, such foundation to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of such materials and type as required by the building code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation shall fully enclose the chassis, undercarriage and towing mechanism.

(6) If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the state mobile home commission, or any similar or successor agency having regulatory responsibility for manufactured home parks.

(7) The dwelling unit shall have a minimum horizontal dimension across any front, side, or rear elevation of 20 feet.

(8) A storage area of not less than 120 square feet shall be provided in conjunction with the single-family dwelling. This storage area may consist of a basement, closet area, attic, or in a garage attached to a main building, or in a detached accessory building which is in compliance with all other applicable provisions of section 46-81.

(9) Permanently attached steps or porch areas at least three feet in width shall be provided where there is an elevation difference greater than eight inches between the first floor entry of the dwelling unit and the adjacent grade.

(10) The pitch of the main roof of the dwelling unit shall not be less than three feet of rise for each 12 feet of horizontal run, and shall have not less than a 12-inch overhang.

(11) The exterior finish of the dwelling unit shall not cause reflection that is greater than that from siding coated with clean, white, gloss exterior enamel.

(12) The dwelling unit shall be so placed on the lot that the portions nearest the street frontage are at least 30 feet in dimension parallel to the street.

(13) The dwelling unit shall have at least two exterior doors, with one being in either the rear or the side of the dwelling unit.

(Prior Code, § 15.0318; Ord. No. 150, § 3.18, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-90. Illegal dwellings.

The use of any portion of the basement of a partially completed building, or any garage or accessory building for dwelling or sleeping purposes in any zoning district is prohibited.

(Prior Code, § 15.0319; Ord. No. 150, § 3.19, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-91. Home occupations.

The regulations of this section are intended to ensure that home occupations remain subordinate to the residential use, that the residential viability of the dwelling is maintained, and that home occupations shall not be a detriment to the character and livability of the surrounding neighborhood.

(1) Home occupations shall be approved by the zoning administrator, who shall issue a permit upon receipt of a letter from the applicant stating his intent to comply with the requirements of this section and a determination that the requirements of this section have been met. As part of the review process the applicant for a home occupation shall submit an accurate drawing illustrating the property, the dwelling on the property, the dimensions and square footage of the dwelling, the dimensions and square footage within the dwelling to be devoted to the home occupation and the area proposed for on-site parking.

(2) The dwelling unit used for the home occupation shall conform to all applicable zoning district requirements.

(3) No persons other than members of the immediate family residing on the premises shall be engaged in such occupation.

(4) 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 percent of the gross floor area of the dwelling unit shall be used in the conduct of the home occupation. For purposes of this section, the term "gross floor area" means the total floor area of the dwelling as measured from the interior faces of the exterior walls, excluding the attic, porch, breezeway, patio, deck, attached garage and an unfinished or uninhabitable basement as defined by the city building code. No part of an accessory building, either attached or detached, shall be used.

(5) No more than two customers, clients, students or patients shall be on the premises in which a home occupation is located at any one time.

(6) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one sign, not exceeding four square feet in area, non-illuminated, and mounted flat against the wall of the main building facing the street.

(7) The home occupation shall be operated entirely within the main building.

(8) No retail or other sales of merchandise or products shall be conducted upon the premises except for incidental products related to the home occupation or those goods actually produced on the premises.

(9) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front yard. The home occupation shall not require any additional parking.

(10) No equipment or process shall be used in such a home occupation, which creates noise, vibration, glare, light, fumes, odors, or electrical interference detectable to the normal senses outside the dwelling unit. In 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 cause fluctuation in line voltage off the premises.

(11) Visits by customers, clients, students or patients to a dwelling unit in which a home occupation is located shall be limited to between the hours of 7:00 a.m. to 9:00 p.m., local time.

(12) No home occupation shall be permitted which would increase traffic, create fire and safety hazards, noise, dirt, odor, dust, gas, glare, fumes, vibration or other nuisance elements.

(13) All building, housing, fire and other local or state codes and ordinances shall be adhered to for home occupations.

(14) A registered primary caregiver, as defined by and in compliance with the General Rules of the Michigan Department of Community Health, Mich. Admin. Code, R 333.101 through R 333.133 (the General Rule), the Michigan Medical Marihuana Act (MCL 333.26421 et seq.) (the Act), and the requirements of this section, shall be allowed as a home occupation.

a. Nothing in this section, or in any companion regulatory section adopted in any other provision of this chapter, is intended to grant, nor shall they be construed as granting immunity from prosecution for growing, sale, consumption, use, distribution or possession of marihuana not in strict compliance with the Act and the General Rules.

b. Also, since federal law is not affected by the Act or the General Rules, nothing in this section, or in any companion regulatory section adopted in any other provision of this chapter, is intended to grant, nor shall they be construed as granting immunity from criminal prosecution under federal law. The Act does not protect users, caregivers or the owners of properties on which medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:

1. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act (MCL 333.26421 et seq.) and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.

2. A registered primary caregiver must be located outside of a 1,000-foot radius from any school or library, as defined by the section 7410 of the Public Health Code (MCL 333.7410), to ensure community compliance with federal "Drug-Free School Zone" requirements.

3. Not more than one primary caregiver shall be permitted to service qualifying patients per dwelling unit.

4. All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the city's building official and the city's department of public safety.

(Prior Code, § 15.0320; Ord. No. 150, § 3.20, 11-1-1997; Ord. No. 150-B, 4-16-2002; Ord. No. 150-O, § 1, 8-17-2010)

State law reference(s)—Certain uses to be permitted home occupations, MCL 125.3204.

Sec. 46-92. Keeping of animals.

(a) The keeping of household pets, including dogs, cats, fish, birds, hamsters and other animals generally regarded as household pets is permitted as an accessory use in any residential district. However, any land, building, or structure where five or more cats and/or dogs six months of age or older are boarded, housed, or

bred for commercial purposes shall be considered a kennel. Kennels shall only be permitted in the C-2 general commercial district after approval as a special land use as the principal use of the lot or parcel on which it is located.

(b) The keeping of animals not normally considered household pets, including, but not limited to, horses, pigs, sheep, cattle, and poultry is prohibited in all zoning districts, unless kept in conjunction with an existing farm or on a lot in a residential district with an area of at least five acres.

(Prior Code, § 15.0321; Ord. No. 150, § 3.21, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-93. Water and sanitary sewer service.

(a) No structure for human occupancy shall be erected, altered or moved upon any lot and used in whole or part for dwelling, business, industrial, or recreation purposes unless provided with a safe, sanitary and potable water supply and with a safe and effective means of collection, treatment and disposal of human, domestic, commercial and industrial waste.

(b) Such installations and facilities shall conform with the minimum requirements for such facilities set forth by the state health department, the county health department, and the subdivision regulations, building code and water and sewer ordinances of the city.

(Prior Code, § 15.0322; Ord. No. 150, § 3.22, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-94. Mechanical appurtenances.

(a) Except in the C-3 central business district, mechanical appurtenances, such as blowers, ventilating fans and air conditioning units, shall be placed not closer than 12 feet to any lot line. In the O-1, C-1, C-2, and IND districts ground-mounted mechanical appurtenances shall be screened by landscaping or other materials compatible in appearance with the main building with which it is associated.

(b) Any mechanical appurtenances in the O-1, C-1, C-2, and IND districts, including elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment, and other similar apparatus located on the roof of any building shall comply with the following standards:

(1) Such apparatus shall be enclosed in a screening structure having walls constructed of material compatible in appearance with the main building to which it is attached.

(2) The apparatus and enclosure shall not exceed a height of ten feet above the surrounding roof surface, and shall not occupy greater than 15 percent of the total area of the roof of the building on which it is placed.

(Prior Code, § 15.0323; Ord. No. 150, § 3.23, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-95. Essential public services.

The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district; it being the intention thereof to exempt such erection, construction, alteration or maintenance from the application of this chapter.

(Prior Code, § 15.0324; Ord. No. 150, § 3.24, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-96. Building and structure height exceptions.

(a) Height requirements may be exceeded by the following: parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers and scenery lofts, water tanks, public monuments, church spires, radio and television antennas and towers, and penthouses or roof structures housing necessary mechanical appurtenances.

(b) Height exceptions are not permitted for towers and structures for commercial wireless telecommunication services in excess of 50 feet in height (as measured from the ground level nearest the tower to the top of the tower), but such towers 50 feet or lower in height may be excepted from the height limitations of the district in which they are located.

(Prior Code, § 15.0325; Ord. No. 150, § 3.25, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-97. Timely completion of construction required.

Following the initiation of the construction, erection, reconstruction, modification, expansion or enlargement of any building or other structure authorized under the provisions of this chapter, completion of such work shall be diligently pursued and completed in a timely manner. Unless otherwise specified as a condition of approval of a site plan or special land use by the planning commission, any construction authorized under the provisions of this chapter shall be completed or be diligently pursued within one year from the date of issuance of a building permit for such construction.

(Prior Code, § 15.0327; Ord. No. 150, § 3.27, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-98. Private streets.

(a) *Purpose.* The city determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to ensure that private streets:

(1) Will not be detrimental to the public health, safety, or general welfare;

(2) Will not adversely affect the long-term development policies of the city;

(3) Will be designed and constructed with width, surface, and grade to ensure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles;

(4) Will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the city.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Parcel means a tract of land, which can be legally described with certainty and is capable of being located by survey.

Safe and unimpeded route of travel means a roadway of adequate width to accommodate the safe, two-way passage of vehicles, and of sufficient construction to accommodate any fire, police, rescue, or other emergency vehicle which may be utilized by the city.

(c) *Frontage and access.*

(1) Any lot not having frontage on a public street shall have frontage upon a private street.

(2) All parcels utilizing a private street shall have frontage on the private street for at least the minimum lot width required for the district in which the parcel is located.

(3) All private streets shall have direct access to a public street.

(d) *Permits.*

(1) No individual, association, corporation, or entity, either public or private, shall construct a private street without first having obtained a private street permit from the city council.

(2) The building inspector shall not issue building permits for construction of any building or structure on lots served solely by a private street until a permit for the private street has been approved by the city council and a safe and unimpeded route of travel is available for any such structure requiring a building permit.

(3) A driveway permit shall be obtained from the state department of transportation, where applicable, or from the city.

(4) A soil erosion and sedimentation control permit shall be obtained, as may be required by part 91 of the Natural Resources and Environmental Protection Act (MCL 324.9101 et seq.).

(5) All other required state permits shall be obtained.

(6) The city council may elect to have all design and construction plans reviewed by the city's attorney, engineer, or planner prior to consideration of the application for the private street permit.

(e) *Application.* An application for a private street permit shall contain the following:

(1) A completed private street permit application, provided by the city.

(2) A detailed written description of the development to be served by the private street.

(3) Seven copies of a plan, drawn to scale, prepared by a registered engineer, showing the precise location, grade, route, elevation, dimensions, and design of the private street and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private street is to intersect. However, the plan may be prepared by a registered surveyor, rather than a registered engineer, if the proposed private street is to serve five or fewer parcels or main buildings, and if the zoning administrator waives in writing the requirement for the plan to be prepared by a registered engineer.

(4) A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private street.

(5) The location of all public utilities, including, but not limited to, water, sewer telephone, gas, electricity, and television cable to be located within the private street right-of-way or within 20 feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application.

(6) The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or within 100 feet thereof.

(7) The location of any other buildings and structures located, or to be located, within 100 feet of the private street right-of-way.

(f) *Design requirements.*

(1) *Construction specifications.* Construction specifications for width, surface and base materials, curbing, drainage, utility locations, and method of construction shall conform to the city standards for public streets.

(2) *Length of private streets.*

a. No private street shall extend for a distance of more than 1,240 feet in length from the nearest public street right-of-way from which access is gained, as measured along the centerline of the private street to the furthest point of any private street, except as otherwise noted, without a private street access complying with this section being provided to another public street.

b. The maximum length of a proposed private street may be exceeded if the city council, after recommendation of the planning commission, finds that at least one of the following conditions exists:

1. That topography or other significant natural features preclude access to any other public street or adjoining property on which a public street may be constructed. Such significant natural features shall be clearly identified and marked on the proposed private street plans.

2. That not allowing a longer private street would result in inefficient use of land. Alternate development plans demonstrating that no other development is feasible shall be submitted by the applicant and reviewed by the city council prior to confirming this finding.

3. That other methods of access are available such that emergency vehicles are ensured a safe and unimpeded route of travel to the properties served by the private street. Such access shall be reviewed by the fire chief and the recommendation forwarded to the planning commission.

c. The city council, upon a finding that at least one of the above conditions exists, shall establish the maximum length of the proposed private street.

(3) *Right-of-way/easement width.*

a. All private streets constructed after November 1, 1997, chapter shall have a recorded permanent right-of-way and easement with a minimum width of at least 66 feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.

b. Private streets in existence as of November 1, 1997, whose right-of-way or easement width is less than 66 feet need not provide additional right-of-way or easement width, but such width shall not be subsequently reduced so as to increase its noncompliance with these requirements.

(4) *Other requirements.* The layout of the private street and the intersection of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is ensured, as determined by the city engineer. The minimum distance between intersection of public and/or private street rights-of-way shall not be less than 150 feet, as measured along the right-of-way line thereof.

(5) *Existing private streets.*

a. A private street existing on November 1, 1997, continue in existence and be maintained and used, though it may not comply with the provisions of this section. Such private streets shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.

b. Any private street existing on November 1, 1997, to which one or more additional lots or parcels are created or otherwise permitted access, shall have the entire length of the existing private street upgraded to comply with the applicable requirements of this subsection (f).

c. If a private street existing on November 1, 1997, is extended by the construction and use of an additional length of private street, the entire private street, including the existing portion and the additional portion, shall comply with the applicable requirements of this subsection (f).

(g) *Review standards; modification of certain requirements.*

(1) Prior to approving a private street permit application, the city council shall determine the following:

a. The proposed private street will not be detrimental to the public health, safety, or general welfare.

b. The proposed private street will not adversely affect the use of land.

c. The private street is constructed to ensure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.

d. The private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the city.

e. The construction of the private street will conform to the requirements of this section.

(2) The city council may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.

(3) Upon application the city council may modify any of the private street requirements of this section after finding that all of the following conditions exist:

a. Topography, soils, and/or other significant natural features physically preclude or prevent compliance with the requirements of this section without substantial alteration of such natural features. Such natural features shall be clearly identified and described in the application for any such modification.

b. The justification of any modification is not due solely to financial considerations which, upon approval of the requested modification would provide a financial benefit.

c. That no other reasonable private street design alternatives are available that would comply with the requirements of this section.

d. That the request for modification was reviewed by the fire chief or city engineer, or any other person or official designated by the city council and a recommendation submitted to the council.

(h) *Maintenance and repairs.*

(1) Private streets shall be maintained in a manner that complies with the provisions of this section.

(2) All private streets shall be continuously maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the city. All private streets shall be continuously maintained in such a way that they ensure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.

(3) All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street.

(4) Private street maintenance or restrictive covenant agreements.

a. The applicants/owners of the proposed private street right-of-way or private street shall provide the city council with a recordable private street maintenance or restrictive covenant agreement between the owner of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the city council which shall provide for and ensure that the private street shall be regularly maintained, repaired, and snow-plowed so as to ensure that the private street is safe for travel at all times and the cost thereof paid.

b. The applicants agrees, by filing an application for and receiving a permit under this chapter, that they will ensure that any buildings or parcels thereafter created or constructed on the private

street shall also be subject to the street maintenance or restrictive covenant agreement and that said agreement shall be recorded and shall run with the land. A copy of said agreement shall be furnished to the city council prior to the issuance of the permit.

(i) *Performance guarantee.* The city council may, as a condition of the private street construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of subsection 46-40(b).

(j) *Inspections/certificate of compliance.*

(1) Upon completion of construction of the private street, the city engineer shall inspect the completed construction to determine whether it complies with the approved plans, specifications, permit, and this chapter.

(2) The applicants, at the applicants' expense, shall provide the city with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit and the city.

(3) If the completed private street does not satisfy the requirements of the permit or this chapter, the applicants shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall be unlawful.

(k) *Fees for the permits required hereunder shall be set by the city council.* Additionally, the city council may require that the applicants put sufficient funds in escrow to cover the costs of having the city attorney, engineer, planner, or other professional review the private street plans, specifications, and maintenance agreements, and to do the necessary inspections.

(l) *[Indemnification of city.]* The applicants/owners of the private street agree that by applying for or securing a permit to construct the private street that they shall indemnify and hold the city harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or of the failure to properly construct, maintain, use, repair, and replace the private street.

(Prior Code, § 15.0328; Ord. No. 150, § 3.28, 11-1-1997; Ord. No. 150-B, 4-16-2002)

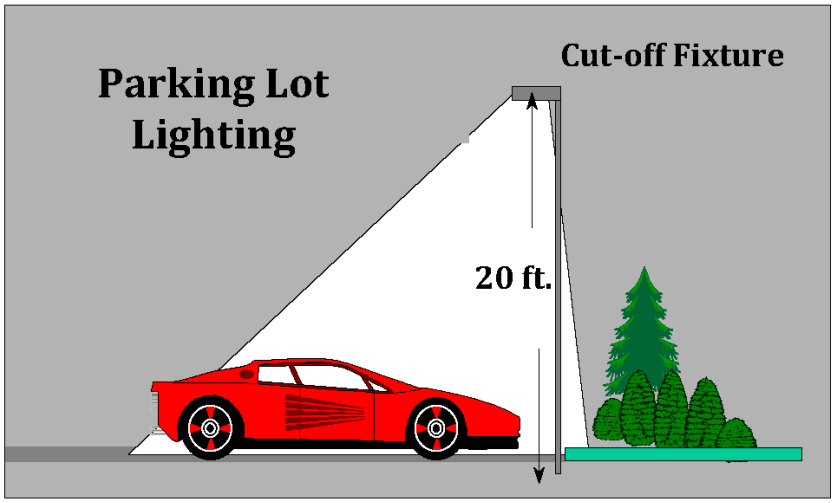
Sec. 46-99. Lighting requirements.

(a) Parking lot lighting shall be as required in section 46-258.

(b) Lighting provided for security or visibility on any site shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from any residential district or use, which adjoins the site.

(c) Light fixtures shall be no higher than 20 feet and shall be provided with light cut-off fixtures that direct light downward. For parking lots serving a single building or groups of related commercial, industrial, or office buildings in excess of 500 spaces the planning commission may permit a higher light fixture in selected locations within the parking lot where existing or planned residential areas will not be affected.

(d) Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.



(Prior Code, § 15.0329; Ord. No. 150, § 3.29, 11-1-1997; Ord. No. 150-B, 4-16-2002)

Sec. 46-100. Community gardens.

(a) *Definition and applicability.*

(1) For purposes of this section, the term "community garden" is defined as a parcel or parcels of primarily vacant land managed and maintained by an organized group of individuals consisting of more than one person or family for the purpose of growing and harvesting food crops and/or non-food ornamental crops such as flowers for personal or group use, consumption or donation. A community garden may be divided into separate plots for cultivation by one or more individuals or may be utilized collectively by members of the group and may include common areas maintained and used by group members.

(2) Except as stipulated by subsection (e)(1) of this section, gardens which are established and operated on land which contains a principal use are considered an accessory use and shall not be subject to this section.

(b) *Special use permit required.* A community garden is permitted in all zoning districts as a special land use according to the requirements of article VI of this chapter and this section.

(c) *Application requirements.* A person seeking a permit for a community garden shall file an application with the city zoning administrator. Such application shall contain at a minimum the following information:

(1) Name of the applicant and/or organization, which is applying, for the permit.

(2) Address, phone number, and e-mail address of the applicant and property owner.

(3) Written permission from the property owner.

(4) Location and/or address of the proposed use.

(5) Size of the parcel containing the proposed use.

(6) A brief description of the use including:

a. The number and size of individual gardening plots;

b. The maximum number of persons anticipated to become members of or to utilize the community garden;

c. Any buildings to be erected including the size and proposed use;

d. Dates and hours of operation of the proposed activity.

(7) A copy of the community garden rules, operating and maintenance procedures and person or persons responsible for the community garden operation.

(8) Description of pesticides, herbicides and fertilizers to be used and method of application.

(9) An accurate site plan sketch with dimensions which illustrate the lot lines, garden plot layout, access aisles, setback from lot lines, on-site parking, fencing, location of buildings and other physical improvements or structures necessary to conduct the use. For purposes of this section, the site plan review requirements of section 46-41 shall be superseded by this subsection (c)(9).

(10) A fee as established by the city council for a community garden permit shall be provided with the application.

(d) *Validity of permit.* Any permit issued under this section shall be valid for the duration of the community garden use. Should the use cease for one growing season the permit shall be voided and a new permit shall be needed to resume operation.

(e) *Development and operating requirements for community gardens.*

(1) A community garden shall only be established on a vacant parcel or parcels, except that in the R-1, R-2 and R-3 zones a community garden may be established on a parcel containing a dwelling unit or units if the parcel contains a minimum of 15,000 square feet and has a minimum of 130 feet of lot width.

(2) Garden use shall be limited to the hours of 7:00 a.m. and 9:00 p.m., but no activities shall occur on the site after dark.

(3) Accessory buildings shall be permitted subject to the accessory building size and setback regulations of the zoning district in which the community garden is located.

(4) The establishment of a community garden shall not alter the drainage pattern of stormwater runoff, nor shall water flow off the site of a community garden from on-site watering activity by the members of the community garden.

(5) The edge of a garden plot shall be a minimum of three feet from all lot lines.

(6) Fencing shall comply with section 46-82.

(7) Composting is permitted provided it is properly maintained so as to not emit excessive odors and the area does not become unsightly.

(8) The following activities and uses are prohibited on the site of a community garden: Lighting and the sale of any item.

(9) Vehicle access to the site shall only be by way of a driveway constructed to city standards to avoid vehicle damage to the curb, sidewalk and any lawn area in the right-of-way.

(10) Vehicles accessing the site shall not be parked on or over the public sidewalk.

(11) One freestanding sign consisting of no more than 12 square feet shall be allowed. Such sign shall otherwise comply with the applicable regulations of the zoning district in which it is located.

(12) The community garden shall be maintained in a neat and orderly manner. Trash, weed and dirt piles and debris of any sort shall not be allowed to accumulate on site. Fences shall be maintained in good working order so they do not pose a safety hazard or become unsightly. Trash containers may be provided on site.

(13) Gardening activities shall be conducted in a manner which is consistent with the activities and noise levels of the neighborhood in which they are located.

(14) If the community garden activity ceases completely (meaning that the site will no longer be used for a community garden) any raised planting beds, accessory buildings, and other above ground remains of the garden shall be promptly removed and the ground leveled and restored so it can be utilized for uses permitted in that zoning district.

(Ord. No. 150-M, § 1(3.31), 3-2-2010)

Sec. 46-101. Prohibition of marihuana dispensaries, collectives and cooperatives.

The following uses are considered to be unlawful and are prohibited from being established or operated in the city:

(1) Marihuana collective or cooperative which is operated for profit or nonprofit and which is defined as any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient as defined by the Michigan Medical Marihuana Act (MCL 333.26421 et seq.) (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card.

a. The term "collective" or "cooperative" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act (MCL 333.26421 et seq.) or the Administrative Rules of the Michigan Department of Community Health, Mich. Admin. Code, R 333.101—333.133, and the applicable requirements of this chapter.

b. The term "marijuana collective or cooperative" shall not include the following uses:

1. A state-licensed health care facility;

2. A state-licensed residential care facility for the elderly or infirmed; or

3. A residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the state.

(2) Marihuana dispensary or dispensary which is operated for profit or non-profit and which is defined as any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act (MCL 333.26421 et seq.), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card.

a. The term "dispensary" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his five or fewer designated qualifying patients in strict accordance with Michigan Medical Marihuana Act (MCL 333.26421 et seq.), or the Administrative Rules of the Michigan Department of Community Health, Mich. Admin. Code R 333.101—333.133 and the applicable requirements of this chapter.

b. The term "marihuana dispensary" shall not include the following uses:

1. A state-licensed health care facility;

2. A state-licensed residential care facility for the elderly or infirmed; or

3. A residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the state.

(Ord. No. 150-O, § 1(3.32), 8-17-2010)

Sec. 46-102. Solar energy systems.

(a) *Purpose.* The purpose of this section is to establish standards and procedures by which the installation and operation of solar energy systems shall be regulated within the City of Greenville in order to promote the safe, effective, and efficient use of solar energy and to protect adjoining properties from any incompatible effects of such systems and to conserve and enhance property values.

(b) *Definitions.*

(1) *Solar energy system (SES):* A system which converts solar energy for electricity generation, space heating, space cooling or water heating primarily for on site use and which consists of solar panels, photovoltaic laminates, electrical lines, pipes, batteries, mounting brackets, frames, foundation and other appurtenances or devices necessary for the operation of the system. This definition does not include small devices or equipment such as solar powered lawn or building lights which house both the solar energy generation system and the system which uses that energy to operate.

(2) *Solar access:* The right of a property owner to have sunlight shine onto the property owner's land.

(c) *General requirements.*

(1) Solar energy systems shall be a permitted accessory use in all zoning districts subject to the requirements of this section 46-102. A solar energy system shall not be allowed as principal use.

(2) This section applies to solar energy systems to be installed and constructed after the effective date of the ordinance [adopting this section].

(3) Solar energy systems constructed prior to the effective date of this section shall not be required to meet the requirements of this section; provided that any structural change, upgrade or modification to an existing solar energy system that materially alters the size or placement of such system shall comply with the provisions of this section.

(4) Multiple solar panels and supporting equipment shall be considered as one system.

(5) The granting of any permit for a solar energy system does not constitute solar access rights.

(6) A solar energy system shall be constructed and placed so it does not create a glare for persons off site.

(7) A solar energy system shall be properly maintained at all times.

(8) A solar energy system, which is no longer used for its intended purpose, shall be removed within 60 days of notification by the zoning administrator.

(d) *Permit required.*

(1) An electrical permit to install a solar energy system, which generates electricity, must be obtained before the installation of such system.

(2) For solar energy systems, which heat water no permit, is required unless used for potable water.

(e) *Standards.*

(1) A SES may be installed on the ground or on a wall or roof of a principal or accessory building.

(2) Roof-mounted systems shall not extend more than two feet above the roof line.

(3) A wall-mounted solar energy system shall only be located on that portion of the wall, which faces a side, or rear lot line.

(4) A ground-mounted solar energy system installed in the side or rear yard shall not exceed six feet in height in residential, office and commercial zones and ten feet in an industrial zone. The height shall be measured from the highest point of the solar energy system to the ground.

(5) A roof-mounted solar energy system shall not exceed 42 inches in height as measured from the point of attachment to the roof to the top of the system.

(6) A ground-mounted solar energy system and a solar energy system attached to an accessory building shall comply with the following requirements:

a. A solar energy system shall not be erected in any front yard.

b. Setbacks.

1. In all residential zones a solar energy system when placed in a side or rear yard shall be no closer than three feet to any lot line.

2. In a nonresidential zone a solar energy system when placed in a side or rear yard, shall be set back a minimum of ten feet from any lot line.

3. When a solar energy system is located on a corner lot, which is considered to have two front yards and two side yards for the purposes of this section, the system shall not be located in either front yard.

c. In the R1, R2, and R3 zoning districts a ground-mounted solar energy system shall be considered the equivalent of an accessory building for purposes of determining compliance with the maximum lot coverage regulations of that district. For all other zoning districts a solar energy system shall not be subject to the maximum lot coverage regulations.

(Ord. No. 2012-02, § 1, 5-15-2012)

Sec. 46-103. Open space neighborhoods (OSN) within plats and site condominiums.

(a) *Intent.* To require dedicated open space within any new residential plat or site condominium development, while allowing the applicant to achieve a greater number of lots than would otherwise be possible under conventional plat or site condominium development. Further, this section seeks to promote principals of neo-traditional design which accomplish the following:

(1) Identify and preserve natural features of the site proposed for development.

(2) Provide for recreational areas and civic open space within new neighborhoods that are usable, centrally located and accessible to all residents of the neighborhood and which can promote a sense of community and opportunities for interaction among neighbors.

(3) Provide for neighborhood design which has a definable center and an edge, and which provides pedestrian links throughout the development.

(b) *Authorization.* An open space neighborhood shall be a use permitted by right within the R-1, single-family district and the R-2, single- and two-family residential district, when developed according to the regulations set forth in the City of Greenville Subdivision Control Ordinance or site condominium regulations, and the requirements of this section.

(c) *Development requirements.* The following regulations, shall apply to an open space neighborhood:

(1) The site shall be developed subject to the regulations of the City of Greenville Plat Development Ordinance or subject to the City of Greenville Site Condominium Regulations.

(2) Public water and sewer shall be available to serve the site.

(3) Lot sizes within an OSN shall be permitted a 25-percent reduction in lot area from the requirements of the zoning district in which an OSN is located according to the following requirements:

a. Lots located within the "R-1" district shall be an average of 8,000 square feet in area and no lot shall be less then 7,500 square feet in area with a minimum lot width of 65 feet;

b. Lots located within the "R-2" district shall be an average of 7,000 square feet in area and no lot shall be less then 6,500 square feet in area with a minimum lot width of 60 feet.

(4) Front, side, and rear yard setbacks for all structures and buildings in an OSN may be varied as follows:

a. R-1 district:

1. Front: Minimum of 20 feet.

2. Side: Minimum of seven feet on one side provided that the sum of the dimensions of both side yards shall be no less than 18 feet.

3. Rear: Minimum of 30 feet.

b. R-2 district:

1. Front: Minimum of 20 feet.

2. Side: Minimum of six feet on one side provided that the sum of the dimensions of both side yards shall be no less than 15 feet.

3. Rear: Minimum of 30 feet.

(d) *Open space requirements.*

(1) An OSN shall provide and maintain a minimum of ten percent of the gross site acreage as preserved dedicated open space.

(2) A portion of the dedicated open space may consist of woods, wetlands, steep slopes, existing ponds, creeks, or floodplain areas but shall not exceed five percent of the gross site acreage.

(3) Dedicated open spaces shall also consist of play areas with play structures, open grass covered fields, ball fields, tennis courts, swimming pools and related buildings, community buildings, and similar recreational facilities as well as natural areas such as fields and woods.

(4) It is the intent of this section to provide for recreational areas and civic open spaces within an OSN project that are usable, centrally located and accessible to all residents of the neighborhood and to preserve natural site features such as woods, stands of trees, wetlands, ravines, steep hills and similar areas which provide for wildlife habitat, shade, walking trails and pleasing views.

(5) At least one contiguous area of open space shall be centrally located within the development, and shall be maintained as a village square, playground, or park.

(6) The planning commission may require that specific natural features of the site be preserved as part of the dedicated open space. Such features may include stands of trees or woods, specimen trees, wetlands, steep slopes, natural drainage courses or open fields.

(7) Except for those natural site feature areas noted above, an individual open space area shall not be more than 60,000 square feet or less than 10,000 square feet. An OSN project shall contain at least one individual open space area of at least 30,000 square feet.

(8) Narrow bands of open space around the perimeters of sites will generally not qualify as usable dedicated open space, unless those areas are portions of walking trails that connect to larger areas of open space.

(9) Open space areas shall be located so as to be reasonably accessible to all residents of the OSN. Pedestrian access points to the dedicated open space areas from the interior of the OSN shall be provided and shall be clearly identifiable by a sign or improved pathway.

(10) Dedicated open space within the OSN shall be linked, if possible, with any adjacent existing public spaces or walkways.

(11) The planning commission and the city council may, at their discretion, consider variations from the open space requirements contained in subsections (d) and (e) herein, provided that the applicant can demonstrate that the intent of the Open Space Neighborhood Ordinance is met. However, the amount of dedicated open space shall not be reduced below the requirement in subsection (d)(1) herein.

(12) Areas not counted as open space.

a. The area within all public or private road rights-of-way.

b. The area within a platted lot, or site condominium unit occupied or to be occupied by a building or structure.

c. Off street parking areas.

d. Detention and retention ponds created to serve the project.

e. Sidewalks, excepting those walkways that are a portion of a dedicated trail system. However, trail systems alone may not constitute the entire percentage of the dedicated open space.

(13) Guarantee of open space. The applicant shall provide an open space preservation and maintenance agreement to the city council stating that all dedicated open space portions of the development shall be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the City of Greenville and the land uses continue as approved in the plat or site condominium, unless an amendment is approved by the city council.

The agreement must be acceptable to the city council and may consist of a dedicated city park, a recorded deed restriction, covenants that run perpetually with the land or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended.

The agreement shall:

a. Indicate the allowable use(s) of the dedicated open space.

b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space, whether those parties are of a private or municipal nature.

c. Provide standards for scheduled maintenance of the dedicated open space including necessary maintenance of vegetation, and repair, maintenance or management of site amenities and facilities.

d. Provide for maintenance to be undertaken by the City of Greenville in its discretion in the event that the dedicated open space is inadequately maintained, or is determined by the city to be a public nuisance. Any costs incurred by the city shall be assessed to the owners of the property within the OSN.

(e) *Design standards for open space neighborhoods.*

(1) Within an OSN lots shall be located to face upon the centrally located village green or play area so as to promote visibility, monitoring, and safety of the area.

(2) This central green or play area shall be adjacent to the public or private roadway. Ideally, the central green or play area should be encircled by the roadway or by a sidewalk.

(3) Within the OSN, the edge of any central green or play area shall be located no more than 1,320 feet (one-quarter mile) from another green, play area, or other dedicated open space. In addition, no lot within an OSN shall be located further than 1,320 feet (one-quarter mile) from any central green, play area, or natural area.

(4) Stormwater shall be substantially managed with green infrastructure such as vegetated swales, rain gardens, stone weirs or dikes, sediment basins and shallow stormwater areas. Stormwater shall be minimally managed with conventional storm water management structures such as gutters, catch basins, underground pipes, detention ponds, and retention ponds.

(5) Stormwater detention ponds shall be required if necessary for the containment of estimated surface water run-off. Such ponds shall be placed at locations that will not detract from visual amenities along the streetscape or result in a hazard to pedestrians in the immediate area.

(Prior Code, § 15.0330; Ord. No. 150, § 3.30, 11-1-1997; Amend: March 2005)

Sec. 46-104. Wind energy system (WES).

(a) *Purpose.* The purpose of this section is to establish standards and procedures by which the installation and operation of a WES shall be regulated within the City of Greenville, in order to promote the safe, effective, and efficient use of wind energy.

(b) *Definitions.*

Ambient sound level. The amount of background noise at a given location prior to the installation of a WES(s), which may include, but not be limited to, traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the db(A) weighted scale as defined by the American National Standards Institute.

Applicant. The person, firm, corporation, company, limited liability corporation or other entity which applies for city approval under this section, as well as the applicant's successor(s), assign(s), and/or transferee(s) to any approved WES. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own and operate the WES. The obligations regarding a zoning approval for any approved WES shall be with the landowner and the owner(s) of the WES and jointly and severally with the owner and operator or lessee of the WES if different than the owner.

Building-mounted WES. A WES mounted or attached to a building.

Interconnected WES. A WES which is electrically connected to the local electrical power utility system and can provide power to the local electrical power utility system.

Nacelle. In a wind turbine, the nacelle refers to the structure, which houses all of the generating components, gearbox, drive train, and other components.

Rotor diameter. The cross-sectional dimension of the circle swept by the rotating blades of a WES.

Shadow flicker. The moving shadow, created by the sun shining through the rotating blades of a wind energy system (WES). The amount of shadow flicker created by a WES is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.

Total WES height. The vertical distance measured from the ground or roof level at the base of the WES mounting system tower or similar mounting system to the uppermost vertical extension of any blade, or to the maximum height reached by any part of the wind energy system.

Tower-mounted WES. A WES mounted or attached to a tower, pole, or similar structure, which is not a building.

Utility grid wind energy systems. A WES designed and constructed to provide electricity to the electric utility grid.

WES setback. The distance from the base of the tower or structure upon which the WES is mounted to the nearest lot line. In the case of multiple parcels utilized for multiple or single WES, the setbacks shall be taken from the outside boundary of the parcels utilized for the WES project.

Wind energy system (WES). "Wind energy system" means equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

(c) *Wind energy systems 50 feet or less in height allowed as a permitted use.* Any tower-mounted wind energy system that is 50 feet or less in total height and any roof-mounted wind energy system shall be a permitted use in all zoning districts, subject to the following:

(1) *Permit required.* A permit shall be required to be obtained from the City of Greenville to construct and operate any tower-mounted WES 50 feet or less in total height or any building mounted WES. A permit shall be issued after an inspection of the WES by the City of Greenville or an authorized agent of the city, and where the inspection finds that the WES complies with the requirements of this section, all applicable state construction, and electrical codes, local building permit requirements, and all manufacturers' installation instructions. The following information is required for a WES permit.

a. Name of property owner(s) and address.

b. An accurate drawing showing the proposed location of the WES, property lines, existing building(s), proposed WES setback lines, right-of-way lines, public easements, and overhead utility lines.

c. The proposed type and height of the WES to be constructed; including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.

d. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.

e. Other relevant information as may be reasonably requested by the building inspector.

(2) *Height for tower-mounted WES.* The total WES height of a tower-mounted WES shall not exceed 50 feet.

(3) *Height for building-mounted WES.* The total WES height of a building-mounted WES shall not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, antennas, and other similar protuberances.

(4) *Setback for tower-mounted WES.* The setback for a tower-mounted WES shall be a distance, which is at least equal to one-half the height of the WES from a property line, public right-of-way, public easement, or overhead utility lines. Guy wires and anchors shall not be located within or above the front yard.

(5) *Setback for building-mounted WES.* The setback for a building-mounted WES shall be a minimum of 15 feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of the building. If the WES is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of 15 feet. The setback shall be measured from the furthest outward extension of all moving parts. The 15 feet minimum setback requirement may be reduced by the building inspector under either or both of the following circumstances:

a. If the applicant provides a registered engineer's certification that the WES is designed to collapse, fall, curl, or bend within a distance less than the required setback of the WES.

b. If the building inspector determines that a lesser setback will not be detrimental to adjoining properties. In making this determination the building inspector shall, at a minimum, take into consideration the type and location of the building containing the WES, the type of WES proposed, the installation requirements of the WES and the location of buildings or uses on the adjacent properties.

(6) *[Location of tower-mounted WES.]* A tower-mounted WES shall only be located in the rear yard and must be on the same lot as the principal use.

(7) *Rotor or blade clearance.*

a. Blade or rotor arcs created by a tower mounted WES shall have a minimum of 20 feet of clearance over and from any structure, adjoining property or tree.

b. The blade or rotor arcs created by a building-mounted WES shall have a minimum clearance of eight feet above the roof or be designed in the opinion of the building inspector so the blade or other moving parts do not present a safety hazard to any person on the roof.

(8) *Shared WES usage.* A WES may provide electrical power to more than one dwelling unit or building, provided the dwelling units or buildings are located on property or properties that are adjacent to the property or properties on which the WES is located.

(d) *Wind energy systems which require a special use permit.* Any tower-mounted WES which is greater than 50 feet in total height, may be allowed as a special use in all zoning districts subject to the following regulations and requirements of this section and the general special land use review procedures and standards of article 6 of this Zoning Ordinance:

(1) *Site plan requirements.* A WES for which a special use is required shall be included in the following items with or on the site plan:

a. All requirements for a site plan contained section 46-41 herein.

b. Dimensions of the area purchased or leased which is to contain the WES.

c. Location and height of all existing and proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and any other above-ground structures proposed or existing for the parcel or parcels containing the WES.

d. Specific distances from the WES structures to all other buildings, structures, and above ground utilities including on the parcel or parcels upon which the WES is proposed to be located.

e. Land uses within 300 feet of the parcel.

f. Access drives to the WES including dimensions and composition, with a narrative describing proposed maintenance of the drives.

g. All lighting proposed for the site, including diagrams of lighting fixtures proposed if requested by the planning commission.

h. Security measures proposed to prevent unauthorized trespass and access.

i. Standard drawings of the structural components of the WES, including structures, towers, bases, and footings. A registered engineer shall certify drawings and any necessary calculations that show that the system complies with all applicable local, state, and federal building, structural and electrical codes.

j. Additional information as required by article 6, special land uses of this chapter, or as may be required by the planning commission.

k. The planning commission may waive or modify the above requirements at the request of the applicant if it is determined that those items would not be needed to properly review the project.

(2) *Height.* The height of a WES for which a special use is required shall be determined by compliance with the setback requirements of this section.

(3) *Setbacks.* The setback for a WES shall be at least equal to 1.1 times the height of the WES. Guy wires and anchors shall not be located within or above the front yard.

(4) *Rotor or blade clearance.* Blade arcs created by a tower mounted WES shall have a minimum of 20 feet of clearance over and from any structure, adjoining property or tree.

(5) *Maintenance program required.* The applicant shall provide a written description of the maintenance program to be used to maintain the WES, including a maintenance schedule of types of maintenance tasks to be performed.

(6) *Decommissioning plan required.* The applicant shall provide a written description of the anticipated life of the system and facility; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and restoration of the site; and removal and restoration procedures and schedules that will be employed if the WES becomes obsolete or abandoned.

(7) *Siting standards and visual impact.*

a. A WES shall be designed and placed in such a manner to minimize adverse visual and noise impacts on neighboring areas.

b. A WES project with more than one WES structure or tower shall utilize similar design, size, color, operation, and appearance throughout the project as is practicable.

(8) *Performance guarantee.* If a special use is approved pursuant to this section, the planning commission may require a security in the form of a cash deposit, surety bond, or irrevocable letter of credit in a form, amount, time duration and with a financial institution deemed acceptable to the city, which will be furnished by the applicant to the city in order to ensure full compliance with this section and any conditions of approval.

(e) *Standards for all wind energy systems.* All WES shall comply with the following:

(1) *Sound pressure level.*

a. Wind energy systems shall not exceed 55 dB(A) at the property line closest to the WES. This sound pressure level may be exceeded during short-term events such as severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

b. Utility grid systems or wind energy systems which are under single ownership or control and which involve more than one property shall be subject to the requirements of subsection (e)(1)a. above, but the sound pressure level shall be measured at the property line closest to the WES at the outside boundary of all property used for the utility grid or wind energy system. In addition,

the applicant shall provide modeling and analysis that will demonstrate that the utility grid system or wind energy system will not exceed the maximum permitted sound pressure.

c. A baseline noise emission study of the proposed site and impact upon all areas within one quarter mile of the proposed WES location may be required for a WES which requires a special land use permit (at the applicant's cost) prior to any placement of a WES and submitted to the city. The applicant must also provide estimated noise levels which the WES will produce at the nearest property lines at the time of a special use application.

(2) *Shadow flicker.* The planning commission or building inspector may request that the applicant perform an analysis of potential shadow flicker. The analysis shall identify locations of shadow flicker that may occur, and shall describe measures such as screening that shall be taken to eliminate or minimize the shadow flicker.

(3) *Lighting.* A WES shall only provide or contain lighting as may be required by the FAA.

(4) *Construction codes and interconnection standards.*

a. All applicable state construction and electrical codes and local building permit requirements;

b. Federal Aviation Administration requirements;

c. The Michigan Airport Zoning Act, Pubic Act 23 of 1950, as amended;

d. The Michigan Tall Structures Act, Public Act 259 of 1959, as amended;

e. The Michigan Public Service Commission and Federal Energy Regulatory Commission if the WES is an interconnected system.

(5) *Safety.*

a. Each WES shall be equipped with both a manual and automatic braking device capable of stopping the WES operation in high winds or must be designed so that the rotational speed of the rotor blade does not exceed the design limits of the rotor.

b. To prevent unauthorized access, each tower mounted WES must comply with at least one of the following provisions, and more than one if required by the planning commission or the building inspector:

1. Tower climbing apparatus shall not be located within 12 feet of the ground.

2. A locked anti-climb device shall be installed and maintained.

3. A tower capable of being climbed shall be enclosed by a locked, protective fence at least six feet high.

c. All WES shall have lightning protection.

d. If a tower is supported by guy wires, the wires shall be clearly visible to height of at least ten feet above the guy wire anchors.

(6) *Signs.*

a. Each tower mounted WES shall have one sign not to exceed two square feet posted at the base of the tower, or, if the structure is fenced, on the fence. The sign shall include the following information:

1. The words "Warning: High Voltage".

2. Emergency phone numbers.

b. A WES shall not include any advertising of any kind, except the nacelle and blades may have lettering that exhibits the manufacturer's identification.

(7) *Electromagnetic interference.* WES shall be designed, constructed and operated so as not to cause radio and television interference.

(8) *Maintenance.* WES must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard.

(9) *Inspection.* The city shall have the right upon approving any WES to inspect the premises on which the WES is located at all reasonable times with permission of the property owner. The city may hire a consultant to assist with any such inspections at the applicant's cost.

(10) *Insurance.* The WES operator shall maintain a current liability insurance policy for the WES. The amount of the policy shall be a condition of approval.

(11) *[Location of distribution lines.]* All distribution lines from the WES shall be located and maintained underground, both on the property where the WES will be located and off-site. The planning commission may waive the requirement that distribution lines for the WES which are located off-site (i.e. are not located on or above the property where the WES will be located) be located and maintained underground if the planning commission determines that to install, place, or maintain such distribution lines underground would be impractical or unreasonably expensive.

(12) *[Location of WES on lawful parcel.]* A WES, except for building-mounted WES, may be located on a lawful parcel or parcels which do not have frontage on a public or private road.

(13) *Color.* A WES shall be painted a non-obtrusive color such as black, beige, white or gray color that is non-reflective. A WES shall not be painted or contain any bright or fluorescent color. No striping of color or advertisement shall be visible on the blades or tower.

(Prior Code, § 15.0331; Ord. No. 150, § 3.31, 11-1-1997; Amend: June 2009)

Sec. 46-105. Prohibition of marihuana establishments.

(a) Marihuana establishments, as authorized by and defined in the Michigan Regulation and Taxation of Marihuana Act (the "Act"), are prohibited in all zoning districts and shall not be permitted as home occupation.

(b) No use that constitutes or purports to be a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter or any other type of marihuana related business authorized by the Act, that was engaged in prior to the enactment of this section, shall be deemed to have been a legally established use under the provisions of the City Code of Ordinances; that use shall not be entitled to claim legal nonconforming status.

(c) Violations of this section are subject to the violations and penalties pursuant to section 46-3 and may be abated as nuisances.

(d) This section does not supersede rights and obligations with respect to the transportation of marihuana by marihuana secure transporters through the city to the extent provided by the Act.

(Ord. No. 19-01 , § 1, 1-15-2019)

Secs. 46-106—46-130. Reserved.

ARTICLE IV. ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 46-131. Zoning districts.

For the purposes of regulating and restricting the location of buildings and sites for specific uses and also for the purpose of regulating and restricting volume, height, and area of buildings hereafter erected or altered, the following zoning districts are hereby designated within the city:

(1) R-1 single-family residential district.

(2) R-2 single- and two-family residential district.

(3) R-3 single- and multiple-family residential district.

(4) O-1 office district.

(5) C-1 neighborhood commercial district.

(6) C-2 general commercial district.

(7) C-3 central business district.

(8) IND industrial district.

(9) MHP manufactured home park district.

(10) F-1 floodplain district.

(11) PUD planned unit development.

(Prior Code, § 15.0401; Ord. No. 150, § 4.01, 11-1-1997)

Sec. 46-132. Zoning map.

The zoning districts are bounded and defined as shown on a map entitled "Zoning Map, City of Greenville, Michigan," which, with all explanatory matter thereon, is hereby made a part of this chapter and is on file in the office of the city clerk.

(Prior Code, § 15.0402; Ord. No. 150, § 4.02, 11-1-1997)

Sec. 46-133. Zoning district boundaries; interpretation.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

(2) Boundaries indicated as approximately following platted lot lines or city limits shall be construed as following such lot lines or city limits.

(3) Boundaries indicated as following railroad lines shall be construed to be the midpoint between the main tracks.

(4) Boundaries indicated as parallel to or extensions of features indicated in subsections (1)—(3) of this section shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

(5) Where physical or natural features existing on the ground differ from those shown on the zoning map, or in other circumstances not covered by this section, the zoning administrator shall interpret the district boundaries.

(6) For the sake of map clarity, various districts may not cover public rights-of-way. It is intended that such district boundaries extend to the center of any public right-of-way.

(7) Where district boundary lines divide a lot which was in single ownership and of record at the time of enactment of this chapter, or amendment thereto, the least-restricted portion of such lot shall be considered as extending to the entire lot, provided the more restricted portion of such lot is entirely within 25 feet of the said dividing district line.

(Prior Code, § 15.0403; Ord. No. 150, § 4.03, 11-1-1997)

Sec. 46-134. Zoning of annexed areas.

Whenever any area is annexed to the city, one of the following rules shall apply:

(1) Land zoned previous to annexation shall be the district to which it most nearly conforms under this chapter. The planning commission shall recommend the district to the city council, who shall determine by resolution the zoning district into which the property will be placed.

(2) Land not zoned prior to annexation shall be automatically classified as an R-1 district until a zoning map for the area has been adopted by the city council. The planning commission shall recommend the appropriate zoning districts for such area within three months after the city council shall have referred the matter to the commission.

(Prior Code, § 15.0404; Ord. No. 150, § 4.04, 11-1-1997)

Sec. 46-135. Zoning of vacated areas.

Whenever all or part of a street, alley or other public way is vacated, it shall automatically become a part of the district to which it attaches. If a vacated area is bordered by two different districts, the area is divided along a line halfway between them according to the adjacent district, unless the city council designates otherwise.

(Prior Code, § 15.0405; Ord. No. 150, § 4.05, 11-1-1997)

Sec. 46-136. Buildings and land affected.

(a) Except as hereinafter provided, buildings and/or structures shall be erected or altered, and buildings and/or structures and lands shall be used or altered only in conformance with all the regulations of the district in which such lands and buildings and/or structures are located.

(b) The lawful use of any existing building or land on the effective date of this chapter, or applicable amendment thereto, may be continued as a nonconforming use or building, subject to the applicable requirements of this chapter for such nonconforming uses or buildings.

(Prior Code, § 15.0406; Ord. No. 150, § 4.06, 11-1-1997)

Sec. 46-137. Prohibited uses.

Where a use is defined or listed as a permitted use or a special land use in a given zoning district, such use shall not be permitted in any zoning district where it is not listed. This is true even if such use might be similar to a listed permitted use.

(Prior Code, § 15.0407; Ord. No. 150, § 4.07, 11-1-1997; Amend: Aug. 2010)

Secs. 46-138—46-153. Reserved.

ARTICLE V. ZONING DISTRICT REGULATIONS

Sec. 46-154. R-1 single-family residential district.

(a) *Intent.* This section applies to the R-1 single-family residential district. This district is intended to provide a low-density, single-family residential living environment and to foster stable, high quality neighborhoods. At the same time, the regulations for this district recognize the need to preserve existing housing stock, allow the full development of older subdivisions, and provide housing that is affordable for the present and future residents of the city. Certain nonresidential uses are allowed to further the creation of stable residential neighborhoods.

(b) *Permitted uses.* Land and/or buildings in the R-1 district may be used for the following purposes by right:

(1) Single-family detached dwellings.

(2) Family child care homes.

(3) State-licensed residential family care facilities.

(4) Home occupations, in accordance with the provisions of section 46-91.

(5) Public parks.

(6) Farms.

(7) Accessory buildings, structures, and uses.

(8) Open space neighborhoods within a plat or a site condominium.

(c) *Special land uses.* Land and/or buildings in the R-1 district may be used for the following purposes when approved by the planning commission in accordance with the requirements of article VI of this chapter:

(1) Utility and public service buildings without storage yards, but not including essential public services such as poles, wires, and underground utility systems.

(2) Private, noncommercial, institutional or community recreation parks and recreation centers.

(3) Golf courses.

(4) Public or private nonprofit schools.

(5) Bed and breakfast inns.

(6) Hospitals, including associated offices and related uses, such as pharmacies, clinics, and other similar uses integral to such use.

(7) Reserved.

(8) Churches, lodges, and private clubs.

(9) Museums and libraries.

(d) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements:

(1) Site plan review is required in accordance with section 46-41.

(2) Landscaping and screening are required in accordance with section 46-257.

(3) Parking is required in accordance with section 46-258.

(4) Signs are permitted in accordance with the requirements of section 46-259.

(5) Unless not required by any other ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with city standards. The planning commission may waive the requirement for a sidewalk when, in the opinion of the commission, no purpose would be served by the sidewalk.

(6) Setbacks, height, area, and lot dimensions are required as noted below:

Site Development Requirements - R-1 District

	District Regulations
Residential Buildings	
Minimum lot area	10,000 square feet
Minimum lot width	80 feet
Maximum height	35 feet (2½ stories)
Front yard setback	30 feet
Side yard setback	10 feet (each side)
Rear yard setback	30 feet
Minimum floor area	960 square feet (per unit)
Minimum floor area on ground floor	768 square feet
Maximum lot coverage	30%
Non-Residential Buildings	
Minimum lot area	10,000 square feet
Minimum lot width	80 feet
Maximum height	35 feet (2½ stories)
All yard setbacks	Same as for residential buildings or equal to height of main building; whichever is greater.
Maximum lot coverage	30%

(Prior Code, §§ 15.0501—15.0504; Ord. No. 150, §§ 5.01—5.04, 11-1-1997; Amend: March 2005; Ord. No. 14-02, § 2, 12-2-2014)

Sec. 46-155. R-2 single- and two-family residential district.

(a) *Intent.* This section applies to the R-2 single- and two-family residential district. This district is intended to provide a low-density, single- and two-family residential living environment and to foster stable, high-quality neighborhoods while providing for additional variety in housing opportunities and choices. At the same time the regulations for this district recognize the need to preserve existing housing stock, allow the full development of older subdivisions, and provide housing that is affordable for the present and future

residents of the city. Certain nonresidential uses are allowed to further the creation of stable residential neighborhoods.

(b) *Permitted uses.* Land and/or buildings in the R-2 district may be used for the following purposes by right:

(1) Single-family detached dwellings.

(2) Two-family dwellings, including conversions of single-family detached dwellings to two-family dwellings.

(3) Family child care homes.

(4) State-licensed residential family care facilities.

(5) Home occupations, in accordance with the provisions of subsection 46-91(6) public parks.

(7) Accessory buildings, structures, and uses.

(8) Open space neighborhoods within a plat or a site condominium.

(c) *Special land uses.* Land and/or buildings in the R-2 district may be used for the following purposes when approved by the planning commission in accordance with the requirements of article VI of this chapter:

(1) Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.

(2) Private, noncommercial, institutional or community recreation parks and recreation centers.

(3) Public or private nonprofit schools.

(4) Bed and breakfast inns.

(5) Hospitals, including associated offices and related uses, such as pharmacies, clinics, and other similar uses integral to such use.

(6) Reserved.

(7) Churches, lodges, and private clubs.

(8) Group care homes.

(9) Museums, libraries.

(10) Mortuaries and funeral homes. Such uses may include a residential dwelling for one family, subject to the minimum floor area requirements of the R-2 district.

(d) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements:

(1) Site plan review is required in accordance with section 46-41.

(2) Landscaping and screening are required in accordance with subsection 46-257.

(3) Parking is required in accordance with section 46-258.

(4) Signs are permitted in accordance with the requirements of section 46-259.

(5) Unless not required by any other ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with city standards. The planning commission may waive the requirement for a sidewalk when, in the opinion of the commission, no purpose would be served by the sidewalk.

(6) Setbacks, height, area, and lot dimensions are required as noted below:

Site Development Requirements Chart - R-2 District

	District Regulations
Residential Buildings	
Minimum lot area	Single family - 8,700 square feet
	Two family - 10,000 square feet. For the conversion of a single-family dwelling to a two-family dwelling the lot must contain a minimum of 10,000 square feet with 80 feet of lot width.
Minimum lot width	66 feet
Maximum height	35 feet (2½ stories)
Front yard setback	25 feet
Side yard setback	18 feet total with one side yard being at least 7 feet
Rear yard setback	30 feet
Minimum floor area	720 square feet (per unit)
Minimum floor area on ground floor	720 square feet
Maximum lot coverage	30%
Non-Residential Buildings	
Minimum lot area	10,000 square feet
Minimum lot width	80 feet
Maximum height	35 feet (2½ stories)
All yard setbacks	Same as for residential buildings or equal to height of main building; whichever is greater.
Maximum lot coverage	30%

(Prior Code, §§ 15.0601—15.0604; Ord. No. 150, §§ 6.01—6.04, 11-1-1997; Ord. No. 09-04, § 1, 9-1-2009; Ord. No. 14-02, § 3, 12-2-14)

Sec. 46-156. R-3 single- and multiple-family residential district.

(a) *Intent.* This section applies to the R-3 single- and multiple-family residential district. This district is intended to provide additional variety in housing opportunities and choices. The R-3 district should also provide high-quality residential dwellings. The regulations for this district recognize the need to provide affordable housing opportunities. Nonresidential uses are only allowed to the extent that they serve to further this end.

(b) *Permitted uses.* Land and/or buildings in the R-3 district may be used for the following purposes by right:

(1) Single-family detached dwellings.

(2) Two-family dwellings, including conversions of single-family dwellings to two-family dwellings.

(3) Multiple-family dwellings.

(4) Housing for the elderly.

(5) Family and group child care homes.

(6) State-licensed residential family care facilities.

(7) Home occupations, in accordance with the provisions of section 46-91.

(8) Public parks.

(9) Accessory buildings, structures, and uses.

(c) *Special land uses.* Land and/or buildings in the R-3 district may be used for the following purposes when approved by the planning commission in accordance with the requirements of article VI of this chapter:

(1) Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.

(2) Private, noncommercial, institutional or community recreation parks and recreation centers.

(3) Public or private nonprofit schools.

(4) Bed and breakfast inns.

(5) Hospitals, including associated offices and related uses, such as pharmacies, clinics, and other similar uses integral to such use.

(6) Nursing, or convalescent homes.

(7) Churches, lodges, and private clubs.

(8) Museums, libraries.

(9) State-licensed residential group home care facilities.

(10) Community service centers.

(d) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements:

(1) Site plan review is required in accordance with section 46-41.

(2) Landscaping and screening are required in accordance with section 46-257.

(3) Parking is required in accordance with section 46-258. Parking shall not be permitted in the required front yard for multi-family dwellings except in accordance with subsection 46-258(c).

(4) Signs are permitted in accordance with the requirements of subsection 46-259.

(5) Unless not required by any other ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with city standards. The planning commission may waive the requirement for a sidewalk when, in the opinion of the commission, no purpose would be served by the sidewalk.

(6) Setbacks, height, area, and lot dimensions are required as noted below:

(7) Front yard parking. Parking in the front yard of any lots on which there is multifamily dwellings is prohibited.

Site Development Requirements Charts - R-3 District

Residential Buildings	District Regulations
Single- and Two-Family Dwellings	
Minimum lot area	6,000 square feet per dwelling unit
Minimum lot width	60 feet
Maximum height	35 feet (2½ stories)
Front yard setback	25 feet
Side yard setback	7 feet (each side)
Rear yard setback	30 feet
Minimum floor area	720 square feet (per dwelling unit)

Minimum floor area on ground floor	624 square feet
Maximum lot coverage	40%
Multiple Family Dwellings	
Minimum lot area	10,500 square feet
Maximum density*	12 dwelling units per acre*
Maximum height	35 feet (2½ stories)
Front yard setback	30 feet, or equal to the height of the main building, whichever is greater.
Side yard setback	15 feet (each side), or equal to the height of the main building, whichever is greater.
Rear yard setback	30 feet, or equal to the height of the main building, whichever is greater.
Minimum floor area	1 bedroom - 600 square feet
	2 bedrooms - 720 square feet
	3 bedrooms - 850 square feet
	4 bedrooms - 1,000 square feet
Distance between buildings	25 feet, or equal to the height of the taller building, whichever is greater.
Maximum building length	120 feet
Maximum lot coverage	40%
*The area used for computing density shall be the total site area exclusive of any dedicated public right-of-way of either interior or abutting roads.	

Nonresidential Buildings	District Regulations
Minimum lot area	10,000 square feet
Minimum lot width	80 feet
Maximum height	35 feet (2½ stories)
All yard setbacks	Same as for residential buildings or equal to height of main building; whichever is greater.
Maximum lot coverage	30%

(Prior Code, §§ 15.0701—15.0704; Ord. No. 150, §§ 7.01—7.04, 11-1-1997; Ord. No. 150K, 5-15-2007)

Sec. 46-157. O-1 office district.

(a) *Intent.* This section applies to the O-1 office district. This district is intended to provide a low-intensity office district. Uses within this district will typically generate lower volumes of traffic and may be used as a transition area between residential districts and more intensive districts. These uses will generally be limited in overall size of building and parking area and will present an appearance of a low-intensity use, including such features as limited signs, attractive landscaping, and concealed parking areas.

(b) *Permitted uses.* Land and/or buildings in the O-1 district may be used for the following purposes by right:

(1) Office buildings for any of the following occupations:

a. Executive, governmental, administrative, professional, designers, accounting, drafting, and other similar professional activities.

b. Medical, optical, dental, and veterinary offices and clinics.

(2) Banks, credit unions, savings and loan associations, and other similar uses, excluding those with drive-through facilities.

(3) Family and group child care facilities.

(4) Mortuaries and funeral homes. Such uses may include a residential dwelling for one family, subject to the minimum floor area requirements of the R-2 district.

(5) Substance abuse treatment centers licensed by the State of Michigan.

(6) Churches, lodges, and private clubs.

(7) Museums, libraries, radio/television stations, and public parks.

(8) Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.

(9) Buildings, structures, and uses accessory to the permitted and special land uses.

(c) *Special land uses.* Land and/or buildings in the O-1 district may be used for the following purposes when approved by the planning commission in accordance with the requirements of article VI of this chapter:

(1) Personal service establishments conducting services on the premises, such as barbershops and beauty shops, shoe repair, tailoring and dry cleaning, fitness centers, travel agencies, and other similar uses.

(2) Hospitals, including associated offices and related uses, such as pharmacies, clinics, and other similar uses integral to such use.

(3) Nursing, or convalescent homes.

(4) Banks, credit unions, savings and loan associations, and other similar uses with drive-through facilities.

(5) Commercial schools.

(6) Day care facility/child care center.

(7) Community service centers.

(d) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements:

(1) Site plan review is required in accordance with section 46-41.

(2) Landscaping and screening are required in accordance with section 46-257.

(3) Parking is required in accordance with section 46-258. No parking shall be permitted in the required front yard.

(4) Signs are permitted in accordance with the requirements of section 46-259.

(5) Unless not required by any other ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with city standards. The planning commission may waive the requirement for a sidewalk when, in the opinion of the commission, no purpose would be served by the sidewalk.

(6) Setbacks, height, area, and lot dimensions are required as noted below, unless greater setbacks are required by subsection 46-257(b).

(7) Structure facade. At least 80 percent of that portion of a structure or building, be it a front, side, or rear, which faces a public or private street, private access drive or public or private parking lot shall be finished with face brick, wood, vinyl, glass, tinted and/or textured masonry block, fluted cement block,

natural or cast stone, architectural pre-cast panel's or stucco-like material. In recognition of developing technologies in building materials, the planning commission may agree to approve other materials provided that they are compatible with surrounding properties, and further provided that such materials shall comply with the architectural, safety and other requirements of the city building code, fire code and other applicable city ordinances.

Additions to or renovations of buildings existing as of the date of the section shall be subject to the requirements of this section. The planning commission or zoning administrator, as the case may be, shall have the authority to modify or waive these requirements or to extend them to the entire facade of the existing building.

In determining whether to apply the facade requirements of this section to additions or renovations of existing buildings, the following criteria shall be considered:

a. The location of the addition or renovation relative to the existing building.

b. The size relative to the existing building.

c. The location of the existing building.

d. Whether compliance with this section will result in architectural consistency with the existing building and improve the overall aesthetics of the building.

e. The practicality of requiring compliance with this section based on the design and structural integrity of the existing building.

Site Development Requirements Chart - O-1 District

O-1 District Regulations	
Minimum lot area	15,000 square feet
Minimum lot width	80 feet
Maximum height	25 feet (1½ stories)
Front yard setback	25 feet (see subsection 46-257(b))
Side yard setback	10 feet each side (see subsection 46-257(b))
Rear yard setback	25 feet (see subsection 46-257(b))
Maximum lot coverage	40%

(Prior Code, §§ 15.0801—15.0804; Ord. No. 150, §§ 8.01—8.04, 11-1-1997; Ord. No. 150-P, § 3, 2-1-2011; Ord. No. 14-02, § 5, 12-2-2014)

Sec. 46-158. C-1 neighborhood commercial district.

(a) *Intent.* This section applies to the C-1 neighborhood commercial district. This district is intended to provide goods and services to residents of neighborhoods near this district. The uses will generally be less intense and more compatible with residential uses than those found in the other commercial districts. These uses will generally be limited in overall size of building and parking area and will present an appearance of a low intensity use, including such features as limited signs, reduced lighting levels, attractive landscaping, and screened parking areas.

(b) *Permitted uses.* Land and/or buildings in the C-1 district may be used for the following purposes by right:

(1) Office buildings for any of the following occupations:

a. Executive, governmental, administrative, professional, designers, accounting, drafting, and other similar professional activities.

b. Medical, optical, dental, and veterinary offices and clinics.

(2) Banks, credit unions, savings and loan associations, and other similar uses, including those with drive-through facilities.

(3) Family and group child care facilities.

(4) Nursing, or convalescent homes, and substance abuse treatment centers.

(5) Restaurants, excluding those with drive-through facilities. Outdoor dining is permitted where such dining does not encroach upon a minimum of five feet of unobstructed sidewalk space adjacent to the curb. Outdoor dining may be separated from the sidewalk only with movable planters, fencing or similar non-fixed barriers, provided they do not exceed a height of 36 inches including plant material. Any outdoor dining activity proposed for a public sidewalk or elsewhere in a road right-of-way must first be approved by the city council.

(6) Coin-operated laundries.

(7) Retail businesses not exceeding 10,000 square feet gross floor area conducting business entirely within an enclosed building.

(8) Museums, libraries, radio/television stations, and public parks.

(9) Personal service establishments conducting services on the premises, such as barbershops and beauty shops, shoe repair, tailoring and dry cleaning, fitness centers, travel agencies, and other similar uses.

(10) Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.

(11) Buildings, structures, and uses accessory to the permitted and special land uses.

(12) Outdoor display of merchandise as an accessory use to the principal use of the parcel is permitted subject to the following requirements:

a. The merchandise displayed outdoors shall be the same as or shall be similar to the merchandise, which is offered for sale inside the principal building on the parcel.

b. The size and nature of the outdoor display shall clearly be incidental and subordinate to the principal use of the parcel such that the accessory use serves to support the principal use but could not function independently of the principal use.

c. The outdoor display of merchandise shall not create unsafe conditions for or a hazard to any person or vehicle.

d. The items displayed shall not be located within the required front yard except that if a building is within the required front yard items may be displayed in the required front yard but the items shall be within ten feet of the principal building.

e. The outdoor display of merchandise shall be located so that the items do not occupy those parking spaces required by the Greenville Zoning Ordinance for the principal use or occupy any access lanes or driving lanes on the parcel.

f. The area devoted to outdoor display shall not be larger than ten percent of the gross square footage of the principal building. The display area shall be measured around the perimeter of all items displayed.

g. The area devoted to the outdoor display of merchandise shall at all times he kept neat and orderly and not be allowed to become unsightly or a visual nuisance. Any debris, scrap material, litter, empty shelves, racks, pallets, boxes or similar material not containing display items shall be removed from the outdoor display area.

h. No part of a public sidewalk, street right-of-way, public alley or public parking lot shall be used for the outdoor display of merchandise except as may be permitted by the Greenville City Council for sidewalk sales.

i. If the outdoor display requires the use of electricity then the method of providing the electricity shall comply with the applicable requirements of the City of Greenville.

(13) Upper story residential dwellings subject to the following requirements except that single-family detached dwelling units and other residential uses existing as of June 20, 2016, are exempt from these requirements:

a. A dwelling unit shall not be located on the ground floor.

b. Two parking spaces shall be provided for each dwelling unit. These spaces may be provided on site or in a city-operated parking lot.

c. Direct access to dwelling units shall be provided by a doorway located on the outside of the building, which is separate from the doorway used to access the first floor use.

d. Prior to establishing an upper story dwelling unit approval must be obtained from the zoning administrator to determine compliance with the requirements of this section.

e. A building permit shall be obtained from the city in order to establish a dwelling unit on an upper story.

(c) *Special land uses.* Land and/or buildings in the C-1 district may be used for the following purposes when approved by the planning commission in accordance with the requirements of article VI of this chapter:

(1) Open air businesses.

(2) Indoor theaters and commercial recreation centers, such as bowling alleys, skating rinks, and other similar uses.

(3) Retail businesses exceeding 10,000 square feet gross floor area conducting business entirely within an enclosed building.

(4) Bed and breakfast inns.

(5) Commercial schools.

(6) Churches, lodges, and private clubs.

(7) Auto detailing which involves the indoor washing of vehicles, including interior cleaning, application of graphics and pin striping of the exterior and minor touch up painting. Painting of entire vehicles or any painting activity which involves the use of spray painting equipment is prohibited. Parking requirements shall be as required for automobile service and repair facilities as set forth in section 46-258.

(8) Day care facility/child care center.

(d) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements:

(1) Site plan review is required in accordance with section 46-41.

(2) Landscaping and screening are required in accordance with section 46-257.

(3) Parking is required in accordance with section 46-258. No parking shall be permitted in the required front yard.

(4) Signs are permitted in accordance with the requirements of section 46-259.

(5) Unless not required by any other ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with city standards. The planning commission may waive the requirement for a sidewalk when, in the opinion of the commission, no purpose would be served by the sidewalk.

(6) Setbacks, height, area, and lot dimensions are required as noted below, unless greater setbacks are required by subsection 46-257(b).

(7) Structure facade. At least 80 percent of that portion of a structure or building, be it a front, side, or rear, which faces a public or private street, private access drive or public or private parking lot shall be finished with face brick, wood, vinyl, glass, tinted and/or textured masonry block, fluted cement block, natural or cast stone, architectural pre-cast panel's or stucco-like material. In recognition of developing technologies in building materials, the planning commission may agree to approve other materials provided that they are compatible with surrounding properties, and further provided that such materials shall comply with the architectural, safety and other requirements of the city building code, fire code and other applicable city ordinances.

Additions to or renovations of buildings existing as of the date of the section shall be subject to the requirements of this section. The planning commission or zoning administrator, as the case may be, shall have the authority to modify or waive these requirements or to extend them to the entire facade of the existing building.

In determining whether to apply the facade requirements of this section to additions or renovations of existing buildings, the following criteria shall be considered:

a. The location of the addition or renovation relative to the existing building.

b. The size relative to the existing building.

c. The location of the existing building.

d. Whether compliance with this section will result in architectural consistency with the existing building and improve the overall aesthetics of the building.

e. The practicality of requiring compliance with this section based on the design and structural integrity of the existing building.

Site Development Requirements Chart - C-1 District

C-1 District Regulations	
Minimum lot width	100 feet
Maximum height	25 feet
Front yard setback	25 feet (see subsection 46-257(b))
Side yard setback	10 feet (each side) (see subsection 46-257(b))
Rear yard setback	25 feet (see subsection 46-257(b))
Maximum lot coverage	40%

(Prior Code, §§ 15.0901—15.0904; Ord. No. 150, §§ 9.01—9.04, 11-1-1997; Ord. No. 150-L, § 2, 4-21-2009; Ord. No. 150-N, § 1, 5-18-2010; Ord. No. 150-P, § 3, 2-1-2011; Ord. No. 16-02 , § 1, 6-6-2016)

Sec. 46-159. C-2 general commercial district.

(a) *Intent.* This district is intended to provide a wide range of goods and services to residents of Greenville as well as surrounding areas. These uses will generally be more intensive and less compatible with residential

uses. These uses will have appropriate signs, adequate lighting levels, attractive landscaping, and convenient parking areas. Special attention will be given to the location of access points and other traffic and pedestrian conditions to ensure that such businesses are operated in a safe and efficient manner. Where possible, access points, parking areas, and other common features will be combined to serve more than one business.

Certain manufacturing uses, which operate with no objectionable exterior characteristics, may also be appropriate in certain locations in the C-2 zoning district due to the availability of public utilities, truck route access, and proximity to retail goods, restaurants and services which can be supported by manufacturing workers.

(b) *Permitted uses.* Land and/or buildings in the C-2 district may be used for the following purposes by right:

(1) Office buildings for any of the following occupations:

a. Executive, governmental, administrative, professional, designers, accounting, drafting, and other similar professional activities.

b. Medical, optical, and dental, clinics.

(2) Banks, credit unions, savings and loan associations, and other similar uses, including those with drive-through facilities.

(3) Personal service establishments conducting services on the premises, such as barbershops and beauty shops, shoe repair, tailoring and dry cleaning, fitness centers, travel agencies, and other similar uses.

(4) Restaurants, delicatessens, coffee houses including sit-down and carry-out establishments excluding those with drive-in or with drive-through facilities. Outdoor dining is permitted where such dining does not encroach upon a minimum of five feet of unobstructed sidewalk space adjacent to the curb. Outdoor dining may be separated from the sidewalk only with movable planters, fencing or similar non-fixed barriers provided they do not exceed a height of 36 inches including plant material. Any outdoor dining activity proposed for a public sidewalk or elsewhere in a road right-of-way must first be approved by the Greenville City Council.

(5) Coin-operated laundries.

(6) Retail businesses of less than 250,000 square feet gross floor area conducting business entirely within an enclosed building.

(7) Business or trade schools.

(8) Dancing, art, and music studios.

(9) Libraries, museums, public parks and similar public uses.

(10) Pharmacies including those with a drive-up window.

(11) Catering establishments.

(12) Retail building supply and equipment stores.

(13) Retail nurseries and garden centers.

(14) Pet shop including grooming services.

(15) Establishments serving alcoholic beverages, with or without live music subject to any applicable State of Michigan regulations.

(16) Veterinary clinics including those, which provide kennel services except that outdoor runs are prohibited.

(17) Shops or stores for carrying on the trade of electricians, decorators, painters, upholsterers, photographers, similar artisans except metal workers.

(18) Ambulance service establishments.

(19) Day care facility/child care center.

(20) The repair or assembly of products sold by a permitted use in this district provided the repair or assembly does not constitute the principal use and all such work is performed inside.

(21) Establishments for the repair of small engines, appliances and similar equipment.

(22) Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.

(23) Buildings, structures, and uses accessory to the permitted and special land uses.

(24) Outdoor display of merchandise as an accessory use to the principal use of the parcel is permitted subject to the following requirements:

a. The merchandise displayed outdoors shall be the same as or shall be similar to the merchandise, which is offered for sale inside the principal building on the parcel.

b. The size and nature of the outdoor display shall clearly be incidental and subordinate to the principal use of the parcel such that the accessory use serves to support the principal use but could not function independently of the principal use.

c. The outdoor display of merchandise shall not create unsafe conditions for or a hazard to any person or vehicle.

d. The items displayed shall not be located within the required front yard except that if a building is within the required front yard items may be displayed in the required front yard but the items shall be within ten feet of the principal building.

e. The outdoor display of merchandise shall be located so that the items do not occupy those parking spaces required by the Greenville Zoning Ordinance for the principal use or occupy any access lanes or driving lanes on the parcel.

f. The area devoted to outdoor display shall not be larger than ten percent of the gross square footage of the principal building. The display area shall be measured around the perimeter of all items displayed.

g. The area devoted to the outdoor display of merchandise shall at all times be kept neat and orderly and not be allowed to become unsightly or a visual nuisance. Any debris, scrap material, litter, empty shelves, racks, pallets, boxes or similar material not containing display items shall be removed from the outdoor display area.

h. No part of a public sidewalk, street right-of-way, public alley or public parking lot shall be used for the outdoor display of merchandise except as may be permitted by the Greenville City Council for sidewalk sales.

i. If the outdoor display requires the use of electricity then the method of providing the electricity shall comply with the applicable requirements of the City of Greenville.

(c) *Special land uses.* Land and/or buildings in the C-2 district may be used for the following purposes when approved by the planning commission in accordance with the requirements of article VI of this chapter:

(1) Open air businesses, including building materials, supplies, and similar uses. Open air businesses including, but not limited to: the sale of motor vehicles, farm implements, lawn and garden equipment sales and service, motor homes, mobile homes, mobile or modular homes, including building materials, supplies, and similar uses.

(2) Restaurants with drive-through and/or take-out facilities. Outdoor dining is permitted per subsection (b)(4).

(3) Indoor and outdoor recreation establishments such as bowling alleys, theaters, video gaming establishments, skating rinks, indoor rock climbing, miniature golf, go cart tracks, athletic fields, and other similar uses.

(4) Gas station/convenience stores with or without restaurants.

(5) Automobile service repair facilities and gas stations which perform such services as tire sales and installation; oil changes; brake, shocks and exhaust work; engine analysis and tune-ups; front end alignments; heating and air conditioning repair and similar minor vehicle repair services.

(6) Hotels and motels.

(7) Automatic and self-serve vehicle wash facilities.

(8) Kennels.

(9) Retail businesses of greater than 250,000 square feet gross floor area within an enclosed building.

(10) Towers in excess of 50 feet in height for commercial wireless telecommunication services.

(11) Churches, synagogues, mosques and similar places of religious worship.

(12) Public or private clubs, lodges, and banquet halls or similar places of assembly.

(13) Housing for the elderly including retirement housing, assisted living and nursing facilities.

(14) Adult and child day care centers.

(15) Mini-warehouse and self storage facilities.

(16) Plastic injection molding businesses.

(17) Building contractors such as painters, plumbers, electrical, cement, heating and air conditioning, fencing, and similar uses provided that any materials or equipment kept outside shall be screened from the view of nearby properties and roadways.

(18) Auto detailing which involves the indoor washing of vehicles, including interior cleaning, application of graphics and pin striping of the exterior and minor touch-up painting. Painting of entire vehicles or any painting activity which involves the use of spray painting equipment is prohibited. Parking requirements shall be as required for automobile service and repair facilities as set forth in section 10.09 [46-209] herein.

(d) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements:

(1) Site plan review is required in accordance with section 46-41.

(2) Landscaping and screening are required in accordance with section 46-257.

(3) Parking is required in accordance with section 46-258. No parking or material storage shall be permitted in the required front yard.

(4) Signs are permitted in accordance with the requirements of section 46-259.

(5) Unless not required by any other ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with city standards. The planning commission may waive the requirement for a sidewalk when, in the opinion of the commission, no purpose would be served by the sidewalk.

(6) Setbacks, height, area, and lot dimensions are required as noted below unless greater setbacks are required by subsection 46-257(b).

(7) Structure facade. At least 80 percent of that portion of a structure or building, be it a front, side, or rear, which faces a public or private street, private access drive or public or private parking lot shall be finished with face brick, wood, vinyl, glass, tinted and/or textured masonry block, fluted cement block, natural or cast stone, architectural pre-cast panel's or stucco-like material. In recognition of developing technologies in building materials, the planning commission may agree to approve other materials provided that they are compatible with surrounding properties, and further provided that such materials shall comply with the architectural, safety and other requirements of the city building code, fire code and other applicable city ordinances.

Additions to or renovations of buildings existing as of the date of the section shall be subject to the requirements of this section. The planning commission or zoning administrator, as the case may be, shall have the authority to modify or waive these requirements or to extend them to the entire facade of the existing building.

In determining whether to apply the facade requirements of this section to additions or renovations of existing buildings, the following criteria shall be considered:

a. The location of the addition or renovation relative to the existing building.

b. The size relative to the existing building.

c. The location of the existing building.

d. Whether compliance with this section will result in architectural consistency with the existing building and improve the overall aesthetics of the building.

e. The practicality of requiring compliance with this section based on the design and structural integrity of the existing building.

Site Development Requirements Chart - C-2 District

C-2 District Regulations	
Minimum lot area	20,000 square feet
Minimum lot width	100 feet
Maximum height	35 feet (2½ stories)
Front yard setback	25 feet (see subsection 46-257(b))
Side yard setback	10 feet (each side) (see subsection 46-257(b))
Rear yard setback	25 feet (see subsection 46-257(b))
Maximum lot coverage	40%

(Prior Code, §§ 15.1001—15.1004; Ord. No. 150, §§ 10.01—10.04, 11-1-1997; Ord. No. 150-I, §§ 1, 2, 4-3-2007; Ord. No. 150-L, § 2, 4-21-2009; Ord. No. 150-P, § 3, 2-1-2011)

Sec. 46-160. C-3 central business district.

(a) *Intent.* This section applies to the C-3 central business district. This district is intended to provide a wide range of goods and services to residents of the city as well as surrounding areas in a downtown setting. This district is characterized by a compact shopping area with on-street, municipal, and private parking areas. Emphasis is placed on pedestrian safety, convenient access, and ease of vehicular circulation.

(b) *Permitted uses.* Land and/or buildings in the C-3 district may be used for the following purposes by right:

(1) Office buildings for any of the following occupations:

a. Executive, governmental, administrative, professional, designers, accounting, drafting, and other similar professional and service activities.

b. Medical, optical, dental, and veterinary offices and clinics.

(2) Banks, credit unions, savings and loan associations, and other similar uses, excluding those with drive-through facilities.

(3) Personal service establishments conducting services on the premises, such as barbershops and beauty shops, shoe repair, tailoring and dry cleaning, fitness centers, travel agencies, and other similar uses.

(4) Indoor theaters and commercial recreation centers, such as bowling alleys, skating rinks, and other similar uses.

(5) Hotels and motels.

(6) Restaurants, excluding those with drive-through facilities. Outdoor dining is permitted where such dining does not encroach upon a minimum of five feet of unobstructed sidewalk space adjacent to the curb. Outdoor dining may be separated from the sidewalk only with movable planters, fencing or similar non-fixed barriers provided they do not exceed a height of 36 inches including plant material. Any outdoor dining activity proposed for a public sidewalk or elsewhere in a road right-of-way must first be approved by the city council.

(7) Coin-operated laundries.

(8) Museums, libraries, radio/television stations, and public parks.

(9) Retail businesses conducting business entirely within an enclosed building.

(10) Buildings, structures, and uses accessory to the permitted and special land uses.

(11) Upper story residential dwellings subject to the following requirements except that single-family detached dwelling units and other residential uses existing as of the effective date of this ordinance are exempt from these requirements:

a. A dwelling unit shall not be located on the ground floor.

b. Two parking spaces shall be provided for each dwelling unit. These spaces may be provided on site or in a City of Greenville operated parking lot.

c. Direct access to dwelling units shall be provided by a doorway located on the outside of the building, which is separate from the doorway used to access the first floor use.

d. Prior to establishing an upper story dwelling unit approval must be obtained from the zoning administrator to determine compliance with the requirements of this section.

e. A building permit shall be obtained from the City of Greenville in order to establish a dwelling unit on an upper story.

(12) Outdoor display of merchandise as an accessory use to the principal use of the parcel is permitted subject to the following requirements:

a. The merchandise displayed outdoors shall be the same as or shall be similar to the merchandise, which is offered for sale inside the principal building on the parcel.

b. The size and nature of the outdoor display shall clearly be incidental and subordinate to the principal use of the parcel such that the accessory use serves to support the principal use but could not function independently of the principal use.

c. The outdoor display of merchandise shall not create unsafe conditions for or a hazard to any person or vehicles.

d. The items displayed shall not be located within the required front yard except that if a building is within the required front yard items may be displayed in the required front yard but the items shall be within ten feet of the principal building.

e. The outdoor display of merchandise shall be located so that the items do not occupy those parking spaces required by the Greenville Zoning Ordinance for the principal use or occupy any access lanes or driving lanes on the parcel.

f. The area devoted to outdoor display shall not be larger than ten percent of the gross square footage of the principal building. The display area shall be measured around the perimeter of all items displayed.

g. The area devoted to the outdoor display of merchandise shall at all times be kept neat and orderly and not be allowed to become unsightly or a visual nuisance. Any debris, scrap material, litter, empty shelves, racks, pallets, boxes or similar material not containing display items shall be removed from the outdoor display area.

h. The area devoted to the outdoor display of merchandise shall at all times be kept neat and orderly and not be allowed to become unsightly or a visual nuisance. Any debris, scrap material, litter, empty shelves, racks, pallets, boxes or similar material not containing display items shall be removed from the outdoor display area.

i. No part of a public sidewalk, street right-of-way, public alley or public parking Jot [lot] shall be used for the outdoor display of merchandise except as may be permitted by the Greenville City Council for sidewalk sales.

(c) *Special land uses.* Land and/or buildings in the C-3 district may be used for the following purposes when approved by the planning commission in accordance with the requirements of article VI of this chapter:

(1) Open air businesses.

(2) Restaurants with drive-through facilities.

(3) Banks, credit unions, savings and loan associations, and other similar uses with drive-through facilities.

(4) Automobile service and repair facilities.

(5) Parking lots, public or private.

(6) Towers in excess of 50 feet in height for commercial wireless telecommunication services.

(7) Churches, lodges, and private clubs.

(8) Child care facility/child care center.

(d) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements:

(1) Site plan review is required in accordance with section 46-41.

(2) Landscaping and screening are required in accordance with section 46-257.

(3) Parking is required in accordance with section 46-258. No parking or material storage shall be permitted in the front yard.

(4) Signs are permitted in accordance with the requirements of section 46-259.

(5) Unless not required by any other ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with city standards.

(6) Setbacks, height, area, and lot dimensions are required as noted below unless greater setbacks are required by subsection 46-257(b).

(7) Structure facade. At least 80 percent of that portion of a structure or building, be it a front, side, or rear, which faces a public or private street, private access drive or public or private parking lot shall be finished with face brick, wood, vinyl, glass, tinted and/or textured masonry block, fluted cement block, natural or cast stone, architectural pre-cast panel's or stucco-like material. In recognition of developing technologies in building materials, the planning commission may agree to approve other materials provided that they are compatible with surrounding properties, and further provided that such materials shall comply with the architectural, safety and other requirements of the city building code, fire code and other applicable city ordinances.

Additions to or renovations of buildings existing as of the date of the section shall be subject to the requirements of this section. The planning commission or zoning administrator, as the case may be, shall have the authority to modify or waive these requirements or to extend them to the entire facade of the existing building.

In determining whether to apply the facade requirements of this section to additions or renovations of existing buildings, the following criteria shall be considered:

a. The location of the addition or renovation relative to the existing building.

b. The size relative to the existing building.

c. The location of the existing building.

d. Whether compliance with this section will result in architectural consistency with the existing building and improve the overall aesthetics of the building.

e. The practicality of requiring compliance with this section based on the design and structural integrity of the existing building.

Site Development Requirements Chart - C-3 District

C-3 District Regulations	
Minimum lot size	None required
Minimum lot width	
Maximum height	40 feet
Front setback	None required
Side and rear setbacks	None required (see subsection 46-257(b))
Maximum lot coverage	None required

(Prior Code, §§ 15.1101—15.1104; Ord. No. 150, §§ 11.01—11.04, 11-1-1997; Ord. No. 150-L, § 2, 4-21-2009; Ord. No. 150-P, § 3, 2-1-2011; Ord. No. 14-01, § 2, 7-15-2014)

Sec. 46-161. IND industrial district.

(a) *Intent.* This section applies to the IND industrial district. This district is intended to provide exclusive areas for industrial uses in areas served by adequate infrastructure. Uses in this district are to provide for various types of light industrial and manufacturing uses, wholesale businesses, warehouses, and other uses compatible with one another and with surrounding land uses and with an absence of objectionable external

effects. These uses are characterized by moderate lot coverage, adequate setbacks, environmental sensitivity, and creative site design. The regulations are defined to exclude uses which would have a detrimental effect upon the orderly development and functioning of the district, as well as surrounding land uses.

(b) *Permitted uses.* Land and/or buildings in the IND district may be used for the following purposes by right:

(1) Industrial plants manufacturing, compounding, processing, packaging, treating, or assembling the following:

a. Agricultural products, including, but not limited to, the production of alcoholic beverages and the production in greenhouses of flowers, plants, shrubs, trees, or other similar living products.

b. Food and kindred products including meat, dairy, fruit, vegetable, seafood, bakery, confectionery, beverage, and similar products (but not including slaughtering of animals, or rendering or refining of fats and oils).

c. Furniture and fixtures.

d. Printing, publishing, and allied industries.

e. Electrical machinery, equipment and supplies, electronic components, including computer, communication and musical equipment and devices and accessories.

f. Engineering, measuring, optical, medical, scientific, photographic, and similar instruments and goods.

g. Cut stone and stone products related to monuments.

h. Wind energy, solar energy and similar systems.

(2) Industrial plants manufacturing, compounding, processing, packaging, treating, or assembling materials or products from previously prepared materials including the following:

a. Textile mill products, including woven fabric, knit goods, dyeing and finishing, floor coverings, yarn and thread, and other similar products.

b. Apparel and other finished products including clothing, leather goods, furnishings and canvas products.

c. Lumber and wood products including millwork, prefabricated structural work products and containers.

d. Paper and paperboard containers and products.

e. Biological products, drugs, medicinal chemicals and pharmaceutical preparations.

f. Glass products.

g. Jewelry, silverware and plated ware, musical instruments and parts, toys, amusement, sporting and athletic goods, pens, pencils, and other office and artist supplies and materials, notions, signs, and advertising displays.

h. Pottery, figurines, and other ceramic products using only previously pulverized clay.

i. Fabricated metal products, except heavy machinery and transportation equipment.

(3) Wholesale businesses, including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products, and lumber.

(4) Warehousing (refrigerated and general storage within an enclosed building).

(5) Laundries, laundry services, and dry cleaning and dyeing plants, excluding retail/service outlets serving the general public.

(6) Office buildings for executive, administrative, professional, accounting, drafting, and other similar professional activities, as determined by the zoning administrator.

(7) Research and development facilities, including production activities otherwise permitted in this district.

(8) Trade or industrial schools.

(9) New building materials sales and storage, including contractor's showrooms and related storage yards, provided such yards and enclosed and screened in accordance with the requirements of subsection 46-161(d)(7).

(10) Body shops, wrecker services, vehicle repair facilities and including storage yards provided such yards and enclosed and screened in accordance with the requirements of subsection 46-161(d)(7).

(11) Utilities and communications installations for essential services such as electrical receiving or transforming stations, microwave towers, and television and radio towers, but not including towers in excess of 50 feet in height for commercial wireless telecommunication services.

(12) Utility and public service buildings, including storage yards but not including essential public services such as poles, wires, and underground utility systems.

(13) Banks, credit unions, savings and loan associations, and other similar uses as determined by the zoning administrator, including those with drive-through facilities.

(14) Machine shops.

(15) Tool and die establishments.

(16) Commercial fuel depot.

(17) Indoor recreation establishments.

(18) Crating and packing services.

(19) Park and ride lots operated by a public agency.

(20) The retail sales of products produced on the premises of the above permitted uses provided the area devoted to retail sales does not exceed 15 percent of the total floor area of the building and is clearly incidental to the principal industrial use.

(21) Buildings, structures, and uses accessory to the permitted and special land uses.

(c) *Special land uses.* Land and/or buildings in the IND district may be used for the following purposes when approved by the planning commission in accordance with the requirements of article VI of this chapter:

(1) Truck and freight terminals.

(2) Warehousing, bulk storage, and transport of propane, liquid petroleum, fuel oil, and similar fuels.

(3) Salvage yards and recycling facilities.

(4) Adult uses.

(5) Towers in excess of 50 feet in height for commercial wireless telecommunication services.

(6) Golf courses.

(7) Mini-warehouse and self storage facilities. Outdoor storage of vehicles, boats, trailers, recreational vehicles and similar items is permitted provided that such storage areas are substantially screened as

viewed from the road by the storage buildings themselves or by landscaping or fencing as may be required by the planning commission in accordance with the requirements of subsection (d)(5) herein.

(8) Asphalt, concrete or similar refining and manufacturing.

(9) Refuse and garbage incinerators.

(10) Manufacture of gas, coke, or coal tar products.

(11) Manufacture of ammunition, fireworks, or other explosives.

(12) Stockyards and slaughterhouses.

(13) Blast furnaces, drop forges, petroleum refining, metal stamping, and similar uses.

(14) Solid waste processing facility, including composting as an incidental use.

(15) Contractor equipment yards and operations including, but not limited to, businesses engaged in excavating, drilling, utility installation, fencing, landscaping, painting, plumbing, electrical, cement, heating and air conditioning, and similar uses.

(16) Uses, which sell equipment, vehicles or machinery normally used for industrial purposes or in the construction trades except for vehicles used primarily for on-road travel. Such uses may display these items outdoors.

(17) Outdoor display and sale of items which are manufactured, repaired or serviced as part of a use permitted by subsections (b) and (c) of this section.

(18) Crematoriums.

(19) Facilities engaged in the production of energy.

(20) Sale/rental and display of the following: temporary mobile storage units (pods) and temporary refuse collection units; farm and garden products including fencing and equipment; pre-cast concrete products; utility trailers, animal trailers, and similar trailers; and granite or marble or similar products or raw materials.

(21) Wholesale distribution and display of landscaping products such as mulch, woodchips, sod, dirt, and plant material and yard accessories.

(22) On-line auction warehouse facilities.

(23) Establishments which produce alcoholic beverages primarily for distribution off site and which also engage in one or more of the following as a small percentage of the overall sales of the business and which devote a small portion of the square footage of the building to the following:

a. The retail sale of alcoholic beverages produced on site to the general public for consumption on the site and/or on a retail take-out basis including the limited sale of snacks, pre-packaged foods, and non-alcoholic beverages;

b. Conducting tours for the general public of the facility;

c. The retail sale of items related to the company and its products such as glasses, posters, and clothing.

(24) Uses which are industrial in nature, or are similar to one or more of the industrial uses in this subsections (b) and (c) of this section, as determined by the planning commission, and which are not specified elsewhere in this ordinance subject to section 46-240 herein.

(d) *Site development requirements.* All permitted uses and special land uses are subject to the following site development requirements:

(1) Site plan review is required in accordance with section 46-41.

(2) Landscaping and screening are required in accordance with section 46-257.

(3) Parking is required in accordance with section 46-258. No parking shall be permitted in the required front yard.

(4) Signs are permitted in accordance with the requirements of section 46-259.

(5) Unless not required by any other ordinance, sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with city standards. The planning commission may waive the requirement for a sidewalk when, in the opinion of the commission, no purpose would be served by the sidewalk.

(6) All permitted and special land uses, shall be conducted wholly within a completely enclosed building, except that outside storage of materials, equipment, or vehicles and loading and unloading operations is permitted, subject to the following restrictions:

a. Materials may be stored only in the side or rear yards, except that materials may not be stored on the street side of a corner lot or in any required yard.

b. All storage of materials and equipment used in the business except vehicles shall be visually screened to a height of at least six feet above the highest elevation of the nearest adjacent road or property bordering the site unless in the opinion of the planning commission or other approving authority the material is stored in a manner that it is not readily visible from off-site or that the material is located such a substantial distance from adjacent properties and roadways that it is not a visual nuisance as seen from off-site. [Subsections 46-257(1)—(3).]

c. In no case shall the outside storage of materials or equipment be stacked higher than the height of the visual screen unless in the opinion of the planning commission or other approving authority the material is stored in a manner that it is not readily visible from off site or that the material is located such a substantial distance from adjacent properties and roadways that it is not a visual nuisance as seen from off-site.

d. One non-gated opening, no greater than 12 feet in width, shall be permitted in the screen for each 200 feet of frontage on a street.

(7) Setbacks, height, area, and lot dimensions are required as noted below unless greater setbacks are required by subsection 46.257(b).

Site Development Requirements Chart - IND District

IND District Regulations	
Minimum lot area	1 acre (43,560 square feet)
Minimum lot width	100 feet
Maximum height	40 feet plus 1 foot additional height for each 1 foot of additional setback (all yards) beyond the setback required by this section
Front yard setback	25 feet (see subsection 46-257(b))
Side yard setback	10 feet each side (see subsection 46-257(b))
Rear yard setback	40 feet (see subsection 46-257(b))
Maximum lot coverage	60%

(Prior Code, §§ 15.1201—15.1204; Ord. No. 150, §§ 12.01—12.04, 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-162. MHP manufactured home park district.

(a) *Scope.*

(1) For the preservation of the interests of various types of residential developments which should be permitted in every community and for the protection of the residents of any manufactured home park development, this section is considered to be minimum standards to be applied to all manufactured home park developments in the city.

(2) All manufactured home parks shall comply with the applicable requirements of the Mobile Home Commission Act (MCL 125.2301 et seq.), provided further that said developments meet the standards and conditions and all other provisions as herein established.

(b) *Installation and occupation of manufactured homes.*

(1) No manufactured home shall be placed or parked or installed in a manufactured home park until such time as a building permit is obtained from the building inspector. Such permit shall be issued by the building inspector after making a finding that said manufactured home meets construction standards as approved by the federal Department of Housing and Urban Development (HUD) Code, or has been certified by a manufacturer as constructed according to the requirements of the federal HUD Code.

(2) No manufactured home shall be occupied by any person as a residence or for any other purpose until such time as said manufactured home is placed or situated on a specific lot in the manufactured home park and has been inspected by the building inspector and issued an occupancy permit. Such inspection shall include the placement, the connection to utilities, and compliance with all necessary state, city, or other ordinances and regulations. Such permit shall be issued by the building inspector on payment of an inspection fee as may be authorized by the city council from time to time. In the event said manufactured home is moved to another lot or another manufactured home is placed on the specific lot, a new certificate of occupancy must be obtained by the owner or resident from the building inspector.

(c) *Application procedures.* Preliminary approval shall not be issued by the city until application for the manufactured home park has been approved by the city in accordance with the provisions of this section.

(1) *Site plan.* Any application for the extension, alteration, or construction of a manufactured home park shall be accompanied by a site plan of the proposed development and all permanent buildings indicating the proposed methods of compliance with these requirements. Said site plan shall be in conformance with the provisions and requirements of section 46-41.

(2) *Approval.* The following standards shall be satisfied before approval of the manufactured home park is granted:

a. Whether the proposal is in accordance with the master plan.

b. Whether the proposal meets all the design standards of this chapter and other applicable local codes, regulations or ordinances.

c. Whether the density of the proposed development could adversely affect adjacent properties and land uses.

d. Whether the proposed development can be reasonably expected to constitute a health hazard or public nuisance to adjacent properties because of inappropriate or inadequate sanitation and/or drainage facilities.

e. Whether the proposed development produces an extreme or undue demand on available fire and police protection.

f. Whether the traffic characteristics of the proposed development can be expected to place an extreme or undue burden on the adjacent publicly available vehicular and/or pedestrian circulation facilities.

(d) *Standards and regulations.* All manufactured home parks shall be designed and developed in accordance with the following standards and regulations:

(1) Minimum site size for a manufactured home park shall be ten acres.

(2) Minimum number of manufactured home spaces shall be 40. Required streets and utilities shall be completed for at least 25 manufactured home spaces along with related improvements before the first occupancy.

(3) Each manufactured home park shall have direct access only to a major street or state trunkline highway.

(4) No access to the site shall be located closer than 200 feet from any public street intersection. Minimum street widths within the manufactured home park shall be in accordance with the following schedule:

Parking Standards and Regulations		
Parking	Direction	Minimum Street Width
No on-street parking	One way	13 feet
	Two-way	21 feet
Parallel parking - one side	One way	21 feet
	Two-way	31 feet
Parallel parking - both sides	One way	34 feet
	Two-way	40 feet

(5) No manufactured home or other building or structure for residential purposes shall be in excess of two and one-half stories, or in excess of a maximum height of 35 feet.

(6) Each manufactured home lot, exclusive of streets, shall have a minimum size of 5,000 square feet and a minimum width of 40 feet, as measured at the minimum building setback line. No more than one manufactured home shall be parked on any one lot, and no manufactured home shall be occupied by more than one family.

(7) The minimum setback between any part of any manufactured home and/or structure permanently or temporarily attached thereto (excluding hitch), or used in conjunction therewith, including, but not by way of limitation, storage sheds, cabanas, and porches shall be:

a. Ten feet from the inside of the sidewalk;

b. Fourteen feet from the rear lot line;

c. Sixteen feet from the side lot line on the entry side; and

d. Ten feet from the side yard on the non-entry side, except that a manufactured home may be placed on the side lot line, provided there is minimum of 15 feet of open space between said lot line and any other structure or manufactured home, including, but not by way of limitation, storage sheds, cabanas or porches.

(8) Each lot shall front on sidewalks at least four feet in width and parallel to the manufactured home park street.

(9) Each lot shall provide a minimum of two off-street parking spaces, each of which shall have a paved area of not less than 180 square feet (nine feet by 20 feet).

(10) The front, back and side yards of every lot shall be suitably landscaped and properly maintained with lawn area, and there shall be one shade tree at least ten feet in height provided for each lot.

(11) The manufactured home park shall provide a buffer zone in accordance with the requirements of section 46-257.

(12) Any buildings associated with the manufactured home park shall have minimum setback from any public street of 50 feet, which shall be properly landscaped with grassed area and maintained by the owner and operator of the manufactured home park.

(13) All streets within the manufactured home park shall be of bituminous aggregate or similar surface meeting AASHTO public street construction specifications, and provided with proper curbing.

(14) The manufactured home park shall contain one or more open space areas intended primarily for the use of park residents on a minimum ratio of 250 square feet for every manufactured home lot, provided that buffer zone areas shall not be included as part of such requirement.

(15) The manufactured home park shall provide one or more storm shelters of size and capacity so as to accommodate all the residents of the park.

(16) All street intersection and designated pedestrian crosswalks shall be illuminated by not less than 0.25 foot candles. All roads, parking bays and pedestrian walkways shall be illuminated by not less than 0.5 foot candles.

(e) *Utility standards.* The following utility standards shall apply to all manufactured home parks:

(1) All utilities shall be underground.

(2) All lots shall be provided with a public water and sanitary sewer service approved by the city and other applicable agencies. All manufactured homes shall be connected thereto and all expenses of installation and connection shall be borne by the owner or operator of the manufactured home park, and no costs shall be applied or taxed against owners of any adjacent property or along any main extended from the manufactured home park to the present public sanitary sewer system, unless such adjacent owners shall install a sewer connection to such main.

(3) The manufactured home park shall provide sufficient storm sewer facilities, independent of sanitary sewers, to prevent flooding of either streets or lots within the park in accordance with the requirements of the city. All storm drainage and surface drainage facilities flowing from the park to adjacent areas shall be approved by the city.

(f) *Manufactured home standards.*

(1) Every manufactured home shall be supported on a permanent concrete pad or foundation for at least the width and length of the manufactured home, and four inches thick; and all areas between the trailer and ground shall be enclosed by a fire-resistant skirt.

(2) In the event the soil or topographic conditions of the proposed manufactured home park are such that other foundations or support are appropriate, and the developer provides to the building inspector a report by a certified engineer that piers are equal to or superior to the specifications as set forth in subsection (f)(1) of this section, such foundations may be approved by the building inspector, provided such construction includes provisions for proper drainage and covering ground under each manufactured home.

(3) Every manufactured home shall be at least 12 feet in width and have a minimum of 600 square feet of living area exclusive of porches and cabanas.

(g) *Inspections and permits.* The building inspector or such other person designated by the city council shall have the right to inspect the manufactured home park to determine whether or not the park owners or operators,

or any owners or person occupying manufactured homes within the park are in violation of this chapter, or any other state law or state or governmental regulations covering manufactured home parks affecting the health, safety and welfare of inhabitants, under the following conditions:

(1) He has reasonable cause to believe that the owner or operator, or a resident or owner of a manufactured home in the park is in violation of any part of this chapter or any other municipal ordinance.

(2) Notice has been sent to the owner or operator of the manufactured home park at their last known address, and to the owner or resident of the manufactured home at their last known address as shown on the occupancy permit for said manufactured home, and that the city has not received satisfactory proof or indication that the purported violation is not a violation, or that the purported violation has been corrected within 15 days from the date of mailing said notice.

(h) *Manufactured home sales.*

(1) No person desiring to rent a dwelling unit site shall be required, as a condition to such rental, to purchase a manufactured home from the owner or operator of the park as long as the manufactured home intended to be located on such rented site conforms in size, style, shape, price, etc., as may be required by any reasonable rules and regulations governing the operation of the manufactured home park.

(2) Nothing contained in this section shall be deemed as prohibiting the sale of a manufactured home lot by the individual owner or his agent, or those home occupations as permitted in this chapter, provided, such sales and occupations are permitted by the park regulations, and provided further that a commercial manufactured home sales lot shall not be permitted in conjunction with any manufactured home park.

(Prior Code, §§ 15.1301—15.1308; Ord. No. 150, §§ 13.01—13.08, 11-1-1997)

Sec. 46-163. F-1 floodplain district.

(a) *Purpose.* This section applies to the F-1 floodplain district. This district is intended primarily to protect those undeveloped areas of the city which are subject to predictable flooding in the floodplain area of the Flat River so that the reservoir capacity will not be reduced or impede, retard, accelerate or change the direction of flow or carrying capacity of the river valley or to otherwise increase the possibility of flood. The requirements of this section while permitting reasonable use of properties within the floodplain, will help protect human life, prevent or minimize material and economic losses and reduce the cost to the public in time of emergency through public aid or relief efforts occasioned by the unwise occupancy of such flood areas.

(b) *Delineation of the flood hazard overlay zone.*

(1) The flood hazard area zone shall overlay existing zoning districts delineated on the official city zoning map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood in the report entitled "The Flood Insurance Study, City of Greenville," dated November 2, 1983, with accompanying flood insurance rate maps and flood boundary and floodway maps.

(2) Within the flood hazard area zone a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the flood boundary and floodway map. The study and accompanying maps are adopted by reference, appended, and declared to be part of this chapter. The term "flood hazard area," as used in this section, means the flood hazard area zone, and the term "floodway" means the designated regulatory floodway.

(3) Where there are disputes as to the location of a flood hazard area zone boundary, the zoning board of appeals shall resolve the dispute.

(c) *Compliance required.* In addition to other requirements of this chapter applicable to development in the underlying zoning district, compliance with the requirements of this section shall be necessary for all development occurring within the flood hazard area zone.

(d) *Permitted uses.* Notwithstanding any other provisions of this section, land and/or buildings in the F-1 district may be used for the following purposes as permitted uses:

(1) Open space uses such as farms, truck gardens, nurseries, parks, playgrounds, golf courses, nature preserves, bridle trails, natural trails, and recreation, provided no alteration is made to the existing level of the floodplain or erected structure which may interfere with the flow of the river or floodplain capacity.

(2) Industrial or commercial accessory use areas, such as loading and parking areas, and similar uses.

(3) Airport landing, taxiing, and parking areas.

(4) Accessory residential uses such as lawn, gardens, parking areas, and play areas.

(e) *Special land uses.* Land and/or buildings in the F-1 district may be used for the following purposes following review by the planning commission as a special land use as regulated by article VI of this chapter:

(1) Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.

(2) Seasonal uses, as regulated by section 46-87.

(3) Marinas, docks, and piers.

(f) *Data submission.* Prior to the issuance of a building permit for structures on or within 100 feet of floodplain areas, the city manager shall require the applicant for such permit to submit an approved permit by the state department of natural resources, topographic data, engineering studies, proposed site plan and/or other similar data needed to determine the possible effects of flooding on a proposed structure and/or the effect of the structure on the flow of water. All such required data shall be prepared by a registered professional civil engineer.

(g) *City liability.* The city shall incur no liability whatsoever by permitting any use of a building within the floodplain within the city.

(h) *General standards for flood hazard reduction.*

(1) Development within a flood hazard area, including the erection of structures as permitted by this section, shall not occur except upon issuance of a zoning compliance permit in accordance with the requirements of this chapter and the following standards:

a. The requirements of this section shall be met;

b. The requirements of the underlying zoning district and applicable general provisions of this chapter shall be met;

c. All necessary development permits shall have been issued by appropriate local, state, and federal authorities, including a floodplain permit, approval, or "letter of no authority" from the state. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue, contingent only upon proof of zoning compliance, shall be acceptable.

(2) The use pattern and structure proposed to accomplish said use shall be so designed as not to reduce the water impoundment capacity of the floodplain or significantly change the volume or speed of the flow of water. Specific base flood elevation standards are as follows:

a. On the basis of the most recent available base flood elevation data all new construction and substantial improvements shall have the lowest floor, including basements, elevated at least one foot above the flood level; or, for nonresidential structures, be constructed such that at or below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that these standards are met and that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the base flood in the location of the structure. Such certification shall be submitted as provided in this section and shall indicate the elevation to which the structure is floodproofed.

b. Available flood hazard data from federal, state, or other sources shall be reasonably utilized in meeting the standards of this section. The most recent flood elevation data received from the Federal Insurance Administration shall take precedence over data from other sources.

(3) All new construction and substantial improvements within a flood hazard area shall:

a. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;

b. Be constructed with materials and utility equipment resistant to flood damage; and

c. Be constructed by methods and practices that minimize flood damage.

(4) All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the systems.

(5) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into floodwaters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.

(6) All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.

(7) Adequate drainage shall be provided to reduce exposure to flood hazards.

(8) The flood-carrying capacity of any altered or relocated watercourses not subject to state or federal regulations designed to ensure flood-carrying capacity shall be maintained.

(Prior Code, §§ 15.1401—15.1407; Ord. No. 150, §§ 14.01—14.07, 11-1-1997)

Sec. 46-164. PUD planned unit development district.

(a) *Intent.* A PUD zone is intended to allow substantial flexibility in planning and designing a project. This flexibility often accrues in the form of relief from compliance with conventional zoning ordinance site and design requirements. Ideally, this flexibility results in a development that is better planned, that contains more amenities, and that ultimately creates a development that is more desirable to live in than one produced in accordance with typical zoning ordinance and subdivision controls. Through proper planning and design, each PUD should include features, which further, and are in compliance with, the following objectives:

(1) To allow on the same site a mix of uses, structures, facilities, housing types, and open space in a manner compatible with each other and with existing and planned uses on nearby properties;

(2) To allow for the design of a development project to achieve better utilization of land than is possible through strict application of standard zoning and subdivision controls;

(3) To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic conditions, and does not adversely affect wetlands, flood plains, natural drainage patterns, and other natural site features;

(4) To promote the efficient use of land resulting in networks of utilities, streets, and other infrastructure features that maximize the allocation of fiscal and natural resources;

(5) To promote further creativity in design and construction techniques;

(6) To provide for the regulation of legal land uses not otherwise authorized within this chapter;

(7) To provide for single or mixed use developments that advance and are consistent with the goals and objectives the master plan; and

(8) To promote the principles of neo-traditional design, which include smaller lots, shorter setbacks, alleys, street trees streetlights, sidewalks, and civic open space and parks to create a sense of community and opportunities for interaction among neighbors.

(b) *Authorization.*

(1) A PUD zoning district may be approved by the city council, following a recommendation from the planning commission, in any location within the city in accordance with the procedures, regulations, and standards of this chapter.

(2) The approval of a PUD rezoning application shall require an amendment of the zoning ordinance and zoning map. An approval granted under this chapter shall constitute part of the zoning ordinance.

(c) *Qualifying conditions.*

(1) The area proposed for rezoning to PUD shall consist of a minimum of three contiguous acres although the city council following a recommendation from the planning commission may approve a PUD with less acreage if the council determines that the intent of the PUD district will nevertheless be achieved.

(2) The proposed development shall be under unified ownership or control such that there is one person, group of persons, or legal entity having responsibility for the completion and ongoing maintenance of the development in compliance with this chapter. This requirement for unified ownership or control shall not prohibit a transfer of ownership or control, so long as there is still unified ownership or control of and for the development as required by this chapter.

(3) The PUD shall be served by public water and sanitary sewer facilities.

(d) *Permitted uses.* Any land use authorized by this chapter may be permitted in a PUD as a principal or accessory use as well as any legal land use not otherwise authorized by this chapter subject to the requirements of this chapter:

(e) *Development standards for all uses.*

(1) *Modification of zoning requirements.* The lot area, lot width, building height, setback and yard requirements, general provisions, signs landscaping and screening requirements, lighting and parking regulations contained in this chapter which would apply for the zoning district in which the uses or uses proposed are normally allowed and which would be the most restrictive for the uses proposed shall be met except that the city council, following a recommendation from the planning commission, may increase, decrease, or otherwise modify these regulations, as may be requested by the applicant, in order to achieve the objectives of this chapter. Other criteria which shall be used in making these determinations shall include the following:

a. Whether the modification requested will result in a project that better satisfies the intent and objectives of this chapter;

b. Whether the modification is compatible with adjacent existing and future land uses and will not significantly adversely affect the use and enjoyment of nearby property;

c. Whether the modification will result in the preservation of existing vegetation or other natural features on site;

d. Whether the modification is necessary due to topography, natural features, or other unusual aspects of the site;

e. Whether the modification will improve or at least not impede emergency vehicle and personnel access;

f. Whether the modification will improve or at least not impede adequate pedestrian circulation; and

g. Whether the modification will result in traffic or other safety hazards, visual blight, distraction, or clutter, or a detriment to the public health, safety, or general welfare.

(2) *Dedicated open space requirements.*

a. PUDs shall maintain dedicated open space ("open space") in compliance with this section.

b. Areas which do not constitute dedicated open space:

1. Public or private road rights-of-way;

2. Golf courses;

3. Easements for overhead utility lines;

4. Areas within platted lots, site condominium units, or metes and bounds parcels occupied or to be occupied by a building or structure not permitted to be located in open space;

5. Off-street parking areas;

6. Detention and retention ponds created to serve the project;

7. Fifty percent of the area of wetlands, creeks, streams, existing ponds or lakes, or other bodies of water;

8. Fifty percent of the area of floodplains and 50 percent of areas of slopes of more than 20 percent; or

9. Open space which is not contiguous to the proposed PUD.

c. *Standards for dedicated open space in residential PUDs.* The following standards shall apply to the dedicated open space required in PUDs which devote all or a portion of land to residential uses:

1. The PUD shall provide and maintain a minimum of 20 percent of the gross site acreage as preserved dedicated open space in accordance with the standards of this section. The planning commission may consider a PUD with a lesser amount of open space if it is clear that the proposed PUD substantially provides for the intent of a PUD as stated in this section.

2. The open space may include a recreational trail, picnic area, children's play area, community building, or any other substantially similar use as determined by the planning commission. These uses, however, shall not utilize more than 50 percent of the dedicated open space.

3. Open space areas are encouraged to be linked with any adjacent open spaces, public parks bicycle paths, or pedestrian paths.

4. The open space shall be available for all residents of the development, if any, subject to reasonable rules and regulations and shall be reasonably accessible to the residents of the open space development. Safe and convenient pedestrian access points to the open space from the interior of the open space shall be provided.

5. If the land contains a lake, stream, or other body of water, the planning commission may require that a portion of the open space abut the body of water.

6. Open space shall be located to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, and wetlands.

7. Grading in open space areas shall be kept to a minimum.

d. *Standards for dedicated open space in non-residential PUDs.* The following standards shall apply to the dedicated open space requirements in PUDs which include only non-residential uses:

1. The PUD shall provide and maintain open space in a form which serves as an outdoor visual and functional community amenity, designated to contribute to the attractiveness and social function of the PUD, as approved by the planning commission.

2. The open space may include outdoor dining areas, benches or other areas for sitting, plazas, fountains, sculptures, pavilions, gazebo's, lawn or landscaped areas which contribute to the attractiveness of the site or which may be used for passive or active use, and similar uses or elements which contribute to social interaction or the aesthetics of the project as determined by the planning commission.

3. The planning commission shall determine if the dedicated open space proposed by the applicant is appropriate for the type and size of the non-residential use based on the intent of this section. The planning commission shall have the discretion to modify the proposed dedicated space as needed to meet the intent of this section.

4. The dedicated open space shall be maintained by the owner or operator of the development so that it sustains its original appearance and function, which shall be indicated in the agreement required by section (e)(2)e. below.

e. *Open space agreement.* The applicant shall provide an open space preservation and maintenance agreement to the city council. Said agreement shall be binding on all successors and future owners in title of the land containing the dedicated open space. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the city and the land use continues as approved in the PUD plan or the PUD plan is amended to allow the use. The agreement must be acceptable to the city council and may consist of a recorded deed restriction, covenants that run perpetually with the land, or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended. The agreement may be included as part of a PUD agreement provided for in section (n) of this chapter. The agreement must:

1. Indicate the proposed permitted use(s) of the open space;

2. List the parties who have an ownership interest in the open space, including all of the residents of the PUD who, by virtue of an association or other similar entity, shall at all times maintain an ownership interest in the dedicated open space;

3. Require that the open space be maintained by parties who have an ownership interest in the dedicated open space; and

4. Provide standards for scheduled maintenance of the open space, including periodic removal of underbrush to reduce fire hazard and the necessary pruning and harvesting of trees and new plantings.

(3) *Private street connections to adjacent property.* As part of a PUD approval, the city council may require a private street to be extended to the adjacent property line. The decision to do so shall be based on the following:

a. Whether the road extension is a logical method to:

1. Achieve the safe and efficient movement of vehicles and pedestrians between residential areas; and

2. Reduce the amount of vehicle trips otherwise required for access to adjoining residential areas.

b. Whether the natural-site features on the adjacent property preclude or make it very difficult to extend the private road, and whether the adjacent site is already developed so as to prevent the extension of the private road.

c. Whether the road extension would result in future off-site traffic creating unsafe situations for the residents of the project proposed by the applicant. If such a connection is required, the applicant shall construct the road to the adjacent property line at the time that the private road is built or the applicant shall illustrate an easement for the future road on the approved preliminary PUD site plan and record an agreement to construct the road connection within the easement when the adjacent property develops and the planning commission determines the necessity of the road connection. Upon completion of the connection, the applicant shall grant an access easement to the adjoining properties to allow for the uninterrupted movement of people and vehicles.

(f) *Additional development standards for residential PUDs.* For PUDs which will devote all or a portion of the site to residential use the following requirements shall apply in addition to the requirements of subsection (e) of this section:

(1) *Determination of number of dwellings.*

a. An area which is requested for rezoning to PUD shall only be developed in accordance with the density recommended by the master plan. The permitted number of dwellings for the proposed PUD area shall be based on the density recommendation of the master plan designation of the property as set forth in the following density table.

b. If the land requested for PUD rezoning contains more than one master plan land use recommendation, the number of dwellings allowed for each master plan area shall be computed separately using the formula below to determine the number of dwellings permitted for the entire site. The type and placement of the dwellings proposed however shall be subject to the approval of the city council following a recommendation from the planning commission during the review of the PUD site plan.

c. The city council, following a recommendation from the planning commission, may choose to allow fewer dwellings than permitted by the density table if, in the opinion of the council, a reduction in the number of dwellings proposed would better achieve the intent and objectives of the PUD district.

Density Table		
Master Plan Category	Zoning District	Maximum Average Density

LDR, Low Density Residential	R-1	4 dwelling units/acre
MDR, Medium Density Residential	R-2	5 dwelling units/acre
HDR, High Density Residential	R-3	12 dwelling units/acre

(2) *Formula to determine number of dwellings.* The number of dwellings which may be constructed within a PUD shall be determined as follows:

a. Determine gross site area. The gross site area may include road right-of-way if included in legal description.

b. Subtract one-half of unbuildable areas such as wetlands, floodplains, and slopes over 20 percent. However, in no case shall the amount of the unbuildable area subtracted be more than 25 percent of the gross site area.

c. Subtract acreage devoted to non-residential uses.

d. The resulting acreage is the net development acreage, which is then multiplied by the maximum average density from the density table to determine the number of dwelling units permitted. For example, the net development acreage for an LDR area would be multiplied by four dwelling units per acre.

e. If the area proposed for PUD zoning is not master planned for a specific residential density, the density and number of dwellings permitted shall be determined by the city council following a recommendation by the planning commission.

f. In making this determination, the city council shall take into consideration the density recommended for the surrounding lands, the nature of the existing land uses nearby, the type and number of dwellings proposed by the applicant and the intent and objectives of this section.

(3) *Wetland determination.* The determination of the existence of wetlands and floodplain areas on a parcel shall be demonstrated to the satisfaction of the planning commission through a written determination by the Michigan Department of Environmental Quality or by an analysis performed by a professional biologist, ecologist, environmental engineer, or similar professional person deemed acceptable to the planning commission.

(4) *Additional dwellings.* Additional dwellings above what is allowed by subsection (f) of this section above may be permitted at the discretion of the city council following a recommendation by the planning commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the city and residents of the PUD. Items which could be added to a PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:

a. Provision of recreational facilities such as playground areas with play equipment, ball fields, golf course, bike path, man-made lake, and community building or similar recreation facility.

b. Additional landscaping to preserve or enhance the view along the roadway.

c. Enhancement of existing wetlands, subject to applicable regulations.

d. Provision of additional unique open space or mature stands of trees, which would be of recognizable benefit to city residents.

e. Provision of additional open space off the PUD site but within the city which would be of benefit to the city by adding land for recreational opportunities, adding land to existing city owned land or allowing for the preservation of land along the Flat River or other natural area.

f. If additional dwelling units are to be permitted, the maximum number of dwelling units shall be determined by multiplying the maximum average density permitted in the density table by the gross site acreage of the site instead of the net development acreage excluding only the acreage devoted to any non-residential uses. In no case shall the number of dwelling units exceed what is permitted by this subsection.

(g) *Pre-application conference (Step 1).* Before submitting a PUD application, the applicant shall meet with the zoning administrator who may also request the attendance of the city's planner or engineer. The applicant may provide a conceptual drawing or other information about the development or property. The purpose of this meeting is for the zoning administrator to explain the PUD site plan design, development requirements, and review process to the applicant in order to assist the applicant in preparing a site plan for review by the planning commission. No formal action will be taken at a pre-application conference nor will any statements made at the pre-application conference be considered legally binding commitments from the city.

(h) *PUD Application (Step 2).*

(1) Following the pre-application conference, the applicant shall submit an application for rezoning to the zoning administrator. Such application shall include the following:

a. A completed application form;

b. Payment of a fee, including an escrow amount, as established by the city council; and

c. A narrative statement describing:

1. The objectives of the PUD and how it relates to the intent of the PUD district, as described in section (a) of this chapter;

2. The relationship of the PUD to the master plan;

3. Any phases of development and approximate time frame for each phase;

4. Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD;

5. Anticipated start and completion of construction;

6. Location, type, and size of areas to be dedicated open space; and

7. All modifications from the zoning regulations which would otherwise be applicable to the uses and structures proposed without this PUD.

(2) The applicant has the option of submitting either a Preliminary or Final PUD site plan with the PUD application.

a. A Preliminary PUD site plan shall contain the information required by section 46-41(c)(2)a herein and the applicant shall follow Steps 3, 4, 5 and 6.

b. A Final PUD site plan shall contain the information required by section 46-41(c)(2)b herein and the applicant shall follow Steps 3, 5 and 6.

c. The final PUD site plan shall contain all of the information required for a preliminary PUD site plan plus any other information reasonably required by the planning commission to ensure proper review of the PUD application. The planning commission may require an environmental impact assessment or other information to be submitted as part of the preliminary or final PUD site plan review.

(i) *Initial review at the planning commission work session (Step 3).*

(1) The planning commission shall review the application for rezoning and preliminary or final site plan at a work session and make recommendations to the applicant regarding the PUD.

(2) The applicant shall revise the preliminary or final PUD site plan as recommended by the planning commission and resubmit it to the zoning administrator in advance of the public hearing so as to allow sufficient time for review of the plan.

(j) *Planning commission review of preliminary PUD site plan and rezoning (Step 4).*

(1) If the applicant elects to submit a preliminary PUD site plan, the planning commission shall schedule a public hearing on the application and the preliminary PUD site plan. The notice of the public hearing shall follow the procedures of section 46-43 of the zoning ordinance.

(2) At the public hearing, the planning commission shall review the revised preliminary PUD site plan and application for rezoning and shall make recommendations to the applicant to assist in preparing a final site plan.

(3) The applicant may choose to skip submission of a preliminary PUD site plan and proceed to submit a final PUD site plan instead.

(k) *Planning commission review of final PUD site plan and rezoning (Step 5).*

(1) The planning commission shall schedule a public hearing on the application for rezoning and final PUD site plan. The notice of the public hearing shall follow the procedures of section 46-43 of the zoning ordinance. Following the hearing, the planning commission shall then make a recommendation to the city council regarding the application for rezoning and final PUD site plan. The planning commission shall base its recommendation on compliance with the standards of section 46-164(m) herein.

(2) The applicant shall make any revisions to the final PUD site plan as required by the planning commission and submit the revised final PUD site plan to the city council no later than 12 months after the planning commission's hearing on the final PUD site plan.

(l) *City council review (Step 6).*

(1) After receiving the recommendation of the planning commission, the city council shall conduct a public hearing on the rezoning application and final site plan. The notice of the public hearing shall follow the procedures of section 46-43 of the zoning ordinance.

(2) The city council shall then make its findings based on the PUD standards for approval in section (m) of this chapter. Upon a determination that a proposed PUD meets such standards, the city council may approve the PUD rezoning and final PUD site plan.

(3) The city council may impose reasonable conditions upon its approval of the PUD. Such conditions may include conditions necessary to ensure that public services and facilities affected by the PUD will be capable of accommodating increased service and facility loads caused by the property use or activity, protect the natural environment and conserve natural resources and energy, ensure compatibility with adjacent uses of land, and promote the use of property in a socially and economically desirable manner. Conditions imposed shall meet all of plan the following requirements:

a. They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the proposed project under consideration, residents, and landowners immediately adjacent to the proposed PUD and the community as a whole;

b. They shall be related to the valid exercise of the police power and the purposes, which are affected by the proposed PUD;

c. They shall be necessary to meet the intent and purpose of this chapter, related to the standards established in the ordinance for the proposed PUD under consideration, and necessary to ensure compliance with those standards; and

d. Those which are imposed with respect to the approval of a PUD shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the city council and the property owner.

(4) The decision of the city council may not be appealed to the zoning board of appeals.

(m) *Standards for approval for both preliminary and final review.* A PUD shall be approved only if it complies with each of the following standards:

(1) The proposed PUD complies with all qualifying conditions of section (c) of this chapter;

(2) The uses to be conducted within the proposed PUD are substantially consistent with the master plan, are based on the design of the PUD and the conditions imposed, or are appropriate for the proposed location, and they are not likely to lead to significant changes contained in the master plan for the area where the PUD is to be located;

(3) The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development;

(4) The proposed uses within the PUD will not possess conditions or effects that would be injurious to the public health, safety, or welfare of the community;

(5) The proposed PUD is consistent with the spirit and intent of the PUD district, as described in section (a) of this chapter and represents an opportunity for improved or innovative development for the community that could not be achieved through conventional zoning; and

(6) The proposed PUD meets all the review standards of subsection 46-41(c)(3) of the zoning ordinance.

(n) *PUD agreement.*

(1) Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the city council may require the applicant to enter into an agreement with the city in recordable form, setting forth the applicant's obligations with respect to the PUD.

(2) The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the city council.

(3) A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.

(4) The agreement shall also establish the remedies of the city in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant.

(5) All documents shall be executed and recorded in the office of the Montcalm County Register of Deeds.

(o) *Time limit for an approved PUD district.*

(1) Each development shall be under construction within 12 months after the date of approval of the PUD final development plan, except as noted in this section.

(2) The city council may grant one extension of up to an additional 12-month period if the applicant applies for such extension prior to the date of the expiration of the PUD or PUD phase and provided that:

a. The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and

b. The PUD requirements and standards, including those of the zoning ordinance and master plan that are reasonably related to said development, have not changed.

(3) Should the time limits provided in section (o) of this chapter expire, the preliminary PUD site plan approval(s) shall be null and void. This does not include any phases that may have received final PUD approval.

(4) Should the PUD district become null and void, the city council shall have the right to rezone the property back to the prior zoning classification(s) or to rezone it to any other zoning classification(s) in accordance with the requirements for rezoning of this chapter.

(5) If the property is not rezoned, the subject property shall remain zoned as a PUD, but the preliminary or final PUD plans previously approved shall still become null and void. In order to utilize the property as a PUD, an applicant shall submit plans for preliminary and final PUD site plan approval as stated in this chapter, but PUD rezoning by the city council shall not be required.

(p) *Changes to an approved PUD.* Changes to an approved PUD shall be permitted only under the following circumstances:

(1) The holder of an approved PUD final development plan shall notify the zoning administrator of any desired change to the approved PUD.

(2) The zoning administrator may administratively approve minor changes, which are those which will not alter the basic design and character of the PUD or any conditions which were imposed as part of the original approval. Minor changes shall include but not be limited to the following:

a. Reduction of the size of any building or sign;

b. Movement of buildings or signs by no more than ten feet;

c. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;

d. Internal rearrangement of a parking lot, which does not affect the number of parking spaces or alter access locations or design; and

e. Changes required or requested by the city, Montcalm County, or other state or federal regulatory agency in order to conform to other laws or regulations or for reasons of public safety.

(3) A proposed change, other than a minor change as determined by the zoning administrator, shall be submitted as a major amendment to the PUD and shall be processed in the same manner as an original PUD application as set forth in this chapter except that the PUD zoning shall remain in place.

(4) The zoning administrator may refer any decision regarding any proposed change to an approved final site plan to the planning commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the planning commission for approval, the zoning administrator may consult with the chairperson of the planning commission.

(q) *Approved PUDs.*

(1) PUD projects that received site plan approval by the city council before the effective date of this chapter or any amendment thereto shall be considered to be conforming uses and shall continue to be regulated by the conditions and the approved site plan that was approved for each of these existing PUDs.

(2) A major or minor change to these existing PUDs shall be subject to the procedures and requirements for such changes as set forth in this chapter except that for a major change, the number of dwelling units and amount of open space shall remain as were previously approved in the final PUD site plan. All other requirements and procedures for this chapter, as amended, shall apply to the major change.

(3) If an existing PUD is proposed to be expanded beyond the boundaries of the existing PUD then such enlargement shall be subject to all the requirements and procedures of this chapter.

(Prior Code, §§ 15.1501—15.1507; Ord. No. 150, §§ 15.01—15.07, 11-1-1997; Amend: 7-15-2014; Ord. No. 17-06 , § 1, 11-7-2017)

State law reference(s)—Planned unit development, MCL 125.3503.

Sec. 46-165. MUD mixed use district.

(a) *Intent.* The mixed use zoning district is a recommendation of the 2012 Greenville Master Plan and applies to the existing lands east, west and south of the central business district. Specifically, the lots fronting on the east side of Clay Street between Benton and Grove, the lots fronting on the west side of Franklin from Grove Street to Washington, the parcels fronting on the west side of Clay between Washington and Benton as well as the abutting parcels, and several parcels fronting on Grove Street west of Franklin and east of Clay.

The existing physical form of much of this area is a neighborhood of primarily single family houses mixed with houses converted to two- and multi-family use with a pedestrian scale; proximity to retail and service uses in the CBD; houses with front porches extending into the front setback; sidewalks; street trees; and detached garages.

The mixed use classification is designed to retain this form as new uses replace existing ones. The closeness to the CBD makes this area attractive for a new type of residential use, such as townhouses and lofts, and for multi-story buildings with ground floor retail. The types of uses planned for this area particularly the residential uses will serve to support existing businesses in the CBD.

The 2012 Plan envisions the redevelopment of this area with a mix of uses. The mixed use category would permit small retail or offices within existing houses, live work units where the first floor contains the business with the second floor serving as living quarters for the business owner, or other residents, townhouses and four to eight unit apartments or condominiums placed close to the front lot line. Residential densities could be up to 12 units per acre which is the same as the R-3 zone.

(b) *Permitted uses.* Land and/or buildings in the mixed use district may be used for the following purposes by right:

(1) Office buildings for any of the following occupations:

a. Executive, governmental, administrative, professional, designers, accounting, drafting, and other similar professional activities.

b. Medical, optical, dental, and veterinary offices and clinics.

(2) Banks, credit unions, savings and loan associations, and other similar uses, including those with drive-through facilities.

(3) Family and group child care facilities.

(4) Nursing, or convalescent homes, and assisted living facilities.

(5) Restaurants, excluding those with drive-through facilities. Outdoor dining is permitted where such dining does not encroach upon a minimum of five feet of unobstructed sidewalk space adjacent to the curb. Outdoor dining may be separated from the sidewalk only with movable planters, fencing or

similar non-fixed barriers, provided they do not exceed a height of 36 inches including plant material. Any outdoor dining activity proposed for a public sidewalk or elsewhere in a road right-of-way must first be approved by the city council.

(6) Coin-operated laundries.

(7) The sale of retail items. However, any new building constructed or any existing building enlarged after the effective date of this section shall not devote more than 4,000 square feet of gross floor area in the building to the sale and storage of such retail items.

(8) Museums, libraries, radio/television stations, and public parks.

(9) Personal service establishments conducting services on the premises, such as barbershops and beauty shops, shoe repair, tailoring and dry cleaning, fitness centers, travel agencies, and other similar uses.

(10) Single-family attached dwellings such as townhouses and row houses with no more than eight units attached in any building.

(11) The conversion of a single family dwelling to a two-family dwelling provided the use complies with the minimum lot size requirements of this chapter.

(12) Residential dwellings above first floor nonresidential uses subject to the following requirements:

a. More than one dwelling unit is permitted for each storefront.

b. Residential uses shall be completely separated from the nonresidential uses with a separate means of entrance and internal or external staircase.

c. Each dwelling shall contain a minimum of 600 square feet of floor area for a one bedroom unit and an additional 150 square feet for each additional bedroom.

d. Second and third story residential uses shall comply with all applicable accessibility requirements of the Americans with Disabilities Act.

e. Two on-site parking spaces shall be provided for each dwelling unit.

(13) Buildings, structures, and uses accessory to the permitted and special land uses.

(c) *Special land uses.* Land and/or buildings in the mixed use district may be used for the following purposes when approved by the planning commission in accordance with the requirements of sections 46-182 through 46-184:

(1) Bed and breakfast inns.

(2) Commercial schools.

(3) Churches, lodges, and private clubs.

(4) Auto detailing which involves the indoor washing of vehicles, including interior cleaning, application of graphics and pin striping of the exterior and minor touch up painting. Painting of entire vehicles or any painting activity which involves the use of spray painting equipment is prohibited. Parking requirements shall be as required for automobile service and repair facilities as set forth in section 46-258.

(5) Child care facility/child care center.

(6) Gas station/convenience stores with or without restaurants when located on a parcel with frontage on West or East Washington Street.

(d) *Building placement and form standards for two-family dwellings.* Two-family dwellings constructed after the effective date of this section and single-family dwellings converted to a two-family dwelling shall comply with the following requirements:

(1) Minimum lot area and width: Ten thousand square feet and 60 feet wide.

(2) Maximum lot coverage of buildings: Thirty percent.

(3) Required front setback: Minimum of five feet, maximum of 15 feet from the street right-of-way line along Clay and Franklin Streets. Porches and stoops may be constructed between three feet and ten feet from the front lot line. The minimum front setback for other streets shall be as required in the C-1 zone.

(4) Side setback: Eighteen feet total; Minimum: Seven feet.

(5) Rear setback: Twenty-five feet.

(6) Maximum building height: Thirty-five feet.

(7) Minimum roof pitch: 4:12 (rise: run).

(8) Minimum front porch area (if provided): Seventy square feet.

(9) Minimum floor area: As required for two-family dwellings in the R-2 zoning district.

(10) Parking shall be provided as required by section 46-258.

(e) *Building placement and form standards for attached dwellings and other permitted residential uses.* Attached dwelling units shall be subject to site plan review by the planning commission and such uses shall also comply with the following requirements:

(1) Maximum density: Three thousand six hundred thirty square feet of lot area per dwelling unit (12 dwelling units per acre).

(2) Required front setback: Minimum of five feet, maximum of 15 feet from the street right-of-way line along Clay and Franklin Streets. Porches and stoops may be constructed between three feet and ten feet from the front lot line. The minimum front setback for other streets shall be as required in the R-2 zone.

(3) Side setback: Eighteen feet total; Minimum: Seven feet.

(4) Rear setback: Twenty-five feet.

(5) Minimum number of stories: Two.

(6) Maximum building height: Thirty-five feet.

(7) Minimum roof pitch: 4:12 to 12:12 (rise: run). Roofs which are less than 22 feet above grade may be flat or pitched at any slope.

(8) Minimum front porch area (if provided): Seventy square feet.

(9) Minimum floor area: As required for dwellings in the R-3 zoning district.

(10) Windows: A minimum of 15 percent and a maximum of 50 percent of the front and side facades each shall have transparent non-reflective windows. Windows on upper stories shall be vertical with defined edges.

(11) Exterior building materials facing a public or private street: Excluding windows the remainder of the exterior shall be brick, stone, wood, vinyl or lap siding or similar materials with trim and ornamentation consisting of metal, concrete, brick, stone or wood.

(12) Façade articulation: Differentiate each row house or townhouse separately by providing changes in the plane of a wall such as recesses or projections.

(13) Building entrance: For row or townhouses provide one entrance per unit facing the street.

(14) Enclosed porches are allowed.

(15) Parking for townhouses, row houses and multifamily buildings shall comply with the requirements of section 46-258 herein and must be located on site behind the principal building.

(f) *Conversion of existing single-family dwelling to a commercial, office or nonresidential use.* Existing single-family dwellings which are proposed to be converted to a commercial, office or other nonresidential use including the enlargement of the existing dwelling shall comply with the following requirements:

(1) The proposed use shall be subject to site plan review by the planning commission.

(2) The primary entrance to the building shall face the street from which the address of the building is derived or be located on the side of the building.

(3) The building shall comply with the requirements of the Greenville Building Code.

(4) Exterior defects in the building or property such as cracked, chipped or peeling siding, cracked sidewalk, unkempt lawn or landscaping shall be identified as part of the site plan review process and corrected before the building is occupied.

(5) A walkway shall be provided from the existing or proposed sidewalk within the right-of-way to the primary building entrance.

(6) Required parking shall be provided on the site or within 300 feet of the site.

(7) Retail items offered for sale on the site may be displayed outdoors behind the front lot line but only during business hours of operation.

(8) Structural alterations of existing buildings, including enlargements, are also subject to the requirements of subsection 46-166(g) below, insofar as practicable and feasible, although modifications of these requirements may be allowed in accordance with subsection 46-166(j) herein.

(g) *Building placement and form standards for office, commercial and other nonresidential buildings.* Newly constructed office, commercial and other permitted nonresidential uses and additions to existing nonresidential buildings shall be subject to site plan review by the planning commission and shall comply with the following requirements:

(1) Minimum lot area and width: None required.

(2) Front setbacks:

a. Except as noted in subsection b. below, the front setback for all streets in the MUD zone shall be no more than 15 feet from the street right-of-way line. A minimum of 80 percent of the front wall of the building must be within this build to zone along each street.

b. Front setbacks for parcels with frontage on East and West Washington Street shall be a minimum of 15 feet from the right of way line along these streets and a minimum of 15 feet from any other abutting street if the parcel is a corner lot. The maximum front setback shall be determined by the planning commission in its review of the site plan. In determining the front setback, the planning commission shall take into consideration the character and appearance of adjoining parcels, the setbacks of nearby existing buildings, as well as the intent and purpose of the mixed use district.

(3) Side and rear setbacks: The side and rear setbacks shall be determined by the planning commission in its review of the final site plan. In determining the setbacks the planning commission shall take into

consideration the impact on adjoining land uses, whether the proposed setback disrupts the interior circulation pattern on that block, whether safe vehicular and pedestrian access is maintained, whether the setbacks will allow safe access for firefighting purposes, and whether or not the proposed setbacks will create unusable or unsafe areas.

(4) Maximum building height: Thirty-five feet.

(5) Minimum number of stories: One and one-half except for buildings on parcels with frontage on East and West Washington Street.

(6) Facade: The facade of a building, which is defined as that portion or portions of a building, which fronts on a public street shall adhere to the following requirement: At least 80 percent of the façade shall only be constructed from one or more of the following materials: Traditional hard coat stucco, brick, natural or cast stone, tinted and/or textured masonry block, glass.

(7) Horizontal expression lines: The façade shall have a horizontal expression line which separates the first floor from the upper floors.

(8) Customer entrances: Building facades shall exhibit clearly defined, highly visible and articulated front and, if provided, rear customer entrances, that feature at least two of the following:

a. Canopies or porticos.

b. Overhangs.

c. Recesses or projections.

d. Raised cornice parapets over the door.

e. Arches, outdoor patios.

f. Display windows.

(9) Roof type: Pitched roofs with overhanging eaves or flat roofs with articulated parapets and cornices. Materials for pitched roofs shall include shingles (either wood or asphalt composition), slate, tiles, or other similar material. Parapets shall be used to conceal flat sections of roofs and rooftop equipment, such as HVAC units, from public view. The average height of such parapets shall not exceed 25 percent of the height of the supporting wall and such parapets shall not at any point exceed one-third of the height of the supporting wall.

(10) Windows:

a. All windows. A single window pane or more than one pane stacked vertically shall not exceed one story in height. Windows shall not be reflective glass although the planning commission may permit windows which are not totally transparent if such windows are designed for energy conservation.

b. First story windows. In order to provide a clear view inward the first story of a façade window opening shall cover a minimum of 15 percent and a maximum of 60 percent of the wall area and the bottom of the window opening shall be no higher than 30 inches from sidewalk level.

c. Upper story windows. Between 15 percent and 60 percent of the façade wall area for all stories above the first story shall be devoted to transparent windows. If such windows are rectangular they shall be oriented in a vertical fashion. In addition, all such windows shall contain visible sills and lintels on the exterior wall and no single pane of glass shall exceed 36 square feet in area.

(11) Sidewalks shall be provided along all streets abutting a parcel in accordance with city requirements. For sidewalks, which need to be placed within the front setback an easement, shall be granted by the property owner to the City of Greenville for public use of the sidewalk.

(12) Retail items offered for sale may be displayed outdoors on the site behind the front lot line but only during business hours of operation.

(h) *Waste disposal.* Dumpsters shall be kept within a fenced or brick walled area which shall be at least six feet high and located so that their use, including emptying, does not pose a nuisance to nearby residents.

(i) *Development requirements.*

(1) Landscaping and screening are required in accordance with section 46-257. Two family dwellings shall comply with the R-2 Zone requirements. Commercial and office uses and other permitted nonresidential uses shall comply with the requirements for the C-1 zone.

(2) Signs shall be as permitted for the office and C-1 zones and otherwise as regulated by section 46-259.

(3) Site plan review shall be in accordance with section 46-41. In addition to the submittal requirements of section 46-41 the application shall also include building plans and architectural drawings to demonstrate compliance with the design standards of the mixed-use section.

(j) *Modification of standards.* The design standards and requirements of subsections 46-166(d)—(g) may be modified by the planning commission for those projects which require site plan review by the commission. In determining whether to approve a modification, the planning commission shall submit findings of fact regarding the following factors:

(1) The modification shall still satisfy the purposes of the mixed-use zone as stated herein.

(2) Modification of the standards and requirements shall still result in the alteration of an existing building or construction of a new building being visually compatible with adjacent existing buildings and buildings in the central business district.

(3) Modifications of the standards and requirements are necessary as strict compliance would create practical physical difficulties in applying the standards and requirements in the reconstruction or conversion of an existing building. Monetary difficulties in complying with the standards and requirements may be considered but shall not be the overriding reason for allowing modifications.

(Ord. No. 15-02, § 1, 5-19-2015)

Secs. 46-166—46-181. Reserved.

ARTICLE VI. SPECIAL LAND USES[51]

DIVISION 1. SPECIAL LAND USES GENERALLY

Sec. 46-182. Intent.

This article provides a set of procedures and standards for special uses of land or structures, which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health,

[51]State law reference(s)—Special land uses, MCL 125.3504.

safety, convenience, and general welfare of the City. For purposes of this chapter, all special land uses within each zone district are subject to the conditions and standards of this article.

(Prior Code, § 15.1601; Ord. No. 150, § 16.01, 11-1-1997)

Sec. 46-183. Application procedures.

The application for a special land use shall be submitted and processed under the following procedures:

(1) An application shall be submitted through the zoning administrator on a form for that purpose and shall be accompanied by the payment of a fee as established by the city council and by site plans as specified in section 46-41. In the event that both a rezoning and special land use approval are required, the rezoning shall be completed prior to consideration of the special land use.

(2) Review procedures are as follows:

a. The planning commission shall hold a public hearing on the application, providing notice of such hearing in accordance with the Michigan Zoning Enabling Act (MCL 125.3101 et seq.).

b. The planning commission shall review the application and such other information available to it through the public hearing or from any other source, including recommendations or reports from the city planner, city engineer, or other party.

c. The planning commission shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision into the meeting minutes.

d. No petition for special land use approval which has been disapproved shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the zoning administrator after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

(3) A special land use approved pursuant to this chapter shall either be under construction, or operation begun within one year after the date of approval of the special land use, except as noted below:

a. The planning commission may grant one six-month extension of such time period, provided the applicant requests the extension in writing prior to the date of the expiration of the special land use approval.

b. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project has a reasonable expectation of proceeding within the extension period.

c. If neither of the above provisions are fulfilled or the six-month extension has expired prior to construction, the special land use approval shall be null and void.

(4) The planning commission shall have the authority to revoke any special land use approval after it has been shown, after a public hearing following the procedures of this chapter, that the holder of the approval has failed to comply with any of the applicable requirements in this section, other applicable sections of this chapter, or conditions of the special land use approval.

(Prior Code, § 15.1602; Ord. No. 150, § 16.02, 11-1-1997)

Sec. 46-184. General standards.

The following general standards, in addition to those specific standards established for certain uses, shall be satisfied before the planning commission makes a decision on a special land use application:

(1) Each application shall be reviewed for the purpose of determining that the proposed special land use complies with division 2 of this article, and in addition, that the special land use will:

a. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;

b. Be served adequately by essential public facilities and services such as, but not limited to, highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities;

c. Not create excessive additional requirements at public cost for public facilities and services;

d. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, lighting, noise, smoke, fumes, glare, or odors; and

e. Be consistent with the intent and purposes of the master plan.

(2) The planning commission may stipulate such additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with such conditions may result in the revocation of the special land use approval, pursuant to subsection 46-186(4). Conditions imposed shall be those necessary to:

a. Meet the intent and purpose of this chapter;

b. Relate to the standards established in this chapter for the land use or activity under consideration;

c. Ensure compliance with those standards;

d. Protect the general welfare;

e. Protect individual property rights; and

f. Ensure that the intent and objectives of this chapter will be observed.

(Prior Code, § 15.1603; Ord. No. 150, § 16.03, 11-1-1997)

Sec. 46-185—46-206. Reserved.

DIVISION 2. SPECIAL LAND USES STANDARDS FOR SPECIFIC USES

Sec. 46-207. Generally.

The specific and detailed standards of this division are requirements which must be met by those uses in addition to all other standards and requirements. Those uses specified in this chapter as permitted uses or as special land uses shall be subject to the requirements of the district in which the use is located in addition to all applicable conditions, standards, and regulations as are cited in the following:

(1) Adult uses.

(2) Automobile service and repair facilities.

(3) Banks, credit unions, savings and loan associations, and other similar uses with drive-through facilities.

(4) Bed and breakfast inns.

(5) Bulk oil and gasoline distribution.

(6) Churches, lodges, and private clubs.

(7) Commercial schools.

(8) Golf courses.

(9) Group child care homes.

(10) Hospitals.

(11) Hotels and motels.

(12) Indoor theaters and recreation centers, such as bowling alleys, skating rinks, and other similar uses.

(13) Junkyards.

(14) Kennels.

(15) Museums and libraries.

(16) Nursing or convalescent homes.

(17) Open air businesses.

(18) Parking lots, public or private.

(19) Personal service establishments.

(20) Private, noncommercial institutional or community recreation parks and recreation centers.

(21) Public or private nonprofit schools.

(22) Restaurants with drive-through facilities.

(23) Retail businesses exceeding 10,000 square feet gross floor area conducting business entirely within an enclosed building.

(24) Retail businesses exceeding 250,000 square feet gross floor area conducting business entirely within an enclosed building.

(25) State-licensed residential group home care facilities.

(26) Towers in excess of 50 feet in height for commercial wireless telecommunication services.

(27) Truck and freight terminals.

(28) Upper story residential dwellings.

(29) Utility and public service buildings without storage yards.

(30) Vehicle wash establishments.

(31) Uses which are industrial in nature, or are similar to one or more of the industrial uses in subsection 46-161(b) or (c), as determined by the planning commission, and which are not specified elsewhere in this chapter.

(32) Mini-warehouse and self storage facilities.

(33) Community service centers.

(34) Plastic injection molding businesses.

(35) Funeral homes and mortuary establishments including cremation services.

(36) Gas station/convenience stores with or without restaurants.

(Prior Code, § 15.1604; Ord. No. 150, § 16.04(A), 11-1-1997; Ord. No. 150-E, 9-21-2004; Ord. No. 15-02, § 2, 5-19-2015)

Sec. 46-208. Adult uses.

The following provisions apply to adult uses:

(1) This section applies to adult uses. In the development and execution of this section, it is recognized that there are some uses, which, because of their very nature, have serious objectionable operational characteristics, particularly when several such uses are concentrated in certain areas, or when located in proximity to a residential district, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The controls of this section are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential or other neighborhood. These controls do not legitimize activities, which are prohibited in this chapter.

(2) Adult uses are permitted if:

a. The use is located within a zoning district where the use requires special land use approval.

b. The use shall not be located within a 1,000-foot radius of any other adult use, public park, school, child care facility, or church.

c. For massage parlors, all persons massaging any client or customer must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a school of massage therapy that is certified by the state, or have such other similar qualifications which must be submitted to and approved by the planning commission. All massage clinics are subject to inspection from time to time by the zoning administrator and shall be required to file reports as may be required by the city, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.

(3) Establishments where uses subject to the control of this section are located shall not be expanded in any manner without first applying for and receiving the approval of the planning commission, as provided herein. Further, if a use subject to the control of this section is discontinued, the use may not be reestablished without applying for and receiving special land use approval, as required herein.

(4) Any sign or signs proposed for the adult use business must comply with the requirements of this chapter, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.

(5) Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or existing the business, and using lettering which is at least two inches in height, stating that:

a. "Persons under the age of 18 years are not permitted to enter the premises."

b. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

(6) No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.

(7) No adult use shall be open for business prior to 10:00 a.m. or after 10:00 p.m. However, employees or other agents or contractors of the business are permitted to be on the premises at other hours for legitimate business purposes such as maintenance, cleanup, preparation, recordkeeping, and similar purposes.

(Prior Code, § 15.1604(A); Ord. No. 150, § 16.04(A), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-209. Automobile service and repair facilities.

The following provisions apply to automobile service and repair facilities:

(1) Minimum lot area shall be 15,000 square feet and minimum lot width shall be 100 feet, or as required by the zoning district in which the use is located, whichever is greater.

(2) All buildings, structures, and equipment shall be located not less than 50 feet from any right-of-way line and not less than 50 feet from any side or rear lot line abutting a residential district.

(3) No more than one curb opening shall be permitted for every 75 feet of frontage (or major fraction thereof) along any street, with a maximum of one per street when located on a corner lot.

(4) No drive or curb opening shall be located nearer than 75 feet to any intersection or more than 25 feet to any adjacent residential district property line. No drive shall be located nearer than 50 feet, as measured along the property line, to any other driveway.

(5) No driveway shall be permitted where, in the opinion of the planning commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.

(6) A raised curb of six inches in height shall be constructed along the perimeter of all paved and landscaped areas.

(7) All areas not paved or occupied by buildings or structures shall be landscaped.

(8) All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than 50 feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right-of-way.

(9) When adjoining a residential district, landscaping shall be provided in accordance with the requirements of subsection 46-257(e).

(10) All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six-foot high, sight-obscuring wall or fence. No such outside storage area shall exceed an area of 200 square feet. Outside parking of a maximum of five disabled, wrecked, or partially dismantled vehicles shall be permitted for a period not exceeding five days.

(11) The rental of trucks, trailers, and any other vehicles on the premises is expressly prohibited without specific approval by the planning commission. If such use is permitted, proper screening, landscaping, and additional parking area shall be provided in accordance with the requirements set forth by the planning commission.

(12) The nearest portion of any lot used for this special land use shall be at least 300 feet from an entrance or exit to any property containing a public library, public or private school, playground, play field, park, church or hospital.

(13) Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two vehicles.

(Prior Code, § 15.1604(B); Ord. No. 150, § 16.04(B), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-210. Banks, credit unions, savings and loan associations, and other similar uses with drive-through facilities.

The following provisions apply to banks, credit unions, savings and loan associations, and other similar uses with drive-through facilities:

(1) Sufficient space shall be provided to accommodate all vehicles queuing on the property, so that no vehicles are required to wait on an adjoining street or alley to enter the site.

(2) Public access to the site shall be located at least 50 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.

(3) Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

(Prior Code, § 15.1604(C); Ord. No. 150, § 16.04(C), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-211. Bed and breakfast inns.

The following provisions apply to bed and breakfast inns:

(1) Such uses shall only be established in a detached single-family dwelling.

(2) The bed and breakfast inn shall be the principal residence of the operator.

(3) The total number of guest rooms in the establishment shall not exceed three, plus one additional guest room for each 10,000 square feet or fraction thereof by which the lot area of the use exceeds one acre. The planning commission may establish a maximum number of guest rooms.

(4) Meals may be served only to the operator's family, employees, and overnight guests.

(Prior Code, § 15.1604(D); Ord. No. 150, § 16.04(D), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-212. Bulk oil and gasoline distribution.

The following provisions apply to bulk oil and gasoline distribution:

(1) Access driveways shall be located no less than 100 feet from the centerline of the intersection of any street or any other driveway.

(2) The principal and accessory buildings and structures shall not be located within 800 feet of any residential district or use.

(3) Adequate spill collection and containment facilities shall be provided around all storage and pump areas.

(Prior Code, § 15.1604(E); Ord. No. 150, § 16.04(E), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-213. Churches, lodges, and private clubs.

The following provisions apply to churches, lodges, and private clubs:

(1) Minimum lot width shall be 200 feet.

(2) Minimum lot area shall be two acres, plus an additional 15,000 square feet for each 100 seats of seating capacity or fraction thereof in excess of 100, or the lot area required by the district in which it is located, whichever is greater.

(Prior Code, § 15.1604(F); Ord. No. 150, § 16.04(F), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-214. Commercial schools.

Public access to the site of a commercial school shall be located at least 50 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.

(Prior Code, § 15.1604(G); Ord. No. 150, § 16.04(G), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-215. Golf courses.

The following provisions apply to golf courses:

(1) Minimum lot size shall be 40 acres.

(2) The main and accessory buildings shall be set back at least 75 feet from all property and right-of-way lines.

(3) Retail sales to guests and visitors only may be permitted. There shall be no externally visible evidence of a commercial activity, however incidental.

(Prior Code, § 15.1604(H); Ord. No. 150, § 16.04(H), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-216. Group child care homes.

The following provisions apply to group child care homes:

(1) An outdoor recreation area shall be provided at a ratio of 150 square feet for each client served and shall be enclosed with fencing having a minimum height of four feet.

(2) Off-street parking shall be provided for family members and employees of the facility. Client pickup and drop-off areas shall be located in such a manner that vehicles do not stop in the travel lane of the adjacent roadway and vehicles are not required to back into the roadway.

(3) The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.

(4) The facility shall be in compliance with all applicable state licensing requirements.

(Prior Code, § 15.1604(I); Ord. No. 150, § 16.04(I), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-217. Hospitals.

The following provisions apply to hospitals:

(1) Minimum lot area shall be ten acres and minimum lot width shall be 200 feet.

(2) At least one property line shall abut an arterial or collector street, as designated by the master plan. The ingress and egress for off-street parking facilities for guests, patients, employees and staff shall be directly from said street.

(3) All main and accessory buildings shall be set back at least 30 feet from any property line.

(4) Ambulance and emergency entrance areas shall be visually screened from the view of adjacent residential uses by a structure or sight-obscuring wall or fence of six feet or more in height. Access to and from the ambulance and delivery area shall be directly from an arterial or collector street, as designated by the master plan.

(5) No power plant, laundry, or loading area shall be located nearer than 100 feet to any adjacent residential district or use.

(6) No more than 30 percent of the gross site area shall be occupied by buildings, excluding parking structures.

(Prior Code, § 15.1604(J); Ord. No. 150, § 16.04(J), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-218. Hotels and motels.

The following provisions apply to hotels and motels:

(1) Drive openings shall be located so as not to conflict with access or traffic flow to adjacent uses or streets.

(2) The required front yard shall be landscaped and kept free of parking and aisles, except for necessary drive openings.

(3) Each guest unit shall contain a minimum of 250 square feet of gross floor area.

(4) A minimum lot area of one acre is required together with a minimum lot width of 150 feet, and there shall be no less than 800 square feet of lot area per guest unit.

(Prior Code, § 15.1604(K); Ord. No. 150, § 16.04(K), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-219. Indoor theaters and recreation centers, such as bowling alleys, skating rinks, and other similar uses.

The following provisions apply to indoor theaters and recreation centers, such as bowling alleys, skating rinks, and other similar uses:

(1) Driveways serving the site shall be located at least 100 feet from any intersection (measured from the nearest right-of-way line to the nearest edge of said access).

(2) The main and accessory buildings shall be located a minimum of 100 feet from any residential district or use property line.

(3) All uses shall be conducted completely within a fully enclosed building.

(Prior Code, § 15.1604(L); Ord. No. 150, § 16.04(L), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-220. Junkyards.

The following provisions apply to junkyards:

(1) Minimum lot area shall be five acres.

(2) The storage area shall be screened from view around the entire periphery by a sight-obscuring wall or fence not less than seven feet in height meeting the requirements of subsection 46-257(c)(3). Said wall or fence shall be of sound construction, painted and otherwise finished neatly and inconspicuously.

(3) The area upon which junk materials are stored, including the main and accessory buildings, shall be located not closer than 500 feet to any public building, church, hospital, park, child care center, or school, or closer than 100 feet to any residential district or use.

(4) All buildings shall be set back not less than 50 feet from any property line. Fenced areas shall not be located closer than 150 feet from any right-of-way line and 50 feet from any other property line. Such required setback areas shall be planted with trees, grass, and shrubs to minimize the appearance of the installation.

(5) No storage shall be permitted outside the required fenced area and no materials shall be stacked higher than such fence.

(6) All batteries, chemicals, and other toxic or hazardous substances shall be removed from vehicles and other junk materials and stored or disposed of in accordance with applicable state or federal regulations.

(Prior Code, § 15.1604(M); Ord. No. 150, § 16.04(M), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-221. Kennels.

The following provisions apply to kennels:

(1) Buildings wherein animals are kept, dog runs, and/or exercise areas shall not be located nearer than 100 feet to any adjacent occupied dwelling or any adjacent building used by the public, and shall not be located in any required front, rear or side yard setback area.

(2) All principal use activities shall be conducted within a totally enclosed main building.

(3) The minimum lot size shall be two acres.

(Prior Code, § 15.1604(N); Ord. No. 150, § 16.04(N), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-222. Museums and libraries.

The following provisions apply to museums and libraries:

(1) Public access to the site shall be located at least 50 feet from any intersection, measured from the nearest right-of-way line to the nearest edge of said access.

(2) The main and accessory buildings shall be located, a minimum of 100 feet from any residential district or use.

(3) All uses shall be conducted completely within a fully enclosed building.

(Prior Code, § 15.1604(O); Ord. No. 150, § 16.04(O), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-223. Nursing or convalescent homes.

The following provisions apply to nursing or convalescent homes:

(1) The minimum lot size shall be three acres in the R-3 Zone and one acre in all other zones where such uses are permitted.

(2) Exits from the facility shall be monitored at all times by the owner/operator and measures established to prevent unattended residents from leaving the building and premises. The owner/operator shall provide as part of the application materials a written description of how this will be accomplished. The planning commission may impose conditions to further ensure that unattended residents cannot leave the facility as a safeguard for their own protection and that of nearby residents.

(Prior Code, § 15.1604(P); Ord. No. 150, § 16.04(P), 11-1-1997; Ord. No. 150-E, 9-21-2004; Ord. No. 14-02, § 4, 12-2-2014)

Sec. 46-224. Open air businesses.

The following provisions apply to open air businesses:

(1) Minimum lot area shall be one acre and minimum lot width shall be 200 feet.

(2) The planning commission may require a six-foot-high fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.

(3) Open air businesses shall comply with all applicable health department regulations regarding sanitation and general health conditions.

(4) The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.

(5) Ingress and egress shall be provided as far as practicable from two intersecting streets and shall be at least 100 feet from an intersection.

(6) In the case of a plant materials nursery:

a. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.

b. All loading activities and parking areas shall be provided on the same premises (off-street).

c. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.

(7) No display area shall be located within the required front yard.

(Prior Code, § 15.1604(Q); Ord. No. 150, § 16.04(Q), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-225. Parking lots, public or private.

In addition to the requirements of section 46-258, public access to the site of public or private parking lots shall be located at least 50 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.

(Prior Code, § 15.1604(R); Ord. No. 150, § 16.04(R), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-226. Personal service establishments.

Where the site of a personal service establishment abuts a residential district or use, a greenbelt shall be provided along such property line, in accordance with the requirements of subsection 46-257(e).

(Prior Code, § 15.1604(S); Ord. No. 150, § 16.04(S), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-227. Plastic injection molding business.

The following provisions apply to the plastic injection molding business:

(1) The minimum lot size shall be one acre with a minimum of 100 feet of lot width.

(2) The lot shall have the required minimum lot width on a city designated truck route. The driveways which are used by trucks to enter and leave the site shall be located on the street designated as the truck route.

(3) The use shall be conducted wholly within a completely enclosed building, except that any outside storage of materials shall comply with the requirements of subsection 46-161(6).

(4) The lot shall be served by public water and sanitary sewer.

(5) The exterior of that part of the building which faces a public street shall be constructed with materials which match or are similar to the exterior building materials of nearby principal commercial buildings.

(6) Loading areas shall not be located on that side of the building which abuts a residential zone unless screening is provided which in the opinion of the planning commission provides an adequate screen and buffer for persons residing in the residential zone.

(7) All exterior lights including those attached to a building shall be equipped with cut-off fixtures to direct light downward.

(Ord. No. 150-I, § 3(16.04AH), 4-3-2007)

Sec. 46-228. Private, noncommercial institutional or community recreation parks and recreation centers.

The following provisions apply to private, noncommercial institutional or community recreation parks and recreation centers:

(1) Minimum lot size shall be three acres. The lot shall provide direct vehicular access to a public street.

(2) Public rest rooms, housed in all-weather structures, containing adequate water outlet, waste container, and toilets shall be provided.

(3) No commercial, for-profit enterprise shall be permitted to operate on the lot.

(4) All principal buildings or outdoor activity areas shall be set back at least 75 feet from any property line.

(Prior Code, § 15.1604(T); Ord. No. 150, § 16.04(T), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-229. Public or private nonprofit schools.

The following provisions apply to public or private nonprofit schools:

(1) Minimum site size for elementary schools shall be 20 acres, middle schools shall be 30 acres, and high schools shall be 40 acres.

(2) Minimum lot width of 200 feet abutting an arterial or collector street as designated in the master plan, and at least one means of ingress and egress shall be located on such street.

(3) Athletic fields shall not be located closer than 200 feet from any property line abutting a residential district or use.

(4) A greenbelt may be required in accordance with the requirements of subsection 46-257(e).

(Prior Code, § 15.1604(U); Ord. No. 150, § 16.04(U), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-230. Restaurants with drive-through facilities.

The following provisions apply to restaurants with drive-through facilities:

(1) The main and accessory buildings shall be set back a minimum of 50 feet from any adjacent right-of-way or property line of any residential district or use.

(2) Public access to the site shall be located at least 50 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.

(3) Where the site abuts a residential district or use, landscaping may be required in accordance with the requirements of subsection 46-257(e).

(4) The site shall be so designed as to provide adequate stacking space for drive-through customers without obstructing access to off-street parking spaces, interfering with traffic circulation through the site, or causing vehicles to queue off the site.

(5) Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

(Prior Code, § 15.1604(V); Ord. No. 150, § 16.04(V), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-231. Retail businesses in enclosed buildings with more than 10,000 but less than 250,000 square feet gross floor area.

The following provisions apply to retail businesses exceeding 10,000 square feet gross floor area but equal to or less than 250,000 square feet gross floor area conducting business entirely within an enclosed building:

(1) Public access to the site shall be located at least 50 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.

(2) Any principal building shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.

(3) The planning commission may require landscaping in accordance with the requirements of subsection 46-257(e) or a six-foot-high fence or wall along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.

(4) No mechanical rooms or loading area shall be located nearer than 100 feet to any residential district or use.

(Prior Code, § 15.1604(W); Ord. No. 150, § 16.04(W), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-232. Retail businesses in enclosed buildings with more than 250,000 square feet gross floor area.

The following provisions apply to retail businesses exceeding 250,000 square feet gross floor area conducting business entirely within an enclosed building:

(1) Public access to the site shall be located at least 100 feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.

(2) Any principal building shall have side and rear yard setbacks of at least 50 feet.

(3) The Planning Commission may require landscaping in accordance with the requirements of subsection 46-257(e) or a six-foot-high fence or wall along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.

(4) No mechanical rooms or loading area shall be located nearer than 100 feet to any residential district or use.

(5) Any loading area facing a residential district or use shall be screened by a major buffer, as defined by subsection 46-257(b). Loading areas shall not be located within any required yard and may not be located in the front yard.

(6) Any lot on which such use is conducted shall have at least 300 feet of frontage on an arterial street as designated by the master plan.

(Prior Code, § 15.1604(X); Ord. No. 150, § 16.04(X), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-233. State-licensed residential group home care facilities.

The following provisions apply to state-licensed residential group home care facilities:

(1) Off-street parking shall be provided for family members and employees of the facility. Client pickup and drop-off areas shall be located in a manner that vehicles do not stop in the travel lane of the adjacent roadway and vehicles are not required to back into the roadway.

(2) The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.

(3) The facility shall be in compliance with all applicable state licensing requirements.

(Prior Code, § 15.1604(Y); Ord. No. 150, § 16.04(Y), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-234. Commercial wireless telecommunication towers of height more than 50 feet.

The following provisions apply to towers in excess of 50 feet in height for commercial wireless telecommunication services:

(1) Antennas for commercial wireless telecommunication services shall be required to locate on any existing or approved commercial wireless telecommunication services tower within a one-mile radius of the proposed tower unless one or more of the following conditions exists:

a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and registered professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

b. The planned equipment would cause interference materially affecting the usability of other existing or planned equipment at the tower or building as documented by a qualified and registered professional engineer, and the interference cannot be prevented at a reasonable cost.

c. Existing or approved towers and buildings within a one-mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and registered professional engineer.

d. Other unforeseen reasons that make it infeasible to locate the planned equipment upon an existing tower or building.

(2) Any proposed tower for commercial wireless telecommunication services shall be designed, structurally, electrically, and in all other respects, to accommodate both the applicant's equipment and comparable equipment for at least two additional users. Towers must be designed to allow for future rearrangement of equipment upon the tower and to accept equipment mounted at varying heights.

(3) Towers for commercial wireless telecommunication services shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where color is dictated by other state or federal authorities. Towers shall be of a monopole design unless the planning commission determines that an alternative design would better blend into the surrounding environment.

(4) Any part of the structures or equipment placed on the ground pertaining to the tower for commercial wireless telecommunication services shall be set back for a distance equal to the setbacks for main buildings for the district in which it is located, except that in no case shall such structures or equipment be located less than 25 feet from any adjacent lot line or main building. This provision shall not apply to towers located on existing buildings, towers, or other existing structures. The planning commission may require such structures or equipment on the ground to be screened in accordance with the applicable provisions of section 46-257.

(5) Towers for commercial wireless telecommunication services shall not be illuminated unless required by other state or federal authorities. No signs or other advertising not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings.

(6) Towers for commercial wireless telecommunication services which are abandoned or unused shall be removed, along with any associated structures or equipment, within 12 months of the cessation of operations, unless a time extension is granted by the zoning administrator. Only one three-month extension shall be permitted and then only if the zoning administrator finds that the owner or former operator of the facility is taking active steps to ensure removal.

(7) The planning commission shall not approve any tower for commercial wireless telecommunication services any part of which is located within 200 feet of any residential district lot line.

(Prior Code, § 15.1604(X); Ord. No. 150, § 16.04(X), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-235. Truck and freight terminals.

The following provisions apply to truck and freight terminals:

(1) Access driveways shall be located no less than 100 feet from the centerline of the intersection of any street or any other driveway.

(2) Trucks and trailers parked overnight shall be set back from the front lot line a minimum of 100 feet.

(3) The principal and accessory buildings and structures shall not be located within 200 feet of any residential district or use.

(4) The lot area used for parking, display, or storage shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.

(5) Any vehicle or equipment stored outside of an enclosed building shall not extend into any required yard.

(Prior Code, § 15.1604(AA); Ord. No. 150, § 16.04(AA), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-236. Reserved.

Editor's note(s)—Sec. 1 of Ord. No. 14-01, adopted July 15, 2014, deleted § 46-236, which pertained to upper story residential dwellings, and derived from the prior code; Ord. No. 150, adopted Nov. 1, 1997; and Ord. No. 150-E, adopted Sept. 21, 2004.

Sec. 46-237. Utility and public service buildings without storage yards.

The following provisions apply to utility and public service buildings without storage yards:

(1) Any such building shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.

(2) Any such building shall comply with the setback requirements of the district in which it is located.

(Prior Code, § 15.1604(CC); Ord. No. 150, § 16.04(CC), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-238. Vehicle wash establishments.

The following provisions apply to vehicle wash establishments:

(1) All washing activities must be conducted within a building.

(2) Vacuuming activities may not be conducted in the required front yard.

(3) Ingress to and egress from the building 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.

(4) Sufficient space shall be provided to accommodate all vehicles queuing on the property, so that no vehicles are required to wait on an adjoining street or alley to enter the site.

(Prior Code, § 15.1604(DD); Ord. No. 150, § 16.04(DD), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-239. Miscellaneous industrial type uses.

The following provisions apply to uses which are industrial in nature, or are similar to one or more of the industrial uses in subsection 46-161(b) or (c), as determined by the Planning Commission, and which are not specified elsewhere in this chapter:

(1) Such uses, including the site plan, which must accompany the special land use request, shall be subject to final approval by the city council following a recommendation from the planning commission. The planning commission shall review the use in accordance with the requirements of article VI of this chapter except that the planning commission shall then make a recommendation to the city council following a public hearing. The council may hold its own public hearing on the proposed use before making its decision. Such decision shall be based on the general standards in subsection 46-184(1) and the council may impose conditions in accordance with subsection 46-184(2) herein.

(2) The council shall be responsible for extensions or revocations of the special land use approved under this section in accordance with the procedures contained in subsection 46-183(3) and (4).

(3) All storage of materials and equipment used in the business except vehicles shall be visually screened to a height of at least six feet above the highest elevation of the nearest adjacent road or property bordering the site unless, in the opinion of the planning commission or other approving authority, the

material is stored in a manner that it is not readily visible from off site or that the material is located such a substantial distance from adjacent properties and roadways that it is not a visual nuisance as seen from off site. Such screening shall meet the requirements of subsection 46-257(e)(1)—(3).

(4) In no case shall the outside storage of materials or equipment be stacked higher than the height of the visual screen unless, in the opinion of the planning commission or other approving authority, the material is stored in a manner that it is not readily visible from off site or that the material is located such a substantial distance from adjacent properties and roadways that it is not a visual nuisance as seen from off site.

(Prior Code, § 15.1604(EE); Ord. No. 150, § 16.04(EE), 11-1-1997; Ord. No. 150-E, 9-21-2004)

Sec. 46-240. Mini-warehouse and self-storage facilities.

The following provisions apply to mini-warehouse and self-storage facilities:

(1) The minimum lot area shall be two acres.

(2) Units shall be utilized for dead storage only. The use of the units for any residential, commercial, manufacturing, assembly, or repair service or similar use is prohibited.

(3) Outside storage is prohibited.

(4) Storage buildings which are to be located on a lot with frontage on M-57 or M-91 shall be set back a minimum of 300 feet from the front lot line along these roads. This setback may be reduced, if in the opinion of the planning commission, the storage buildings are situated or screened by landscaping, topography or other buildings in such a manner that they do not predominate the view along such roadways.

(5) Storage buildings shall be situated so that doors to the storage units do not face public streets unless such doors are adequately screened as viewed from the street.

(6) The exterior of self storage buildings shall be constructed with building materials which match or which are similar to the exterior building materials of nearby principal buildings. Self storage buildings shall have pitched roofs and gables.

(7) An on-site office for the management of the mini-warehouse/self storage facility may be permitted by the planning commission as an accessory use provided that it shall be within a permanent building. A minimum of three parking spaces shall be provided plus one for each employee.

(8) Parking for the storage units shall be provided within the access aisles abutting the units as follows:

a. The width of a parking lane shall be a minimum of ten feet.

b. The driving lane shall be a minimum of 13 feet.

c. A parking lane shall not be required along those sides of a building which do not have access doors.

(9) All driveways, parking, loading storage, and vehicular circulation areas shall be paved.

(10) All exterior lights including those attached to a building shall be equipped with cut-off fixtures to direct light downward.

(11) The site shall be designed to avoid dead-end access lanes unless there is sufficient room for vehicles to turnaround.

(12) Fencing of storage buildings shall be as provided in section 46-82 herein.

Sec. 46-241. Community service centers.

The following provisions apply to community service centers:

(1) If short-term housing is offered at the center one person who is an employee or trained volunteer from the center shall be present on the premises to provide supervision at all times. One such supervisory person shall be provided for each ten occupants of the center unless otherwise approved by the planning commission. The maximum number of occupants allowed in a shelter shall not exceed ten occupants unless a need or ability is satisfactorily demonstrated to the planning commission. Such a demonstrated need or ability may be based on the size of the building, number of beds, the training or number of supervisory staff, internal shelter policies or other relevant factors as determined by the planning commission. Any expanded occupancy approved by the planning commission must meet the general special land use requirements of section 46-184 of this chapter.

(2) The center shall be opened to serve persons at designated hours, as approved by the planning commission so as to discourage loitering, outside the facility. Outside loitering shall not be permitted, and will be a violation of this chapter.

(3) Community service centers providing short term housing or shelter for homeless or needy persons shall not be open to or utilized by persons who are incarcerated in pre-release, work release, or similar programs.

(4) The center shall comply with all applicable regulations of the Montcalm County Health Department and the building code for the City of Greenville as well as all federal, state, and local laws.

(5) Drop-off containers for donated goods may be provided but any goods deposited outside the container shall be removed promptly by the operators of the center and the area kept in a neat and orderly condition.

(6) The planning commission shall also determine the need for off-street parking spaces based on the number and ages of people permitted to occupy the building, the size of the parcel or lot, its location and the availability of public transit.

(7) A community service center, which is proposed to occupy an existing building, is exempt from the required site plan submittal requirements of this chapter. However, the applicant shall provide a drawing to scale illustrating the floor plan of the building and of the property illustrating all buildings, off street parking areas and methods to prevent or mitigate any adverse effects on neighboring properties and any improvements on the property. Information on the operation of the center including the number of people proposed to occupy the shelter at any one time must also be submitted.

Sec. 46-242. Plastic injection molding business.

The following provisions apply to plastic injection molding businesses:

(1) The minimum lot size shall be one acre with a minimum of 100 feet of lot width.

(2) The lot shall have the required minimum lot width on a City of Greenville designated truck route. The driveway(s) which are used by trucks to enter and leave the site shall be located on the street designated as the truck route.

(3) The use shall be conducted wholly within a completely enclosed building except that any outside storage of materials shall comply with the requirements of subsection 46-160(d) herein.

(4) The lot shall be served by public water and sanitary sewer.

(5) The exterior of that part of the building which faces a public street shall be constructed with materials which match or are similar to the exterior of the building materials of nearby principal commercial buildings.

(6) Loading areas shall not be located on that side of the building, which abuts a residential zone unless screening is provided which in the opinion of the planning commission provides an adequate screen and buffer for persons residing in the residential zone.

(7) All exterior lights including those attached to a building shall be equipped with cut-off fixtures to direct light downward.

Sec. 46-243. Funeral homes and mortuary establishments including cremation services.

The following provisions apply to funeral homes and mortuary establishments including cremation services:

(1) At least one property line shall abut an arterial or major collector street, as designated by the master plan. The ingress and egress for off-street parking facilities shall be directly from said street.

(2) All principal and accessory buildings shall be set back at least 50 feet from any property line.

(3) The minimum lot area shall be two acres.

(4) The use shall be served by public water and sanitary sewer.

(5) Parking shall be located to minimize negative impacts on nearby existing or planned residential uses.

(6) The primary structure shall be designed and constructed to match the form and character of a single-family home.

(7) Accessory structures should be designed to match the character of the primary structure.

(8) Landscaping shall be provided along the rear and side lot lines in accordance with the "moderate" buffer standard as set forth in the landscaping and screening section [46-257] of this chapter.

Sec. 46-244. Industrial special land uses.

The following provisions apply to uses which are industrial in nature, or are similar to one or more of the industrial uses in subsections (2) and (3) of this section, as determined by the planning commission, and which are not specified elsewhere in this chapter subject to section 46-244 herein.

(1) Such uses, including the site plan, which must accompany the special land use request, shall be subject to final approval by the city council following a recommendation from the planning commission. The planning commission shall review the use in accordance with the requirements of article VI herein except that the planning commission shall then make a recommendation to the city council following a public hearing. The council may hold its own public hearing on the proposed use before making its decision. Such decision shall be based on the general standards in subsection 46-186(1) herein and the council may impose conditions in accordance with subsection 46-186(2) herein.

(2) The council shall be responsible for extensions or revocations of the special land use approved under this section in accordance with the procedures contained in subsection 46-183(3) and (4) herein.

(3) All storage of materials and equipment used in the business except vehicles shall be visually screened to a height of at least six feet above the highest elevation of the nearest adjacent road or property bordering the site unless in the opinion of the planning commission or other approving authority the material is stored in a manner that it is not readily visible from off site or that the material is located such a substantial distance from adjacent properties and roadways that it is not a visual nuisance as seen from off site. Such screening shall meet the requirements of subsection 46-257(e)(1)—(3).

(4) In no case shall the outside storage of materials or equipment be stacked higher than the height of the visual screen unless in the opinion of the planning commission or other approving authority the material is stored in a manner that it is not readily visible from off site or that the material is located such a substantial distance from adjacent properties and roadways that it is not a visual nuisance as seen from off-site.

Sec. 46-245. Gas station/convenience stores with or without restaurants.

The following provisions apply to gas station/convenience stores with or without restaurants:

(1) Canopies shall comply with the following requirements:

a. The outside edge of the canopy shall not be located closer than ten feet to any side or rear property line nor closer than 25 feet from each front property line abutting the parcel.

b. The canopy shall have a minimum clearance height of 14 feet and a maximum overall height of 18 feet.

c. The clearance height of the canopy shall be posted on all sides from which access is obtained for the canopy.

d. The support posts for the canopy shall be placed so as not to be a traffic hazard for vehicles using the premises and not in any regularly used portion of the property used by vehicles.

e. Canopy lighting shall be completely recessed within the canopy so that the light source is not visible from off the site.

f. Vehicle parking spaces at the pump island may be counted as part of the required parking spaces.

g. Gasoline pumps and pump islands shall not be located within the required building setbacks.

(Ord. No. 15-02, § 2, 5-19-2015)

Secs. 46-246—46-256. Reserved.

ARTICLE VII. MISCELLANEOUS REQUIREMENTS AND USES

Sec. 46-257. Landscaping and screening.

(a) *Purpose.* It is the intent of this article to require buffer zones, landscaping, and screening to reduce the negative impacts between incompatible land uses. It is further intended to preserve and enhance the aesthetic qualities, character, privacy, and environment of the city.

(b) *Required buffer zones.*

(1) A buffer shall be required on any parcel proposed for development which borders a different zone district, as indicated in subsection (b)(5) of this section. Where the adjacent zone district is more intensive, e.g., C-1 bordering R-1, the required buffer shall be installed only on the property which is in the more intensive district.

(2) The specified buffer shall be required on the subject parcel even if the adjacent parcel is unimproved land. A performance bond may be submitted in lieu of the required buffer where adjacent land is unimproved. The buffer shall be installed when the adjacent property begins development and completed prior to any occupancy of the adjoining use.

(3) When any developed parcel existing as of the date of this chapter, or amendment thereto, is changed to a less restrictive zone district, for example, R-2 to R-3, any required buffer shall be installed in compliance with this section within six months of the effective date of the rezoning. This provision shall not apply to rezonings initiated by the city.

(4) If two zoning districts requiring a buffer zone are separated by a street, the design of the required buffer zone shall be reduced by one level; for example, a required major buffer shall be reduced to a moderate buffer. Notwithstanding the foregoing, the minimum buffer installed shall be a minor buffer.

(5) The following chart defines the required buffers between adjacent zone districts:

Required Buffers Between Adjacent Zone Districts

Buffer Zone	Adjacent District								
	R-1	R-2	R-3	MHP	O-1	C-1	C-2	C-3	IND
R-1	NR	Minor	Moderate	Major	Moderate		Major		
R-2	Minor	NR	Minor	Moderate			Major		
R-3	Moderate	Minor	NR		Moderate		Major		
MHP	Major	Moderate	NR		Moderate		Major		
O-1	Moderate				NR		Minor		Moderate
C-1	Moderate				NR			Minor	Moderate
C-2	Major				Minor	NR			Moderate
C-3	Major				Minor		NR		Moderate
IND	Major				Moderate				NR
NR = None Required									

For planned unit development (PUD) districts the buffer zone requirements set forth in the above chart shall be based on the type of land use proposed or existing in the PUD as follows:

a. For a PUD containing single-family detached dwellings or two-family dwellings the PUD shall be considered the equivalent of an R-1 or R-2 zone.

b. For a PUD containing multifamily dwellings including town homes, attached condominiums with more than two dwellings the PUD shall be considered the equivalent of an R-3 zone.

c. For a PUD containing any other land use the buffer zone requirement in the above chart shall be based on that zoning district (O-1, C-1, C-2, C-3 or Industrial) which permits those land uses comprising the majority of the actual land uses in the PUD. For example a PUD containing commercial uses shall be considered the equivalent of a C-1 or C-2 zone and the buffer zone requirement for a C-1 or C-2 zone shall apply although the modifications permitted by subsection (c)(1)c. of this section may be considered.

(6) Buffer zone development standards.

a. Required buffer zones shall comply with and be maintained to the following standards:

Required Buffer Zone Development Standards

Buffer Requirements	Major	Moderate	Minor
Minimum width	50 feet	30 feet	10 feet

Equivalent of two rows of approved canopy trees staggered at a maximum of:	20-foot intervals	20-foot intervals	30-foot intervals
Six-foot high continuous obscuring screen	Required	Required	Required

b. The required six-foot-high continuous obscuring screen may be comprised of plant material, berming, screen walls or fences, or any combination of these elements in addition to the required plant materials.

c. If berming is used for all or part of the obscuring screen, all required plant materials shall be placed on the top and both sides of the slope. Where necessary the minimum buffer width shall be increased to accommodate side slopes of a maximum of three feet in width to one foot in height.

d. If a screen wall or fence is used for all or part of the obscuring screen, the equivalent of four shrubs is required per 20 linear feet on each side of the wall or fence.

e. The balance of the required buffer shall be covered with grass or approved ground cover in accordance with this section.

f. Any plant material, berm, obscuring screen or other landscape feature shall be installed in such a manner so as not to alter drainage patterns on the site or on adjacent properties; obstruct vision for reasons of safety, ingress or egress; or cause damage to utility lines (above and below ground) and public roadways.

(c) *General landscape development standards.*

(1) *Minimum plant material standards.*

a. All plant materials shall be certified to be hardy to the county, free of disease and insects, and conform to the standards of the American Association of Nurserymen. All landscaping shall be maintained in a healthy, neat and orderly state, free from refuse and debris. Any dead or diseased plants shall be replaced within a reasonable period of time, but no longer than one growing season.

b. Minimum plant sizes at time of installation:

Minimum Plant Sizes at Time of Installation

Tree Type	Minimum Size at Planting
Deciduous Canopy Tree	2½-inch caliper
Deciduous Ornamental Tree	2-inch caliper
Evergreen Tree	6-foot height
Deciduous Shrub	2-foot height
Upright Evergreen Shrub	2-foot height
Spreading Evergreen Shrub	12—24-inch spread

c. Should the zoning administrator determine, upon inspection, that adequate landscaping screen on a site already exists or that a landscaping screen is not required, the applicable provisions of this section may be waived in whole or in part. Criteria which shall be used when considering a landscaping screen waiver shall include, but shall not be limited to:

1. Topography variations.

2. Existence of natural vegetation.

3. Existing and proposed building placement.

4. Sight distances.

5. Adjacent land uses.

6. Existence of floodplain and areas of poor soils.

d. Plant materials shall not consist or more than 33 percent of any one plant species.

e. The following trees are not permitted as they split easily; their wood is brittle and breaks easily; their roots clog drains and sewers; and they are unusually susceptible to disease or insect pests:

Trees Not Permitted

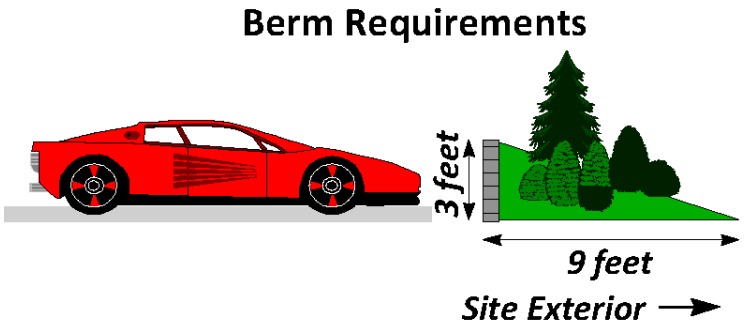
Common Name	Horticultural Name
Boxelder	Acer Negundo
Ginkgo	Ginko Biloba, female only
Honey Locust	Gleditsia Triacanthos (with thorns)
Mulberry	Morus Species
Poplars	Populus Species
Black Locust	Robinia Species
Willows	Salix Species
American Elm	Ulmus Americana
Siberian Elm	U. Pumila
Slippery Elm; Red Elm	U. Rubra
Chinese Elm	U. Parvifola

(2) *Minimum standards for berms.*

a. Berms shall maintain a side slope not to exceed a one-foot rise to a three-foot in width ratio.

b. Berm areas not containing planting beds shall be covered with grass or living ground cover maintained in a healthy growing condition.

c. If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site.



(3) *Minimum standards for obscuring screen walls and fences.*

a. All obscuring screen walls and fences shall be constructed with new, durable, weather-resistant and easily maintained materials. Chain link and barbed wire fences are not permitted.

b. The obscuring screen wall or fence may be constructed with openings that do not exceed 20 percent of the wall surface. The openings shall not reduce the intended obscuring effect of the wall.

(4) *Detention/retention areas.* Detention/retention areas shall be permitted within buffer zones provided they do not hamper the screening intent of the buffer or jeopardize the survival of the plant materials.

(5) *Screening for outdoor solid waste dumpsters.* Outdoor solid waste dumpsters shall be screened by a continuous opaque screen at least six feet high. The screen may be comprised of berming, plant material, screen walls or fences or any combination of these elements. Dumpsters may be installed within buffer zones.

(6) *Phasing.* If a project is constructed in phases, the landscape screen may also be constructed in phases. The zoning administrator shall determine the extent of landscaping required for each phase based on:

a. Adjacent land uses.

b. Distance between land uses.

c. Operational characteristic both on- and off-site.

d. Building heights.

e. Physical characteristics of the site such as topography, existing vegetation, etc.

(7) *Performance guarantee.* If weather conditions or other factors determined by the zoning administrator sufficient enough to warrant a delay in installing landscaping occur, a performance guarantee of a sufficient amount to ensure the installation of all required landscaping shall be required in compliance with the requirements of section 46-40 to ensure that landscaping is installed within a reasonable period of time.

(8) *Modification of required landscaping.* For existing and proposed uses that require site plan approval to either expand or be built, landscaping should be installed insofar as practical. The planning commission or zoning administrator in his review of the site plan has the authority to increase, decrease or otherwise modify the landscaping and screening requirements of this section. In doing so, the commission or zoning administrator shall consider the following criteria:

a. Topography variations.

b. Existence of natural vegetation.

c. Existing and proposed building placement.

d. Sight distances.

e. Adjacent land uses.

f. Existence of floodplain and areas of poor soils.

g. The effect the required landscaping would have on the operation of the existing or proposed land use.

h. Trees shall be of a type or be planted to avoid conflicts with any overhead utility lines.

(d) *Parking lot landscaping.*

(1) *Applicability.* This section is applicable to parking lots serving any nonresidential or multiple-family use in any district. A parking lot landscape plan shall be submitted with any application for a building permit or when otherwise required by this chapter.

(2) *Existing parking areas.*

a. These requirements shall be met for any existing parking lot which is expanded more than 25 percent of its original existing area after November 1, 1991, or when any parking area is substantially altered (e.g., removal and replacement of existing pavement).

b. Any landscaping existing within or bordering any existing parking area shall not be removed unless replaced with landscaping meeting the requirements of this section.

(3) *General requirements.*

a. Landscaping shall be planned and installed such that, when mature, it does not obscure traffic signs, fire hydrants, or lighting, and does not alter drainage patterns on the site or on adjacent properties; obstruct vision for reasons of safety, ingress or egress; or cause damage to utility lines (above and below ground) and public roadways.

b. Any landscaped area required by this section shall be constructed outside any public street right-of-way.

c. All landscaped areas, including perimeter areas, shall be protected by a raised or rolled concrete curb.

(4) *Frontage landscaping.*

a. Where any parking area directly abuts or faces a public street, a screen shall be required between the parking area and the road right-of-way. Such screen shall consist of, at a minimum, one of the following:

1. A strip of land at least five feet in width and a solid screen comprised of a hedge or decorative wall, or any combination thereof, which measures at least three feet in height; or

2. A strip of land at least ten feet in width, containing landscaping equivalent to a minor buffer, as described in subsection (b) of this section, except that the obscuring screen need not be provided.

b. The required strip of land shall also be covered with grass or other approved ground cover.

(5) *Interior landscaping.*

a. Interior landscaping shall be provided for any parking area containing six or more parking spaces.

b. The interior of the parking lot shall begin at the outside boundary of the parking area.

c. The interior area of any parking lot shall incorporate one planting island per each 12 parking spaces, or part thereof.

d. Each planting island shall be at least 90 square feet in area with a minimum single dimension of nine feet.

e. Landscaped islands shall be dispersed evenly throughout the parking lot and may be used to separate pedestrian areas, maneuvering areas, and drives.

f. At least one approved canopy tree shall be included in each planting island, with the balance of the island covered with grass or approved shrubs or ground cover.

g. For that portion of a parking lot which abuts a required buffer zone and where, in the opinion of the planning commission or zoning administrator, depending upon the reviewing authority, the landscaping in the buffer zone provides shade for vehicles or otherwise improves the appearance of the parking lot, the number of parking spaces abutting the buffer zone shall be deducted from the number of parking spaces used to determine the number of planting islands required by subsection (d)(5)c. of this section.

(e) *Additional landscaping and screening.*

(1) Where deemed appropriate by the planning commission or other approving authority for site plans where screening is needed to minimize visual, noise, or other impacts from the proposed development, or where there may be some other adverse effect caused by the use being reviewed, or where otherwise required by this chapter, additional landscaping or screening may be required. Such adverse effect may include, but shall not be limited to, noise, lighting, hazard, traffic conflict, or other such effect.

(2) The nature of such landscaping or screening shall be that required by subsection (b) of this section. The planning commission or other approving authority for site plans may designate which buffer is appropriate for the required landscaping or screening.

(3) All other provisions of this chapter shall be met.

(4) If landscaping is not required along the street frontage by subsection (d)(4) of this section, then the front yard shall be landscaped according to the following requirements:

a. For each 50 feet in length of road frontage two trees shall be planted within the front yard. A mixture of evergreen, canopy and ornamental trees is encouraged to provide a variety of plantings along the street. Driveways shall not be counted in the determination of road frontage.

b. Shrubs at a rate of one per each tree required.

c. Earthen berms may be permitted within the required front yard landscape area. Credit of up to 25 percent may be received against providing the required plantings through the use of berms three feet in height or greater.

(f) *Residential landscaping; installation.*

(1) Any site on which a use permitted by this chapter is established shall install a lawn or other type of living ground cover for all land areas not covered by impervious surfaces within six months following the issuance of a certificate of occupancy. A performance guarantee may be required by the city to ensure that landscaping is installed within the six-month period. No landscape materials other than lawn and street trees approved by the zoning administrator shall be planted within any public road right-of-way.

(2) Residential landscaping shall comply with the applicable provisions of this chapter.

(3) No landscaping, other than ground cover, shall be provided or extend into a public right-of-way without specific written approval from the zoning administrator, or as may be approved by the planning commission or city council as part of other approvals.

(Prior Code, §§ 15.1801—15.1806; Ord. No. 150, §§ 18.01—18.06, 11-1-1997; Ord. No. 150-Q, §§ 1—5, 9-20-2011)

Sec. 46-258. Off-street parking and loading.

(a) *General provisions.*

(1) There shall be provided by the owner, lessee, and occupant of any property in all districts prior to the issuance of a certificate of occupancy for the erection or enlargement of any building or structure, or the commencement or expansion of any use, off-street parking spaces meeting the requirements of this chapter.

(2) The zoning administrator may require a performance guarantee prior to the issuance of the certificate of occupancy where full completion of a parking area would not be possible due to adverse weather conditions or similar reasonable circumstances beyond the control of the applicant.

(3) Required off-street parking spaces shall not be removed unless an equal number of parking spaces as required by this section are provided elsewhere on the premises.

(4) Parking facilities required by this section shall be used for the convenience of patrons, occupants, and employees of the use intended to be served and shall not be used for storage of goods, merchandise, unrelated commercial vehicles, or the repair or sale of vehicles.

(5) No signs other than signs designating entrances, exits and conditions of use shall be erected within the parking lot, except as otherwise permitted by this chapter.

(6) In the C-3 district the provisions of this section may be met by participation in a city or community parking program designed to serve a larger area, provided plans for such parking have been approved by the planning commission.

(7) In the case of mixed uses on the same premises, the total requirements for off-street parking facilities shall be the sum of the requirements of the individual uses computed separately, provided that this provision shall not apply where a use is accessory to the main use and is not intended to serve additional patrons or employees.

(8) Off-street parking facilities for any use shall not be considered as providing required parking facilities for any other, separate use.

(9) If fewer spaces are available to serve a use than the minimum requirement of this section, the extent and occupancy of the use shall be restricted proportionately to the number of parking spaces available.

(10) Where not specifically listed, the zoning administrator shall use the parking requirements most similar to the use not listed.

(11) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

(b) *Existing nonconforming parking and loading areas.*

(1) Any building or use, which fully or partially meets the off-street parking or loading requirements, shall continue to comply with these requirements at the highest degree of compliance reached.

(2) Existing off-street parking and loading areas, stall sizes, and number of spaces either installed or part of an approved construction project for which a permit has been issued by November 1, 1997, in excess of that required by this section shall not be reduced unless and until all other requirements in this chapter and all landscaping requirements in this chapter have been met.

(3) Whenever there is any change in use or an increase in number of employees, or an increase in floor area, or in any other unit of measurement specified in this chapter, additional off-street parking and loading facilities shall be provided on the basis of the resultant change.

(c) *Single and two-family residential parking requirements.*

(1) Required residential off-street parking spaces shall consist of a clearly defined parking strip, parking bay, driveway, or combination thereof and shall be located on the premises they are intended to serve. Parking spaces provided within a carport or enclosed garage shall be counted toward meeting the minimum parking space requirement.

(2) The amount of paving for the parking strip, parking bay, or driveway shall not cover more than 25 percent of the front yard area.

(3) The minimum driveway width shall be eight feet. A driveway shall only be located in a side yard with a minimum width of ten feet. Not more than one parking space shall be provided in the front yard.

(4) Maximum driveway entrance width shall be 20 feet; maximum driveway opening at the street line or curb shall be 24 feet on a flared opening.

(5) A maximum of one driveway opening shall be permitted per each single-family or two-family residential lot frontage per each 150 feet of each street frontage.

(6) All driveways and parking areas shall be improved with concrete with a minimum thickness of six inches, asphalt with a minimum thickness of 2½ inches over a six-inch gravel base, or brick pavers manufactured for use as a driving course.

(7) For the purpose of this chapter, tandem parking is the authorized parking of one vehicle behind another parked vehicle to meet the parking requirements of this chapter. (Tandem parking is not intended to include a parallel parking arrangement.) Tandem parking is permitted only to provide parking space for single-family and two-family residential use and may be a part of the driveway, provided no parking space extends into a public or private right-of-way.

(8) The parking regulations set forth in this section for single-family residential neighborhoods are to maintain an orderly appearance, contribute to neighborhood stability, maintain property values, and prevent aesthetic nuisances. In addition, in single-family residential neighborhoods:

a. Vehicles may not be parked on unpaved portions of the front yard.

b. Parking bays, which are additions onto driveways to provide additional parking space, may not be located directly between the house and the street.

c. Vehicles may be parked in driveways in side yards, provided the side yard is wider than ten feet.

d. The maximum width of a driveway may not be larger than the garage it serves, or 24 feet, whichever is larger.

e. All driveways and parking bays shall be paved with a minimum of six inches of thickness. For pre-existing gravel driveways, the parking bay may also be gravel.

f. Vehicles may be parked in the rear yard, provided they comply with all other city regulations.

(d) Nonresidential and multiple-family residential parking requirements.

(1) Parking facilities for nonresidential and multiple-family residential uses shall be on the premises or within 300 feet thereof, as measured from the closest building entrance to the nearest portion of the lot.

(2) Adequate radius shall be provided to permit the turning of all vehicles, including trucks and emergency vehicles, intended to use the site such that any vehicle may enter the street facing forward.

(3) All entrances and exits for off-street parking lots located in a nonresidential district shall be not less than 25 feet from any residential district property line.

(4) The minimum driveway width shall be 16 feet for one-way traffic and 24 feet for two-way traffic, or any greater dimension as may be required by any agency having jurisdiction.

(5) All driveways, aisles and parking and loading areas shall be improved with concrete with a minimum thickness of six inches, asphalt with a minimum thickness of two and one-half inches over a six-inch gravel base, or brick pavers manufactured for use as a driving course.

(6) All parking spaces, except parking lots with less than four spaces, shall be delineated by single or double striping. A single stripe is required along the front of each space perpendicular to the side striping.

(7) Vehicle backing or maneuvering directly into a street, alley or service drive intended for travel by the general public or patrons is prohibited. Maneuvering area shall be provided on the premises for any delivery or other similar vehicles.

(8) Vehicles shall enter and leave the parking area only at clearly marked and established driveways.

(9) Ingress and egress to a parking lot located in a nonresidential district shall not be across land in a residential district.

(10) Covered parking such as parking ramps, parking garages, and basement parking may serve as required parking areas.

(11) Waste dumpsters:

a. Waste dumpster pads in parking areas shall be located so as to not interfere with the general public/patron normal traffic flow and shall be in addition to parking stall and aisle requirements.

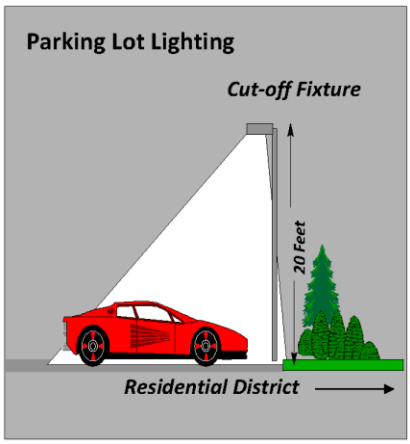
b. Waste dumpsters shall be screened by a continuous opaque screen at least six feet high. The screen may be comprised of berming, plant material, screen walls or fences or any combination of these elements.

(12) It shall be unlawful for any person to park or store any vehicle on any lot or parcel without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of such property.

(13) Parking lot landscaping shall be provided in accordance with the requirements of section 46-257.

(14) Parking lots shall be adequately lit to ensure security and safety and shall meet the following requirements:

a. Light fixtures shall be no higher than 20 feet and shall be provided with light cut-off fixtures that direct light downward.



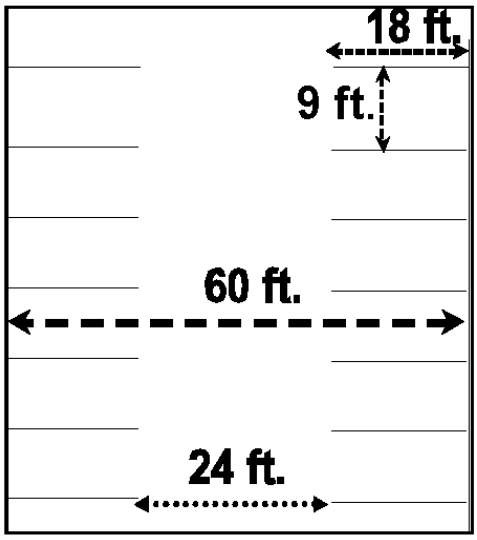
b. For parking lots serving a single building or groups of related commercial, industrial, or office buildings in excess of 500 spaces, the planning commission may permit a higher light fixture in selected locations within the parking lot where existing or planned residential areas will not be affected. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.

(e) *Handicapped parking requirements.* Off-street parking areas shall include spaces for persons with disabilities in accordance with the provisions of Public Act No. 230 of 1972 (MCL 125.1501 et seq.) and shall be included in the count of required spaces.

(f) *Construction, layout and maintenance standards.*

(1) No parking lot shall be constructed, altered, or enlarged unless and until a permit therefore is issued by the city. Applications for a permit shall be submitted to the city and shall be accompanied by not less than three sets of site plans for the development and construction of the parking lot showing that the project will fully comply with all provisions of this chapter.

(2) All parking areas shall meet the minimum standards contained in the parking space dimensions table.



Parking Space Dimensions

(3) Off-street parking areas and loading areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings. No off-street parking area or loading area drainage systems may be connected to a sanitary sewer system.

(4) The exterior of all parking lots for nonresidential uses and multiple-family parking areas shall be provided with a rolled, or standard, six-inch, concrete curb. Bumper stops, curbing or wheel chocks shall not be required within the parking area, but if provided to prevent a vehicle from extending beyond the parking space outline, shall be placed two feet back from the front of each space and shall be perpendicular to the sides of the space.

(5) All driveway approaches between the curb and the property line shall be paved with asphalt or concrete.

(6) A rolled or standard six-inch concrete curb, shall be provided in all parking and maneuvering areas within the front yard of the IND, industrial district. Where two front yards exist, curbing shall be required within the lesser of the two yards.

(g) *Off-street truck and equipment parking.* The owner, tenant, or lessee of any lot, parcel, or tract of land in a residential district or on a lot used for residential purposes shall not permit or allow the storage or parking, at any time thereon, of trucks, semi-trucks and tractor trailers, manufactured homes, tractors, bulldozers, earth carriers, drag lines, cranes, steam shovels and/or any other heavy equipment or machinery. It is provided, however, that the owner, tenant, or lessee of a farm may openly store the machinery and equipment used on the farm; and it is further provided that equipment necessary to be parked on a lot or parcel during the construction work thereon shall be excepted from this restriction. This restriction shall not apply to pickup or panel trucks.

(h) *Off-street loading and unloading.*

(1) On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehousing, retailing, display or other uses involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services, adjacent to the opening used for loading and unloading. Loading and unloading space shall be provided according to the following table:

Off-Street Loading and Unloading Space

Gross Floor Area (Sq. Ft.)	Loading/Unloading Spaces Required
0—2,000	None
2,000—20,000	1 space
20,000—100,000	1 space, plus 1 space for each 20,000 square feet in excess of 20,000, or 1 space for every overhead loading door, whichever is greater
100,000—500,000	5 spaces, plus 1 space for each 40,000 square feet in excess of 100,000, or 1 space for every overhead loading door, whichever is greater

(2) General loading/unloading requirements.

a. Loading/unloading spaces shall not use any portion of any street, alley or service drive or other space intended for general public/patron travel.

b. Vehicle backing or maneuvering directly into a street, alley or service drive intended for travel by the general public or patrons is prohibited. Maneuvering area shall be provided on the premises for any delivery or other similar vehicles.

c. Loading/unloading spaces shall be a minimum of 12 feet in width, 55 feet in length, and have clearance of at least 14 feet in height.

d. If truck wells are to be used, a protective railing or wall shall be provided along the sides of the well.

e. Loading/unloading spaces or truck wells shall not be located within the required front yard.

f. Loading/unloading spaces facing a residential district shall be screened from view by a wall and/or landscaping.

g. Required loading/unloading spaces shall not be included in calculations for parking spaces needed to meet general parking requirements.

(i) *Off-street parking requirements for individual uses.*

(1) The planning commission may defer construction of a portion of the required number of parking spaces for nonresidential uses if the following conditions are met:

a. Areas shown for deferred parking shall be shown on a site plan and shall be of sufficient area to permit the construction of the total number of parking spaces required by this section. Such areas shall not be used for any other purpose required by this chapter (such as landscaped buffers, etc.) and shall be kept open.

b. Alterations to the deferred parking area to add parking spaces may be initiated by the owner or required by the zoning administrator based on parking needs and shall require the submission and approval of an amended site plan, as required by section 46-41.

(2) The following parking tables contain the minimum required parking spaces for the uses listed. Parking requirements for any use not listed shall be determined by the zoning administrator using the requirements for the use, which is most similar in characteristics to the unlisted use.

RESIDENTIAL USES	
Use	Measurements
Boarding and rooming house	Two spaces for each dwelling unit/room
Housing for the elderly	One space per dwelling unit plus two spaces for a caretaker/manager unit. The maximum walking distance of 40 percent of the dwelling units to their required space shall be 100 feet with a maximum walking distance to a public entrance of a main building of 150 feet from a required parking space
Multiple-family dwellings	3 units to 12 units - 1½ spaces per dwelling unit per building
	13 units to 24 units - 1 ⅓spaces per dwelling unit per building
	25 units and over - 1¼ spaces per dwelling unit per building
Single-family detached and two-family dwellings	Two spaces for each dwelling unit

INSTITUTIONAL, RECREATIONAL, AND CULTURAL USES	
Use	Measurements
Abuse treatment center	Six spaces plus one space for each three beds
Ambulance base	Four spaces per emergency vehicle
Adult foster care	Not less than three spaces
Archery and rifle ranges	One space per target area
Art gallery	One space per 600 sq. ft. UFA
Assembly (indoor and outdoor) such as: theaters, stadiums, churches, skating rinks and similar uses, unless otherwise specified herein	One space for each three seats or six linear feet of seating area plus amount required for accessory uses
Assisted living	One space for each dwelling unit
Auditoriums and exhibition, banquet, and union halls, and similar uses, unless otherwise specified herein	One space for each three persons, based on maximum occupancy load as established by local, county and state building and fire codes
Bingo parlor	One space for each three persons, based on the maximum occupancy load as established by local, county and state building and fire codes
Cemetery and/or crematorium	Not less than four spaces
Church (indoor)	One space for each three persons based on maximum occupancy load as established by local, county and state building and fire codes of the largest assembly room therein
Church (outdoor)	See "assembly"

Club (private) or lodge	One space for each three persons based on maximum occupancy load as established by local, county and state building and fire codes, plus amount for each accessory use
Community center	Based on sum of each use computed separately or see "assembly"
Convent	One space for each two beds
Day care center (group)	One space per four persons of license capacity with not less than four spaces plus off-street waiting spaces to accommodate six vehicles
Dormitory	One space for each three beds
Fraternity or sorority house	One space for each two beds
Golf course	Sixty spaces for each nine holes plus amount required for accessory uses except no additional spaces required for driving range
Group home	Not less than three spaces
Hospital	Two spaces for each bed
Library	One space for each 600 sq. ft. UFA
Mausoleum	Not less than four spaces
Mortuary/funeral home	One space for each 50 sq. ft. UFA plus two spaces for each residential dwelling unit
Museum	One space per 600 sq. ft. UFA
Nursing homes and convalescent homes	One space for each three beds
Orphanage	No less than five spaces plus two spaces for resident/manager
Park	Four spaces per acre plus amount required for accessory uses
Post office	One space for each 100 sq. ft. GFA
School (beauty)	One space for each two students
School (elementary/middle)	One space for each ten students based on maximum occupancy load of UFA as established by local, county and state building and fire codes plus amount required for gymnasium, auditorium, and other accessory uses
School (nursery)	One space per four persons of license capacity with not less than four spaces, plus off-street waiting spaces to accommodate six vehicles
School (high school, trade, or industrial)	One space for each two students based on maximum occupancy load of UFA as established by local, county and state building and fire codes plus amount required for gymnasium, auditorium, and other accessory uses
Tennis, racquetball, volleyball and similar uses	One space for each two customary participants plus amount required for accessory uses
Zoo	One space per each 2,000 sq. ft. of land area

COMMERCIAL AND OFFICE USES	
Use	Measurements
Amusement center for billiards, pool, and/or mechanical or electronic amuse- ment devices	One space for each six persons based on maximum occupancy load as established by local, county, and state building and fire codes, plus each accessory use
Appliance repair	One space for each 500 sq. ft. GFA
Auction house	One space for each three persons, based on the maximum occupancy load as established by local, county and state building and fire codes

Automobile service and repair facility	Two spaces for each service bay, stall, rack or pit, plus one space for each fuel pump, plus one space for each accessory use
Bakery	One space for 200 sq. ft. UFA plus one space for each 500 sq. ft. GFA used for processing plus amount required for accessory uses
Bank, credit union, savings and loan association and other similar uses	One per 200 sq. ft. GFA plus four off-street waiting spaces for each service window or station. No additional required for accessory ATMs
Barber or beauty shop	Three spaces for the first barber chair and one space for each additional chair
Bar/tavern/nightclub	One space for each 75 sq. ft. UFA or one space for each two persons in the maximum occupancy load as established by local, county and state building and fire codes, whichever is greater
Bed and breakfast inn	Two spaces plus one space for each leasable bedroom
Bicycle or canoe rental	Not less than five spaces plus one space for each five rental bicycles or canoes in excess of 20
Bowling alley	Five spaces per each bowling lane plus amount required for each accessory use
Canoe rental	Five spaces plus one space for each four rental canoes in excess of 20
Cinema (indoor)	Six spaces, plus one space for every six seats based on maximum occupancy load as based on local, county and state building and fire codes
Cinema (outdoor)	Four spaces plus one space per vehicle based on design capacity of spectator area
Coin-operated laundries	One space for each two washing and/or dry-cleaning machines
Contractors showrooms	One space for each 200 sq. ft. UFA plus one space for each 1,000 sq. ft. GFA not used for display and sales plus one space per each 2,000 sq. ft. of outside land area used for storage or display
Dance hall	One space for every three persons, based on maximum occupancy load as established by local, county and state building and fire codes plus amount required for each accessory use
Decorator	One space for each 200 sq. ft. UFA
Dry cleaner or commercial laundry	One space for each 100 sq. ft. UFA plus one space for each 200 sq. ft. GFA used for processing
Exterminator	One space for each 500 sq. ft. GFA
Furniture, appliance store and household equipment store	One space for each 800 sq. ft. UFA
Golf course par three and miniature	Two spaces for each hole
Golf driving range	Two spaces for each tee
Health club	One space for every three persons based on maximum occupancy load as established by local, county and state building codes plus amount required for each accessory use
Heliport	One space for each 1,000 sq. ft. of operational area but not less than ten spaces
Helistop	Five spaces for commercial helistop and two spaces for noncommercial helistops
Kennel	Not less than four spaces
Lumberyard, building materials sales and storage	One space for each 800 sq. ft. UFA plus one space per each 2,000 sq. ft. of outside land area used for storage or display
Massage parlor	Two spaces for each massage room or station
Motel, hotel	Five spaces plus one space for each occupancy unit, plus amount required for accessory uses

Open air businesses not otherwise specified herein	One space for each 200 sq. ft. UFA plus one space for each 2,000 sq. ft. of land area used for storage or display
Office (business/professional)	One space for each 400 sq. ft. UFA with not less than four spaces plus amount required for each accessory use
Office (dental/medical/veterinary and similar uses)	Three spaces for each examination or treatment room with not less than six spaces plus amount required for each accessory use
Personal service establishments not otherwise specified herein	One space for each 200 sq. ft. UFA with not less than four spaces plus amount required for each accessory use
Restaurant	One space for each 75 sq. ft. GFA or one space for each two persons in the maximum occupancy load as established by local, county and state building and fire codes, whichever is greater, plus four off-street waiting spaces for each service window or station
Restaurant (drive-through or take-out only)	One space for each 25 sq. ft. GFA plus four off-street waiting spaces for each service window
Retail businesses not otherwise specified herein	One space for each 150 sq. ft. UFA for the first 10,000 sq. ft. plus one space for each 200 sq. ft. for the remaining UFA
Swimming pool (commercial)	One space for each six persons based on design capacity of the pool plus amount required for accessory use
Tanning salon and/or hot tub rentals	Two spaces plus one space for each tanning station or hot tub room
Vehicle wash establishment (automatic)	Parking/waiting spaces equal to five times the maximum occupancy capacity of the vehicle wash. Maximum capacity shall mean the greatest number of vehicles possible undergoing some phase of washing at the same time as determined by dividing the length of each wash line by 20
Vehicle wash establishment (self-service)	Five parking/waiting spaces for each washing stall

INDUSTRIAL USES	
Use	Measurements
Industrial plants and research and development facilities and other similar facilities not otherwise specified herein	Five spaces plus one space for every 1,500 sq. ft. GFA plus amount required for offices and other accessory uses
Truck/freight terminal	One space for each 1,000 sq. ft. UFA plus two spaces for each vehicle operating from the premises plus amount required for offices and other accessory uses
Utility and public service buildings	One space for every 1,500 sq. ft. GFA plus amount required for offices and other accessory uses
Warehouse/distribution center	One space for each 5,000 sq. ft. of storage GFA with not less than four spaces plus amount required for offices and other accessory uses plus one space per each 2,000 sq. ft. of outside land area used for storage or display
Wholesale store	One space for each 150 sq. ft. UFA for the first 10,000 sq. ft. plus one space for each 200 sq. ft. for the remaining UFA

(Prior Code, §§ 15.1901—15.1909; Ord. No. 150, §§ 19.01—19.09, 11-1-1997; Ord. No. 150-K, 5-7-2007)

Sec. 46-259. Signs.

(a) *Scope.* This section is intended to regulate and limit the construction or reconstruction of signs in order to protect the public health, safety, aesthetics and general welfare. Such signs as will not, by reason of their size, location, construction, or manner of display, endanger life and limb, confuse or mislead traffic, obstruct vision necessary for vehicular and pedestrian traffic safety, or otherwise endanger public welfare shall be permitted except as may be otherwise provided for herein.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Banner sign means a temporary sign, constructed of canvas, paper, cloth, nylon or other similar non-rigid fabric-like material without an enclosing structural framework which is not permanently affixed to a supporting structure. A banner sign is not a feather flag or a flutter flag sign.

Business center means any two or more businesses which:

(1) Are located on a single parcel;

(2) Are under one common ownership or management and have a common arrangement for the maintenance of the grounds;

(3) Are connected by common walls, partitions, canopies, other structural members, or walkways to form a continuous building or group of buildings;

(4) Share a common parking area; or

(5) Otherwise present the appearance of single continuous business area.

Directional sign means a sign used primarily to give information about the location of either the driver of motorized vehicles or possible destinations. Although this is a content-based distinction, these signs are important to prevent public confusion and facilitate collision-free flow of traffic.

Festoons means a temporary sign consisting of a string of ribbons, tinsel, pennants or pinwheels.

Flag sign, permanent means a sign made of cloth, nylon or other similar non-rigid fabric-like material attached to or hung from a single pole installed in the ground in a permanent fashion.

Flag sign, temporary. Also called "feather flags" or "flutter flags." A sign made of cloth, nylon or other similar non-rigid fabric like material attached to a single pole positioned in the ground in a non-permanent fashion or hung from a building or structure. A banner sign is not a temporary flag sign.

Freestanding sign means a sign supported by one or more uprights, poles or braces placed in or upon the ground and not attached to any building and having clear space of at least eight feet from the ground to the bottom of the sign.

Government sign means a temporary or permanent sign erected by the City of Greenville, Montcalm County, state, or federal government.

Ground sign means a sign resting directly on the ground or supported by short poles and not attached to a building or wall.

Illuminated sign means a sign that provides artificial light directly (or through any transparent or translucent material) from a source of light within such sign, or a sign illuminated by a light so shielded that no direct rays from it are visible from any public right-of-way or from the abutting property.

Inflatable sign/balloon sign means a portable sign which is a three-dimensional object capable of being filled with air or gas depicting a container, figure, product or product trademark, whether or not such object contains a message or lettering.

Marquee means a permanent structure that projects from the exterior wall of a building.

Marquee sign means a sign attached to a marquee, canopy or awning projecting from and supported by the building.

Mean grade means a reference plane representing that arithmetic mean of the lowest and highest grade elevations in an area within five feet of the foundation line of a sign structure, or in the area between the sign structure foundation lien and the lot line, in the case where the sign structure foundation line is less than five feet from the lot line.

Nit means a unit of illuminative brightness equal to one candela (12.5 lumens or 1.16 foot candles) per square meter, measured perpendicular to the rays of the source.

Noncommercial sign means a sign either portable or non-portable not advertising commerce, trade, or location and not otherwise defined herein.

Pennant means a flag or cloth that tapers to a point.

Permanent sign means a sign installed on a support structure which is not intended or designed to be moved or removed, but to remain for an indefinite period of time.

Projecting sign means a sign which projects from and is supported by a wall of a building and does not extend beyond, into, or over the street right-of-way.

Reader board means a portion of a sign on which copy is changed manually.

(1) *Manual:* A sign on which the letters or pictorials are changed manually; or

(2) *Electronic reader board/digital display sign:* A sign or portion thereof that displays electronic, pictorial or text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light-emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. Such signs include computer programmable, microprocessor controlled electronic displays; or

(3) *Multi-vision sign:* Any sign composed in whole or in part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image or images.

Right-of-way signs means signs erected by the city, county, state, federal and other public/quasi-public agencies and located within the public right-of-way.

Roof line means that line which represents the highest portion of any part of the roof structure, excepting gables, chimneys or other incidental architectural features.

Roof sign means any sign erected, constructed and maintained wholly upon or over the roof of any building with its principal support on the roof structure.

Sidewalk sign means a temporary sign typically of A-Frame construction designed to be placed on the sidewalk in front of a building, structure or use. Also called a "sandwich board sign."

Sign means an exterior device, structure, fixture, object or placard using graphics, symbols, written copy and/or itself, visible to the general public and designed to advertise, attract, identify or inform the public.

Street frontage means the width of a lot or parcel meeting the minimum requirements of this chapter for the district in which it is located.

Temporary sign means a sign not permanently attached to the ground, a structure, or a building displayed for a limited period of time. Temporary signs may include banners, festoons, pennant, and any other signs displayed for a limited period of time.

Traffic warning sign means a sign that indicates a hazard ahead on a road that may not be readily apparent to a driver, bicyclist, or pedestrian. Although this is a content-based distinction, these signs are important to prevent public confusion and facilitate collision-free flow of traffic.

Video display sign means a sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery of a television quality which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including, but not limited to, the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes. Video display signs include projected images or messages with these characteristics onto buildings or other.

Wall sign means a sign which is attached directly to or painted upon a building wall and which does not extend more than 18 inches therefrom with the exposed face of the sign in a plane parallel to the building wall.

Window sign means a sign installed or placed inside of a building, close to and facing a window so it is clearly visible from outside of the building.

(c) *Permits required.*

(1) A sign permit shall be required for the erection and construction of all permanent signs exceeding 20 square feet except those exempted by subsections (c)(5) and (e).

(2) A sign permit is not required for ordinary maintenance of signs such as painting, cleaning and light replacement and alteration of sign message.

(3) An application for a sign permit shall be made to the city zoning administrator or their agent along with a fee as required by council resolution. The application, at a minimum, shall include the following:

a. Name, address, and telephone number of applicant and the person, firm or corporation erecting the sign.

b. Address or permanent parcel number of the property where the sign will be located.

c. A sketch showing the location of the building, structure, or lot upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures along with setback from lot lines.

d. An accurate drawing to scale of the plans and specifications, method of construction and attachment to structures or ground. If required by the zoning administrator, the applicant shall provide engineered stress sheets (sealed plans) and calculations showing that the structure is designed according to the requirements of the city building code for wind load restrictions.

e. Any required electrical permit shall be attached to the application.

f. The zoning district in which the sign is to be located.

g. Any other information which the zoning administrator may require in order to demonstrate compliance with this article.

h. Signature of applicant or person, firm, or corporation erecting the sign.

i. For temporary signs which require a permit the permit shall designate the days on which the sign may be displayed.

(4) The zoning administrator shall issue a sign permit if all provisions of this article and other applicable city regulations are met. A sign authorized by a permit shall be installed within six months of the date

of issuance of the sign permit or else the permit shall expire. In the case of an expired permit, a new permit may be issued upon filing of a new application and fee.

(5) Signs not requiring permit. The following signs shall not require a sign permit but shall be subject to the other requirements of subsection (d) and other applicable provisions of this section.

a. Directional signs of six square feet in size or less.

b. Government signs.

c. Window signs.

d. Right-of-way signs.

e. Ordinary maintenance of signs such as painting, cleaning and light replacement.

f. Alteration of sign message.

g. Reserved.

h. Temporary signs as permitted and regulated by the zoning district within which the sign is located.

(d) *General sign provisions.*

(1) A sign not expressly permitted by this section is prohibited.

(2) All signs including signs which do not require a permit are subject to the requirements of subsections (d), (f) and all other applicable requirements of this section.

(3) Signs, except for home occupation signs, may be internally illuminated or, if externally illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or any residential district or property.

(4) Signs shall not be placed in, upon or over any public right-of-way, or alley, except as may be otherwise permitted by the city council or Michigan Department of Transportation.

(5) No light pole, utility pole, publicly-owned landscaping, fire hydrant, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.

(6) A sign shall not, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.

(7) A sign shall not, in the opinion of the zoning administrator, interfere with or obstruct the view of drivers or those on foot or bicycle, or create any type of safety hazard or distraction to vehicle drivers.

(8) No commercial vehicles or trailers, which in the opinion of the zoning administrator have the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.

(9) All outside signs shall not have any flashing, blinking, scrolling, alternating, sequentially lighted, animated, rolling, shimmering, sparkling, bursting, dissolving, twinkling, fade-in/fade-out, oscillating, moving text or moving images or simulated movement of text or images except for traditional barber pole signs.

(10) No sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.

(11) No wall sign shall extend beyond the edge of the wall to which it is affixed, and no wall sign shall extend above the roof line of a building.

(12) All ground, wall, and freestanding signs may include reader boards as permitted by subsection (g)(2) herein.

(13) Signs maintained by or for services, businesses, attractions, activities, lessors, owners that are no longer in operation shall not be permitted. A sign that remains after the operation ceases shall be considered abandoned and the sign face shall be removed or replaced with a blank face within 90 days after written notification from the city to the sign owner, the property owner where the sign is located, or any other party having control over the sign.

(14) Signs shall not obstruct sidewalk passage of pedestrians.

(e) *Exempted signs.* The following signs shall be exempt from the provisions of this section, except for the provisions of subsection (d):

(1) Government signs.

(2) Signs two square feet or less in size.

(3) Window signs which are electronic reader board signs shall also be subject to subsection (g)(2) herein.

(4) Reserved.

(5) Murals.

(6) Signs not visible from any street.

(7) Reserved.

(8) Reserved.

(9) Reserved.

(10) Flags or insignia of any nation, state, city, township, government or government authorized agency. Such flags shall only be displayed on a flag pole.

(11) Right-of-way signs.

(f) *Measurement of area and height of a sign.*

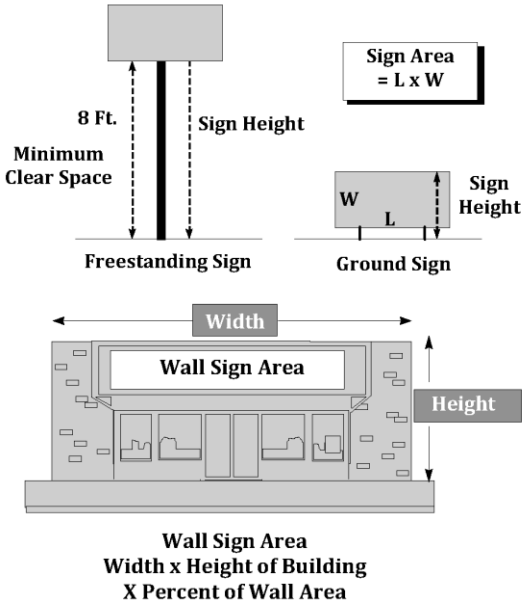
(1) The measurement of the area of a sign shall include the entire area within a circle, triangle or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed.

(2) Where a sign has two or more faces, the areas of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet apart from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or the area of the larger face if the two faces are of unequal area. In the case of a circle or sphere, the total area of the circle or sphere is divided by two for purposes of determining the maximum permitted sign area.

(3) The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the mean grade of the ground immediately beneath the sign, whichever is less.

(4) Any sign, including any awning to which a sign is affixed or displayed, not resting directly on the ground shall maintain a minimum clear space of eight feet from the bottom of the sign to the ground.

(5) For buildings with multiple tenants, sign areas for wall signs, projecting signs, and awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign limits for that portion of the total wall.



(g) *Signs permitted in all districts.* The following signs are permitted in all zone districts:

(1) Directional, identification, traffic warning, or government signs, provided the size of each sign does not exceed six square feet and four feet in height and each sign is located at least five feet from any lot line.

(2) Reader boards. All wall and freestanding signs in all zoning districts may include reader boards subject to the following regulations:

a. A reader board shall not consist of more than 50 percent of the allowable sign area except for signs, which are 32 square feet, or less in area.

b. The dwell time, defined as the interval of change between each individual message, shall be at least five seconds and a change of message must be accomplished within one second or less. The dwell time shall not include the one second or less to change the message.

c. An electronic reader board sign shall not exceed a maximum illumination of 6,500 nits (candelas per square meter) during daylight hours and a maximum illumination of 325 nits (candelas per square meter) between dusk to dawn as measured at the sign's face at maximum brightness.

However, even if such signs comply with the nit requirements above such signs shall not, in the opinion of the zoning administrator: be brighter than is necessary for clear and adequate visibility; be of such intensity or brilliance as to impair the vision of or be a distraction to a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle or; be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal.

Prior to the issuance of a sign permit for an electronic message board the applicant shall provide to the zoning administrator certification from the manufacturer of the sign that the illumination settings for the sign comply with the maximum illumination requirements of this subsection (g)(2).

d. An electronic reader board shall be equipped with a brightness control sensor that allows for the brightness to automatically adjust to the surrounding light conditions.

e. An electronic reader board shall not have any flashing, blinking, scrolling, alternating, sequentially lighted, animated, rolling, shimmering, sparkling, bursting, dissolving, twinkling, fade-in/fade-out, oscillating, moving text or moving images or simulated movement of text or images.

f. Electronic message board signs legally in existence upon the effective date of this subsection (g)(2) shall be required to comply with the illumination and message display requirements of this section within 60 days from the effective date of this section.

g. Electronic reader board signs which do not face a public street or land zoned or used for residential purposes and when such signs are used for drive-through restaurants, gas stations and similar establishments serving motorists then such signs are exempt from the requirements of this subsection (g)(2).

(3) Window signs.

a. A window sign may consist of illuminated letters including neon lights.

b. An electronic reader board is allowed as a window sign and may utilize continuous scrolling letters but a window sign shall otherwise comply with the requirements for electronic reader boards as set forth in subsections (g)(2) and (g)(2)d. herein. Any flashing or strobe type lights within a building or structure which are visible from the exterior of the building or structure are prohibited.

(h) *Construction and maintenance of signs.*

(1) All signs shall be constructed and maintained in accordance with the current Michigan Construction Code.

(2) Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other conditions which impair legibility.

(3) All signs, sign supports, frames, braces, wiring, guys and anchors shall be maintained in such a manner that they do not create a hazard for pedestrians and vehicles.

(4) Signs shall not be allowed to become unsightly through disrepair or action of the elements.

(5) In the event the applicant fails to maintain any sign properly or fails to remove the sign at the time of expiration of the permit, the applicant shall be required to remove such sign. An inspection fee, as determined by the city council, shall be paid to the zoning administrator for each such sign at the time of the original permit and at each renewal thereof.

(6) All signs shall be designed to ensure a dead load and wind pressure in any direction of not less than 30 pounds per square foot of area. All signs shall be securely anchored or otherwise made immobile.

(i) *Regulations for temporary signs.*

(1) A temporary sign may be installed concurrent with the event and removed upon the end of the event. The zoning administrator shall have the discretion to determine the beginning and end date of the event.

(2) The zoning administrator shall have the discretion to determine when a temporary sign is a permanent sign and subject to the rules for permanent signs.

(3) Permits are required for temporary signs that exceed 20 square feet in size. The permit shall designate the days on which the sign may be displayed. Display of the sign on any day other than those days designated on the permit shall be a violation of this section.

(4) A temporary sign permit may be issued as part of and in conjunction with a building permit. The sign permit issuance shall be noted on the building permit.

(5) The size and number of temporary signs allowed shall be as specified within each zoning district provided in subsection (j).

(6) Signs shall be anchored in a safe and secure manner. The anchoring of signs by tying or attaching weighted objects (such as cinder blocks or tires) is prohibited.

(7) The sign shall be located a minimum of five feet from the edge of any road or street right-of-way or public or private sidewalk except for sandwich board signs as regulated herein.

(8) A sign shall not be displayed if it is torn, bent, faded, not upright, unreadable, or otherwise unsightly.

(9) Temporary signs held by a person shall not be displayed in the road right-of-way and shall not hamper the visibility of a driver on or off the site.

(10) Temporary signs shall only be internally illuminated.

(11) An electronic reader board/digital display sign may serve as a temporary sign and shall comply with the requirements of subsection (g)(2).

(j) *Zone district signs.* The following signs are permitted within the zone districts indicated:

See zone district tables below for:

- Residential districts (R-1, R-2, R-3, and MHP) permitted signs
- O-1 and C-1, commercial—Permitted signs
- C-2 general commercial district—Permitted signs
- C-3 central business district—Permitted signs
- IND industrial district—Permitted signs

RESIDENTIAL DISTRICTS (R-1, R-2, R-3, AND MHP) PERMITTED SIGNS	
The following signs are permitted per parcel as part of an application for and approval of a special land use permit according to the following requirements:	
Ground Signs for Nonresidential Uses	
Number:	One per lot, parcel, or use
Size:	No greater than 32 square feet
Location:	Minimum of ten feet from any property line
Height:	No higher than six feet
Ground Signs for Nonresidential Uses on Parcels of Ten Acres or More	
The following signs are permitted per parcel as part of an application for and approval of a special land use permit according to the following requirements:	
Number:	One per lot, parcel, or use
Size:	No greater than 100 square feet
Location:	Minimum of ten feet from any property line
Height:	No higher than six feet

Incidental signs:	No greater than 32 square feet. Such sign may also identify buildings
Additional Signs	
One permanent ground sign may be provided at each entrance to a subdivision, condominium or mobile home park or multi-family development according to the following requirements:	
Number:	One per major entrance
Size:	No greater than 32 square feet
Location:	Minimum of 15 feet from any side or rear property line
Height:	No higher than six feet if located within ten feet of the front property line; eight feet if located at least ten feet from the front property line
Wall Signs for Nonresidential Uses Other Than Home Occupations	
The following signs are permitted per parcel as part of an application for and approval of a special land use permit according to the following requirements:	
Number:	One per street frontage
Size:	No greater than five percent of the wall area to which it is attached
Location:	On wall of building facing the street.
Temporary Signs	
1. Temporary signs are permitted, provided that the square footage of a single sign or the total square footage of all temporary signs shall not exceed 16 square feet.	
2. Temporary signs shall comply with the requirements of subsections (d) and (i).	
Permanent Flag Signs	
For all permitted uses no more than one permanent flag sign is permitted per parcel. Each such sign shall not exceed 24 sq. ft. in size. If the flag sign shares the same pole as the United States flag, the flag sign shall be the smaller of these two flags and shall be placed below the United States flag. A permit is not required from the City of Greenville to display a permanent flag sign. Such signs shall be properly maintained and shall be removed if they become torn, faded, unreadable or otherwise unsightly.	

O-1 AND C-1, COMMERCIAL DISTRICTS PERMITTED SIGNS	
In the Mixed-Use Zone those parcels which do not have frontage on East or West Washington are not permitted to have a Business Center or Freestanding sign but may provide a ground sign not to exceed 24 sq. ft. in size and six feet in height setback at least five feet from all lot lines. A wall sign, permanent flag sign, and sidewalk sign are also permitted as allowed herein.	
Business Center Signs	
Number:	One per lot or parcel
Size:	No greater than 48 square feet
Location:	Minimum of ten feet from any property line
Height:	No higher than six feet
Freestanding Signs	
Number:	1 per lot or parcel, except that parcels with two or more public street frontages equaling or exceeding 300 feet shall be permitted two signs, which may be either freestanding or ground signs, or a combination, each of which must meet the other regulations applicable to the sign. If a ground sign is used, a portable sign may be used as the permitted sign.
Size:	No greater than 100 square feet in area per side
Location:	Minimum of 15 feet from any side or rear property line
Height:	No higher than 25 feet
Ground Signs	
Number:	One per lot or parcel

Size:	No greater than 32 square feet
Location:	Minimum of ten feet from any side or rear property line
Height:	No higher than six feet if located within ten feet of the front property line; eight feet if located at least ten feet from the front property line
Wall Signs	
Number:	One per street frontage plus one per each side facing a public or private parking area (if not a street side)
Size:	No greater than five percent of the wall area to which the sign is affixed
Location:	On wall of building facing street or public or private parking area
Permanent Flag Signs	
More than one permanent flag sign is permitted per parcel. Each such sign shall not exceed 24 sq. ft. in size. If the flag sign shares the same pole as the United States flag, the flag sign shall be the smaller of these two flags and shall be placed below the United States flag. A permit is not required from the City of Greenville to display a permanent flag sign. Such signs shall be properly maintained and shall be removed if they become torn, faded or unreadable or otherwise unsightly.	
Sidewalk Signs	
Number:	One for each public entrance to a business
Size:	Maximum of eight square feet per side
Location:	Such signs shall not be placed in the street right-of-way and shall be placed directly in front of the business using the sign and no more than five feet from the door of the business. The sign shall not be placed in a designated parking space or in a way which obstructs pedestrian circulation or interferes with the opening of doors of parked vehicles
Height:	Maximum height of four feet
Width:	No wider than two feet between each sign face
Restrictions:	The sign must be removed during non-business hours
Permit:	A permit from the City of Greenville is not required to utilize a sidewalk sign
Temporary Signs	
1. Temporary signs are permitted, provided that the square footage of a single sign or the total square footage of all temporary signs shall not exceed 16 square feet.	
2. Temporary signs shall comply with the requirements of subsections (d) and (i).	
3. One additional temporary sign of up to 32 square feet may be allowed if it is issued in conjunction with a building permit for a building to be constructed on that same property.	

C-2 GENERAL COMMERCIAL DISTRICT PERMITTED SIGNS	
Business Center Signs	
Number and Size:	A business center is permitted one freestanding sign per parcel with maximum size of 125 square feet except that a business center on a parcel which has more than 300 feet of frontage on the same public street and two or more driveways onto that same public street may have two freestanding signs with a maximum size of 150 square feet for each sign. Each sign shall be placed in close proximity to a different driveway
Location:	Minimum of 15 feet from any side or rear property line
Height:	No higher than 25 feet
Freestanding Signs	
Number:	One per lot or parcel, except that parcels with two or more public street frontages equaling or exceeding 300 feet shall be permitted two signs, which may be either freestanding or ground signs, or a combination, each of which must meet the other regulations applicable to the sign. If a ground sign is used, a portable sign may be used as the permitted sign

Size:	No greater than 100 square feet in area per side
Location:	Minimum of 15 feet from any side or rear property line
Height:	No higher than 25 feet
Ground Signs	
Number:	One per lot or parcel, except that only one ground sign or one freestanding sign shall be permitted per lot or parcel. A portable sign may be used as the permitted sign
Size:	No greater than 48 square feet for each sign allowed
Location:	Minimum of ten feet from the side or rear property line
Height:	No higher than six feet if located within ten feet of the front property line; eight feet if located at least ten feet from the front property line
Marquee Signs	
Number:	One per street frontage or marquee face
Size:	No greater than 30 percent of any face of the marquee to which the sign is affixed
Location:	On face of marquee
Height:	Minimum clear space of eight feet from bottom of marquee
Wall Signs	
Number:	More than one sign may be attached to each wall, which faces a public street or public or private off street parking area provided the total sign area does not exceed 20 percent of the area of the wall to which it is attached
Size:	No greater than 20 percent of the wall area to which the sign is affixed. Banner signs may used as part of the wall sign area
Location:	On wall of building facing street or public or private parking area
Sidewalk Signs	
Number:	One for each public entrance to a business
Size:	Maximum of eight square feet per side
Location:	Such signs shall not be placed in the street right-of-way and shall be placed directly in front of the business using the sign and no more than five feet from the door of the business. The sign shall not be placed in a designated parking space or in a way which obstructs pedestrian circulation or interferes with the opening of doors of parked vehicles
Height:	Maximum height of four feet
Width:	No wider than two feet between each sign face
Restrictions:	The sign must be removed during non-business hours
Permit:	A permit from the City of Greenville is not required to utilize a sidewalk sign
Permanent Flag Signs	
More than one permanent flag sign is permitted per parcel. Each such sign shall not exceed 24 sq. ft. in size. If the flag sign shares the same pole as the United States flag, the flag sign shall be the smaller of these two flags and shall be placed below the United States flag. A permit is not required from the City of Greenville to display a permanent flag sign. Such signs shall be properly maintained and shall be removed if they become torn, faded or unreadable or otherwise unsightly.	
Temporary Signs	
1. No more than two temporary signs are permitted, provided that the square footage of a single sign or the total square footage of all temporary signs shall not exceed 32 square feet.	
2. Temporary signs shall comply with the requirements of subsections (d) and (i).	
3. One additional temporary sign of up to 32 square feet may be allowed if it is issued in conjunction with a building permit for a building to be constructed on that same property.	

C-3 CENTRAL BUSINESS DISTRICT PERMITTED SIGNS

Business Center Signs, if No Projecting Sign is Present on the Same Frontage	
Number:	One per lot or parcel, except for parcels with two or more public street frontages each of which equal or exceed 300 feet shall be permitted two signs, each of which must meet any applicable regulations
Size:	No greater than 100 square feet in area per side
Location:	Minimum of 15 feet from any side property line or adjacent building
Height:	No higher than 25 feet
Freestanding Sign, if No Projecting Sign or Ground Sign is Present on the Same Frontage	
Number:	One per lot or parcel, except that parcels with two or more public street frontages each of which equal or exceed 300 feet shall be permitted two signs, each of which must meet the other regulations applicable to the sign
Size:	No greater than 75 square feet in area per side
Location:	Minimum of 15 feet from any side property line or adjacent building
Height:	No higher than 25 feet
Ground Sign, If No Projecting Sign or Freestanding Sign is Present on the Same Frontage	
Number:	One per lot or parcel, except that parcels with two or more public street frontages each of which equal or exceed (300 feet shall be permitted two signs, each of which must meet the other regulations applicable to the sign
Size:	No greater than 48 square feet for each sign allowed
Location:	Minimum of ten feet from the side or rear property line
Height:	No higher than six feet if located within ten feet of the front property line; eight feet if located at least ten feet from the front property line
Marquee Signs	
Number:	One per street frontage or marquee face
Size:	No greater than 30 percent of any face of the marquee to which the sign is affixed
Location:	On face of marquee
Height:	Minimum clear space of eight feet from bottom of marquee
Wall Signs or Projecting Signs	
Number:	More than one sign may be attached to each wall, which faces a public street or public or private off street parking area provided the total sign area does not exceed 20 percent of the area of the wall to which it is attached
Size:	Wall signs: No greater than 20 percent of the wall area to which the sign is affixed. Banner signs may used as part of the wall sign area
	Projecting signs: no greater than 20 square feet
Location:	On wall of building facing street or wall facing the public or private parking area. Projecting signs shall extend no more than five feet from the building or one-third the width of the sidewalk, whichever is less
Height:	Projecting signs: Minimum clear space of eight feet from bottom of sign. Projecting signs must be placed away from the wall at least six inches but not extend above the second story
Sidewalk Signs	
Number:	One for each public entrance to a business.
Size:	Maximum of eight square feet per side.
Location:	Signs shall be placed directly in front of the business using the sign and no closer than one foot and no further than three feet from the street curb. A minimum of five feet of sidewalk width shall remain to permit the free flow of pedestrian traffic.
Height:	Maximum height of four feet.
Width:	No wider than two feet between each sign face.

Restrictions:	The sign must be removed during non-business hours. Signs may be placed in the rights-of-way listed in City of Greenville Sidewalk Ordinance No. 126
Permit:	A permit from the City of Greenville is not required to utilize a sidewalk sign
Permanent Flag Signs	
More than one permanent flag sign is permitted per parcel. Each such sign shall not exceed 24 sq. ft. in size. If the flag sign shares the same pole as the United States flag, the flag sign shall be the smaller of these two flags and shall be placed below the United States flag. A permit is not required from the City of Greenville to display a permanent flag sign. Such signs shall be properly maintained and shall be removed if they become torn, faded or unreadable or otherwise unsightly.	
Temporary Signs	
1. Temporary Signs are permitted, provided that the square footage of a single sign or the total square footage of all temporary signs shall not exceed 16 square feet.	
2. Temporary signs shall comply with the requirements of subsections (d) and (i).	

IND INDUSTRIAL DISTRICT PERMITTED SIGNS	
Ground Signs	
Number:	One per lot or parcel
Size:	No greater than 32 square feet
Location:	Minimum of ten feet from any side or rear property line
Height:	No higher than six feet if located within ten feet of the front property line; eight feet if located at least ten feet from the front property line
Wall Signs	
Number:	One per street frontage
Size:	No greater than five percent of the wall area to which the sign is affixed
Location:	On wall of building facing street
Permanent Flag Signs	
More than one permanent flag sign is permitted per parcel. Each such sign shall not exceed 24 sq. ft. in size. If the flag sign shares the same pole as the United States flag, the flag sign shall be the smaller of these two flags and shall be placed below the United States flag. A permit is not required from the City of Greenville to display a permanent flag sign. Such signs shall be properly maintained and shall be removed if they become torn, faded or unreadable or otherwise unsightly.	
Temporary Signs	
1. Temporary Signs are permitted, provided that the square footage of a single sign or the total square footage of all temporary signs shall not exceed 16 square feet.	
2. Temporary signs shall comply with the requirements of subsections (d) and (i).	

(k) *Nonconforming signs.*

(1) Signs lawfully erected prior to November 1, 1991, or applicable amendment thereto which do not meet the standards of this section may be continued, except as hereinafter provided. No nonconforming sign shall:

a. Have any changes made in the words or symbols used or the message displayed on the sign, unless the sign is specifically designed for periodic change of message;

b. Be structurally altered so as to change the shape, size, type or design of the sign; or

c. Be reestablished or continued after the activity, business, or use to which it applied has been discontinued for 90 days or longer.

(2) Signs lawfully erected prior to the adoption of this chapter or applicable amendment thereto which do not meet the size limitations of this section may be changed to another nonconforming sign, provided that the sign replacing the original nonconforming sign is at least 30 percent smaller in area than the original nonconforming sign.

(3) No sign shall be required to be removed which was erected in compliance with this section if such sign becomes nonconforming due to a change occurring after the adoption of this chapter or applicable amendment thereto in the location of a building, streets, or other signs, and which change is beyond the control of the owner of the premises on which the sign is located.

(4) If the owner of the premises on which a sign is located changes the use of the building, or changes the location of any property line or sign, so that any sign is rendered nonconforming, such sign must be removed or made to conform to this section.

(l) *Discontinuance or abandonment.* Whenever the activity, business or use of a primary premises to which a sign is attached or related has been discontinued for a period of 90 days or longer, such discontinuance shall be considered conclusive evidence of an intention to abandon the sign attached or related thereto. At the end of this period of abandonment, the sign shall either be removed or altered to conform with the provisions of this section. All costs of removal shall be at the property owner's expense.

(Prior Code, §§ 15.2001—15.2011; Ord. No. 150, §§ 20.01—20.22, 11-1-1997; Ord. No. 150-A, 4-16-2002; Ord. No. 150-J, §§ 1—5, 5-1-2007; Ord. No. 150-S, §§ 1—15, 12-7-2010; Ord. No. 17-01 , § 1, 1-3-2017)

CODE COMPARATIVE TABLE
PRIOR CODE

This table gives the location within the Code of those sections of the Prior Code, as supplemented January 21, 2002, that are included in the Code.

Prior Code Section	Section this Code
4.063	20-55
12.041	2-196
12.042	2-197
12.043	2-198
12.044	2-199
12.045	2-200
12.046	2-201
12.047	2-202
12.122	40-1
12.123	40-1
12.158	16-1
12.253	14-40
12.254	14-41, 14-42
12.255	14-42

12.256	14-43
12.257	14-44
12.258	14-45, 14-46
12.260	14-47
12.271	14-68
12.272	14-69
12.273	14-70
12.275	14-71
12.276	14-72
12.277	14-73
12.278	14-74
12.279	14-75
12.280	14-76
12.301	2-139
12.302	2-141
12.303	2-142
12.304	2-143
12.305	2-144
12.307	2-140
12.403	2-95
12.405	2-90
12.406	2-91
12.407	2-96
12.409	2-86
12.410	2-94
12.412	2-86
	2-92
12.451	2-85
12.452	2-87
12.453	2-88
12.454	2-89
12.455	2-86
12.456	2-92
12.457	2-93
12.502, 12.502A	34-1, 34-2
12.503	34-3
12.505	34-4
12.506	34-5
12.507	34-6
12.508	34-7
12.509	34-8
12.510	34-9
12.511	34-10
12.564	2-1
12.566	1-7

12.567	2-45
12.568	2-44
12.576	26-1
12.577	26-1
14.501	14-96
14.502	14-97
14.510—14.526	14-98
15.0102	46-4
15.0103	46-5
15.0201	46-2
15.0202—15.0224	46-1
15.0301	46-7
15.0302	46-73
15.0303	46-74
15.0304	46-75
15.0305	46-76
15.0306	46-77
15.0307	46-78
15.0308	46-79
15.0309	46-80
15.0310	46-81
15.0311	46-82
15.0312	46-83
15.0313	46-84
15.0314	46-85
15.0315	46-86
15.0316	46-87
15.0317	46-88
15.0318	46-89
15.0319	46-90
15.0320	46-91
15.0321	46-92
15.0322	46-93
15.0323	46-94
15.0324	46-95
15.0325	46-96
15.0326	46-37
15.0327	46-97
15.0328	46-98
15.0329	46-99
15.0401	46-131
15.0402	46-132
15.0403	46-133
15.0404	46-134
15.0405	46-135

15.0406	46-6
15.0501—15.0504	46-154
15.0601—15.0604	46-155
15.0701—15.0704	46-156
15.0801—15.0804	46-157
15.0901—15.0904	46-158
15.1001—15.1004	46-159
15.1101—15.1104	46-160
15.1201—15.1204	46-161
15.1301—15.1308	46-162
15.1401—15.1407	46-163
15.1501—15.1507	46-164
15.1601	46-182
15.1602	46-183
15.1603	46-184
15.1604—15.1604(S)	46-207— 46-226
15.1604(T)—15.1604(EE)	46-228— 46-239
15.1701—15.1704, 15.1701A—15.1713S	46-41, 46-42
15.1801—15.1806	46-257
15.1901—15.1909	46-258
15.2001—15.2011	46-259
15.2101—15.2107	46-36
15.2201	46-35
15.2202	46-39
15.2203(A)	46-3
15.2203(B)	46-40
15.2204	46-38
17.103(B), 17.103(A)	38-3, 38-4
17.104	38-5
17.200	38-1
17.201	38-1
17.301	38-33
17.302	38-34
17.303	38-35
17.304(A)—17.304(H)	38-59—38-66
17.400	38-7
17.500	38-6
17.601	38-5
17.602	38-2
18.001	2-232
20.041—20.043	26-267
20.051	26-182
20.082—20.086	26-115

20.091	26-114
20.1001	26-2
20.101	10-44
20.102	10-45
20.103	10-46
20.104	10-47
20.105	10-48
20.1081	42-4
20.1083—20.1085	42-4
20.1101	36-82
20.1102	36-83
20.1103	36-81
20.1104	36-86
20.1105	36-87
20.1106	36-88
20.1107	36-89
20.1108	36-90
20.1109	36-91
20.1110	36-92
20.1111	36-93
20.1113	36-94
20.1114	36-95
20.1115	36-96
20.1116	36-97
20.1117	36-98
20.1118	36-84
20.1120	36-85
20.1121	36-85
20.131	26-147
20.131.5	26-147
20.161	26-289
20.162	26-290
20.163	26-291
20.164	26-288
20.165	26-287
20.180	28-20
20.182—20.189	28-19
20.201	28-22
20.211—20.214	28-23
20.221	28-24
20.222	28-25
20.231—20.233	28-27
20.241	28-28
20.242	28-28
20.251	28-29

20.252	28-29
20.261	28-30
20.262	28-31
20.271	28-32
20.281	28-33
20.282	28-33
20.291	28-21
20.311(D), 20.311(F)	4-9, 4-10
20.311(B)	26-27
20.311(C)	26-54
20.311(E)	26-181
20.312(G)	26-3
20.312(F)	26-29
20.312(J), 20.312(I)	26-52, 26-53
20.312(A)	26-150
20.312(C)	26-152
20.312(D)	26-154
20.313	4-8
20.314	26-55
20.315(A)(6)	26-52
20.315(A)(2)	26-144
20.315(A)(5)	26-149
20.315(A)(7)	26-151
20.317	26-144
20.318	26-50
20.319(A), 20.319(B)	26-112, 26-113
20.320(P)	26-28
20.320(O)	26-48
20.320(E), 20.320(D)	26-145, 26-146
20.320(A)	26-148
20.320(G)	26-153
20.320(H)—20.320(L)	26-177— 26-180
20.320(B), 20.320(C)	26-241, 26-242
20.320(F)	26-268, 26-269
20.331(A)	26-240
20.351	42-161
20.352	42-162
20.353	42-163
20.354	42-165
20.355	42-166

20.356	42-164
20.359	42-123
20.361A	42-124
20.362	42-125
20.363	20-126
20.363A	42-127
20.364	42-128
20.365A	42-129
20.366, 20.366A	42-130, 42-131
20.371	26-47
20.381	26-51
20.411	26-243
20.501—20.503	42-96
20.504	42-89
20.505	42-96
20.506	42-96
20.508	42-97
20.521	42-50
20.522	42-49
20.523	42-51
20.524	42-52
20.525	42-53
20.526	42-54
20.527	42-55
20.528	42-56
20.529	42-57
20.552	42-88
	42-90—42-93
20.558	42-94
20.561	42-95
20.563	42-89
20.564	42-89
20.651	36-1
20.652	36-2
20.654	36-3
20.655	36-4
20.671	36-29
20.672	36-29
20.673—20.675	36-30
20.676	36-31
20.691	10-70
20.692	10-107
20.693	10-130, 10-131

20.694	10-106
	10-132
20.695	10-108
20.696	10-165
20.697	10-163, 10-164
20.698	10-166
20.699	10-167
20.700	10-105
20.701	10-71
20.702	10-72
20.703	10-73
20.801	42-3
20.803	42-3
20.851	4-1
20.852	4-2
20.853	4-3
20.854	4-4
20.855	4-5
20.856	4-6
20.862	4-7
20.901	26-178
21.501	42-2
21.502	42-2
21.504	42-2
21.521	42-1
21.522	42-1
21.524	42-1
22.502	36-5
25.001	44-20
25.002	44-21
25.003	44-22
25.004	44-23
25.005	44-25
25.006	44-26
25.007	44-19
25.011	44-56
25.012	44-81
25.013	44-58
25.014	44-82
25.015	44-83
25.016	44-59
25.017	44-60
25.018	44-61
25.019	44-57

25.021	44-84
25.024	44-85
25.025	44-86
25.110	44-116
25.131	44-137
25.132	44-138
25.133	44-139
25.134	44-140
25.141	44-164
25.142	44-165
25.144	44-166, 44-167
25.152	44-189
25.153	44-190
25.154	44-191
25.155	44-192
25.156	44-193
25.157	44-194
25.158	44-195
25.159	44-196
25.160	44-197
25.161	44-198
25.162	44-199
25.171	44-222
25.172	44-223
25.173	44-224
25.174	44-225
25.191	44-119
25.201	44-118
25.221—25.223	44-117
25.251	44-244
25.252	44-245
25.253	44-246
25.254	44-247
25.255	44-248
25.256	44-249
25.259	44-250
25.260	44-251
25.411	44-283
25.412	44-284
25.413	44-285
25.414	44-281
25.415	44-282
25.431	44-324
25.432	44-325

25.433	44-358
25.433.1—25.433.3	44-359— 44-361
25.434.1—25.434.5, 25.435.1—25.435.3	44-326, 44-327
25.435	44-327
25.436.4	44-287
25.436.1—25.436.3	44-286
25.437	44-288
25.438	44-293
25.439	44-292
25.440	44-294
25.441	44-295
25.460	44-387
25.462	44-388
25.471	44-420
25.472	44-420
25.473	44-421
25.474	44-364
25.474.1, 25.474.2	44-364
25.475	44-422
25.476	44-423
25.477.1—25.477.11	44-289
25.478	44-424
25.478.1—25.478.4	44-424
25.479	44-292
25.491	44-447
25.491.1—25.491.10	44-448— 44-457
25.492.2—25.492.4	44-458— 44-460
25.493	44-461
25.511	44-458
25.512	44-462
25.513	44-290
25.521	44-291
25.531	44-362
25.532	44-363
25.610	18-21
25.620	18-19
25.631	18-60
25.632	18-83
25.633	18-24
25.640—25.642	18-62
25.650—25.652	18-61

25.661	18-24
25.662	18-22, 18-23
25.663	18-26
25.664	18-118
25.665	18-119
25.666	18-120
25.667	18-27
25.668	18-121
25.669	18-122
25.670	18-123
25.671	18-84
25.672	18-85
25.673	18-86
25.674	18-28
	18-87
25.675	18-124
25.676	18-125
25.677	18-20
25.680	18-25
30.001(2)—30.001(4)	36-51—36-53
30.001(5)—30.001(8)	36-55—36-58
30.002	36-59
30.003	36-60
30.004	36-61
30.005(1)	36-54
35.351	24-20
	24-23
35.352	24-24
35.353	24-19
35.354	24-25
35.355	24-22
35.356	24-21
35.401	32-74
35.402	32-75
35.403	32-76
35.404	32-77
35.407	32-78
35.408	32-79
35.501	32-23
35.502	32-19
35.503	32-25
35.504	32-26
35.505	32-23
35.506	32-21
35.507	32-27

35.508	32-28
35.509	32-20
35.511	32-47
35.512	32-29
35.513	32-48
35.514	32-49
35.515	32-50
35.516	32-25
35.518	32-22
35.519	32-21
35.521—35.527	32-24
35.701	12-20
35.702	12-21
35.703	12-22
35.722	26-84
35.788	6-1, 6-2
35.789	6-2
35.792	6-2
35.793	6-1
35.801	8-25
	8-27
35.803	8-30
35.804	8-31
35.805	8-32
35.806	8-29
35.807	8-28
35.808	8-26
40.001	20-21
40.002	20-23
40.003	20-24
40.004	20-25
40.007	20-26
40.008	20-27
40.009	20-28
40.010	20-29
40.011	20-30
40.012	20-31
40.013	20-22
40.051(B)	20-51
40.051(A)	20-53
40.051(D)	20-55
40.052	20-86
40.053	20-87
40.054	20-54
40.055	20-88

40.056	20-89
40.057	20-55
40.058	20-52
40.059	20-56
40.060	20-90
40.071—40.073	20-1
47.004	14-151
47.005	14-152
47.006	14-153
47.007	14-154
47.008	14-155
47.009	14-156
47.010	14-157

CODE COMPARATIVE TABLE
ORDINANCES

This is a chronological listing of the ordinances of the city used in this Code. Repealed or superseded laws at the time of this codification and any omitted materials are not reflected in the table.

Ordinance Number	Date	Section	Section this Code
13	2-15-1930	1, 2	36-1, 36-2
		4, 5	36-3, 36-4
2	2-15-1939	1, 2	36-5
21	2-15-1939	1	26-182
23	2-15-1939	1	26-114
24	2-15-1939	1	10-44—10-48
27	5-20-1941	1, 2	36-29
		3—5	36-30
		6	36-31
56	9- 1-1947	1	10-70
			10-107, 10-108
		3	10-130, 10-131
		4	10-106
			10-132
		6	10-165
		7	10-163, 10-164

		8, 9	10-166, 10-167
		10	10-105
		11—13	10-71—10-73
52	4- 8-1957	8	16-1
59	3- 1-1960	art. I	44-116
		art. II, § 2—	44-138— 44-140
		art. II, § 4	
		art. III, § 1	44-137
		art. III, § 1—	44-164— 44-167
		art. III, § 4	
		art. IV, § 1—	44-188— 44-199
		art. IV, § 12	
		art. V, § 1—	44-222— 44-225
		art. V, § 4	
		art. VI, § 1	44-119
		art. VII, § 1	44-118
		art. VIII, §§ 1—3	44-117
63	10-24-1960	1—3	12-20—12-22
70	4- 8-1968	1	2-232
68	1-23-1969	1	26-84
79	9-22-1971	7	6-1, 6-2
		8	6-2
		11	6-2
		12	6-1
80	3- 1-1972	1—3	26-289— 26-291
		4	26-288
		5	26-287
82	5- 9-1973	1—7	2-196—2-202
83	10-15-1973	1	42-50
		2	42-49
		3	42-51
		5—9	42-53—42-57
85	10-15-1973	1	8-25
			8-27
		3—5	8-30—8-32
		6	8-29
		7	8-28
		8	8-26
86	1- 1-1974	1	28-19

		2—4	28-22—28-24
		4	28-25
		5—8	28-27—28-30
		8—10	28-31—28-33
		11	28-21
85-A	7- 3-1974		8-30
92	1-31-1975	1	26-240— 26-242
93	2-20-1975	1—3	42-161— 42-163
		4, 5	42-165, 42-166
		6	42-164
		9	42-123
		12, 13	42-124, 42-125
		15	20-126
		16, 17	42-127, 42-128
		20—22	42-129— 42-131
94	5-22-1975	1	26-47
96	1- 2-1976	1	42-3
		3	42-3
60-F	5-20-1976	1	44-56
		2	44-81
		3	44-58
		4, 5	44-82, 44-83
		6—8	44-59—44-61
		9	44-57
		11	44-84
		14, 15	44-85, 44-86
61-F	5-20-1976	1—5	44-244— 44-248
		9, 10	44-250, 44-251
		16	44-249
97	6- 1-1977	2, 3	40-1
101	11-15-1977	1	26-147
102	12-22-1977	1, 2	14-96, 14-97
		3(arts. I—XVI)	14-98
79-A	5-15-1978		6-1, 6-2
79-B	8-22-1978		6-1
104	4-19-1979	3, 4	14-40, 14-41
		4, 5	14-42

		6	14-43
		6A	14-43
		7—10	14-44—14-47
93-A	9- 6-1979		42-123
104-A	11-10-1979		14-43
96-A	2-21-1980		42-3
59-A	3- 1-1980		44-140
			44-165
93-B	3-20-1980		20-126
			42-124, 42-125
			42-127— 42-131
107	4- 1-1980	1—3	26-267
108	7- 1-1980	1	2-139
		2—5	2-141—2-144
		7	2-140
104-B	8-15-1980		14-43
135	10-15-1980	2—6	26-115
109	1- 2-1981	1	20-21
		2—4	20-23—20-25
		7—9	20-26—20-28
		11, 12	20-30, 20-31
		13	20-22
		19	20-29
59-B	1-23-1981		44-116
			44-189
108-A	4- 1-1981		2-140
114	8- 6-1981	1—6	4-1—4-6
		12	4-7
113	8-15-1981	1	20-51
			20-53
			20-55
		2, 3	20-86, 20-87
		4	20-54
		5, 6	20-88, 20-89
		7	20-55
		8	20-52
		9	20-56
		10	20-90
		13	20-55
2-A	12-16-1981		36-5
60-G	2-18-1982		44-85, 44-86
61-G	2-18-1982		44-250, 44-251

60-H	4- 2-1982		44-82
119	12- 1-1982	1	2-86
		3	2-95
		5, 6	2-90, 2-91
		10	2-94
		11	2-92
		12	2-86
118	12-22-1982	1—3	14-68—14-70
		5—10	14-71—14-76
120	4-19-1983	1	2-85
		2	2-87
		3	2-86
		3, 4	2-88, 2-89
		6, 7	2-92, 2-93
119-A	5- 5-1983		2-94
		12	2-92
113-B	11- 2-1983		20-51—20-56
			20-86—20-90
104-C	10-17-1984		14-43
124	3-20-1985	I	24-19, 24-20
		I, II	24-23, 24-24
		IV	24-25
		V	24-22
		VI	24-21
59-C	4- 3-1985		44-116, 44-117
125	2-10-1986	2A	34-2
		3	34-1
			34-3
		5, 6	34-4, 34-5
		8—11	34-7—34-10
125A	6-19-1986		34-1, 34-2
126	10-23-1986	I	36-51—36-58
		II—IV	36-59—36-61
50-C	5- 7-1987		42-97
107-A	5- 7-1987		26-267
81-D	9-16-1987	1	32-23
		2	32-19
		3, 4	32-25, 32-26
		5	32-23
		6	32-21
		7, 8	32-27, 32-28
		9	32-20
		11	32-47
		12	32-29

		13—15	32-48—32-50
		16	32-25
		18	32-22
		19	32-21
104-D	1-17-1989		14-43
130	5- 2-1990		26-243
130-A	5- 5-1990		26-243
134	8-22-1990	1	26-51
81-E	12-15-1990		32-19
	12-25-1990		32-22
136	3-21-1991	1—4	32-74—32-77
91-I	11- 6-1991		32-78, 32-79
136-A	11- 6-1991		32-75
137	2-20-1992		26-178
60-I	6-17-1992		44-82
61-H	6-17-1992		44-247
81-F	10- 1-1992		32-26
139	1- 2-1993	I	26-2
141	6-30-1993	1.01	44-283
		1.02	44-284
		1.03	44-285
		1.05	44-281, 44-282
		2.01	44-324
		2.02	44-325
		2.03	44-358
		2.03.1—2.03.3	44-359—44-361
		2.04.1—2.04.5, 2.05.1—2.05.3	44-326, 44-327
		2.05	44-327
		2.06.4	44-287
		2.06.1—2.06.3	44-286
		2.07	44-288
		2.08	44-293
		2.09	44-292
		2.10	44-294
		2.11	44-295
		3.01	44-387
		3.02	44-388
		4.01	44-420
		4.02	44-420
		4.03	44-421
		4.04	44-364
		4.04.1, 4.04.2	44-364

		4.05	44-422
		4.06	44-423
		4.07.1—4.07.11	44-289
		4.08	44-424
		4.08.1—4.08.4	44-424
		4.09	44-292
		5.01	44-447
		5.01.1—5.01.10	44-448— 44-457
		5.02.2—5.02.4	44-458— 44-460
		5.03	44-461
		6.01	44-458
		6.02	44-290
			44-462
		7.01	44-291
		8.01	44-362
		8.02	44-363
145	2- 4-1994	1	4-9, 4-10
			26-27
			26-54
			26-181
		2	26-3
			26-29
			26-52, 26-53
			26-150
			26-152
			26-154
		3	4-8
		4	26-55
		5	26-52
			26-144
			26-149
			26-151
		7	26-144
		8	26-50
		9	26-112, 26-113
		10	26-28
			26-48
			26-145, 26-146
			26-148
			26-153

			26-177— 26-180
			26-268, 26-269
81-G	7-24-1994		32-21
	7-29-1994		32-24
81-H	10-19-1994		32-24
141-A	2- 1-1995		44-326
50	12-13-1995	1—3	42-96
		5, 6	42-96
		8	42-97
	8-20-1996(Ord.)		20-51—20-56
			20-86—20-90
147	10-18-1996	1—3	20-1
148	10-30-1996	1	42-4
		3—5	42-4
56-A	12- 3-1996		10-70—10-73
			10-105— 10-108
			10-130— 10-132
			10-163— 10-167
149	12- 9-1996	1, 2	26-1
104-E	4-29-1997		14-43
124-A	8-15-1997		24-19—24-21
			24-23
150	11- 1-1997	1.02	46-4
		1.03	46-5
		2.01	46-2
		2.02—2.24	46-1
		3.01	46-7
		3.02	46-73
		3.03	46-74
		3.04	46-75
		3.05	46-76
		3.06	46-77
		3.07	46-78
		3.08	46-79
		3.09	46-80
		3.10	46-81
		3.11	46-82
		3.12	46-83
		3.13	46-84
		3.14	46-85

		3.15	46-86
		3.16	46-87
		3.17	46-88
		3.18	46-89
		3.19	46-90
		3.20	46-91
		3.21	46-92
		3.22	46-93
		3.23	46-94
		3.24	46-95
		3.25	46-96
		3.26	46-37
		3.27	46-97
		3.28	46-98
		3.29	46-99
		4.01	46-131
		4.02	46-132
		4.03	46-133
		4.04	46-134
		4.05	46-135
		4.06	46-6
		5.01—5.04	46-154
		6.01—6.04	46-155
		7.01—7.04	46-156
		8.01—8.04	46-157
		9.01—9.04	46-158
		10.01—10.04	46-159
		11.01—11.04	46-160
		12.01—12.04	46-161
		13.01—13.08	46-162
		14.01—14.07	46-163
		15.01—15.07	46-164
		16.01	46-182
		16.02	46-183
		16.03	46-184
		16.04(A)—16.04(S)	46-207—46-226
		16.04(T)—16.04(EE)	46-228—46-239
		17.01—17.04	46-41
		18.01—18.06	46-257
		19.01—19.09	46-258
		20.01—20.22	46-259
		21.01—21.07	46-36
		22.01	46-35

		22.02	46-39
		22.03(A)	46-3
		22.03(B)	46-40
		22.04	46-38
98-02	3- 3-1998	4	2-1
		6	1-7
		7	2-45
		8	2-44
	5- 8-1998(Ord.)		20-51—20-56
			20-86—20-90
141-B	5-18-1999	I	44-326
99-01	6-15-1999	art. I, § 1	42-88, 42-89
		art. II, § 1—	42-90—42-94
		art. II, § 5	
		art. III, § 1	42-95
		art. IV, § 1	42-89
79A	12- 7-1999		6-2
00-01	9-19-2000	1	14-151— 14-157
00-02	11-21-2000	art. 1	18-21
		art. 2	18-19
		art. 3	18-24
			18-60
			18-83
		art. 4	18-62
		art. 5	18-61
		art. 6	18-20
			18-22—18-24
			18-26—18-28
			18-84—18-87
			18-118— 18-125
		art. 7	18-25
60-J	1-16-2001	I, II	44-82, 44-83
		III	44-59
150-A	4-16-2002		46-259
150-B	4-16-2002		46-7
			46-37
			46-73—46-99
	7-16-2002(Ord.)		20-51—20-56
			20-86—20-90
150-C	11-19-2002		46-1
			46-82
150-D	11-19-2002		46-36
03-01	2- 4-2003	1, 2	42-2

		4	42-2
03-02	2- 4-2003	1, 2	42-1
		4	42-1
	2- 4-2003(Ord.)		26-147
03-03	12-16-2003	1, 2	36-82, 36-83
		3	36-81
		4—8	36-86—36-90
		10, 11	36-92, 36-93
		13—17	36-94—36-98
		18	36-84
		19	36-91
		20, 21	36-85
36	7- 6-2004	art. I, § 3	38-3, 38-4
		art. I, § 4	38-5
		art. II, § 1,	38-1
		art. II, § 2	
		art. III, § 1—	38-33—38-35
		art. III, § 3	
		art. III, § 4	38-59—38-66
		art. IV	38-7
		art. V	38-6
		art. VI, § 1	38-5
		art. VI, § 2	38-2
150F	7- 6-2004	17A.01—17A.13	46-42
150-E	9-21-2004		46-161
			46-207— 46-226
			46-228— 46-239
05-01	10- 4-2005	1—12	8-53—8-64
05-02	11- 3-2005	1—4	42-6
05-03	11- 3-2005	1—4	26-4
05-04	11-18-2005	1, 2	8-1
05-05	11-18-2005	1, 2	8-2
	8-15-2006(Ord.)		42-94
150-I	4- 3-2007	1, 2	46-159
		3(16.04AH)	46-227
150-J	5- 1-2007	1—5	46-259
150-K	5- 7-2007		46-258
150K	5-15-2007		46-156
	8- 7-2007(Ord.)		44-326
07-02	10- 3-2007	1	26-49
	5-20-2008(2)(Ord.)		42-1
07-01	12- 2-2008		44-326
	3- 3-2009(Ord.)		44-19—44-23

			44-25, 44-26
		4.1	44-24
150-L	4-21-2009	1	46-83
		2	46-158— 46-160
	4-21-2009(Ord.)		8-26
09-01G	6-17-2009	1	10-190
		2	10-188
		3—5	10-192— 10-194
		6	10-191
		7	10-189
09-02	8-18-2009	1	28-21
		2(4.3)	28-26
09-03	9- 1-2009	101—105	2-258—2-262
09-04	9- 1-2009	1	46-155
09-05	10-27-2009	1(19.002)	22-3
		1(19.003)	22-1
		1(19.004)—1(19.014)	22-4—22-14
		1(19.015)	22-2
		1(19.016)	22-15
10-01	3- 2-2010	1(20.1150)	26-205
		1(20.1151)	26-203
		1(20.1152)	26-208
		1(20.1153), 1(20.1154)	26-206, 26-207
		1(20.1155)	26-204
150-M	3- 2-2010	1(3.31)	46-100
122-A	4-20-2010	1(20.001)	30-4
		1(20.002)	30-1
		1(20.003)	30-33
		1(20.004(A))	30-34
		1(20.004(B), (C))	30-36
		1(20.004(D))	30-38
		1(20.004(E))	30-6
		1(20.005)	30-35
		1(20.006)	30-37
		1(20.007)	30-5
		1(20.008)	30-39
		1(20.009)	30-7
		1(20.010), 1(20.011)	30-40, 30-41
		1(20.012), 1(20.013)	30-2, 30-3
150-N	5-18-2010	1	46-158
10-02	7-20-2010	1(20.1170)	6-25
		1(20.1171)	6-23

		1(20.1172)—1(20.1177)	6-26—6-31
		1(20.1178)	6-24
150-O	8-17-2010	1	46-1
			46-91
		1(3.32)	46-101
		1(4.07)	46-8
150-S	12- 7-2010	1, 2	46-259(b)
		3	46-259(d)(7), (11)
		4	46-259(e)(3), (10)
		5 Added	46-259(g)(5)
		6 Added	46-259(g)(6)
		7	46-259(g)(2)c.
		8 Added	46-259(g)(7)
		9—15	46-259(h)
150-P	2- 1-2011	1, 2	46-1
		3	46-157— 46-160
11-01	9-20-2011	1(35.85)	8-3
150-Q	9-20-2011	1—5	46-257
150-R	9-20-2011	1—6	46-36
2012-01	4- 3-2012	Added	Adopting ord., pg. xi
2012-02	5-15-2012	1(3.33) Added	46-102
2012-03	5-15-2012	1	46-159(a)—(c)
2012-04	5-15-2012	1	46-161(b)—(d)
2012-05	8- 7-2012	1—3 Added	20-101— 20-103
13-04	7-16-2013	1 Rpld	44-116— 44-119,
			44-137— 44-140,
			44-164— 44-167,
			44-188— 44-199,
			44-222— 44-225,
			44-244— 44-251,
			44-281— 44-295,
			44-324— 44-327,
			44-358— 44-364,
			44-387, 44-388,

			44-420— 44-424,
			44-447— 44-462
		2 Added	44-116— 44-253
14-01	7-15-2014	1 Rpld	46-236
		2 Rpld	46-160(c)(6)
		Added	46-160(b)(11)
14-02	12- 2-2014	1	46-1
		2 Rpld	46-154(c)(7)
		3 Rpld	46-155(c)(6)
		4	46-223
		5	46-157(b)(5)
15-02	5-19-2015	1	46-165(a), (c), (g)
		2 Added	46-207(36)
		Added	46-245
15-03	6- 2-2015		42-1, 42-2
16-02	6- 6-2016	1 Added	46-158(b)(13)
16-03	7-19-2016	1, 2 Added	26-155, 26-156
17-01	1- 3-2017	1	46-259
17-02	5- 2-2017	1	44-121
17-05	10- 3-2017	1	Ch. 30, Arts. I, II
17-06	11- 7-2017	1	46-164
18-01	8-21-2018	I Rpld	6-1, 6-2,
			6-23—6-31
		Added	6-1—6-13,
			6-20,
			6-30—6-39
19-01	1-15-2019	1 Added	46-105
19-02	1-15-2019	1 Added	10-201
19-03	3- 5-2019	1 Added	40-2
19-04	4-16-2019	1 Added	38-5(c)
19-06	10-15-2020	1	42-94
20-01	2-18-2020	1	44-117
		2—4	44-145
		5	44-206
		6	44-248
		7	44-252
20-02	11- 3-2020	1 Added	6-14
21-01	5- 4-2021	1	4-5—4-8

STATE LAW REFERENCE TABLE

This table shows the location within the Charter and Code, either in the text or notes following the text, of references to the Michigan Compiled Laws.

MCL	Section this Code
8.3 et seq.	1-2
8.3u	1-9
8.4 et seq.	1-4
8.4b	1-3
8.5	1-8
15.231 et seq.	2-203
	22-4
	36-86
	36-98
15.261 et seq.	2-203
	14-155
	22-4
	22-10
	Char. § 6.4
15.265(4)	Char. § 6.2
15.321 et seq.	Char. § 5.13
15.328	Char. § 5.13
24.201 et seq.	42-2
28.451 et seq.	20-102
28.601 et seq.	Ch. 2, Art. IV, Div. 2
29.1 et seq.	Ch. 20
	Ch. 20, Art. II
29.361 et seq.	Ch. 2, Art. IV, Div. 2
30.401 et seq.	Ch. 16
	16-1
81.1 et seq.	Char. § 2.1
117.1 et seq.	Char. § 2.2
117.1	Char. § 1.1
117.3(a)	Char. Ch. 3
	Char. § 4.1
117.3(b)	Char. § 3.2
	Char. § 3.7
	Char. Ch. 4
117.3(c)	Char. Ch. 5

117.3(d)	Char. § 5.15
	Char. § 5.9
117.3(e)	Char. § 3.3
117.3(f)	Char. § 8.4
	Char. § 9.2
117.3(g)	Char. § 9.1
117.3(i)	Char. Ch. 9
117.3(j)	Char. § 2.3
	Char. § 6.9
117.3(k)	Char. Ch. 7
	Char. § 7.7
	1-7
	8-1
	8-2
	42-1
	42-5
117.3(l)	Char. § 6.4
	Char. § 17.8
117.3(m)	Char. § 6.7
	Char. § 7.6
117.4a et seq.	Char. Ch. 10
117.4c	Char. § 13.1
117.4d	Char. Ch. 11
117.4l	Char. § 7.6
	1-7
	8-3
	8-26
	10-189
	22-2
	26-4
	26-204
	30-8
	32-25
	36-85
	38-2
	42-3
	42-4
	42-6
	42-89
	42-123
	42-129
117.4h	Char. § 14.5
117.4i(a)	Char. § 9.1
117.4i(c)	Char. § 2.3
117.4i(h)	Char. § 5.17

117.5	Char. Ch. 11
117.5b	Char. § 7.9
	1-1
117.5c	Char. § 4.1
	Ch. 2, Art. VI, Div. 2
	2-196
117.5h	26-178
117.5(e)	Char. § 10.2
	Char. § 12.1
117.5(i)	Char. § 14.2
117.6 et seq.	Char. § 1.3
123.1101 et seq. Ch. 26, Art.	
	IV, Div. 2
123.161 et seq. Char. § 13.4	
123.261	32-47
123.5	Ch. 28
124.251 et seq. Char. § 13.1	
124.261 et seq. Ch. 32	
	Ch. 32, Art. II
125.1401 et seq.	40-2
125.1415a(1)	40-1
	40-2
125.1501 et seq. Ch. 8	
	22-5
	46-258
125.1601 et seq. Ch. 14, Art.	
	III
	14-96
	14-98
125.1651 et seq. Ch. 14, Art.	
	II
	14-40
125.1653	14-41
125.1654	14-42
	14-44
125.1655	14-46
125.1664	Ch. 14, Art. II, Div. 3
125.2301 et seq. 46-162	
125.2307	Char. § 2.3
125.3101 et seq. 2-261	
	Ch. 46
	46-4
	46-36

	46-38
	46-183
	Char. § 2.3
	Char. § 4.17
125.3201 Ch. 46, Art. IV	
	Ch. 46, Art. V
125.3204	46-91
125.3208	46-7
125.3403	46-38
125.3406	46-39
125.3407	46-3
	46-35
125.3501	46-41
125.3503	46-164
125.3504 Ch. 46, Art. VI	
125.3505	46-40
125.3801 et seq. 2-258	
	2-261
	Char. § 4.17
125.3815	2-259
125.539	8-53
125.651 et seq. Ch. 2, Art. VI,	
	Div. 3
	2-232
125.981 et seq. Ch. 14, Art.	
	IV
	34-3
125.981	Ch. 14, Art. IV, Div. 2
128.1	Ch. 12
129.11 et seq.	Char. § 8.6
141.104	Char. § 13.1
141.121(3)	44-86
141.2101 et seq. Char. Ch. 8	
	Char. Ch. 10
	Ch. 2, Art. V
141.411 et seq. 2-140	
141.421a et seq. Ch. 2, Art. V,	
	Div. 2
141.421 et seq. Char. Ch. 8	
	2-141
	42-56
141.434	2-140
141.436	2-143
166.544a	Char. § 3.7

	Char. § 3.8
168.1 et seq.	Char. Ch. 3
	Char. § 3.2
	Char. § 3.4
168.24a et seq. Char. § 3.13	
168.25 et seq. Char. § 3.11	
168.491 et seq. Char. § 3.1	
	Char. § 3.2
168.492	Char. § 3.1
168.544c	Char. § 3.8
168.552	Char. § 3.9
168.555	Char. § 3.10
168.559 et seq. Char. § 3.12	
168.574 et seq. Char. § 3.12	
168.644f	Char. § 3.7
168.654 et seq. Char. § 3.3	
168.684 et seq. Char. § 3.12	
168.851	Char. § 3.14
168.852	Char. § 3.14
168.861 et seq. Char. § 3.15	
168.951 et seq. Char. § 3.16	
169.720	Char. § 3.2
201.1	Char. § 5.5
201.3	Char. § 5.2
	Char. § 5.3
201.37	Char. § 5.6
	Char. § 5.7
211.1 et seq.	Char. § 9.2
211.11 et seq.	40-2
211.2(2)	Char. § 9.15
	Char. § 9.4
211.216	Char. § 9.12
211.24 et seq. Char. § 9.5	
211.28 et seq. Char. § 9.6	
211.29 et seq.	Char. § 9.9
211.29	Char. § 9.7
211.30a	Char. § 9.10
211.30	Char. § 9.7
211.40	Char. § 9.14
	Char. § 9.15
211.44 et seq.	Char. § 9.18
211.44	Char. § 9.16
211.47 et seq.	Char. § 9.17
211.7 et seq.	Char. § 9.3
211.741 et seq. Ch. 34	

	Char. § 11.2
211.761 et seq. Char. § 11.7	
247.61 et seq. Ch. 24, Art. II	
247.651 et seq. 36-94	
257.1 et seq.	Ch. 42
	42-1—42-3
	42-6
	42-89
	42-123
257.605	42-1
257.606	42-1
257.606(1)(a) Ch. 42, Art. III	
257.606(1)(i) Ch. 42, Art. IV	
257.625	46-1, 46-2
257.656 et seq. Ch. 42, Art. IV	
257.672 et seq. Ch. 42, Art. III	
257.951	42-2
287.321—287.323	6-1
324.101 et seq. Ch. 18	
324.3101	44-116
	44-117
	44-194
324.11101 et seq. Ch. 32	
	Ch. 32, Art. II
	44-117
	44-172
	44-205
324.11501 et seq. Ch. 32	
	Ch. 32, Art. II
324.11701 et seq.	44-117
324.82101 et seq. 42-5	
324.8701 et seq. Ch. 18, Art.	
	II
324.8901 et seq. Ch. 32	
	Ch. 32, Art. II
324.9101 et seq. 38-1	
	46-98
330.1134	46-1
333.12905	30-3
333.21701 et seq. 46-1	
333.2401 et seq. Char. § 6.9	
333.26421 et seq. 46-1	
	46-91
	46-101
333.26423(d) 46-1	

333.6103	4-10
333.6107	4-10
333.7101 et seq. 26-181	
333.7106 et seq. 46-1	
333.7201—333.7231 26-203	
333.7410	46-91
338.1051 et seq. Ch. 16	
338.41 et seq.	10-1
399.201 et seq. Ch. 22	
399.201	22-1
	22-2
399.202	22-3
399.204	22-4
399.205	22-5
	22-7
	22-9
399.210	22-6
399.214	22-10
	22-11
	22-12
	22-14
400.701 et seq. 46-1	
433.11 et seq.	6-4
433.51 et seq.	6-4
436.1 et seq.	Ch. 4
436.1101 et seq. 4-10	
436.1501 et seq. 4-2	
436.1701	4-9
436.1703	4-10
436.1707	4-6
436.1801(1)	4-10
436.2021	4-5
445.371 et seq. Ch. 30	
484.1605	26-243
484.2251	36-86
484.3101 et seq. Ch. 36, Art.	
	IV
	36-81
	36-82
484.3102(2)	36-97
484.3104(3)	36-89
484.3105	36-88
484.3105(1)	36-86
484.3106(5)	36-86
484.3106(6)	36-87

484.3106(8)	36-90
484.3108	36-92
	36-93
484.3110(4)	36-94
484.3110(5)	36-95
484.3113(4)	36-93
484.3113(6)	36-96
484.3115(2)	36-84
484.3115(3)	36-87
484.3115(5)	36-91
559.101 et seq. 46-1	
	46-42
559.166	46-42
560.101 et seq. Ch. 38	
	38-1
	38-5
	38-7
	38-33
560.111 et seq. Ch. 38, Art. II	
560.112—560.119 38-34	
560.131 et seq. Ch. 38, Art. II	
560.188 et seq. Ch. 38, Art. III	
560.246	38-5
560.263	38-7
600.2940	Ch. 24
600.3801 et seq. Ch. 24	
600.8701 et seq. 1-7	
	2-1
	2-45
	8-3
	8-26
	10-189
	22-2
	26-4
	26-204
	30-8
	32-25
	36-85
	38-2
	42-6
691.1401 et seq. Char. § 17.1	
712A.18m	4-10
722.1 et seq.	4-10
722.111 et seq. 46-1	
722.751 et seq. 26-267	

740.81 et seq.	26-27
750.114 et seq.	26-51
750.145	26-269
750.167	26-3
	26-29
	26-153
	26-154
750.170	26-151
750.222	Ch. 26, Art. IV, Div. 2
750.240	Ch. 20
	26-241
750.241	20-27
750.280	26-48
750.301 et seq.	26-182
750.303	26-177
750.356 et seq.	26-47
750.356d	26-49
750.377b	20-27
750.377a et seq.	26-54
750.382	26-55
750.411a	26-241
	26-242
750.448 et seq.	26-180
750.452	26-177
750.479	26-240
750.493d	26-84
750.502c	28-32
750.535	26-50
750.540e	26-28
750.541 et seq.	26-150
750.546 et seq.	26-52
750.7451 et seq.	Ch. 26, Art.
	VI, Div. 2
750.92	26-1
752.21 et seq.	6-34
764.9c et seq.	2-44
764.9c	6-35
769.1j	4-10
771.3	4-10