BLOOMFIELD HILLS, MICHIGAN CITY CODE

Published in 1987 by Order of the City Commission

Adopted: December 10, 1985

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info@municode.com | 800.262.2633 | www.municode.com

P.O. Box 2235 Tallahassee, FL 32316

OFFICIALS

of the

CITY OF BLOOMFIELD HILLS

AT THE TIME OF THIS CODIFICATION

Cameron Lombard

Mayor

Don Carlson

Mayor Pro Tem

Nancy Polk

Charles Preuss

Marilynn Varbedian

City Commission

William P. Hampton

City Attorney

Robert J. Stadler

City Manager-Clerk

CURRENT OFFICIALS

of the

CITY OF BLOOMFIELD HILLS

L. David Kellett

Mayor

____

Michael D. McCready

Mayor Pro Tem

____

Patricia Hardy

John E. Utley

Michael T. Zambricki

City Commission

____

William P. Hampton

City Attorney

____

Jay W. Cravens

City Manager

____

Amy L. Burton

City Clerk

PREFACE

This Code constitutes a complete recodification of the ordinances of the City of Bloomfield Hills of a general and permanent nature.

This Code is a codification of the ordinances of the city of a general and permanent nature. The Code supersedes all such ordinances not included therein or recognized as continuing in force by reference thereto.

Source materials used in the preparation of the Code were the 1971 Code, as supplemented through January 14, 1975, and ordinances subsequently adopted by the Commission. 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 volume, the reader can locate any section of the 1971 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. Footnotes which tie related sections of the Code together and which refer to relevant state laws 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 volume.

Numbering System

The numbering system used in this Code is the same system used in many state and municipal codes. Each section number consists of two component parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter. Thus, the first section of Chapter 3 is numbered 3-1 and the third section of Chapter 5 is 5-3. Under this system, each section is identified with its chapter and at the same time new sections or even whole chapters can be inserted in their proper place simply by using the decimal system for amendments. By way of illustration: If new material consisting of one section that would logically come between sections 3-1 and 3-2 is desired to be added, such new section would be numbered 3-1.1, 3-1.2 and 3-1.3, respectively. New chapters may be included in the same manner. If the new material is to be included between Chapters 12 and 13, it will be designated as Chapter 12.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. 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, in the case of divisions, may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

Indices

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

Looseleaf Supplements

A special feature of this Code to which the attention of the user is especially directed is the looseleaf system of binding and supplemental servicing for the Code. With this system, the Code will be kept up-to-date periodically. Upon the final passage of amendatory ordinances, they will be properly edited and the appropriate page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the Code, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

The successful maintenance of this Code up-to-date at all times will depend largely upon the holder of the volume. As revised sheets 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 publishers 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

The publication of this Code was under direct supervision of Bill Carroll, Supervising Editor, and Linda Davis, Supervisory Editorial Assistant, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their interest and able assistance throughout the project.

The publishers are most grateful to Mr. Robert J. Stadler, City Manager, and Mr. John M. Donohue, Assistant City Attorney, for their cooperation and assistance during the progress of the work on this Code. It is hoped that their efforts and those of the publishers 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.

MUNICIPAL CODE CORPORATION
Tallahassee, Florida

City of Bloomfield Hills
Ordinance No. 200
Code Adoption Ordinance

An Ordinance Pursuant to Section 5b of Act No. 279 of the Public Acts of 1909, As Amended, the Home Rule Cities Act, Adopting and Enacting a New Code for the City of Bloomfield Hills, Michigan; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for a Penalty for Violation of Such Code; Providing for the Manner of Amending and Supplementing Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

The City of Bloomfield Hills Ordains:

Section 1. The Code of Ordinances, consisting of Chapters 1 to 24, each inclusive, is hereby adopted and enacted as the "Bloomfield Hills, Michigan, City Code," which Code shall supersede all general and permanent ordinances of the City adopted on or before December 11, 1984, to the extent provided in Section 2 hereof.

Section 2. All provisions of the Code shall be in full force and effect upon publication and all ordinances of a general and permanent nature of the City adopted on final passage on or before December 11, 1984, and not included in the Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of the Code.

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

Section 4. The following technical and uniform codes have been incorporated by this Code:

(1) BOCA Basic/National Building Code, 1984 edition, through section 4-16;

(2) National Electrical Code, 1984 edition, through section 4-36;

(3) BOCA Basic/National Plumbing Code, 1984 edition, through section 4-111;

(4) BOCA Basic/National Mechanical Code, 1984 edition, through section 4-146;

(5) BOCA Basic National Fire Prevention Code, 1984 edition, through section 6-21; and

(6) Uniform Traffic Code, 1979 edition, as amended, through section 20-16.

Section 5. Unless another penalty is expressly provided, a violation of any provision of such Code, or any provision of any rule or regulation adopted or issued pursuant thereto, shall be punished by a fine of not more than five hundred dollars ($500.00) and costs of prosecution or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment in the discretion of the court.

Section 6. Any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the City to make the same a part of such Code, shall be deemed to be incorporated in such Code, so that reference to such Code shall be understood and intended to include such additions and amendments.

Section 7. In case of the amendment of any section of the Code for which a penalty is not provided, the general penalty as provided in Section 5 of this ordinance and in section 1-11 of such Code shall apply to the section as amended, or in case the amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in the other section shall be held to relate to the section so amended, unless the penalty is specifically repealed therein.

Section 8. Any ordinances adopted after December 11, 1984, which amend or refer to ordinances which have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 9. This ordinance and the Code adopted hereby shall become effective upon publication.

Section 10. This ordinance shall be published as provided by the City Charter.

This ordinance is hereby declared to have been adopted by the City Commission of the City of Bloomfield Hills at a meeting thereof duly held and called on the 10th day of December, 1985.

Ayes: 5
Nays: 0
Abstentions: 0

_____
Mayor Cameron Lombard

_____
City Clerk Robert J. Stadler

STATE OF MICHIGAN)	
)	SS.
COUNTY OF OAKLAND)	

I, the undersigned, the duly qualified Clerk of the City of Bloomfield Hills, Oakland County, Michigan, do hereby certify the foregoing is a true and complete copy of Ordinance No. 200 adopted by the City Commission of the City of Bloomfield Hills on the 10th day of December, 1985, the original of which is on file in my office.

_____
City Clerk Robert J. Stadler
City of Bloomfield Hills

STATE OF MICHIGAN
COUNTY OF OAKLAND

CITY OF BLOOMFIELD HILLS
ORDINANCE NO. 350

AN ORDINANCE RE-ENACTING THE CODE OF ORDINANCES FOR THE CITY OF BLOOMFIELD HILLS, REVISING, AMENDING, RESTATING, RE-CODIFYING, AND COMPILING CERTAIN EXISTING ORDINANCES OF THE CITY OF BLOOMFIELD HILLS.

WHEREAS, State of Michigan legislation empowers and authorizes the City to revise, amend, restate, codify, and compile any existing ordinances and all new ordinances and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the City Commission has authorized a compilation, revision, and re-codification of the Ordinance Code of the City of a general and permanent nature and publication of such Ordinance Code in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety, and general welfare of the municipality that this ordinance take effect at an early date.

NOW, THEREFORE, THE CITY OF BLOOMFIELD HILLS ORDAINS:

Section 1 of Ordinance.

The Ordinance Code of the City as revised, amended, restated, codified, and compiled in book form attached hereto and incorporated herein, is hereby adopted as and shall constitute the "Code of Ordinances of the City of Bloomfield Hills, Michigan," published by Municipal Code Corporation, consisting of Chapters 1 through 25, and the Zoning Ordinance, each inclusive.

Section 2 of Ordinance.

All prior ordinances of a general and permanent nature, enacted prior to June 1, 2006, and not included in the City Code or recognized and continuing in force by reference therein shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor

shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.

Section 3 of Ordinance.

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 of Ordinance.

Such Code shall be deemed published as of the date of this Ordinance and the City Clerk is hereby authorized and ordered to file a copy of such Code of Ordinances in the Office of the City Clerk.

Section 5 of Ordinance.

Unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment in the discretion of the court. Each act of violation and each day upon which such violation shall occur shall constitute a separate offense. The penalty provided in this Section, unless another penalty is expressly provided, shall apply to the amendment of any Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City Commission may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

Section 6 of Ordinance.

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

Section 7 of Ordinance.

Ordinances adopted after June 1, 2006, 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 8 of Ordinance.

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Section 9 of Ordinance.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commended.

Section 10 of Ordinance.

The provisions of this Ordinance shall take effect in accordance with applicable law.

Section 11 of Ordinance.

This Ordinance was passed by the City Commission of the City of Bloomfield Hills on this 13th day of June, 2006.

AYES: 5 (Dawkins, Hardy, Zambricki, Davey, Kellett)

NAYS: 0

ABSTENTIONS: 0

STATE OF MICHIGAN	)
	) SS
COUNTY OF OAKLAND	)

I, Amy Burton, the duly qualified Clerk of the City of Bloomfield Hills, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of the Codification Ordinance adopted by the City of Bloomfield Hills on the 13th day of June, 2006, the original of which is in my office.

AMY BURTON, CITY CLERK

STATE OF MICHIGAN
COUNTY OF OAKLAND

CITY OF BLOOMFIELD HILLS
ORDINANCE NO. 367

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE CITY OF BLOOMFIELD HILLS, WHICH INCLUDES REPEALING, REVISING, AMENDING, RESTATING, CODIFYING, AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE CITY OF BLOOMFIELD HILLS; PROVIDING FOR A PENALTY FOR VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND, PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE CITY OF BLOOMFIELD HILLS ORDAINS:

Section 1 of Ordinance. Purpose and Intent.

The present general and permanent ordinances of the City are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety, and general welfare of the municipality and for the proper conduct of its affairs. The State of Michigan legislation empowers and authorizes the City to revise, amend, restate, codify, and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form. The City Commission has authorized a general compilation, revision, and codification of the ordinances of the City of a general and permanent nature and publication of such ordinance in book form. It is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety, and general welfare of the municipality that this ordinance take effect at an early date.

Section 2 of Ordinance. Short Title.

This Ordinance shall be known as the "Code of Ordinances Adopting Ordinance" and may be so cited.

Section 3 of Ordinances. Adoption of Code of Ordinances.

The general ordinances of the City as revised, amended, restated, codified, and compiled in book form attached hereto and incorporated herein, are hereby adopted as and shall constitute the "Code of Ordinances of the City of Bloomfield Hills, Michigan."

Such Code of Ordinances as adopted in Section 1 shall consist of the following Chapters: {See Attached and Incorporated Exhibit A, Table of Contents}

Section 4 of Ordinance. Penalty.

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

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

Section 5. Code Additions or Amendments.

Additions or amendments to the Code when passed in such form as to indicate the intention of the City Commission 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. Later Ordinances.

Ordinances adopted after July, 2007 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 of Ordinance. Repealer.

All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code.

Section 8 of Ordinance. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commended.

Section 9 of Ordinance. Prior Ordinances Not Revived.

The repeal provided for in Section 4 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 10 of Ordinance. Severability.

Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Section 11 of Ordinance. Effective Date.

This ordinance shall take effect immediately upon publication in the manner prescribed by law.

CERTIFICATION

I hereby certify that the foregoing Ordinance was adopted by the City Commission of the City of Bloomfield Hills at a meeting held on December 11, 2007, and that the original of this Ordinance is on file in my office.

CITY OF BLOOMFIELD HILLS

BY: ___________________________

Amy Burton, City Clerk

Date: December 13, 2007

INTRODUCED: December 11, 2007

ADOPTED: December 11, 2007

PUBLISHED AND EFFECTIVE: December 20, 2007

SUPPLEMENT HISTORY TABLE

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

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

Ordinance Number	Date Adopted	Include/ Omit	Supplement Number
375	7-14-09	Include	24
376	8-11-09	Omit	24
377	8-11-09	Include	24
378	9- 8-09	Include	24
379	9- 8-09	Include	24
380	12- 8-09	Include	24
381	12- 8-09	Include	24
382	1-12-10	Include	24
383	5-11-10	Include	24
384	6- 8-10	Include	24
385	6- 8-10	Include	24
386	6- 8-10	Include	24
387	9-14-10	Include	24
388	12-14-10	Include	24
389	3- 8-11	Include	24
390	6-14-11	Include	24
391	7-12-11	Include	24
392	7-12-11	Include	24
393	8- 9-11	Include	24
394	8- 9-11	Include	24
395	9-13-11	Include	24
Res. of	12-14-10	Include	25
396	3-13-12	Include	25
397	6-12-12	Include	25
398	7-10-12	Include	25
399	8-14-12	Include	25

400	10- 9-12	Include	25
401	11-13-12	Include	25
402	11-13-13	Include	25
403	11-13-12	Include	25
404	11-13-12	Include	25
405	11-13-12	Include	25
406	12-11-12	Include	25
407	1- 8-13	Include	25
05-2013(Res.)	4- 9-13	Include	25
408	7- 9-13	Include	25
409	8-13-13	Include	25
410	8-13-13	Include	25
411	8-13-13	Include	25
412	10- 8-13	Include	25
413	11-12-13	Include	25
414	1-14-14	Include	26
415	2-11-14	Include	26
416	8-12-14	Include	26
417	11- 2-14	Include	26
418	12- 9-14	Include	26
419	2-10-15	Include	26
420	4-14-15	Include	26
421	11-10-15	Include	26
422	3-15-16	Include	27
423	8- 9-16	Include	27
424	10-18-16	Include	27
425	2-14-17	Include	27
426	5- 9-17	Include	27
427	12-12-17	Include	27
428	2-13-18	Include	27
429	2-13-18	Include	27
430	3-13-18	Include	28
431	4-10-18	Include	28
432	7-10-18	Include	28
433	1- 8-19	Include	28
434	2-12-19	Include	28
435	3-12-19	Include	28
436	6-11-19	Include	28
437	6-11-19	Include	28
438	9-10-19	Include	28
439	10-13-19	Include	28
440	11-12-19	Include	28
441	1-14-20	Include	28
442	1-14-20	Include	28
443	2-11-10	Include	28
444	6- 9-20	Include	28
445	6- 9-20	Include	28
446	6- 9-20	Include	28
447	12- 8-20	Include	29
448	2- 9-21	Include	29
449	8-10-21	Include	29
450	2- 8-22	Include	29
451	6-14-22	Include	29
452	7-12-22	Include	29
453	9-13-22	Include	29
454	9-13-22	Include	29
455	12-13-22	Include	29

VOLUME 1

PART I - CHARTER

We, the people of the City of Bloomfield Hills, Oakland County, Michigan, pursuant to the authority granted by the Constitution and Laws of the State of Michigan, do hereby ordain and establish this Charter for said city.

> *Footnotes:*
> *--- (**1**) ---*
> ***Editor's note—** Printed herein is the Charter of the City of Bloomfield Hills, Michigan, first adopted in 1932 and later revised in 1957. Catchlines have been added to all sections. Any other changes made for clarity are enclosed in brackets.*
> ***State Law reference—** Home rule cities generally, MCL 117.1 et seq., MSA 5.2071 et seq.; power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22.*

CHAPTER I. - BOUNDARIES AND WARD

Section 1. - Boundaries.

The City of Bloomfield Hills shall include all the territory embraced within the limits of the former Village of Bloomfield Hills, which territory is more particularly described as follows:

> Commencing at the southwest corner of Section 22 of Town 2 North, Range 10 East, thence running north along the west boundary of Section 22, 15 and 10 to the northwest corner of the southwest quarter of Section 10; thence east along the north line of the south half of Sections 10 and 11 to the east line of Section 11, thence south along the east line of Sections 11, 14 and 23; to the southeast corner Sections 23; thence west along the southline of Sections 23 and 22 to the place of beginning, containing approximately five square miles, all in the Township of Bloomfield, County of Oakland, State of Michigan.

Section 2. - Ward; precincts.

The City of Bloomfield Hills shall consist of one ward. The city shall be divided into two (2) election precincts until otherwise changed pursuant to the laws of the state.

(Amend. of 4-2-90(B))

State Law reference— Mandatory that charter provide for one or more wards, MCL 117.3(e), MSA 5.2073(e); election precincts, MCL 168.654 et seq., MSA 6.1654 et seq.

CHAPTER II. - GENERAL POWERS

Section 1. - Body corporate and politic.

The City of Bloomfield Hills shall be a body corporate and politic, shall have perpetual succession, shall have a corporate seal, may sue and be sued and may contract and be contracted with.

Section 2. - Acquiring, protecting and or disposing of property.

The City shall have power:

(1) To acquire by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits and either within or without the corporate limits of the County of Oakland, the following improvements including the necessary lands therefor, viz; City hall, police station, fire station, boulevards, streets, alleys, public parks, recreation grounds, library, museum, airport, city prison, hospital, water works plant and system, sewage disposal plant and system, garbage disposal plant, rubbish disposal plant, market places, public works and public buildings of all kinds; and to acquire by purchase, gift, condemnation, lease, or otherwise private property either within or without its corporate limits and either within or without the corporate limits of the County of Oakland, for any public use or purpose within the scope of its powers whether herein specifically mentioned or not. If condemnation proceedings are resorted to for the acquisition of private property outside the corporate limits of said city, such condemnation proceedings may be brought under the provisions of Act. No. 149 of the Public Acts of 1911 [MCL 213.21 et seq., MSA 8.11 et seq.] as amended or as may be amended, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public and to define the terms 'public corporation,' 'state agencies' and 'private property' as used herein." of such other appropriate provisions therefor as exist or shall be made by law.

(2) To maintain, develop, operate, lease and dispose of its property subject to any restrictions placed thereupon by law or by this charter; provided that no property of a value in excess of Two Dollars ($2.00) per capita according to the last preceding United States census, or any park, cemetery, or any part thereof, or any property bordering on a water front shall be sold, nor shall any street or public place leading to a water front be vacated, nor shall the city engage in any business enterprise requiring an investment of money in excess of ten cents (10¢) per capita, unless approved by a majority of the electors voting thereon.

(3)

To make and enforce ordinances and resolutions for the protection and control of property belonging to the city located within its corporate limits, and to make and enforce such ordinances and resolutions as to such property located without its corporate limits as is permissible under the laws of the state.

State Law reference— Permissible that charter provide for powers herein, MCL 117.4e, MSA 5.2078.

Section 3. - Zoning and other land use powers.

The City shall have power:

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

(2) To regulate and license the location, construction, size and height of billboards and the maintenance thereof; or to entirely prohibit the construction and maintenance of billboards in the city.

(3) To regulate, restrict and limit the number and locations of oil and gasoline stations.

(4) To establish and maintain definite fire limits and to prohibit within such limits the construction of buildings and other structures of wood and other materials easily inflammable.

(5) To enact and enforce ordinances in relation to the prevention and suppression of fires and to provide for the inspection of private property for the purpose of determining where a fire hazard exists.

(6) To enact a building and housing code; to regulate the erection and repair of buildings and to require building permits therefor; to prevent the erection of unsafe buildings and to provide for the removal of any such buildings; and to regulate the maintenance and occupancy of buildings insofar as the same affects health and safety.

(7) To prescribe by ordinance the limits or districts within which shall be prohibited the location of any trade or business which in the opinion of the commission will be detrimental to the peace, health or safety of the inhabitants in such districts.

(8) To regulate the height, construction and location of fences; to provide for the building and maintenance of partition fences and all things in relation thereto; to provide for a board of fence viewers to determine all disputes between owners in relation to partition fences and to enforce the decisions of such board.

State Law reference— Permissible that charter provide for zoning, MCL 117.4i(3), MSA 5.2082(3).

Section 4. - Health related powers.

The city shall have power:

(1) To prevent the introduction and spreading of malignant, infectious or contagious diseases within the city and to remove persons having such diseases to such proper places either within or without the city limits as may be deemed necessary for the public health.

(2) To regulate and control the disposition and handling of garbage, ashes and any other thing detrimental to the public health or good sanitation; to provide for the collection and disposal of garbage, ashes and rubbish.

(3) To define, prohibit, abate, suppress or prevent all nuisances and all things detrimental to the health, safety and welfare of the inhabitants of the city and the causes thereof.

(4) To provide for the inspection and to regulate and license the manufacture, sale and keeping for sale of provisions, foods, food supplies and beverages.

Section 5. - Licensing and regulatory powers.

The city shall have power:

(1) To regulate and license hotels, rooming houses, boarding houses and restaurants.

(2) To regulate and license public billiard and pool tables, public billiard and pool rooms, and bowling alleys, and to restrict the number and location thereof; or to prohibit the same.

(3) To regulate and license theaters, motion picture shows, public shows, exhibitions and other amusements.

(4) To regulate and license public dances or to prohibit the same.

(5) To regulate and license auctioneers, pawnbrokers, hawkers, peddlers, solicitors, transient merchants, junk dealers and junk yards. The above occupations may also be prohibited unless such prohibition may be contrary to the state or federal law.

(6) To license dogs and other animals and to prevent their running at large.

(7) To regulate and license or prohibit hunting within the corporate limits.

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

(9) To regulate and license vehicles used for the conveyance of persons and property for hire, and to regulate and license the drivers thereof.

(10) To regulate and license the storing, handling, sale and disposition of combustible and explosive substances of every character, and to prohibit same if not in conflict with the laws of the state.

(11) To prescribe the terms and conditions upon which licenses shall be granted; to require the payment of such license fees and the furnishing of such bond as the commission may deem reasonable and proper and to provide that all licenses shall be subject to revocation by the commission in the manner provided in each particular ordinance.

Section 6. - Powers to control traffic and aircraft.

The city shall have power:

(1) To regulate the speed of motor vehicles, to prohibit the driving thereof while under the influence of liquor, and to prohibit the reckless driving of vehicles upon the streets, highways and alleys of the city.

(2) To regulate traffic and the parking of automobiles and other vehicles; to prohibit such parking on designated highways, streets and alleys or parts thereof; to provide for the impounding of vehicles parked in violation of such regulations or prohibitions and of vehicles abandoned and left on the streets, highways and alleys of the city; and to provide for the sale of any impounded vehicle which shall not be claimed and the impounding and other charges paid within sixty (60) days after being impounded.

(3) To regulate the operation of aircraft.

Section 7. - Powers to take a census; regulate public utilities; maintain fire department; provide fire protection; maintain police department; regulate weights and measures; enforcement of other regulations.

The city shall have power:

(1) To provide for taking the census of the city.

(2) To regulate public utilities; to require that wires in streets, highways and alleys be placed underground; to regulate the location of all poles and other facilities used by public utilities.

(3) To establish and maintain a fire department, to make rules and regulations thereto; and to provide equipment and fire stations therefor.

(4) To make contracts or arrangements with any municipality, individual or corporation for fire protection for this city.

(5) To establish and maintain a police department, to make rules and regulations in relation thereto, and to provide equipment and stations therefor.

(6) To inspect, regulate and control all weights and measures and the use thereof, and to seize and destroy inaccurate or fraudulent weights and measures.

(7) To make and enforce all such local, police, sanitary and other regulations as are not in conflict with the general laws.

Section 8. - General powers.

The city 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 or not; to do any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants; through its regularly constituted authority, to pass and enforce all laws and ordinances relating to its municipal concerns subject to the constitution and general laws of the state and the provisions of this charter; and generally to do any act permitted by the provisions of Act No. 279 of the Public Acts of 1909 [MCL 117.1 et seq., MSA 5.2071 et seq.] as amended or as may be amended whether such act is specifically mentioned herein or not.

The enumeration of specific powers in this charter shall not be constructed as a limitation upon the general powers granted by the provisions of this or any other section of this charter.

CHAPTER III. - PLAN OF GOVERNMENT

Section 1. - Powers of city vested in commission; composition.

All the powers of the city, except as otherwise provided by statute or this charter, shall be vested in a commission of five members, elected at large as hereinafter provided.

Section 2. - Commission constitutes legislative and governing body.

The commission shall constitute the legislative and governing body of the city with power and authority to pass such ordinances and adopt such resolutions as it shall deem proper for the exercise of the powers possessed be the city.

State Law reference— Mandatory that charter provide for election of a body vested with legislative power, MCL 117.3(a), MSA 5.2073(a).

Section 3. - Election of commission; recall; qualifications.

The members of the commission shall be elected on a non-partisan ticket from the city at large and shall be subject to recall as provided by the laws of the state. No person shall be eligible to the office of commissioner who is not an elector in the city and who has not been a resident of the city for at least one year immediately prior to his/her election.

(Amend. of 4-2-90(A))

Editor's note— Freeholder (taxpayer) requirement for public office is unconstitutional, Turner v. Fouche, 396 U.S. 346 (1969). A two-year residency requirement for city office was held violative of equal protection be Green v. McKeon, 335 F. Supp. 630 (E.D. Mich. 1971), affirmed by 468 F.2d 883 (6th Cir 1972). A one-year residency requirement was upheld by Joseph v. City of Birmingham, 510 F. Supp. 1319 (E.D. Mich. 1981).

State Law reference— Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq,; recall, MCL 168.951 et seq., MSA 6.1951 et seq., Mich. Const. 1963, Art. II, § 8; mandatory that charter provide for qualifications of officers, MCL 117.3(d), MSA 5.2073(d).

Section 4. - Election and terms; judge of election and qualification.

Commencing in November 2013 and thereafter, the regular municipal election shall be held on the odd-year general election date as defined by Michigan Election Law. At the 2013 regular municipal election, there shall be elected three (3) commissioners whose terms of office shall begin at 7:30 p.m. on the first Tuesday following their election and shall expire at 7:30 p.m. on the first Tuesday following the regular municipal election in the second year thereafter. Commencing with the regular municipal election in November 2015, all five (5) commissioners shall be elected whose terms of office shall begin at 7:30 p.m. on the first Tuesday following their election and shall expire at 7:30 p.m. on the first Tuesday following the regular municipal election in the second year thereafter.

The commission shall be the judge of the election and qualification of its own members, subject however to review by the courts in appropriate proceedings.

(Res. No. 05-2013, A, 4-9-13)

Editor's note— Res. No. 05-2013, Prop. A, adopted Apr. 9, 2013, passed at referendum Nov. 5, 2013, changed the title of Sec. 4 from "Initial election and terms; judge of election and qualification" to "Election and terms; judge of election and qualification."

Section 5. - Organizational meetings; election of mayor and mayor pro tem.

Annually, at a regularly scheduled meeting in November, the Commission shall meet at the usual place for holding the meetings of the legislative body of the City for the purpose of organization. At each of said organization meetings the commission shall elect one of its members as mayor who shall be the presiding officer of the commission and chief executive head of the city and who shall have such other powers and perform such other duties as are or may be imposed or authorized by the laws of the state, by this Charter or by the commission. He shall be the conservator of the peace and may exercise within the city the powers conferred upon sheriffs to suppress disorder. At each of said organization meetings the commission shall also elect another member of the commission as mayor pro tem, who during the absence or disability of the mayor to perform his duties, shall act in his stead and shall during the time of said absence or disability, exercise all of the duties and possess all of the powers of the mayor. In the absence or disability of the mayor pro tem, the commission may temporarily appoint one of the members to that office. The mayor as a member of the commission shall have the right to vote on all matters before the commission and shall possess all of the other rights and powers of members of that body. He shall not have the right of veto.

(Res. No. 05-2013, B, 4-9-13)

Section 6. - Meetings.

Regular meetings of the commission shall be held at such times as may be prescribed by resolution, provided that it shall meet regularly not less than once a month. The mayor or any two commissioners may call special meetings of the commission upon at least ten hours' written notice to each member, served personally or left at his usual place of residence, provided however, that any special meeting at which all members of the commission are present shall be a legal meeting for all purposes without such written notice. All meetings of the commission shall be public and any citizen may have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business. It shall keep a journal of its proceedings in English which shall be signed by the mayor and clerk.

Editor's note— The Open Meetings Act (MCL 15.261 et seq.) supersedes all local charter provisions which relate to requirements for meetings of local public bodies to be open to the public.

State Law reference— Mandatory that charter provide for public meetings, MCL 117.3(l); mandatory that charter provides for keeping a session journal, MCL 117.3(m).

Section 7. - Quorum of commission; compelling of attendance; action by ordinance or resolution only.

Three members of the commission shall constitute a quorum, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance, and all pending business noticed or set down for hearing at such meeting shall be taken up and heard at such adjourned meeting or at the next regular meeting without further notice. The commission shall act only by ordinance or resolution. The word "resolution" as used in this charter shall include official action in form of a motion. The affirmative votes of a majority of the commission-elect shall be required

for the passage of any ordinance or resolution, unless in any given case a different number is required by this charter or by state law. All votes shall be by "yeas" and "nays." Each member present shall be required to vote unless disqualified or unless he shall state his reason for not voting which shall be recorded in the minutes. Where a vote is unanimous it shall not be necessary to include in the minutes the names of the members voting but the vote shall be designated by the number of votes for or against the pending matter.

Section 8. - Vacation of commission seat for absence from regular meetings.

Absence from three consecutive regular meetings of the commission shall automatically operate to vacate the seat of a member of the commission, unless the absence is excused by the commission, by resolution setting forth such excuse.

Section 9. - Division of administrative and executive functions; placement under city manager.

The city commission shall have authority to divide the administrative and executive functions of the city into divisions and such divisions into departments, and to change the same from time to time. If the commission should divide the administrative and executive functions into divisions and departments and place any of the same under a manager, then except for the purpose of inquiry, the commission and each of its members shall deal with such divisions and departments as shall be placed under the manager, solely through the manager and shall not give any order or direction, either publicly or privately, to any of the subordinates of the manager.

Section 10. - Appointment of city manager; qualifications; powers and duties.

The commission may from time to time appoint a city manager who shall be responsible to the commission and who shall, in addition to the powers and duties specified in this charter, have such executive and administrative powers and duties as shall be delegated to him by ordinance or resolution of the commission. He shall be a citizen of the United States and shall be chosen by the commission solely on the basis of his executive and administrative qualifications. He shall receive such compensation as shall be fixed by the commission and shall hold office during the pleasure of the commission. He shall be present at all meetings of the commission and shall be entitled to be present at all meetings of its committees. He may take part in all discussions but shall have no vote. The commission may provide that the powers and duties of any appointive officer shall be exercised and performed by the manager, or it may appoint the manager to any appointive office. The commission may appoint an acting manager to act in the event of the disability or absence of the appointed manager, or pending the appointment of a manager at any time.

Section 11. - Appointment of officers.

The commission shall, within thirty (30) days after this charter takes effect, and from time to time thereafter whenever a vacancy occurs, appoint a clerk, a treasurer, an assessor and three members of the board of review. The commission may appoint a health officer, a city attorney, an engineer, a chief of police, a chief of the fire department and such other officers as it may deem advisable and provide for their powers and duties. Unless otherwise provided in this charter or by statute, all appointees shall hold office during the pleasure of the commission. The commission may appoint one person to two or more offices. Members of the commission shall be eligible for appointment to all appointive offices but in event of any such appointment no compensation shall be attached to such appointive office.

(Amend. of 4-5-94)

Section 12. - City clerk.

The city clerk in addition to the powers and duties elsewhere specified in this charter, shall keep the corporate seal and have the custody of all books, official bonds, records, papers and documents, which are not by this charter or the ordinance of the city, entrusted to some other officer; he shall be clerk of the commission, shall attend all of its meetings and shall keep a record of all of its proceedings; he shall issue all licenses as authorized by the commission or by ordinance, and shall keep a record thereof, he shall, upon request, make certified copies of all papers or documents in his custody, and such copies shall be evidence in all places or proceedings of the matters therein contained to the same extent as the original would be, and he may charge therefor such fees as shall be prescribed by the commission; and he shall keep a record of all property belonging to the city.

Section 13. - City treasurer.

The city treasurer in addition to the powers and duties elsewhere specified in this charter, shall have the custody of all moneys, bonds (other than official), mortgages, notes and securities belonging to the city. He shall give bond in such amount with such sureties as is satisfactory to the commission.

Section 14. - City assessor.

The city assessor shall perform such duties in relation to the assessing of property and levying of taxes and special assessments as are prescribed by this charter and the laws of the State.

Editor's note— The county assessor performs the duties set out in this section.

Section 15. - Board of review.

The city assessor, and three qualified freeholders and electors of the city who shall be appointed by the city commission as hereinbefore provided shall constitute the board of review of the city in relation to assessments made for general taxation purposes, whether under the provisions of this charter or the general laws of the State. The members of the board of review shall receive such compensation as shall be fixed by the commission. The city commission shall appoint the city treasurer and assessor to serve as nonvoting advisory members of the board of review. In addition, the city commission may appoint an alternate qualified elector of the city to act in the absence of one of the regular members of the board of review who shall when acting in that capacity have all of the authority of the regular members of the board of review.

(Amend. of 4-5-94(3))

Editor's note— Freeholder requirement for public office is unconstitutional, Turner v. Fouche, 396 U.S. 346(1969).

State Law reference— Mandatory that charter provide for a board of review, MCL 117.3(a), MSA 5.2073(a).

Section 16. - Chief of police.

The chief of police shall be charged with the enforcement within the city, of the laws of the state and the charter and ordinances of the city, unless it is otherwise provided in such laws, charter or ordinances. He shall be in charge of the police force of the city, which shall consist of himself and such number of officers and patrolmen as the commission may designate. Members of the police force shall have power and it shall be their duty to enforce the penal laws of the state, the penal ordinances of the city and the penal provisions of this charter; to suppress all riots, disturbances and breaches of the peace; to arrest all persons fleeing from justice; in compliance with the laws of the state to apprehend person guilty or suspected of being guilty of violation of the laws of the state, the ordinances of the city, or the provisions of this charter; to make complaints before the proper officer or magistrate against any person known or believed by them to be guilty of any violation of the laws of the state, the ordinances of the city or the provisions of this charter; to serve all processes that may be delivered to them in criminal, charter and ordinance cases. When any person has committed or its suspected of having committed any crime or misdemeanor within the city or has escaped from the city prison or from custody of the police, the police force of the city shall have the same right to pursue, arrest and detain such person without the city limits as the sheriff of the county. The police shall have the same powers and rights in relation to offenses against the ordinances of the city and the provisions of this charter, as they have in cases of misdemeanors under the laws of this state. They shall have all the powers given by law to constables for the preservation of quiet and good order and in relation to the enforcement of the laws of the state and ordinances of the city, and in addition thereto shall have such other powers as are conferred generally upon peace officers of the state. They shall perform such other duties as may be required of them by the commission for the good government of the city.

Section 17. - Chief of fire department.

The chief of the fire department or in his absence the officer in charge, may command any person present at a fire to aid in the extinguishment thereof, and to assist in the preservation of life or property thereat. If any person willfully disobeys any such lawful requirement or other lawful order of any such officer, he shall be deemed guilty of a misdemeanor. He may cause any building to be razed or destroyed when deemed necessary in order to arrest the progress of a fire and no action shall be maintained against any person or against the city therefor.

Section 18. - Health officer.

The health officer, if one is appointed, shall have power, subject to the laws of the state, to prevent, remove or abate nuisances dangerous to life or health. He may require the owner or occupant of any premises to remove any such nuisance or to correct any condition on such premises which causes a nuisance. If such owner or occupant shall refuse or neglect to comply with any such requirement, the health officer may cause such nuisance to be removed or such condition corrected, and the expense thereof may be recovered in a suit against such owner or occupant, or a special assessment may be levied against such owner or occupant and upon the premises. The health officer shall have charge of food inspection and matters of sanitation.

Editor's note— The county health officer performs the duties set out in this section.

Section 19. - Board of supervisors.

The mayor shall represent the city on the board of supervisors of Oakland County; provided that the commission from time to time may by resolution appoint the city attorney as such representative in lieu of the mayor. If the city shall at any time be entitled to other or further representation, such member or members shall be chosen as provided by law. The representative of the city, aforesaid, shall be endowed with all the rights, powers and duties conferred upon members of the board of supervisors by the general laws of this state, the member of the board of supervisors from this city shall be entitled to retain any compensation paid to him as a member of such board.

Editor's note— This section has been superseded by MCL 46.401 et seq., MSA 5.359(1) et seq., which provides for the election of supervisors.

Section 20. - Compensation of officers and employees.

Subject to the provisions of this charter, the commission shall fix the salary or compensation of all officers and employees of the city; provided, that the salary of an officer shall not be changed after his election or appointment or during his term of office where he is elected or appointed for a definite time. The members of the commission shall each receive the sum of the five dollars for each commission meeting attended, which compensation however for each member shall not

exceed the total sum of sixty dollars in any one year. Members of the commission shall receive no further compensation from the city.

Section 21. - Powers and duties of officers generally.

All officers of the city shall perform such duties and possess such powers as are or may be prescribed by this charter, by the general laws of the state or by the commission.

Section 22. - Nepotism prohibited.

Relatives by blood or marriage of the mayor, any commissioner or the manager, within the second degree of consanguinity or affinity are hereby disqualified from holding any appointive office or from being employed by the city, during the term for which such mayor or commissioner was elected, or during the tenure of office of such manager.

Section 23. - Bond of officers and employees.

The commission may require any officer or employee to give a bond for the faithful performance of his duty, in such amount as it may determine, and the premium thereof shall be paid by the city. Any officer or employee required by the provisions of this charter, the general laws of the state, any ordinance of the city, or by the commission, to give bond, shall not enter upon the duties of his office or employment until such bond shall be duly filed, approved and recorded. All such bonds except as herein otherwise provided, shall be approved by the commission and filed with the clerk, excepting the bond of the clerk, if any, which shall be filed with the treasurer.

Section 24. - Bonds required to be surety company bonds.

All bonds required by the provisions of this charter shall be surety company bonds.

Section 25. - Holding by elective officer of other office.

Except as otherwise specifically provided in this charter, no elective officer shall hold any office except that to which he was elected, the compensation for which is paid out of the city funds, nor shall he be elected or appointed to any office created or the compensation of which was increased or fixed, by the commission while he was a member thereof, until the expiration of one year from the date when he ceased to be a member of the commission.

Cross reference— See appointment of officers, Ch. III, § 11.

Section 26. - Holding of office until successor qualifies.

All elective officers and all officers who are appointed for a definite term, shall hold office until their successors are elected or appointed, and qualify.

Section 27. - Vacancy in elective office.

In addition to other provisions herein contained, a vacancy shall exist in any elective office when an elected officer fails to qualify as in this charter provided, dies, resigns, is removed from office, removes from the city or is convicted of a felony.

Section 28. - Filling of vacancies in elective office.

A vacancy in any elective office shall within thirty days after such vacancy occurs be filled by appointment by a majority of the members of the commission, or of the remaining members of the commission when the vacancy is in the commission. Such appointee shall hold office until the next regular municipal election, taking place more than forty days after such vacancy occurs, at which election a successor shall be elected for the unexpired term of the person in whose office the vacancy occurs. When a vacancy occurs in any office to which a person has been appointed for a definite term, such vacancy shall within thirty days be filled for the unexpired term, by appointment made in the manner provided for full term appointment to such office.

Section 29. - Acceptance of gifts, etc., by officers and employees.

No member of the commission, the manager or other officer or employee of the city shall knowingly accept any gift, frank, free ticket, pass, reduced price or reduced rate of service from any person, firm or corporation operating a public utility within the city, or from any person known to him to have or to be endeavoring to secure a contract with the city. The provisions of this section shall not apply to the transportation of policemen or firemen in uniform or wearing their official badges, when the same is provided for by ordinance or otherwise.

State Law reference— Political ethics, MCL 169.1 et seq., MSA 4.1701(1) et seq.

Section 30. - Notification of persons elected or appointed to office.

It shall be the duty of the city clerk, within five days after the meeting and determination of the commission, as provided in this charter, to notify in writing each person elected, of his election; and he shall also, within five days after the appointment of any person to any office, in like manner notify such person of his

appointment.

Section 31. - Defaulters to city ineligible for city office.

No person shall be elected or appointed to any office in the city who has been or is a defaulter to the city or to any other governmental corporation. All votes for or any appointment of any such defaulter shall be void.

Section 32. - Oath of office.

Every officer elected or appointed to any city office, before entering upon the duties of his office, shall take and subscribe to an oath of office, which shall be filed and kept in the office of the city clerk, to support the Constitution of the United States, and the Constitution of the State of Michigan, to endeavor to secure and maintain an honest and efficient administration of the affairs of the City of Bloomfield Hills, free from partisan distinction or control, and to perform the duties of his office to the best of his ability. In case of his failure to do so, within ten (10) days after the time fixed for taking office, he shall be deemed to have declined the office unless the time therefor shall be extended by the commission.

Section 33. - Deputy city officers; other necessary employees.

The city commission may authorize the appointment of a deputy city clerk, deputy city treasurer and such other deputy city officers as it may deem advisable. Each such deputy shall be appointed by the officer for whom he is deputy, subject to the confirmation of the commission. The commission or any such officer may remove his deputy at pleasure. Each deputy shall possess all the powers and authority of his superior officer. Deputies shall receive such compensation as the commission may by resolution prescribe. The commission may also authorize city officials to employ such other persons as shall be necessary to carry on the business of the city. In event of the absence of any appointive officer from his place of duty, the commission may appoint some other person to temporarily perform the duties of that office, provided such officer has no deputy present to act.

Section 34. - Late appointments.

If for any reason any appointment shall not be made by the commission within the time provided in this charter, it may be made at any subsequent regular or special meeting.

CHAPTER IV. - REGISTRATION, NOMINATION AND ELECTIONS

REGISTRATIONS [3]

Footnotes:

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

State Law reference— *Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.; mandatory that charter provide for the time, manner and means of holding elections, MCL 117.3(c), MSA 5.2073(c).*

--- **(3)** ---

State Law reference— *Mandatory that charter provide for registration of electors, MCL 117.3(c), MSA 5.2073(c); registration of electors generally, MCL 168.491 et seq., MSA 6.1491 et seq.*

Section 1. - Registrations.

The registration and re-registration of electors in the City of Bloomfield Hills shall be conducted as provided for in the general laws of the State of Michigan.

NOMINATIONS [4]

Footnotes:

--- **(4)** ---

State Law reference— *Mandatory that charter provide for nomination of elective officers, MCL 117.3(b); nonpartisan nominating petitions, MCL 168.544a.*

Section 2. - Nomination by petition; printing of names on ballot.

Candidates for any elective office to be filled at any municipal election under the provisions of this charter, shall be nominated by petition in the manner hereinafter prescribed, and the names of the candidates so nominated for any such office and no others shall be printed on the election ballot to be voted for at the next regular municipal election.

Section 3. - Form of petition; signing of petitions; oath of circulator of petition.

Such petition for nomination shall be in substantially the following form:

We, the undersigned, being duly qualified electors of the City of Bloomfield Hills, Michigan, and residing at the places set opposite our respective signatures hereto, do hereby request that the name of (name of candidate) who resides on _______ in the City of Bloomfield Hills, Michigan, be placed on the ballot as a candidate for (name of office) at the election to be held in said City on the ________ day of _______, 19 ___. We further state that we know him to be a qualified elector of said City and a person of good moral character and qualified in our judgment for the duties of such office.

Names of Qualified Electors	Residence (Name of H'way)	Date
___________	___________	___________
___________	___________	___________

It shall be unlawful for any person to sign more than one such nominating petition for the same office, except where two or more candidates are to be elected for the same office then he may sign as many petitions as there are persons to be elected to said office.

Such petitions shall be without any mark or designation showing the party affiliation of the person being so nominated. The person circulating a nominating petition shall, before the acceptance of such petition by the city clerk, subscribe to the following oath:

State of Michigan
County of Oakland—ss.

___________ being duly sworn, deposes and says that he is the circulator of the foregoing petition containing _______ signatures, that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be, and that all of said signers are qualified electors of said city to the best of his knowledge and belief.

Signed _____

Subscribed and sworn to before me this ________ day of _______, 19___.

Notary Public, Oakland County, Mich.
My Commission expires: _____

Section 4. - Filing of petition.

No person shall be deemed to be nominated as a candidate for any office unless they petition therefore signed by not less than twenty-five (25), nor more than fifty (50) qualified electors shall be filed with the city clerk on or before 4:00 p.m. on the 75th day prior to the election at which such office is to be filled.

(Amend. of 4-2-90(C); Amend. of 5-3-05)

Section 5. - Examination of petitions.

The city clerk shall forthwith examine the petition or petitions filed for each candidate and if satisfied that the required number of electors have signed the same, he shall endorse thereon the word "APPROVED" with the date of filing the same; but should he find that the petition or petitions for any candidate do not contain the required number of names of electors as herein provided, he shall immediately notify such candidate of the additional number of names of electors required; provided that nothing herein contained shall extend the time for filing nominating petitions as provided in the preceding section.

Section 6. - Notification of person placed in nomination; acceptance of nomination.

When the petitions for nomination of any candidate shall be found to contain the required number of names of electors, the city clerk shall forthwith notify the person therein placed in nomination. Any person, desiring to become a candidate for any elective office shall on or before the fifth Saturday prior to such election, file with the clerk an acceptance of such nomination in substantially the following form:

State of Michigan
County of Oakland—ss.

I, ___________, being first duly sworn, say that I reside on _______, City of Bloomfield Hills, County of Oakland, State of Michigan; that I am a qualified elector therein; that I accept nomination for the office of _______ to be voted upon at the election to be held on ________ day of _______, 19___, and that I possess the legal qualifications therefor.

Subscribed and sworn to before me a Notary Public on this ________ day of _______ 19___.

Signed _____

Notary Public, Oakland Co. Mich.

My Commission expires: _______

ELECTIONS [5]

Footnotes:

--- (**5**) ---

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

Section 7. - Regular election dates.

Regular municipal elections shall be held for the City of Bloomfield Hills on the odd-year general election date as defined by Michigan Election Law commencing November 2013 for the election of officers of said city in accordance with the provisions of this charter.

(Amend. of 5-15-07; Res. No. 05-2013, A, 4-9-13)

Section 8. - Special elections.

Special elections may, subject to the general laws of the state, be held at such times as the commission may by resolution determine, the purpose of which shall be set forth in the resolution calling such election.

State Law reference— Special election approval, MCL 168.631, 168.639.

Section 9. - Matters submitted to electors.

Any matter, which by the terms of this charter shall be submitted to the electors of the city, may be submitted at any municipal election or at any state or county primary or election.

Section 10. - Notice of elections.

Notice of the time and place of holding any election and of the officers to be elected and the questions to be voted upon shall, except as herein otherwise provided, be given by the clerk in the same manner and at the same times as provided in the state election laws for the giving of notices by city clerks in state elections. The commission may also provide for the mailing of notices to the registered electors of the city, but in such case failure to mail or receive any such notice shall not invalidate the election.

State Law reference— Notice of election, MCL 168.653.

Section 11. - Printing of ballots.

Election ballots, shall be printed without any party mark, emblem, vignette, or description whatever, on plain white substantial paper, and the same shall be printed, numbered, and the names of candidates transposed and alternated, in accordance with the provisions of the general laws of the state regulating the same at elections in this state.

Section 12. - Form of ballot.

The ballot for officers shall be in substantially the following form:

OFFICIAL BALLOT

Candidates for election to the city offices of (naming offices to be filled) of the City of Bloomfield Hills, Michigan, at the election held on the _____ day of _______, 19___.

Place a cross (x) in the square opposite the names of the persons for whom you desire to vote.

FOR COMMISSIONERS

Vote for two or three as may be designated
on the official ballot.

FOR JUSTICE OF THE PEACE

Vote for One

(Here list the names of the candidates with a square at the left of each name—. Also insert one blank line with a square at the left thereof.)

FOR CONSTABLE

Vote for One

(Here list the names of the candidates with a square at the left of each name—.Also insert one blank line with a square at the left thereof.)

State Law reference— Arrangement of ballot, MCL 168.706.

Section 13. - Ballots on file in clerk's office; delivery of minimum number to polls.

The city clerk under the direction of the election commission shall cause all ballots to be printed and on file in his office at least ten days before the election. The clerk shall cause to be delivered at each polling place prior to the time of the opening of the pools a number of ballots equal to the number of registered electors in such voting precinct but in no case less than the number who voted at the last regular municipal election plus twenty-five per cent (25%), and also, all supplies, stationery, books, blanks and accessories necessary for the conduct of the election.

Section 14. - Counting of ballots by board of election inspectors.

Immediately upon the closing of the polls the board of election inspectors in each precinct shall count the ballots and ascertain the number of votes cast in such precinct for each of the candidates and upon each of the questions and propositions voted upon, and shall make immediate returns thereof to the city clerk upon blanks to be furnished by the city clerk.

Section 15. - Recount of votes.

A recount of the votes cast at any city election for any office or upon any proposition, may be had in accordance with the general election laws of the state.

State Law reference— Recounts, MCL 168.861 et seq.

Section 16. - Canvass of returns; determination of winners.

The city commission shall convene at 7:30 p.m. on the first day, other than a Sunday or holiday, succeeding any regular or special election and shall canvass the results of such election, and shall determine the vote upon all questions and propositions and declare whether the same have been adopted or rejected and what persons have been elected at such election to the several offices respectively. The person receiving the highest number of votes for any office shall be deemed to have been duly elected to that office. If more than one person is to be elected to any office, then the persons, equal in number to the number to be elected to that office, receiving the highest number of votes for that office, shall be deemed to have been duly elected to that office.

State Law reference— Board of canvassers, MCL 168.24a et seq., MSA 6.1024(1) et seq.; canvass of returns, MCL 168.323, MSA 6.1323.

Section 17. - Violations.

If any person shall make a false oath or affidavit in connection with any matter required by this chapter or shall violate any provision of this chapter or shall knowingly neglect or refuse to perform any duty herein prescribed, such person shall be guilty of a misdemeanor.

Section 18. - Qualification of electors.

The inhabitants of the city, having the qualification of electors under the constitution and general laws of the state and no others, shall be electors therein and shall be entitled to vote at any city election if registered in accordance with the laws of the state.

State Law reference— Qualifications for registration as elector, MCL 168.492, MSA 6.1492.

Section 19. - Voting hours.

The polls for all municipal elections shall be open at seven o'clock A.M. of election day and remain open until eight o'clock P.M. of said day, unless otherwise provided by the commission.

State Law reference— Opening and closing of polls, MCL 168.720, MSA 6.1720.

Section 20. - Use of same election officials for elections held on same day.

When a city election is held on the same day as national, state or county election or primary, the same election officials shall act in both the city election and the national, state or county election or primary.

Section 21. - Adoption of state election laws.

The general election laws of the state so far as they can be applied, shall govern all regular and special city elections, in relation to election precincts, polling places and their equipment, inspectors of election and their appointment, powers and duties, the powers and duties of all city officers, the conduct of elections, and the manner of voting, assisted voters, absent voters, election returns, canvass by precinct inspectors or precinct counting boards of inspectors, recounts and correction of frauds and errors in returns, and in general to all election matters whether the same be herein specifically enumerated or not; provided, however, that when there is a conflict between such general laws and this charter as to any matter which may be lawfully regulated by charter, then the provisions of this charter shall control.

State Law reference— Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.

Section 22. - City commission to act as election commission.

The city commission shall constitute the election commission for the city and shall perform all of the duties required of city election commissions by the general laws of the state. It shall appoint the inspectors of election and fix their compensation.

Section 23. - Tie votes.

If at any election of municipal officers there shall be no choice between candidates by reason of two or more candidates having received an equal number of votes, then the commission shall appoint a date for the appearance of such persons as have received tie votes for the purpose of determining by lot among such persons the right to such office, and shall cause notice thereof to be given to all such persons interested, if such persons can be found. The manner of determining by lot shall be the same as provided by the general laws of the state for such determination in case of a tie vote for a township office. In no case, however, shall the election of any person be determined by lot without first a recount of the votes cast at such election, if one of the persons receiving such tie vote shall demand such a recount.

State Law reference— Determination of election by lot, MCL 168.851, 168.852, MSA 6.1851, 6.1852.

CHAPTER V. - ORDINANCES

> *Footnotes:*
> *--- (**6**) ---*
> ***State Law reference—** Mandatory that charter provide for ordinances, MCL 117.3(k), MSA 5.2073(k); general authority relative to adoption of ordinances, Mich. Const. 1963, Art. VII, § 22.*

Section 1. - Enacting clause.

The enacting clause of all ordinances shall read, "The City of Bloomfield Hills Ordains", but such caption may be omitted when said ordinances are published in book form by authority of the commission.

Section 2. - Effective date.

Every ordinance shall take effect immediately upon publication unless otherwise provided in this charter or in the ordinance itself.

Section 3. - Publication.

It shall be the duty of the clerk to cause every ordinance to be published either by printing the same in a newspaper circulating within the city or by posting the same in three public places within the city, and it shall be the duty of the commission to designate which method of publication shall be used. The clerk shall immediately after such publication enter in the "Ordinance Record", under the record of the ordinance, a certificate under his hand stating the time and method of such publication. Such certificate shall be prima facie evidence of the due publication of the ordinance.

State Law reference— Mandatory that charter provide for publication of all ordinances before they become operative, MCL 117.3(k).

Section 4. - Recording.

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

Section 5. - Revival of repealed ordinance; amendment of entire section.

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

Section 6. - Penalties for violations of ordinances.

The commission shall have authority to provide in any ordinance for the punishment of those who violate the same, by a fine not exceeding five hundred dollars or imprisonment for a period not exceeding ninety days, or both, in the discretion of the court. Such ordinance may further provide that in case any person shall fail to pay any fine so imposed, that he may be imprisoned until such fine shall be paid, provided that no person shall be imprisoned for a single violation of any ordinance for a longer period than ninety days. Such imprisonment may be in the city prison, if any, in the county jail of Oakland County, or in any penal institution in the state authorized by law to receive prisoners from the city.

State Law reference— Limitation on penalties, MCL 117.4i(10).

Section 7. - Limitations on actions.

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

Section 8. - Actions in assumpsit; warrants; proceedings for arrest and custody.

Whenever a penalty shall be incurred for the violation of any ordinance, and no provision shall be made for the imprisonment of the offender upon conviction thereof, such penalty may be recovered in an action in assumpsit. And when a corporation shall incur a penalty for the violation of any such ordinance the same shall be sued for in an action in assumpsit. In either of the cases above mentioned if the court shall find the defendant guilty, he shall render judgment for all or such part of the maximum fine specified in the ordinance as he would impose in a similar case commenced by warrant. Prosecutions for violations of the ordinances of the city may, in all cases except against corporations, be commenced by warrant for the arrest of the offender. Such warrant shall be in the name of the people of the State of Michigan, and shall set forth the substance of the offense complained of, and be substantially in the form and be issued upon complaint made, as provided by law in criminal cases cognizable by justices of the peace. And the proceedings relating to the arrest and custody of the accused during the pendency of the suit, the pleadings and all proceedings upon the trial of the cause and in procuring the attendance and testimony of witnesses, and in the rendition of judgments and the execution thereof shall, except as otherwise provided by this charter, be governed by and conform as nearly as may be, to the provisions of law regulating proceedings in criminal causes cognizable by justice of the peace.

Section 9. - Pleading of ordinance by title and number.

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

Section 10. - Judicial notice.

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

Section 11. - Proving of ordinances.

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

CHAPTER VI. - CONTRACTS

Sec. 1. - [Public improvements or purchases.]

In all purchases in excess of a dollar amount established by ordinance, (a) the purchase shall be approved by the City Commission; and (b) formal sealed bids shall be obtained unless the City Commission by formal unanimous resolution of those present at the meeting based upon the written recommendations of the City Manager determines that no advantage to the City would result from competitive bidding. No purchase shall be divided for the purpose of circumventing the value limitation contained in this section. Purchases shall be made from the lowest competitive bidder meeting specifications unless the City Commission determines that it is in the best interest of the City to accept a different bid.

(Res. of 12-14-10)

Secs. 2, 3. - Reserved.

Editor's note— A resolution adopted Dec. 14, 2010 , and passed at referendum on May 2, 2011, deleted §§ 1—3, which pertained to public improvements or purchases over $1,000.00; construction work over $5,000.00; and drawings, profiles and estimates required for public improvements over $2,000.00; respectively, and were replaced with Section 1 to read as set out herein. Former sections 1—3 bore no history note.

Section 4. - Conflicts of interest.

No member of the commission shall vote for the authorization of any contract with or for the city, or for the expenditure of any money on the part of the city, if he shall be financially interested in the proceeds of such contract or in the money so expended. The city commission may further implement this provision by resolution or ordinance.

(Res. No. 05-2013, C, 4-9-13)

State Law reference— Conflicts of interest as to contracts, MCL 15.321 et seq.

CHAPTER VII. - GENERAL FINANCE

> *Footnotes:*
> *--- (**7**) ---*
> ***State Law reference—** Municipal finance act, MCL 131.1 et seq.; uniform budgeting and accounting act, MCL 141.421 et seq.*

Section 1. - Fiscal year.

The fiscal year of the city shall begin on the first day of July of each year.

Section 2. - General accountant; system of financial transactions.

The city treasurer shall be the general accountant of the city and shall keep a complete set of accounts showing the financial transactions of the city, which accounts shall conform to any uniform system required by law. The city treasurer shall receive and disburse all moneys belonging to the city and shall keep an accurate detailed account of all money received and disbursed by him and of the particular fund into which or from which the same is paid. He shall pay out no money except upon warrant issued as in this charter provided. He shall at least once a month, and oftener if required, furnish the commission with a statement showing all cash on hand and in bank at the beginning of the preceding month, the receipts and disbursements for the preceding month, the cash and bank balances at the end of the preceding month, and the condition of the several funds of the city. He shall make such other reports as the commission may require.

State Law reference— Mandatory that charter provide for a system of accounts, MCL 141.421 et seq.; uniform budgeting and accounting act, MCL 141.421 et seq.

Section 3. - Warrants on treasury.

No money shall be drawn from the treasury except upon the warrant of the clerk countersigned by the mayor. Every warrant shall specify the fund from which it is payable and shall be paid from no other fund. No warrant shall be drawn upon the treasury after the fund from which it should be paid has been exhausted and if any such warrant shall be drawn it shall be void. No warrant shall be issued until the same has first been authorized by the commission; provided, however, that warrants may be issued for the payment of labor without the prior authorization of the commission, if authorized by the city manager, or if there is no city manager, then by the mayor, but the total amount of such warrants, issued between any successive regular meetings of the commission shall not exceed such an amount as the commission shall from time to time establish. All liquidated accounts and demands against the city shall be received and audited by the treasurer who shall enumerate them on a regular form prescribed by the commission and who shall certify to the commission as to the correctness or incorrectness of the various amounts on said list, provided, however, that if there is a city manager, then the city manager shall perform the duties required of the treasurer by the provisions of this sentence. Before any invoice is paid, the official incurring the expenditure shall approve the same.

Section 4. - Collection and deposit of moneys by city treasurer.

All taxes, special assessments and other moneys accruing to the city shall be collected by the city treasurer. All moneys received by any officer or employee of the city for or in connection with the business of the city, shall be paid promptly into the city treasurer, and shall be deposited by the treasurer with such responsible banking institution or institutions as may be designated by the commission and furnishing such security as the commission may determine, and all interest on such deposits shall accrue to the benefit of the city. The commission shall provide for the prompt and regular payment and deposit of all city moneys as required by this section.

Section 5. - Fees received by officers and employees.

All fees received by any officer or employee in his official capacity shall belong to the city except as in this charter otherwise provided and except also where it is otherwise provided in the resolution or ordinance fixing the salary of any officer or employee.

Section 6. - Revenues to be divided into funds.

The revenues raised by general taxation upon all property in the city, or by loan to be repaid by such tax, shall be divided into such and so many funds as the commission may by ordinance or resolution determine.

Section 7. - Periodical audit.

The commission shall provide that a periodical audit, which shall be at least annually, be made of the accounts of all the offices and departments of the city government by certified public accountants who have no personal interest, direct or indirect, in the financial affairs of the city or any of its officers or employees.

Section 8. - Annual statement of receipts and expenditures.

No later than sixty days after the close of each fiscal year the treasurer shall make out a statement of the receipts and expenditures of the corporation during the preceding fiscal year, which statement shall distinctly show the following: The amount of all taxes collected during the year for all purposes, and the amount raised for each fund; the amount levied by special assessment and the amount collected in each district; the amounts received from all other sources during the year,

according to a logical classification thereof; the expenditures made during the year and the objects thereof, according to a logical classification; the outstanding bonded indebtedness of the city and the conditions of all sinking funds; the amount of delinquent taxes according to the year of levy; and such other information as shall be necessary to a full understanding of the financial concerns of the city. Said statement shall be signed by the treasurer and shall be filed in the office of the clerk for public inspection.

Section 9. - Annual budget.

On or before the second Tuesday of May of each year the commission shall prepare a proposed annual budget in reasonable detail for the ensuing fiscal year based upon estimates furnished by the several city officers, or if there is a city manager, then by the city manager. Such budget shall comply with the lawful requirements of any state agency established by statute.

The commission shall also prepare the following information:

a. Comparative statements in parallel columns of the appropriations and expenditures for the current fiscal year and also the preceding fiscal year and the increase or decrease in the appropriation recommended for the ensuing year over that of the current year.
b. An itemized statement of the taxes proposed to be levied, the estimated delinquency thereon at the close of the year and the probable net amount which will be collected thereon during the year; also the estimate revenue of the city from other sources for the ensuing fiscal year, including receipts from delinquent taxes for prior years; also a comparative statement in parallel columns of the taxes levied, delinquent and collected and of other revenues received during the current and preceding fiscal year.
c. The outstanding bonded indebtedness of the city with the principal and interest requirements during the ensuing year, all separated as to each issue.

Summaries of such budget and information shall be available for distribution and a public hearing shall be given by the commission before adopting such budget. After such hearing, the commission shall adopt such budget as proposed or with such modifications as it may deem advisable.

(Res. No. 05-2013, D, 4-9-13)

Section 10. - Annual appropriation resolution.

Not later than the Thirty-first day of May of each year, the commission shall pass an annual appropriation resolution, which shall be based on the budget as adopted by the commission and which shall comply with the lawful requirements of any state agency established by statute. The total amount of said appropriation shall not exceed the estimated revenues of the city from taxes and other sources, as set forth in the budget. No liabilities shall be incurred by any officer or employee of the city, except in accordance with the provisions of the annual appropriation resolution, or under continuing contracts and loans authorized under the provisions of this charter. At any meeting after the passage of the appropriation resolution and after at least one week's notice to the members of the commission, the commission may amend such resolution so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenues of a class not included in the annual budget.

Section 11. - Quarterly restudy of budget.

On or before the beginning of each quarterly period during the fiscal year, the commission shall restudy the budget for such year and if it appears that the income for the year as estimated in the budget will be less than originally estimated, then the total appropriations shall be reduced accordingly and the commission shall designate which appropriations have been reduced and the amount thereof; provided that nothing herein contained shall require a reduction in any appropriation for payment of principal or interest on any debt or for any sinking fund requirement, if such an appropriation is necessary in order to comply with any statutory or charter provision or any of the terms of the loan. In estimating the income for any year or part thereof, no consideration shall be given to possible loans in anticipation of the collection of taxes, it being the intention that the commission shall use every effort to operate without the making of such loans. The requirements of this section, however, shall not be construed as a condition precedent to any such loan.

Section 12. - Transfer of surplus funds.

If for any cause there shall be at the end of any fiscal year a surplus in any current expense fund, such surplus may be transferred to such other fund as the commission may deem advisable.

CHAPTER VIII. - BONDS

> *Footnotes:*
> *--- (**8**) ---*
> ***State Law reference—*** *Authority to borrow money, MCL 117.4a; restriction on issuance of bonds, MCL 117.5; municipal finance act, MCL 131.1 et seq.*

Section 1. - Limitations on net indebtedness.

The City Commission may borrow on the faith and credit of the City such sum or sums of money as it may deem expedient and issue the bonds of the city therefor, for any purpose within the scope of its powers; provided that at no time shall the general obligation bonded indebtedness of the city exceed ten per cent (10%) of the assessed valuation. The resources of the sinking fund for any purpose shall be deducted from the bonded indebtedness in determining the limitations

hereinbefore provided. Emergency bonds, judgment bonds, mortgage bonds and notes issued in anticipation of the collection of taxes shall not be included in computing the above limitation.

State Law reference— Similar provisions, MCL 117.4a, MSA 5.2074(1).

Section 2. - Approval by electors.

No bonds except refunding bonds, emergency bonds, bonds authorized to pay judgment and decrees as authorized by State law, shall be issued until the issuance thereof has been approved by three-fifths (⅗) of the electors of the city who own property within the city limits, voting thereon at a general or special election. Notes issued in anticipation of the collection of taxes shall not require the approval of the electors for the issuance thereof. The approval of the electors shall not be required for the issuance of bonds for the City's portion of local improvements which are paid for in part by special assessments.

Editor's note— Property ownership requirement for voting in most types of bond elections has been held unconstitutional. See Ciprioano v. City of Houma, 395 U.S. 701 (1969); City of Phoenix v. Kolodziejski, 399 U.S. 204 (1970); Solyer Land Co. v. Tulare Lake Basin Water Storage District, 410 U.S. 719 (1973); Associated Enterprises, Inc. v. Toltec Watershed Improvement District, 410 U.S. 743 (1973).

Section 3. - Sinking funds.

No bonds except serial bonds shall be issued without creating a sinking fund for the payment of the same. Such sinking fund shall conform to all requirements of the state law.

Section 4. - Statement of object for issuance.

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

Section 5. - Execution; record.

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

Section 6. - Bonds subject to statutory provisions.

Emergency bonds, bonds issued to pay a judgment or decree of any court against the city, refunding bonds, and notes issued in anticipation of the collection of taxes may be issued pursuant to the provisions of the statutes of the State of Michigan.

State Law reference— Bonds generally, MCL 135.1 et seq., MSA 5.3188(21) et seq.; refunding bonds and certificates of indebtedness, MCL 136.1 et seq., MSA 5.3188(28) et seq.

Section 7. - Loans in anticipation of special assessments.

The commission shall have authority to raise money by loan in anticipation of the receipts from special assessments for the purpose of defraying the cost of the improvement for which the assessment was levied, but such loan shall not be made until after the special assessment roll shall have been confirmed. Bonds may be issued for such loan but shall not exceed the amount of the assessments for the completion of the improvement, which bonds shall draw such interest, not exceeding six per cent (6%) per annum, as the commission may determine. Such special assessment bonds shall be issued upon the faith and credit of the special assessment district only, except such bonds as are issued against the city's portion of the cost of said improvement which latter bounds shall be general obligation bonds of the city. The assessments when collected shall be set apart in a separate fund for the payment of such bonds. The contractors for the construction of public improvements may be required to take their pay in said bonds in lieu of any cash payment provided in the contract. Said bonds in no event shall be sold or otherwise disposed of at less than their par value.

Editor's note— MCL 133.9, MSA 5.3188(12b), permit a rate up to one percent above the average rate of interest borne by the obligations, notwithstanding the provisions of a charter.

Section 8. - Bonds in anticipation of city installments.

Whenever any portion of the cost of any improvement shall be assumed by or charged to the city at large and the balance of such cost assessed to the property benefitted, if the commission shall provide for the payment of the city's portion of such cost in installments, then in such case, bonds may be issued in anticipation of the payment of the amount assessed to the city at large the same as they may be issued in anticipation of the payment of the amount assessed to the benefitted property. There shall be appropriated each year an amount sufficient to pay such bonds issued against the city's portion when the same shall fall due. Nothing in this section contained shall be construed to require the financing of the city's portion of the cost of any improvement in the manner herein specified.

Section 9. - Investment of sinking funds.

The city commission shall make such investments of the moneys in the sinking fund or funds, and such disposals of securities held in such fund as they may deem expedient, provided however, that investments shall be made in only such securities as are approved by the laws of the state. The city treasurer shall have the custody of all securities and moneys held in the sinking fund.

State Law reference— Investment of sinking funds, MCL 137.2, MSA 5.3188(46)

Section 10. - Mortgage bonds.

The city may for the purpose of acquiring, owning, purchasing, constructing or operating any public utility within the scope of its powers, issue mortgage bonds therefor beyond the general limit of bonded indebtedness herein prescribed; provided that such mortgage bonds issued beyond the general limits of bonded indebtedness herein prescribed shall not impose any liability upon the 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 over a longer period than twenty (20) years from the date of the sale of such utility and franchise on foreclosure; and provided further that said mortgage bonds shall be sold to yield not to exceed six per cent (6%) per annum; and provided further that there shall be created a sinking fund for the payment of such mortgage bonds at maturity by setting aside such percentage of the gross or net earnings of such utility as may be deemed sufficient for such payment.

Editor's note— MCL 133.1a, MSA 5.3188(6a), provides that obligations authorized by law may bear in interest not to exceed eighteen (18) percent, notwithstanding the provisions of a charter.

State Law reference— Revenue or mortgage bonds, MCL 123.241 et seq., 123.201 et seq.; MSA 5.2661 et seq., 5.2701 et seq.

CHAPTER IX. - GENERAL ASSESSMENTS AND TAXATION

> *Footnotes:*
> *--- (**9**) ---*
> ***State Law reference—*** *General property tax act, MCL 211.1 et seq., MSA 7.1 et seq.*

Section 1. - Making of assessment roll.

The city assessor shall, by the first Monday in March of each year, make an assessment roll, of all persons and property liable under the laws of the State to taxation in the city; and in so doing, unless otherwise provided in this charter, he shall conform to and be governed by the provisions of the general laws of the State governing assessing officers performing like duties in the assessment of persons and property for state, county and school taxes. The property listed in such roll shall be assessed as of the first day of January preceding.

State Law reference— Mandatory that charter provide for preparation of assessment roll, MCL 117.3(i), MSA 5.2073(i); assessment roll, MCL 211.24 et seq., MSA 7.24 et seq.

Section 2. - Subjects of taxation.

The subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under the general laws of the state.

State Law reference— Mandatory that charter provide that subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under general law, MCL 117.3(f), MSA 5.2073(f); property subject to taxation, MCL 211.1 et seq., MSA 7.1 et seq.

Section 3. - Board of review.

The board of review shall meet for the purpose of reviewing and correcting said assessment roll, at a designated place in the city, on the second and third Saturdays in March of each year and shall continue in session between the hours of 9:00 A.M. and 5:00 P.M. on each of said days. If necessary to complete its work, said board may continue in session on one or more following secular days. It shall elect a chairman and clerk. A majority shall constitute a quorum. The members of said board shall take the constitutional oath of office which shall be filed with the city clerk. For the purpose of reviewing and correcting such assessments, board of review shall have the same power and perform like duties in all respects, as are by the general tax law conferred upon and required of boards of review in townships, in reviewing assessments in townships for state and county taxes. It shall hear the complaints of all persons considering themselves aggrieved by such 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 shall deem just. In any event the final review of the assessment roll shall be completed by the first Monday in April of each year.

State Law reference— Mandatory that charter provide for a board of review, MCL 117.3(a), MSA 5.2073(a); mandatory that charter provide for a meeting of board of review, MCL 117.3(i), MSA 5.2073(i); completion of review of assessments, MCL 211.30a, MSA 7.30(1).

Section 4. - Record of board of review proceedings.

The clerk of the board of review shall keep a record of all proceedings of the board and of all changes made in the roll, and shall sign and file the same with the city clerk, together with statements made by persons assessed.

Section 5. - Notice of board of review meetings.

Notice of the meeting of said board of review shall be given by posting said notice in six public places in the city, not less than seven days before the first day of review, or by publishing such notice once in a newspaper in circulation within the city, at least seven days before the first day of review. Failure to give the notice herein specified shall not invalidate the assessment roll or any assessment therein contained.

Editor's note— The Open Meetings Act (MCL 15.261 et seq., MSA 4.1800(11)) supersedes all local charter provisions which relate to requirements for meetings of local public bodies to be open to the public.

Section 6. - Endorsement of assessment roll; setting aside assessments.

Immediately after the review of the assessment roll as aforesaid, the chairman and clerk of the board of review shall endorse the roll as provided by the general tax law. The omission of such endorsement shall not effect the validity of such roll. Upon the completion of said roll and its endorsement in the manner aforesaid the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for such causes as are provided in the general tax laws of the state for the setting aside of assessment rolls for state, county and school purposes.

State Law reference— Endorsement of roll, MCL 211.30a, MSA 7.30(1); presumption of validity, MCL 211.31, MSA 7.31.

Section 7. - Assessment roll to be used for state, county, school and city taxes.

The assessment roll herein provided for shall be the assessment roll for state, county, school and city taxes and for any other taxes that may be authorized by law.

Section 8. - Spreading of taxes on assessment roll.

After the board of review shall have approved such assessment roll, the assessor shall, within the proper time, spread thereon the amount of the state and county taxes, and also school taxes if raised at the same time as the state and county taxes, in the manner and form provided therefor by the general tax laws of the state. State, county and school taxes shall be levied, collected and returned in conformity with the general laws of the state.

State Law reference— Mandatory that charter provide for levy, collection and return of state, county and school taxes, MCL 117.3(i), MSA 5.2073(i).

Section 9. - Powers and duties concerning school taxes.

In all proceedings in relation to the assessment, spreading and collection of taxes for school purposes, and in relation to the receipt and disbursement of all moneys belonging to the school district, the city assessor, city clerk, and city treasurer shall have like powers and duties as are prescribed by the laws of this state for supervisors of townships[,] township clerks and township treasurers respectively.

Section 10. - Power to tax.

The commission shall have authority within the limitations of the state law, to raise annually by taxation such sums of money as may be necessary to defray the expense and pay the liabilities of the city and to carry into effect the powers in this charter granted.

State Law reference— Mandatory that charter provide for annually levying and collecting taxes, MCL 117.3(g), MSA 5.2073(g).

Section 11. - Levy of necessary taxes to meet appropriations.

Subject to the provisions of this charter and the statutes of the state, the commission shall levy such taxes each year as may be necessary after deducting the estimated delinquency therein, to meet the appropriations made (less the estimate of the amount of revenue from other sources) and all sums required by law to be raised on account of the city debt.

Section 12. - Clerk to certify tax levy.

The city clerk shall certify to the city assessor the total amount which the commission determines shall be raised by general tax; all amounts of special assessments which the commission requires to be re-assessed upon any property or against any person; and all other amounts which the commission may determine shall be re-assessed against any person or property.

Section 13. - Preparation of city tax roll.

After the endorsement of the assessment roll by the chairman and clerk of the board of review, the assessor shall prepare a copy thereof to be known as the "City Tax Roll", and upon receiving the said certificate of the several amounts to be raised, as provided in the preceding section, the assessor shall proceed to assess the several amounts determined by the commission to be re-assessed against persons or property as determined by said commission; and shall also proceed to assess the amounts of the general city tax according and in proportion to the several valuations set forth in said assessment roll. He shall set down in columns opposite to the several valuations of real and personal property on said tax roll the respective sums in dollars and cents, appropriate to each, placing general taxes in one column, school taxes, if raised at the same time as city taxes, in the next column, special assessments in the next column, and the amounts of any other assessments or re-assessments in the following column or columns.

Section 14. - Warrant directing collection of taxes.

After extending the taxes as aforesaid, the assessor shall certify under his hand said tax roll, and the mayor of the city shall annex his warrant thereto, directing and requiring the treasurer to collect from the several persons named in said roll, the several sums mentioned therein opposite their respective names as a tax or assessment, and authorizing him, in case any person or persons named therein shall neglect or refuse to pay such sums, to levy the same by distress and sale of his or their goods and chattels, together with the costs and charges of such distress and sale. Said warrant shall further direct that all taxes paid on or before the thirty-first day of August of the same year, shall be collected without additional charge and that there shall be added to all taxes paid after said thirty-first day of August, three-fourths of one per cent (¾ of 1%) for each and every month, or fraction thereof that the same remains unpaid. The assessor shall also prepare a duplicate copy of said city tax roll and certificate and the mayor shall execute a duplicate of said warrant and annex the same thereto, said roll to be known as the duplicate city tax roll. Said city tax roll and annexed warrant, together with the duplicate thereof, shall be delivered by the assessor to the treasurer on or before fifteenth day of June of the year when made in event said tax roll or the duplicate thereof shall be lost or destroyed, a new roll and warrant may be made. Before said city tax roll is deposited with the county treasurer at the time of returning delinquent taxes, the city treasurer shall endorse upon the duplicate tax roll all payments made on taxes assessed therein and such duplicate city tax roll shall become the official record of the city upon the deposit of the city tax roll with the county treasurer.

State Law reference— Collection of taxes, MCL 211.44 et seq., MSA 7.87 et seq.

Section 15. - Notice of tax due.

Within fifteen days after receiving the "City Tax Roll" and within like time after receiving the "General Tax Roll" covering state and county taxes, the city treasurer shall give notice by mail to each taxpayer whose name and post-office address appears on the assessment roll, stating the amount of tax assessed to him and a brief description of the property taxed, but neither the failure to send such notice nor error in such notice shall invalidate the legality of the tax levy.

Section 16. - Taxes due and payable.

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

Section 17. - Tax lien on property.

The city taxes when assessed shall become at once 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 on the first day of July become a lien upon such real property and the lien for such amounts and for all interest and other charges thereon shall continue until payment thereof. All personal taxes shall also be a first lien upon all personal property of the persons so assessed from and after the first day of July in each year and shall so remain until paid, which said lien shall take precedence over all other claims, encumbrances and liens upon said personal property whatsoever, whether created by chattel mortgage, execution, levy, judgment or otherwise, and whether arising before or after the assessment of said personal taxes, and no transfer of personal property assessed for taxes thereon shall operate to divest or destroy such lien except where such personal property is actually sold in the regular course of retail trade.

Section 18. - Neglect or refusal to pay tax.

In case any person shall neglect or refuse to pay tax imposed upon any real or personal property belonging to him, as aforesaid, the city treasurer may enforce the collection thereof by distress and sale or by suit in the name of the city, in the same manner and to the same extent as township treasurers may enforce the payment of state and county taxes.

State Law reference— Failure or refusal to pay tax, MCL 211.47, MSA 7.91.

Section 19. - Delinquent tax roll to county treasurer.

If the treasurer has been unable to collect any of the city taxes on said roll on real property before the first day of March following the date when said roll was received by him, then it shall be his duty to return all such unpaid taxes on real property to the county treasurer in the same manner and with like effect as returns by township treasurers of state and county taxes. Such returns shall include all the additional charges hereinbefore provided, which charges shall in such return be added to the amount assessed in said roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to such county treasurer are collected under the provisions of the general tax laws of the state, and the same rate of interest and all charges shall be collected thereon, and all taxes upon lands so returned as delinquent shall be and remain a lien thereon until paid.

State Law reference— Return of delinquent taxes, MCL 211.55 et seq., MSA 7.99 et seq.

Section 20. - Sale and redemption of lands for delinquent taxes.

Moneys collected by the county treasurer or received from the sale of lands for delinquent city taxes, shall be paid over to the city treasurer as required by state law. All of the provisions of the general tax laws relative to the sale and redemption of lands returned for delinquent taxes shall apply to the sale and redemption of lands returned for delinquent taxes assessed under the provisions of this charter.

State Law reference— Sale, redemption and conveyance of delinquent tax lands, MCL 211.60 et seq., MSA 7.104 et seq.

Section 21. - Refund; reassessment.

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

Section 22. - Payment by owner of undivided share of real property.

Any person owning an undivided share or other part or parcel of real property, assessed in one description, may pay on the part thus owned by paying an amount having the same relation to the whole tax as the value of the part on which payment is made has to the value of the whole parcel. The person making such payment shall accurately describe the part or share on which he makes payment and the receipt given and the record of the receiving officers shall show such description and by whom paid; and in case of the sale of the remaining part or share, for non-payment of taxes, he may purchase the same in like manner as any disinterested person could. The values above referred to shall be determined by the city assessor who before making such determination shall set a time for hearing and shall notify the interested parties by registered mail at their last known addresses, such notice to be mailed at least ten days before the hearing. Any person aggrieved by such determination may appeal therefrom to the board of review by filing notice thereof with the city clerk within ten days after receiving notice of such decision. The board of review shall then without delay meet and review such decision and either affirm or modify it.

Section 23. - Certificate of liens.

It shall be the duty of the city treasurer, upon request made by any party, to issue, his certificate showing all unpaid taxes, special assessments, and other charges which are a lien upon any specified property, and which are payable at his office, and he may upon being authorized by the city commission charge the party requesting the same such fee as the commission shall establish, which fee shall be paid into the city treasury and credited to the general fund. The issuance of such certificate shall not create any liability upon the part of the city or city treasurer, except that in event of fraud in the issuance thereof the person actually issuing the same shall be liable therefor.

Section 24. - Fees and penalties.

The fees and penalties for the collection of all taxes provided for by this charter, or the general laws of the state, shall belong to the city and shall be paid by said treasurer into the city treasury.

Section 25. - Certification of amounts apportioned to funds.

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

CHAPTER X. - SPECIAL ASSESSMENTS

> *Footnotes:*
> *--- (**10**) ---*
> ***State Law reference—*** *Power re assessments, MCL 117.4a, 117.4b, 117.4d, 117.5, MSA 5.2074, 5.2075, 5.2077, 5.2084; higher interest rates permitted when there are obligations in anticipation of special assessments, MCL 133.9, MSA 5.3188(12b); notices and hearings, MCL 211.741 et seq., MSA 5.3534(1) et seq.; deferment for older persons, MCL 211.761 et seq., MSA 5.3536(1) et seq.*

Section 1. - Power; costs; public improvement defined.

Subject to the restrictions hereinafter provided, the commission shall have power to provide for the payment of all or any part of the cost of a public improvement by levying and collecting special assessments upon property specially benefited. Such assessments shall be according to benefits. The cost of surveys and plans for a public improvement and all expenses incident to the proceedings for the making of such improvement and the special assessment therefor, shall be

deemed to be a part of the cost thereof. If the cost of such public improvement has not been definitely determined, then the assessment may be made upon the basis of the estimated cost. The term "public improvement" as herein used shall include the reconstruction in whole or in part of any structure or work as well as the original construction thereof.

State Law reference— Permissible that charter provide for assessing costs of public improvements, MCL 117.4d, MSA 5.2077.

Section 2. - Initiation of proceedings.

Proceedings for the making of public improvements within the city may be commenced by resolution of the Commission, on its own initiative, or by an initiatory petition signed by property owners whose aggregate property in the special assessment district was assessed for not less than sixty (60) per cent of the total assessed value of the privately-owned real property located therein, in accordance with the last preceding general assessment roll; provided, however, that in case of special assessments for paving or similar improvements which are normally assessed on a frontage basis against abutting property, such petitions shall be signed by owners to the extent of at least sixty per cent (60%) of the frontage of property to be assessed. If it shall appear that such petition was not signed by a sufficient number of property owners, then the petition shall not be presented to the Commission by the Clerk. Such petition, in addition to the signatures of the owners, shall contain a brief description of the property owned by the respective signers thereof. Such petition shall be verified by the affidavit of some person or persons with knowledge that said signers are such owners and that such signatures are genuine. The initiatory petition herein referred to shall be addressed to the commission and filed with the Clerk. Such petition shall in no event be mandatory upon the Commission.

Section 3. - Declaration by resolution.

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

Section 4. - Designation of special assessment district.

When any special assessment is to be made upon the lands and premises in any special assessment district, the commission shall by resolution direct the same to be made by the assessor and shall state therein the total amount to be assessed, based upon an estimate of the cost thereof submitted by the city engineer, and describe or designate an assessment district comprising the lands and premises to be assessed.

Section 5. - Preparation of assessment roll.

Upon receiving such orders and direction, the assessor shall make out an assessment roll, entering and describing therein all the lots and parcels of land to be assessed, with the names of the respective owners thereof, and shall levy thereon and against said several lots and parcels of land the amount to be assessed against the private property. The amount spread in each case shall be based upon the detailed estimate of the City engineer as approved by the Commission. In no case shall the whole amount to be levied by special assessment upon any lot or premises for any one improvement exceed twenty-five per cent (25%) of the value of such lot or parcel of land exclusive of improvements thereon, as valued and assessed in the last preceding city tax roll. Any cost exceeding that per cent, which would otherwise be chargeable on any such lot or parcel of land, shall be paid by the city at large. If the assessment is to be payable in installments, then he shall specify in said roll the amount of the total assessment against each lot or parcel of land and the amount of each installment thereof. If the city at large has assumed a portion of the cost of such improvement and the same is payable in installments, then the assessor shall likewise assess such portion to the city at large. In all cases where the ownership of any description is unknown to the assessor he shall, in lieu of the name of the owner, insert the word "unknown" and if by mistake or otherwise, any person shall be improperly designated as the owner of any lot or parcel of land, or if the same shall be assessed without the name of the owner, or with the name of a person other than the owner, such assessment shall not for such cause be vitiated, but shall, in all respects, be as valid upon and against such lot or parcel of land as though assessed in the name of the property owner. When the assessment shall have been confirmed, it shall be a lien on each such lot or parcel of land and shall be collected as in this charter provided. Such liens shall have the same priority rights as tax liens upon real property.

Section 6. - Division of assessment according to benefit received.

The assessor shall assess upon each lot or parcel of land, such relative portion of the whole sum to be levied against all lots and parcels of land as shall be proportionate to the estimated benefit resulting to such lot or parcel of land from the improvement.

Section 7. - Certificate of completed assessment roll.

When the assessor shall have completed the assessment roll, he shall report the same to the commission. Such report shall be signed by him, and may be in the form of a certificate, endorsed on the assessment roll, as follows:

STATE OF MICHIGAN
CITY OF BLOOMFIELD HILLS—ss.

To The Commission
of
The City of Bloomfield Hills

I hereby certify and report that the foregoing is a special assessment roll made by me pursuant to a resolution of the commission of said city, adopted (give date), for the purpose of paying the cost for the (insert here object of the assessment); that in making such assessment I have, as near as may be, according to my best judgment, conformed in all things to the direction contained in the resolution of the commission hereinbefore referred to, and the charter of the city relating to such assessment.

Dated _____	_____ Assessor

Section 8. - Single lot assessment.

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

Section 9. - Commission determination of expenses charged.

The commission shall determine what amount or part of every such expense shall be charged, and the person, if known against whom and the premises upon which the same shall be levied as a special assessment, and as often as the commission shall deem it expedient it shall require all of the several amounts so reported and determined, and the several lots or parcels of land and the persons chargeable therewith respectively, to be reported by the clerk to the assessor for assessment.

Section 10. - Levy of special assessment.

Upon receiving the report mentioned in the preceding section, the assessor shall make a special assessment roll, and levy as a special assessment therein, upon each lot or parcel of land so reported to him and against the persons chargeable therewith, if known, the whole amount or amounts of all the charges so directed as aforesaid to be levied upon each of such lots or parcels of land respectively, and when completed he shall report the assessment to the commission and thereupon the same proceedings shall be had and with like effect as is provided in this chapter for special assessments in other cases.

Section 11. - Filing of assessment roll in clerk's office; notice of hearing.

When any special assessment roll shall be reported by the assessor to the commission, as in this charter directed, the same shall be filed in the office of the clerk and numbered consecutively. Before confirming such roll, the commission shall cause the estimate of cost submitted by the city engineer and also plans, when practicable, of the work and of the locality to be improved, to be deposited with the clerk for public examination, and shall appoint a time when the commission will meet and review such assessment as well as the necessity for the improvement and shall cause a notice of such hearing and of the filing of such assessment roll, estimate and plans, to be published twice prior to such hearing, in a newspaper circulating in the city, the first publication to be at least ten (10) days before such hearing. Such notice shall also be mailed by the clerk at least five (5) days before such hearing to each person whose name appears in said special assessment roll as the owner of property assessed therein, at the address appearing in said roll. The affidavit of the clerk as to such mailing shall be conclusive proof thereof and in such affidavit it shall not be necessary to list the names of such owners but to refer to them generally. If the address of any person is marked unknown in said roll, then no notice need be sent such person. Any person objecting to the improvement or the assessment may appear at said hearing to state such objection and may, if he desire, file such objection in writing with the clerk. The notice provided for in this section may be in the following form:

"Notice of Special Assessment"

Notice is hereby given that an estimate of the cost of (state the nature of the improvement and its locality in general terms) together with the plans thereof (Note —if plans not included because not practicable, omit the preceding five words) as well as the special assessment roll heretofore made by the assessor for the purpose of defraying the cost of such improvement, are now on file in my office for public inspection.

Notice is also hereby given that the commission of the City of Bloomfield Hills will meet at _______ in said city on _______ the _____ day of _______, 19___, at _______ o'clock ___M., to review said assessment and the necessity therefor, at which time and place opportunity will be given to all persons interested to be heard.

Dated _____	_____ City Clerk

Editor's note— MCL 211.741, MSA 5.3534(1), supersedes any charter requirements for mailing notice of special assessment hearings.

Section 12. - Review of assessment roll; confirmation.

At the time and place appointed for the purpose as aforesaid, the commission shall meet and then and there, or at some adjourned meeting, or both, hear any objections which may be made and review the necessity for the improvement and the assessment roll and may determine not to make such improvement or may correct said roll as to any assessment, description or premises, or other matter appearing therein, and may confirm it as reported or as corrected, or it may refer the assessment roll back to the assessor for revision, or it may annul it and direct a new assessment, in which case the same proceedings shall be had as in respect to the previous assessment. When a special assessment roll shall be confirmed, the clerk shall make an endorsement thereon showing the date of confirmation.

Section 13. - Confirmation of assessment roll conclusive; exception.

When any assessment roll shall be confirmed by the commission it shall be final and conclusive unless within ten (10) days after such confirmation, action is instituted in the Circuit Court for the purpose of contesting such assessment roll.

Section 14. - Lien on land assessed.

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

Section 15. - Payment in installments.

All special assessments shall be payable in such number of approximately equal installments, not exceeding twenty (20), as the commission may determine. The first installment of a special assessment shall be due and paid within thirty (30) days after confirmation and one installment shall be due and paid each year thereafter upon the same day of the year as that upon which the roll was confirmed, with annual interest upon all unpaid installments to be fixed by the commission at a rate not exceeding six per cent (6%) per annum, provided that no interest shall be charged upon any amount paid within thirty (30) days after confirmation. The whole assessment against any lot or parcel of land may be paid to the city treasurer at any time in full with accrued interest and penalties thereon. If any special assessment or any installment of a special assessment is not paid when due, then such assessment or installment shall be deemed to be delinquent and there shall be collected thereon in addition to interest a penalty at the rate of one-half of one per cent (½ of 1%) for each month or fraction thereof that the same remains unpaid before reported to the commission for the purpose of being reassessed upon the city tax roll.

Section 16. - Reassessments.

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

Section 17. - Nothing shall impair lien.

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

Section 18. - Direction to collect; warrant.

When any special assessment shall be confirmed, the commission shall direct the assessment so made in the special assessment roll, to be collected. The city clerk shall thereupon deliver to the city treasurer said special assessment roll to which he shall attach his warrant commanding the city treasurer to collect from each of the persons assessed in said roll the amount of money assessed to and set opposite his name therein, and in case any person named in said roll shall neglect or refuse to pay his assessment, or any part thereof, upon demand, after the same has become due, then to levy and collect the same by distress and sale of the goods and chattels of such person. Said warrant shall require the city treasurer to make and to submit to the commission at its first meeting in May of each year, a sworn statement of all assessments or parts thereof in said roll which are delinquent on the first day of May of that year, which shall include a list of persons delinquent, if known, a description of the lots and parcels of land upon which the assessments remain unpaid, and the amount unpaid on each inclusive of accrued interest and penalty.

Section 19. - Collection by treasurer; seizure and levy upon personal property for failure to pay.

Upon receiving said special assessment roll and warrant the treasurer shall proceed to collect the amount assessed therein. If any person shall neglect or refuse to pay his assessment upon demand, the treasurer shall seize and levy upon any personal property found within the city or elsewhere within the State of Michigan, belonging to such person, and sell the same at public auction.

Section 20. - Report of unpaid assessments; delinquent penalties.

In case any assessment, or any part thereof, shall remain unpaid on the first day of May following the date when the same became delinquent, and shall be reported unpaid by the treasurer to the commission as aforesaid, the same, together with all accrued interest and penalty, shall be transferred and re-assessed on the next annual city tax roll in a column headed "Special Assessments" with a penalty of ten per cent (10%) upon such total amount added thereto, and when so transferred and re-assessed upon said tax roll shall be collected and paid in all respects as provided for the collection of city taxes.

Section 21. - Moneys held in special fund for local improvements; surplus.

Moneys raised by special assessment to pay the cost of any local improvements shall be held as a special fund to pay such cost or to repay money borrowed therefor. If there be a surplus, then such surplus shall be refunded pro rate as follows: Where the assessment has been paid in full, by a refund in cash to the owner of the premises at the time the refund was ordered made, and where the assessment has not been paid in full by credit on the assessment roll.

Section 22. - Division of improvements into parts.

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

Section 23. - Proposals required prior to making improvements.

No improvement, any part of the cost of which is to be assessed to a special assessment district, shall be made until the commission has first advertised for proposals for making such improvement, and receive and opened the same, if any. The commission may reject any and all of such proposals and may in its discretion make such improvement by the proper officers and agents of the city.

Section 24. - Apportionment for divided lot or parcel.

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

Section 25. - Payment of city's portion in installments.

Whenever any portion of the cost of any improvement shall be assumed by or charged to the city at large and the balance of such cost assessed to the property benefitted, then the commission may provide for the payment of the city's portion of such cost in installments in the same manner as shall be provided for the payment of the portion assessed to the benefited property.

CHAPTER XI. - STREETS AND SIDEWALKS

Section 1. - Reasonable control by city; plan of streets and alleys.

The city shall have reasonable control of all streets, highways and alleys within its limits and may use and enjoy the same and the space above and beneath them; and may adopt a plan of streets and alleys within its limits.

Section 2. - Power to improve.

The commission shall have power to improve streets, highways and alleys in the city, by grading, graveling, curbing, paving, repairing, repaving, illuminating, maintaining the same free from dust and nuisance, constructing, reconstructing and repairing sidewalks, or otherwise, and shall have authority to lay out, open, widen, extend, straighted, alter, close, vacate, or abolish any highway, street or alley or part thereof in the city, whenever it shall deem the same a public improvement; provided that it shall not vacate any state or county highway designated as such.

Section 3. - Vacation or abolishment.

When the commission shall deem it advisable to vacate or abolish any street, alley or other public highway or any part thereof, it shall, by resolution, so declare and in the same resolution shall appoint a time, not less than four weeks thereafter, when it shall meet and hear objections thereto. Notice of such meeting, with a copy of said resolution, shall be published two successive weeks before the appointed time for such meeting, in a newspaper circulating in the city, or said notice and resolution may be posted in not less than three public places on the street, alley or public highway or part thereof proposed to be vacated, or abolished.

Section 4. - Establishment and alteration of grades.

The commission shall have authority to establish and alter the grade of streets, public highways, alleys, sidewalks, curbs and public grounds within the city. Whenever a grade shall be established or altered a record and diagram thereof shall be kept on file in the proper office of the city.

Section 5. - Landowners not subject to special assessment for subsequent grade change.

Whenever any sidewalk has been built in conformity to a grade established by the city and the cost thereof paid for by the abutting property owner by special assessment or otherwise, then such owner or his successor in title shall not be required to reconstruct such sidewalk nor shall the abutting property be subject to a special assessment therefor, in event a reconstruction is made necessary by a change in grade made by the city, provided such sidewalk is in good condition.

Section 6. - Special assessments for sidewalks.

The city shall have control of all sidewalks in the public streets, highways and alleys of the city and may require the abutting owners to construct, re-construct and repair such sidewalks. If any abutting property owner shall fail to construct, re-construct or repair the sidewalk in the street adjacent to his premises after being required to do so by resolution of the commission and upon such notice as the commission shall provide, then the city may construct, re-construct or repair such sidewalk and collect the costs thereof from the abutting property owner, or may make a special assessment against such owner and such abutting property, in the same manner as herein provided for the making of special assessments where any expense has been incurred by the city upon or in respect to any particular lot or parcel of land.

Section 7. - Change of street names.

The commission shall have power to change the name of any street or highway but before doing so shall set a date for hearing any objections thereto and shall give notice thereof by publication in a newspaper circulating in the city at least once, not less than ten days prior to such hearing, or by posing such notice at least ten days prior to such hearing in three public places on said street or highway.

Section 8. - Regulation of trees and shrubbery.

The commission may provide for and regulate the planting of shade and ornamental trees, and shrubbery in the streets and public highways of the city and may provide for the care and maintenance thereof.

Section 9. - Removal of snow, ice, filth and other sidewalk obstructions by abutting property owners.

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

CHAPTER XII. - SEWERS AND DRAINS

Section 1. - Establishment, construction and maintenance.

The commission may establish, construct and maintain a sewage system, sewage disposal system, sewers and drains whenever and wherever necessary. Such systems, sewers and drains may be constructed either within or without the city or partly within and partly without the city.

Section 2. - Connection to private drains at owners' expense.

The owners or occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the city sewers and drains, under such rules and regulations as the commission shall prescribe.

Section 3. - Requirement of private drains for public health.

Whenever the commission shall deem it necessary for the public health, it may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisances; and if such private drains are not constructed and maintained according to such requirement, the commission may cause the work to be done at the expense of such owner or occupant and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon.

Section 4. - Establishment of sewage disposal system.

The city may acquire, establish, operate, extend and maintain sewage disposal systems, sewers and plants either within or without the corporate limits, as a utility, and may fix and collect charges for service covering the cost of such service, the proceeds whereof shall be exclusively used for the purpose of such sewage disposal system, and which may include a return on the fair value of the property devoted to such service, excluding from such valuations such portions of the system as may have been paid for by special assessment, and which charge may be made a lien upon the property served, and if not paid when due, may be collected in the same manner as other city taxes.

CHAPTER XIII. - WATER SUPPLY

Section 1. - Provision for a water supply.

The commission may provide for a water system and an adequate supply of water for the use of the city and its inhabitants provided the same is approved by two-thirds of the electors voting thereon at a general or special election. Such water supply may be secured from some other municipality or by the establishment and maintenance of a water works pumping station. If water is furnished by the city to the inhabitants thereof, the commission shall have power by ordinance to provide for water rates and the enforcement of the payment thereof and may provide that such water rates shall be a lien upon the property. The commission may also make such rules and regulations in regard to such water works system and the use of water, as may be deemed expedient.

Section 2. - Regulation of artesian or flowing wells.

The commission may provide reasonable regulations to prevent the waste in an unreasonable manner of water from artesian or flowing wells causing the depletion or lowering of the head or reservoir thereof to the detriment or damage of other wells supplied from the same head or reservoir.

CHAPTER XIV. - FRANCHISE

Section 1. - Term limited.

No franchise shall be granted by the city for a longer period than twenty (20) years.

State Law reference— Franchises limited to thirty (30) years, Mich. Const. 1963, Art. VII, § 30.

Section 2. - Grant of irrevocable franchise; election.

No franchise which is not revocable at the will of the city, shall be granted or become operative until the same shall have been referred to the electors at a general or special election and has received the approval of three-fifths of the electors voting thereon at such election.

State Law reference— Submitted to electors required if irrevocable, Mich. Const. 1963, Art. VII, § 25; expenses of special election to be paid by grantee, MCL 117.5(i), MSA 5.2084(i).

Section 3. - Exclusive franchises prohibited.

No person, firm or corporation shall be granted any exclusive franchise.

Section 4. - Rights of city.

The grant of every franchise shall be subject to the right of the city, whether in terms reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, and the right to make an enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service, extensions and accommodations for the people and insure their comfort and convenience.

Section 5. - Granting of permits.

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

Section 6. - Contract by ordinance; acceptance.

All contracts, granting or giving any original franchise, or extending or renewing or amending any existing franchise, shall be made by ordinance and not otherwise. Every such ordinance granting a franchise shall be accepted in writing by the grantee before said ordinance takes effect, and if it is to be submitted to the electors, it shall be so accepted before its submission. Such acceptance shall be filed with the clerk. Any noncompliance with this section shall automatically annul such franchise.

Section 7. - Regulation of public utilities.

The commission may by ordinance provide for efficient inspection and regulation of all public utilities operated in the city. It is the intention of this section to provide means for securing to the city efficient service from all public utilities operated in the city and the proper observance by such operators of the conditions imposed by their respective franchises, the ordinances of the city and laws of the state.

CHAPTER XV. - JUSTICE COURT

Footnotes:

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Editor's note— *This chapter has been superseded by MCL 600.9921, MSA 27A.9921, which created the district court system.*

Section 1. - Election of justice of the peace.

There shall be one justice of the peace for the City of Bloomfield Hills. No person shall be eligible to said office who is not a qualified elector of said city. At the election at which this charter is submitted, there shall be elected a justice of the peace who shall hold office until the regular municipal election in the year 1933. At the regular municipal election in the year 1933 there shall be elected a justice of the peace who shall hold office from and after his election and qualification until the 4th day of July, 1937. At the regular municipal election in the year 1937 and in every fourth year thereafter, there shall be elected a justice of the peace who shall hold office for a term of four years from and after the 4th day of July following his election.

Section 2. - Application of state law.

Except as otherwise provided in this charter or by law of the state, the provisions of the general laws of the state applying to the election and qualification of justices of the peace in townships shall apply to the election and qualification of the justice of the peace of this city.

Section 3. - Jurisdiction.

Except as otherwise provided in this charter or by law of the state, said justice of the peace shall have and exercise the same jurisdiction and powers in all civil and criminal matters, causes, suits and proceedings, and shall perform the same duties in all respects, so far as occasion may require, as are or may be conferred upon or required of justices of the peace under the general laws of the state; provided, however, that in all civil matters, causes, suits, and proceedings, ox contractu and ex delicto, said justice of the peace shall have concurrent jurisdiction to the amount of Five Hundred Dollars ($500.00) with such exceptions and restrictions as are or may be provided by law.

Section 4. - Power and authority of circuit courts.

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

Section 5. - Authority and duty to try cases; jurisdiction not exclusive.

Said justice of the peace shall also have authority and it shall be his duty to hear, try and determine all suits and prosecutions for the recovery and enforcing of fines, penalties and forfeitures imposed by the charter and ordinances of the City of Bloomfield Hills and to punish offenders for the violation of said charter and ordinances as therein prescribed and directed. The jurisdiction herein granted to the justice of the peace of the city shall not be deemed to be exclusive in event that jurisdiction in such cases be granted to other judicial officers by state law.

Section 6. - Proceedings governed by general laws; appeals.

The proceeding in all suits and actions before the said justice of the peace and in the exercise of the powers and duties conferred upon and required of him, shall be according to and be governed by the general laws applicable to justice courts and to proceedings before such courts; and in all suits and prosecutions arising under the charter and ordinances of the city, the right of appeal from said justice court to the circuit court for the County of Oakland, or to any other court having jurisdiction, shall be allowed to the parties or any or either of them, and the same recognizance or bond shall be given as is or may be required by law in case of appeal from justices' courts in analogous cases.

Section 7. - Docket.

Said justices of the peace shall enter in a docket the title of all suits and prosecutions commenced or prosecuted before him for violations of the charter and ordinances of the city and all the proceedings and the judgment rendered in any such cause, and shall itemize all costs taxed or allowed therein. He shall also enter the amounts and dates of payment of all fines, penalties, forfeitures, moneys and costs received by him on account of such suits or proceedings. Such docket shall be submitted by the justices at all reasonable times to the examination of any person desiring to examine the same, and shall be produced by the justice, to the commission whenever required.

Section 8. - Fees.

All the provisions of the general laws of the state in relation to fees chargeable in the several proceedings in justice courts, shall apply to the justice court for this city.

Section 9. - Compensation.

The justice of the peace of this city shall receive as compensation such fees as are provided by the general laws of the state for justices of the peace. For services in proceedings for the violation of this charter or the ordinances of the city, he shall be entitled to the same fees as in the proceedings before a justice of the peace for violation of the criminal laws of the state which fees shall, upon itemized statement presented to the commission, be allowed and paid from the proper fund of the city; provided however that the justices of the peace shall not collect from the city fees for services in such proceedings in excess of Fifteen Hundred Dollars ($1500.00) in any year. Subject to the laws of the state, the commission may by ordinance change the compensation herein allowed to the justice of the peace.

Section 10. - Fines, penalties, forfeitures and costs.

All fines, penalties, forfeitures and costs collected or received by the justice of the peace for or on account of violations of the penal laws of the state shall be paid over by such justice to the county authorities as provided by law. All fines, penalties, forfeitures and costs collected or received by the justice of the peace for or on account of violations of the charter and ordinances of the city shall be paid over to the city treasurer on or before the first day of the next month after the collection or receipt thereof, and an itemized statement of the same shall at the time of such payment be filed with the city treasurer and a duplicate with the city clerk. The justice shall take the treasurer's receipt for such money, in duplicate, file one copy with the city clerk and retain the other.

Section 11. - Bond.

The justice of the peace in addition to any security required by law to be given for the performance of his official duties, shall, before entering upon the duties of his office, give a bond to the city in the sum of Two Thousand Dollars ($2,000.00) to be approved by the commission, conditioned upon the payment to the city of all moneys collected or received by him, which by the provisions of the general laws of the state or of this charter, he shall be required to pay into the treasury of the city.

Section 12. - Suitable place; hours; rules and regulations.

The commission shall furnish a suitable place for the justice court. It shall have power and authority by ordinance or resolution to regulate the office hours of said justice court, and to make all other necessary proper rules for the regulation of the same which are not inconsistent with the provisions of this charter and the general laws of this state.

Section 13. - Constable.

There shall be one constable in and for the City of Bloomfield Hills. Except as in this charter otherwise provided, all the provisions of the general law applying to the election, qualifications and compensation of constables in townships shall apply to said constable. Such constable shall be elected at the election at which this charter is submitted and at each regular municipal election thereafter, and shall hold office until his successor is elected and qualified. He may collect for his own use such fees for his services as are provided by law.

Editor's note— Pursuant to MCL 117.32, MSA 5.2112, the office of constable has been abolished in the city.

Section 14. - Powers and authority of constable.

Said constable shall have like powers and authority in matters of a civil and criminal nature and in relation to the services of process, civil and criminal, as are conferred by law on constables in townships. He shall also have power to serve all processes issued for breach of ordinances of the city but ordinarily, however, such processes shall be given a police officer of the city to serve.

CHAPTER XVI. - MISCELLANEOUS

Section 1. - Definitions and rules of construction.

Wherever used in this charter, the word "state" shall mean the "State of Michigan" the word "city" shall mean the "City of Bloomfield Hills"; the word "commission" shall mean the "city commission"; words referring to the several officers where not preceded by the word "city" shall be deemed to mean such offices of the city unless the context implies otherwise; the terms "commission" and "city commission" shall be construed as meaning "council" or "common council" for the purpose of such general laws of the state as use one or the other of such latter terms in referring to the legislative body of the city; words imparting the singular number only, may extend to and embrace the plural number and words imparting the plural number may be applied and limited to the singular number; words imparting the masculine gender only, may extend and be applied to those of the feminine or neuter gender.

Section 2. - Official time.

Eastern standard time shall be the official time of the city until otherwise changed by the commission. Any reference herein to time shall be construed to be according to the official time of the city.

Section 3. - Joint authority.

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

Section 4. - Person, written, in writing, defined.

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

Section 5. - Severability.

Should any provision or section of this charter be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or of this charter, it being the intent that this charter shall stand notwithstanding the invalidity of any provision or section.

Section 6. - Public records.

All records of the city shall be public and open to inspection at all reasonable times. All books, papers, records and accounts of any officer elected or appointed, or of any office or department of the city, shall be the property of the city, and shall at all times be subject to audit, examination or inspection by any member of the commission, or by any person employed or designated by the commission for that purpose. All such books, papers, records, files and accounts shall be kept in such place as may be designated by the commission.

State Law reference— Mandatory that charter provide for records to be public, MCL 117.3(1), MSA 5.2073(1); freedom of information act, MCL 15.231 et seq., MSA 4.1801(1) et seq.

Section 7. - Affidavit of publication or posting.

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

Section 8. - Power of commission to hold hearings; subpoena power.

The commission shall have the power to hold hearings and to compel by subpoena the attendance of witnesses and the production of books, papers and data in any proceeding or hearing pending before it. Any person who, having been personally served with subpoena, willfully disobeys same, shall be guilty of a misdemeanor. Such subpoena may be served by any person of legal age. Each witness shall be entitled to receive the same fees for attendance as is provided by law for the payment of witness fees in the circuit courts of this state. The commission shall by ordinance prescribe the method to more effectually carry out the foregoing provisions.

Section 9. - City liability.

The city shall not be liable for unliquidated damages for personal or other injuries, unless the person suffering the injury or sustaining the damage, or someone in his behalf, shall serve a notice in writing upon the city within sixty days (60) after such injury shall have occurred. Such notice shall specify the location and the nature of the defect or other basis of the claim; the injury sustained and the names of the witnesses to the accident which are known at that time by said claimant. The failure to so notify the city within the time and in the manner specified herein shall exonerate, excuse and exempt the city from any and all liability on account of such injury. Service of all notices of claims for unliquidated damages against the city shall be made on the mayor or clerk.

State Law reference— City liability for damages to property and personal injuries sustained on public ways, MCL 242.1 et seq., MSA 9.591 et seq.

Section 10. - Residence requirement.

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

Section 11. - Seal.

Unless otherwise changed by the commission, the seal of the City of Bloomfield Hills shall be in circular form with the words "City of Bloomfield Hills, Michigan, 1932" around the outer edge and the words "Corporate Seal" across the center.

Section 12. - Prior rights and liabilities.

The City of Bloomfield Hills, upon the taking effect of this charter, shall succeed to and be vested with all the property, real and personal, moneys, contracts, rights, credits, effects, records, files, books and papers, and all other property of every name and nature belonging to the municipal corporation styled and designated as the Village of Bloomfield Hills to which municipal corporation the City of Bloomfield Hills is successor, and no rights or liabilities either in favor of or against said Village of Bloomfield Hills existing at the time this charter shall become effective, and no suit or prosecution of any kind or other legal proceedings, shall be in any manner affected by the incorporation of the territory comprised within the limits of the Village of Bloomfield Hills, as the City of Bloomfield Hills, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former Village of Bloomfield Hills shall be deemed to be the debts and liabilities of the City of Bloomfield Hills, and all taxes and special assessments levied and uncollected at the time of such change shall be collected the same as if such change had not been made; provided, that when a different remedy is given in this charter or in any ordinance pursuant thereto, which can be made applicable to any rights existing at the time this charter becomes effective, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

Section 13. - Continuation of prior ordinances, rules, regulations and resolutions.

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

Section 14. - Continuation of licenses.

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

Section 15. - Treatment of actions taken by village.

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

Section 16. - Initial officers.

The president and four (4) commissioners constituting the village commission under the charter of the Village of Bloomfield Hills, in office at the time this charter shall take effect, shall have and exercise the powers and duties of the mayor and commissioners, respectively, until such time as the mayor and commissioners, respectively, under this charter are duly elected and qualified. The clerk, assessor, treasurer, chief of police and chief of fire department, of the Village of Bloomfield Hills and their deputies, if any, shall perform the duties of such respective offices under the provisions of this charter until they are removed or their successors are appointed and qualify.

Section 17. - Penalty for misdemeanors.

All offenses in this charter declared to be misdemeanors shall be punishable by fine not exceeding Five Hundred Dollars ($500.00) or imprisonment for a period not exceeding ninety (90) days or both in the discretion of the Court, and the Court may provide in any case that in event the fine shall not be paid, the offender shall be imprisoned until the payment thereof, provided that no person shall be imprisoned for a single violation for a longer period than ninety (90) days.

State Law reference— Limitations on penalties, MCL 117.4i(10), MSA 5.2082(10).

CHAPTER XVII. - SUBMISSION AND ELECTION

Section 1. - Submittal of charter to electors.

This charter shall be submitted to the electors of the City of Bloomfield Hills for their approval or rejection at an election to be held on a day to be designated by resolution of the charter commission, at which election the several elective city officers provided for in this charter shall also be elected.

Section 2. - Filing of charter after approval.

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

WILLIAM T. BARBOUR,
Chairman

LAURENCE P. SMITH,
Secretary

ALFRED R. GLANCY,
THOMAS W. TALIAFERRO,
JOSEPTH H. HUNTER,
GEORGE E. ROEHM,
LUTHER D. ALLEN,
ELLIOTT S. NICHOLS,
WILLIAM M. STORY,
Members of Charter Commission

BERRY AND STEVENS,
Counsel for Charter Commission

By Commissioner Hunter,
Supported by Commissioner Taliaferro.

RESOLVED, That the charter commission of the City of Bloomfield Hills does hereby adopt the foregoing charter, and the secretary is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provision of the Statute, for his approval.

Yeas: Commissioners Allen, Barbour, Hunter, Nichols, Roehm, Smith, Story, and Taliaferro.

Nays: None.

Absent: Commissioner Glancy.

I, LAURENCE P. SMITH, Secretary of the charter commission elected to frame a charter for the City of Bloomfield Hills, do hereby certify that the above charter was adopted by said charter commission at a session thereof held on the 5th day of August, 1932, and that the foregoing is a true and correct copy of the resolution and vote thereon, by which said charter was adopted.

Dated: August 11, 1932.

LAURENCE P. SMITH,
Secretary of the Charter Commission

APPROVED: August 15th, 1932.

WILBER M. BRUCKER,

Governor of the State of Michigan

CHARTER COMPARATIVE TABLE

Adoption Date	Section	Section this Charter
4-2-90	A	Ch. III, § 3
	B	Ch. I, § 2
	C	Ch. IV, § 4
4-5-94		Ch. III, §§ 11, 15
4-5-94		Ch. III, § 15
4-5-94		Ch. III, § 15
5-3-05		Ch. IV, § 4
5-15-07		Ch. IV, § 7
12-14-10(Res.)	Dltd	Ch. VI, §§ 1—3
	Added	Ch. VI, § 1
4-9-13 (Res. No. 05-2013)	A	Ch. III, § 4 Ch. IV, § 7
	B	Ch. III, § 5

	C	Ch. VI, § 4
	D	Ch. VII, § 9

Chapter 1 - GENERAL PROVISIONS

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

This Code may be known and cited as the "Bloomfield Hills, Michigan, City Code."

(Code 1971, § 1.5)

State Law reference— Codification authority, MCL 117.5b, MSA 5.2084(2).

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

The following words and phrases, when used in this Code and any amendment thereto shall, for the purposes of this Code, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

Charter. The word "Charter" shall mean the Charter of Bloomfield Hills, Michigan, and shall include any amendment to such Charter.

City. The word "city" shall mean the City of Bloomfield Hills, Michigan.

City commission. The terms "city commission" or "commission" shall mean the City Commission of Bloomfield Hills, Michigan.

Code. The term "this Code" or "Code" shall mean the Bloomfield Hills, Michigan, City Code, as designated in section 1-1.

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

County. The term "the county" or "this county" shall mean the County of Oakland in the State of Michigan.

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

MCL, MSA. The abbreviations "MCL" and "MSA" shall mean respectively the Michigan Compiled Laws and Michigan Statutes Annotated, as amended.

Meanings. Terms not defined in this Code shall have the meanings customarily assigned to them.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.

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

Or/and, either/or. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunctions "and," "or," "either ... or," the conjunctions shall be interpreted as follows:

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

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

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

Particular/general. The particular shall control the general.

Person. The word "Person" shall include individual, copartnership, corporation, association, club, joint adventure, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

Public place. The term "public place" shall mean any place to or upon which the public resorts, or travels, whether such place is owned or controlled by the city or any agency of the state, or is a place to or upon which the public resorts or travels by custom, or by invitation, express or implied.

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

Sidewalk. The word "sidewalk" shall mean that portion of a street between the curb lines or lateral lines and the right-of-way lines which is intended for the use of pedestrians.

State. The term "the state" or "this state" shall be construed to mean the State of Michigan.

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

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

Text/caption or illustration. In case of any difference of meaning or implication between the text of this Code and any caption or illustration, the text shall control.

(Code 1971, §§ 1.8—1.10)

State Law reference— Rules of construction, MCL 8.3 et seq., MSA 2.212 et seq.

Sec. 1-3. - Section catchlines and other headings, references and editor's notes.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division. The references and editor's notes appearing throughout the Code are for the benefit of the user of the Code and shall have no legal effect.

(Code 1971, § 1.6)

Sec. 1-4. - Certain ordinances not affected by Code.

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

(1) Promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligations assumed by the city;
(2) Granting any right or franchise;
(3) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city;
(4) Making any appropriation;
(5) Levying or imposing taxes;
(6) Establishing or prescribing grades in the city;
(7) Providing for local improvements and assessing taxes therefor;
(8) Dedicating or accepting any plat or subdivision in the city;
(9) Extending or contracting the boundaries of the city;
(10) Prescribing the number, classification, or compensation of any city officers or employees;
(11) Prescribing traffic and parking restrictions pertaining to specific streets;
(12) Pertaining to rezoning;
(13) Any other ordinance, or part thereof, which is not of a general and permanent nature; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the city clerk's office.

(Code 1971, § 1.4)

Sec. 1-5. - Code does not affect prior offenses, rights, etc.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.
(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.

Sec. 1-6. - Amendment procedure.

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

(1) To amend any section:
AN ORDINANCE TO AMEND SECTION _____ (or SECTIONS _____ AND _______) OF THE BLOOMFIELD HILLS, MICHIGAN, CITY CODE.
(2) To insert a new section or chapter:

AN ORDINANCE TO AMEND THE BLOOMFIELD HILLS, MICHIGAN, CITY CODE BY ADDING A NEW SECTION (______ NEW SECTIONS or A NEW CHAPTER, as the case may be) WHICH NEW SECTION (SECTIONS or CHAPTER) SHALL BE DESIGNATED AS SECTION ______ (SECTIONS ______ AND ______) (or proper designation if a chapter is added) OF SAID CODE.

(3) To repeal a section or chapter:

AN ORDINANCE TO REPEAL SECTION ______ (SECTIONS ______ AND ______, CHAPTER ______, as the case may be) OF THE BLOOMFIELD HILLS, MICHIGAN, CITY CODE.

(Code 1971, § 1.2)

Sec. 1-7. - Supplementation of Code.

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

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

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

(1) Organize the ordinance material into appropriate subdivisions;

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

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

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

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

Sec. 1-8. - Notice to perform certain acts.

(a) Notice regarding sidewalk repairs, sewer or water connections, dangerous structures, abating nuisances or any other act, the expense of which if performed by the city, may be assessed against the premises under the provisions of this Code, shall be served as required by state law or the particular provisions of this Code but in no instance not less than forty-eight (48) hours before the time action is required:

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

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

(3) If the owner is unknown, by posting the notice in some conspicuous place on the premises.

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

(Code 1971, § 1.11)

Sec. 1-9. - Single lot assessments.

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

(b) The city manager at the end of each quarter shall report to the city commission all sums so owing to the city and which have not been paid within thirty (30) days after the mailing of the bill therefor. The commission shall, at such times as it may deem advisable direct the preparation of a special assessment roll covering all such charges reported to it together with a penalty of ten (10) percent. Such roll shall be filed with the clerk who shall advise the city commission of the filing of the same, and the commission shall thereupon set a date for the hearing of objections to such assessment roll. The assessment roll shall be open to public inspection for a period of seven (7) days before the commission shall meet to review the roll and hear complaints.

The city clerk shall give notice in advance by publication of the opening of the roll to public inspection and of the meeting of the commission to hear complaints and shall also give like notice to the owners of the property affected by first class mail at their addresses as shown on the current general assessment roll of the city, at least ten (10) days prior to the date of such hearing.

(c) Such special assessments and all interest and charges thereon, shall, from the date of confirmation of the roll, be and remain a lien upon the property assessed, of the same character and effect as a lien created by general law for state and county taxes, until paid. The same penalty and interest shall be paid on such assessments, when delinquent from such date after confirmation as shall be fixed by the commission, as is provided by the City Charter to be paid on delinquent general city taxes and such assessments, with penalties and interest, shall be added by the treasurer to the next general city tax roll or general county and school tax roll, as shall be convenient, and shall thereafter be collected and returned in the same manner as general city taxes.

(Code 1971, § 1.12)

Charter reference— Special assessments, Ch. X; single lot assessments, Ch. X, § 8.

Sec. 1-10. - Severability.

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

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

(Code 1971, § 1.14)

Sec. 1-11. - General penalty.

(a) *Definitions.*

Municipal civil infraction shall mean a violation of a provision of any city ordinance for which the remedy and/or penalty is prescribed to be a civil fine, or other sanction other than a criminal penalty. A municipal civil infraction is not a lesser included offense of a criminal offense or of an ordinance violation that is not a civil infraction.

Municipal civil infraction determination shall mean a determination that a defendant is responsible for a municipal civil infraction by one (1) of the following:

(1) An admission of responsibility for the municipal civil infraction.

(2) An admission of responsibility for the municipal civil infraction, "with explanation."

(3) A preponderance of the evidence at an informal hearing or formal hearing.

(4) A default judgment for failing to appear at a scheduled appearance.

Repeat offense shall mean a determination of responsibility for a second, or a subsequent, municipal civil infraction with regard to the same ordinance provision, committed by the same person within any three-year period, unless some other period is specifically provided with regard to a specific ordinance provision.

Responsible or *responsibility* shall mean a determination entered by a court or magistrate that a person is in violation of a provision of any city ordinance prescribed to be a municipal civil infraction.

Violation shall mean any act which is prohibited or made or declared to be unlawful or an offense under any city ordinance, including affirmative acts as well as omissions and/or failures to act where the act is required by this Code.

(b) *Presumption of misdemeanor*. Unless a violation of an ordinance is specifically designated in the text of the ordinance to be a municipal civil infraction, a violation shall be deemed to be a misdemeanor.

(c) *Penalties, sanctions and remedies for Code violations.*

(1) *Penalties for misdemeanors.*

a. *[Penalties.]* A person convicted of violating an ordinance provision punishable as a misdemeanor shall be guilty of a misdemeanor, and shall be sentenced by the court for a period not to exceed ninety (90) days in jail and/or ordered to pay a fine not to exceed five hundred dollars ($500.00), unless the ordinance corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is ninety-three (93) days, in which case the sentence of the court shall be for a period not to exceed ninety-three (93) days in jail and/or a fine not to exceed five hundred dollars ($500.00).

b. *Continuing offense.* Each act of violation, and each day upon which any such violation shall occur, shall constitute a separate offense.

c. *Penalties not exclusive.* In addition to any penalties provided for in a city ordinance, any equitable or other remedies available may be sought.

(2) *Penalties for municipal civil infraction.*

a. *[Civil fines.]* The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction, unless a different fine is specified in connection with a particular ordinance provision:

1.

First offense. A civil fine for a first offense violation shall be in an amount of two hundred dollars ($200.00), plus costs and other sanctions, for each offense.

2. *Repeat offense.* A civil fine for any offense which is a repeat offense shall not exceed five hundred dollars ($500.00), plus costs and other sanctions, for each offense.

b. *[Authorization to enforce.]* In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages, and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation of, the ordinance.

c. *Continuing offense.* Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.

d. *Remedies not exclusive.* In addition to any remedies provided for by city ordinance, any equitable or other remedies available may be sought.

e. *[Imposition of costs, damages and expenses.]* The judge or magistrate shall also be authorized to impose costs, damages and expenses as provided by law.

(3) A municipal civil infraction shall not be a lesser included offense of a criminal offense or of an ordinance violation which is not a civil infraction.

(d) *Commencement of municipal civil infraction action.*

(1) A municipal civil infraction action is commenced upon the issuance by an authorized official of a municipal civil infraction citation directing the person alleged to be responsible to appear in court. A notice that the violation exists may be served upon the responsible person before a civil infraction citation is issued.

(2) The form of citation used to charge municipal civil infraction violations shall be in accordance with state law.

(3) The basis for issuance of a municipal civil infraction citation shall be as set forth below:

a. An authorized official who witnesses a person violate an ordinance, the violation of which is a municipal civil infraction, shall prepare and subscribe, as soon as possible, an original and three (3) copies of a citation.

b. An authorized official may issue a citation to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction.

c. An authorized official may issue a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the prosecuting attorney or other attorney for the city for whom the authorized local office is acting approves in writing the issuance of the citation.

(4) Municipal civil infraction citations and municipal civil infraction notices shall be served in the following manner:

a. Except as otherwise provided below, the authorized official shall personally serve a copy of the citation or notice upon the alleged violator.

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

c. A citation or notice served as provided in paragraph b, above, shall be processed in the same manner as a citation or notice served personally upon a defendant.

(e) *Authorized official.*

(1) The director of public safety shall be an authorized official for purposes of carrying out the enforcement of this section.

(2) Code officials designated and described in section 2-191 of the city code shall be authorized officials for purposes of carrying out the duties of enforcing this section.

(3) The city council is hereby authorized to appoint by motion or resolution such other person or persons, for such term or terms as may be designated in the motion or resolution, for purposes of carrying out the duties and responsibilities specified in this section for officials charged with the enforcement of the city ordinances specified in the motion or resolution. The council may further, by motion or resolution, remove any person from such office, in the discretion of the council.

(4) A person appointed by motion or resolution is authorized to enforce all ordinance provisions set forth in the motion or resolution. Where a particular officer is designated in any ordinance provision, that officer's authority shall continue in full force and effect, and shall not be diminished or impaired by the terms of this section, and the authority of the person appointed by motion or resolution shall be in addition and supplementary to the authority granted to such other specific officer.

(5) The duties of a person appointed herein or by motion or resolution shall include the following: investigation of designated ordinance violations; issuance and service of municipal civil infraction citations and municipal ordinance violation notices for the designated ordinance violations; appearance in court or other judicial or quasi-judicial proceedings in the administration of the designated city ordinances.

(Code 1971, § 1.13; Ord. No. 347, 9-13-05)

Charter reference— Limitations on penalties, Ch. V, § 6.

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

Sec. 1-12. - Collection of fees not otherwise provided for.

(a) The city treasurer shall hereby be authorized to issue a miscellaneous invoice for such charges for city services that are not otherwise provided by the city code. Miscellaneous invoice means the billing created by the city treasurer for such charges for city services that are not otherwise provided by the city code. A miscellaneous invoice, as covered by this section, shall include, but not be limited to, charges such as damage to city property, lease agreements, tree upgrades, lawn maintenance, diseased trees, and additional charges for sewer or water trench maintenance.

(b) The city treasurer shall be authorized to collect an administrative fee for the cost of compilation of data, preparation, and issuance of invoices as provided for in the city code. Unless otherwise provided for in the city code, or by resolution of the city commission, the administrative fee shall be ten (10) percent of the total invoice amount.

(c) Except as otherwise provided by this Code, for any invoice issued by the city treasurer for charges for city services against the owner of property in the city, payment shall be due to the city within thirty (30) days of the bill. The city treasurer shall add an additional penalty of one (1) percent per month to the delinquent bill. The city treasurer shall annually, on November 1, certify those delinquent billings, or any part thereof, including, but not limited to, water and sewer bills, lawn maintenance bills, special assessments, or any other assessment permitted by law to be placed on tax roll, together with all accrued interest and penalties, to the city commission; and, it shall be transferred and reassessed on the next annual city tax roll. Such charges so assessed shall be collected in the same manner as general city taxes.

(d) Except as otherwise provided by this Code, upon the issuance of any miscellaneous invoice against any person who is not a property owner in the city, payment shall be due to the city within thirty (30) days of the bill. If payment is not received by the city within thirty (30) days after such billing, the city treasurer shall add a penalty of one (1) percent per month to the bill.

(Ord. No. 382, § 1, 1-12-10)

Sec. 1-13. - Violations of law prohibited.

It shall be unlawful for any person or business to engage in any activity, conduct, use or venture in the city that is contrary to federal, state or local laws or ordinances, including violations of this Code or the City of Bloomfield Hills Zoning Ordinance, and any statutes and codes adopted or utilized by the city.

(Ord. No. 385, § 1(1-12), 6-8-10)

Chapter 2 - ADMINISTRATION

Footnotes:

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

Charter reference— *General powers, Ch. II, § 8; plan of government, Ch. III; division of administrative and executive functions, Ch. III, § 9.*

Cross reference— *Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligations assumed by the city saved from repeal, § 1-4(1); any ordinance prescribing the number, classification, or compensation of any city officers or employees saved from repeal, § 1-4(10); electrical board of examiners, § 4-83; administration and advisory body for cable communications, § 5-151 et seq.; licenses, Ch. 9; offenses against administration, § 11-21 et seq.; planning, Ch. 13; planning commission, § 13-16 et seq.; utilities, Ch. 21; administration and enforcement of zoning, § 24-256 et seq.; zoning board of appeals, § 24-276 et seq.*

ARTICLE I. - IN GENERAL

DIVISION 1. - NEPOTISM

Sec. 2-1. - Definitions.

The following words, terms and phrases when used in this division shall have the following meanings:

Appointed officials. The appointive officials are the city manager, city clerk, finance director, director of public safety, board of review, health officer, city attorney, engineer, or other department head.

City official. Includes both elected and appointed officials.

Elected officials. The elected officials are the five (5) members of the city commission.

Employment decision. The employment, promotion, pay and fringe benefits paid to an employee.

Immediate family. Those persons related within the second degree of consanguinity (by blood) or affinity (by marriage) such as a spouse, parent, child, grandparent, grandchild, uncle or aunt, cousin, nephew, or sibling.

Nepotism. The practice of favoritism in employment, promotion, pay, benefits, or conditions of employment based on family relationship, and not based on merit.

(Ord. No. 403, § 1, 11-13-12)

Sec. 2-2. - Nepotism prohibited.

(a) The appointment, employment, or promotion of a member of the immediate family of any elected or appointed official, shall be prohibited.

(b) An employment decision regarding an employee who is a member of the immediate family of an elected or appointed official, shall be based upon merit and shall not be based on nepotism.

(c) No two (2) or more persons who are within the second degree of consanguinity or affinity shall be employed within the same department of the city.

(Ord. No. 403, § 1, 11-13-12)

Sec. 2-3. - Continued prior employment.

(a) *Employment prior to date of division.* If upon the effective date of this division, a member of an immediate family of an elected or appointed official is serving as an employee of the city, the prior employment may continue.

(b) *Employment prior to date of election or appointment.* If upon the election or appointment of an official, a member of an immediate family of the elected or appointed official is serving as an employee of the city, the prior employment may continue.

(c) *Supervisor/subordinate relationship.* Where the continued prior employment of an immediate family member of an elected or appointed official may continue under the provisions of this section, and the prior continued employment will result in a supervisor/subordinate relationship within the department, reasonable efforts shall be made to transfer the employee to another department outside the chain of command, provided that a position is available wherein the duties and rate of pay are reasonably similar to the position from which the employee is transferred from.

(d) *Intradepartmental nepotism.* If upon the effective date of this division, a member of an immediate family is employed within the same department, the prior employment may continue. In the event the continuation of the prior employment results in a supervisor/subordinate relationship reasonable efforts shall be made to transfer one (1) employee to another department outside the chain of command, provided that a position is available wherein the duties and rate of pay are reasonably similar to the position from which the employee is transferred from.

(Ord. No. 403, § 1, 11-13-12)

Sec. 2-4. - Exemption for election workers.

This division shall not prohibit members of an immediate family of any city official or employee to work as election workers for the city except when a member of the immediate family is running for public office.

(Ord. No. 403, § 1, 11-13-12)

Sec. 2-5. - Public hearing.

An official charged with conduct constituting a violation of this division shall be provided with written notice of the alleged violation. The official charged shall be entitled to a public hearing. Notice of such hearing shall be provided to the official at least seven (7) days in advance of the hearing date. The hearing date shall be published in one or more newspapers of general circulation in the city at least seven (7) days in advance of the hearing. The commission shall conduct the hearing and determine if the official violated this division. The commission's findings and determination shall be provided to the official in writing within ten (10) days of the hearing.

(Ord. No. 403, § 1, 11-13-12)

Sec. 2-6. - Penalty.

A determination that an elected or appointed official violated the nepotism ordinance is misfeasance in office and cause for removal pursuant to applicable law.

(Ord. No. 403, § 1, 11-13-12)

Secs. 2-7—2-50. - Reserved.

ARTICLE II. - COMMISSION

> *Footnotes:*
> *--- (**2**) ---*
> ***Charter reference—** Plan of government, Ch. III; ordinances, Ch. V.*

Secs. 2-51—2-150. - Reserved.

ARTICLE III. - ADMINISTRATIVE SERVICES

> *Footnotes:*
> *--- (**3**) ---*
> ***Charter reference—** Plan of government, Ch. III; division of administrative and executive functions, Ch. III, § 9.*

DIVISION 1. - GENERALLY

Sec. 2-151. - Division of administrative service.

The administrative service of the city shall be under the supervision and direction of the city manager, except as otherwise provided by the City Charter, and shall be divided into the following offices and departments, each of which shall be the responsibility of and under the control of a head as listed opposite such office or department:

Department	*Official Head*
Clerk	City clerk
Treasurer	City treasurer
Assessor	County department of equalization
Public safety	Director of public safety
Health	County health department
Law	City attorney
Public works	City manager

(Code 1971, § 1.51)

Sec. 2-152. - Responsibilities of departments.

All departments of the city shall comply with the following:

(1) *Latest practices.* All department heads shall keep informed as to the latest practices in their particular field and shall inaugurate, with the approval of the city manager in the case of departments responsible to him or in the case of other departments, with the approval of the officer or body to whom the department head is responsible, such new practices as appear to be of benefit to the service and to the public.

(2) *Public records.* Each department head shall be held responsible for the preservation of all public records under his jurisdiction and shall provide a system of filing and indexing the same. No public records, reports, correspondence or other data relative to the business of any department shall be destroyed or removed permanently from the files without the knowledge and approval of the city clerk.

(Code 1971, § 1.102)

Sec. 2-153. - Approval of legal documents.

The mayor shall sign, the city clerk shall attest to, the city manager shall approve as to substance, and the city attorney shall approve as to form all contracts and agreements requiring the assent of the city, unless otherwise provided for by the law, the Charter, ordinance or the provisions of this Code.

(Code 1971, § 1.105)

Secs. 2-154—2-170. - Reserved.

DIVISION 2. - CITY MANAGER

Footnotes:

*--- **(4)** ---*

Charter reference— *Division of administrative and executive functions, city manager, Ch. III, § 9; appointment of city manager, Ch. III, § 10.*

Sec. 2-171. - Enforcement of Code, ordinances, etc.

The city manager shall see that all laws, ordinances, rules, regulations adopted by the commission, and the provisions of this Code are properly enforced.

(Code 1971, § 1.101)

Sec. 2-172. - Administrative manual.

The city manager is authorized to adopt such administrative regulations in addition to, but not inconsistent with, the Charter and this Code, as he shall deem necessary and proper to provide for the adequate functioning of all departments. Such regulations shall comprise the administrative manual.

(Code 1971, § 1.103)

Secs. 2-173—2-190. - Reserved.

DIVISION 3. - PUBLIC SAFETY DEPARTMENT

Sec. 2-191. - Director of public safety, chief of public safety department.

The public safety department shall be headed by the director of public safety, who shall generally direct the police and fire work of the city; be responsible for the enforcement of law and order, the protection of life and property against fire, and the performance of other public services of an emergency nature assigned to the department. The director of public safety is further designated as the code official as that term is used in the BOCA National Fire Prevention Code, adopted in Chapter 6, Article II, section 6-21 of the City Ordinance Code. The director of public safety shall serve as the code official at the will of the city commission, notwithstanding any provision in the BOCA National Fire Prevention Code to the contrary, and the employment may be terminated at any time by either party for any reason. To the extent that the BOCA National Fire Prevention Code provides for other than at will employment, those sections are specifically repealed. The city commission shall further appoint a fire inspector, whose duties are set forth in section 2-198 of this article.

(Code 1971, § 1.81; Ord. No. 32454, § 1, 6-13-00)

Sec. 2-192. - Acting director of public safety.

In case of the absence from the city of the director of public safety or his disability or inability from any cause to act as director, the city manager shall designate and appoint some other member of the public safety department to act as director during such absence or disability.

(Code 1971, § 1.86)

Sec. 2-193. - Deputies and assistants.

The director of public safety is authorized to appoint such deputies and administrative assistants as he shall deem necessary for the proper and efficient operation of the department, subject to the approval of the city commission.

(Code 1971, § 1.83)

Sec. 2-194. - Functions.

The functions of the public safety department shall consist of the following:

(1) The operation of motor and foot patrol units for routine investigations and the general maintenance of law and order;
(2) The maintenance of the central complaint desk at Public Safety Headquarters in the City Hall, the maintaining and supervising of public safety records, criminal and noncriminal identification, property identification and custody of property;
(3) The investigation of crimes, elimination of illegal liquor traffic and vice, and the preparation of evidence for the prosecution of criminal cases and offenses in violation of this Code;
(4) The prevention and control of juvenile delinquency, the removal of crime hazards and the coordination of community agencies interested in crime prevention;
(5) The control of traffic, traffic educational programs, school patrols, coordination of traffic violation prosecutions, issuance of operator's licenses, and the maintenance and erection of traffic signs and the painting of street and crosswalk lanes;
(6) The efficient and prompt extinguishment of fires which endanger or are likely to endanger life or property; the maintenance and operation of firefighting equipment and of such other emergency equipment as may be assigned to it;
(7) The investigation and inspection of potential fire hazards and the abatement of existing fire hazards in accordance with the provisions of the city fire prevention code.

(Code 1971, § 1.82)

Sec. 2-195. - Department rules, divisions.

The city commission shall from time to time adopt rules and regulations as it may deem expedient for the proper administration of the department and for the government of public safety officers of the city. Such regulations shall become effective twenty-four (24) hours after posting in the office of the director of public safety. Such rules may establish one (1) or more divisions within the public safety department, each of which divisions may be charged with performing one (1) or more of the functions of the public safety department enumerated in section 2-194. Any such division shall be supervised by a deputy or assistant director of the public safety department, who shall be responsible for the particular functions of the public safety department assigned to the particular division supervised by him. It shall be the duty of all members of the public safety department to comply with such rules and orders while effective.

(Code 1971, § 1.84)

Sec. 2-196. - Confiscated property.

When the department of public safety shall seize from any person any weapon, article or thing, which, in the opinion of the director of public safety, would be dangerous to return to the person from whom it was seized or to the owner thereof, it shall be the director's duty to order such weapon, article or thing confiscated. If such weapon, article or thing is inherently dangerous, it shall be destroyed under the direction of the director, unless of value to any agency of government in which case the director may dispose of it to such proper governmental agency as he shall select. If the weapon, article or thing is not inherently dangerous, it may be sold at public auction upon posting notice of such sale at least fifteen (15) days prior thereto subject to the restriction that no such weapon, article or thing shall be sold to any person who fails to offer satisfactory evidence of responsibility. The proceeds of every such sale, less necessary expenses incident thereto, shall be deposited with the city treasurer.

(Code 1971, § 1.87)

Sec. 2-197. - Integration of public safety officers.

There shall be no distinction between public safety officers assigned to perform duties commonly performed by a police department and members of the department assigned to perform work commonly performed by a fire department. Every public safety officer shall perform either police work or fire work as such duties shall from time to time be assigned to him by the director of public safety. Wherever any duties shall be imposed upon a city police officer or a city fireman by any statute of the state, or by the Charter, or this Code, such duties shall be imposed upon the public safety officers of the city and all public safety officers shall be peace officers within the meaning of such terms as used in the statutes of the state.

(Code 1971, § 1.85)

Sec. 2-198. - Fire inspection function.

The position of city fire inspector is hereby created. The city fire inspector shall be appointed by the city commission. The compensation for the position shall be established by resolution of the city commission and shall be subject to periodic review. The city commission shall establish inspection fees in such amount as deemed necessary to offset the cost of the city fire inspector's compensation. The billing of the inspection and reinspection fees of the fire inspector shall be mailed to the property owner of the property inspected by regular mail to the owner's last known address. If the inspection fees and/or reinspection fees involved are not paid by the owner of the property inspected within thirty (30) days from the date of the billing, the payment shall be delinquent and in the event of delinquent charges for the inspection and/or reinspection fees, the city shall have a lien upon the property inspected for said fees and the lien shall be enforceable as a tax lien in the manner prescribed by the general tax laws of the State of Michigan against the property and may be collected as in the case of general property tax. The city fire inspector shall be responsible for all building fire inspections within the city and shall perform the following functions:

(a) Perform the inspections described in Chapter 6, Fire Prevention and Protection, Article I, section 6-3, inspection of premises, buildings, etc.

(b) Inspect each building within the city, subject to inspection pursuant to the fire prevention code, on an annual basis

(c) Create and maintain records on the findings of each inspection in report form, with a notation of any violations discovered and action required to correct the violation.

(d) Maintain and update a property data sheet for each building subject to annual inspection within the city that will include the address, building name, Knox Box location, name of owner/management firm, a description of the building, the type of construction, fire wall description and location, location of any gas shut-off valve, a list and description of all mechanical systems, a description of the fire suppression system and hose locations.

(e) Following each inspection, prepare a list of items of noncompliance broken down on a floor by floor basis, and provide copies to owner/property manager for structure and specify a reinspection fee.

(f) Prepare a summary of findings in narrative form with overall impression of fire safety of each structure inspected.

(Ord. No. 325, § 2, 6-13-00; Ord. No. 430 , § 1, 3-13-18)

Secs. 2-199—2-300. - Reserved.

ARTICLE IV. - BOARDS AND COMMISSIONS

Footnotes:

> --- (*5*) ---
> ***Cross reference—*** *Electrical board of examiners, § 4-83; administration and advisory body for cable communications, § 5-151 et seq.; planning commission, § 13-16 et seq.; zoning board of appeals, § 24-276 et seq.*

DIVISION 1. - GENERALLY

Secs. 2-301—2-350. - Reserved.

DIVISION 2. - BOARD OF REVIEW

> *Footnotes:*
> --- (*6*) ---
> ***Charter reference—*** *Board of review, Ch. III, § 15.*

Sec. 2-351. - Board of Review.

Pursuant to Act 285 of the Public Acts of 1949 (MCL 211.30a, MSA 7.30(11)), State of Michigan, the board of review provided for by the City Charter shall hold its meetings as provided for in the Charter, but [sic] on the second and third Saturdays in March of each year. The notice to taxpayers contemplated by Section 5 of Chapter IX of the City Charter shall be mailed, posted or published on or before the first Saturday in March of each year. The final review of the assessment roll shall in any event be completed on or before the first Monday in April of each year.

(Code 1971, § 1.62)

Secs. 2-352—2-452. - Reserved.

ARTICLE V. - FINANCE

> *Footnotes:*
> --- (*7*) ---
> ***Charter reference—*** *Contracts, Ch. VI; general finance, Ch. VII; bonds, Ch. VIII; general assessments and taxation, Ch. IX; special assessments, Ch. X.*
> ***Cross reference—*** *Any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligations assumed by the city saved from repeal, § 1-4(1); any ordinance making any appropriation saved from repeal, § 1-4(4); any ordinance levying or imposing taxes saved from repeal, § 1-4(5); licenses, Ch. 9.*
> ***State Law reference—*** *Municipal finance act, MCL 131.1 et seq., MSA 5.3188(1) et seq.; uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.*

DIVISION 1. - GENERALLY

Secs. 2-453—2-465. - Reserved.

DIVISION 2. - PURCHASES, CONTRACTS AND SALES

Sec. 2-466. - Purchasing agent.

The city manager shall act as purchasing agent, unless he shall designate another officer or employee of the city to act as purchasing agent. Any such designation shall be in writing filed with the clerk. In the event of such designation every purchase order in excess of one hundred dollars ($100.00) shall be approved by the city manager before being issued. The city manager shall adopt any necessary rules respecting requisitions and purchase orders.

(Code 1971, § 1.211)

Sec. 2-467. - Competitive bidding.

Where advertisements for sealed bids are required under chapter VI of the Charter, the following procedure shall be followed:

(1) Such expenditure shall be made the subject of a written contract when directed by the city commission. A purchase order shall be a sufficient written contract in cases where the expenditure is in the usual and ordinary course of the city's affairs.

(2) The purchasing agent shall solicit bids from a reasonable number of such qualified prospective bidders as are known to him by sending each a copy of the notice requesting bids and notice thereof shall be posted in the city hall. Bids shall also be solicited by newspaper advertisement as required by the Charter or as directed by the city commission.

(3) Unless prescribed by the commission, the city manager shall prescribe the amount of any security to be deposited with any bid which deposit shall be in the form of cash, certified or cashier's check or bond written by a surety company authorized to do business in the state. The amount of such security shall be expressed in terms of percentage of the bid submitted. Unless fixed by the commission, the city manager shall fix the amount of the performance bond and in the case of construction contracts, the amount of the labor and materials bond to be required of the successful bidders.

(4) Bids shall be opened in public at the time and place designated in the notice requesting bids in the presence of the purchasing agent, the city clerk and at least one (1) other city official, preferably the head of the department most closely concerned with the subject of the contract. The bids shall thereupon be carefully examined and tabulated and reported to the commission with the recommendation of the purchasing agent (as approved by the city manager if the city manager is not acting as purchasing agent) at the next commission meeting. After tabulation all bids may be inspected by the competing bidders. In lieu of the procedure for opening bids specified in this section, the commission may direct that bids be opened at a commission meeting.

(5) When such bids are submitted to the commission, if the commission shall find any of the bids to be satisfactory, it shall accept the same. Such award may be by resolution or ordinance. The commission shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.

(6) At the time the contract is executed by him, the contractor shall file a bond executed by a surety company authorized to do business in the state to the city, conditioned to pay all laborers, mechanics, subcontractors and materialmen as well as all just debts, dues and demands incurred in the performance of such work and shall file a performance bond when such bond is required. The contractor shall also file evidence of public liability insurance in an amount satisfactory to the city manager, and agree to save the city harmless from loss or damage caused to any person or property by reason of the contractor's negligence.

(7) All bids and deposits of certified or cashier's checks may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the contract awarded to him within five (5) days after the same has been awarded, or file any bond required within the same time, the deposit accompanying his bid shall be forfeited to the city, and the commission may, in its discretion, award the contract to the next lower qualified bidder or said contract may be readvertised.

(Code 1971, § 1.212)

Sec. 2-468. - Inspection of materials.

The responsibility for the inspection and acceptance of all materials, supplies and equipment shall rest with the ordering department.

(Code 1971, § 1.213)

Sec. 2-469. - Sale of property.

Whenever any city property, real or personal, is no longer needed for corporate or public purposes, the same may be offered for sale. Personal property not exceeding one thousand dollars ($1,000.00) in value, may be sold for cash by the purchasing agent upon approval of the city manager after receiving quotations or competitive bids therefor for the best price obtainable. Real property and personal property with a value in excess of one thousand dollars ($1,000.00) may be sold after advertising and receiving competitive bids, as provided in section 2-467 and after approval of the sale has been given by the commission.

(Code 1971, § 1.214)

Charter reference— Power to dispose of property, Ch. II, § 2(2).

Sec. 2-470. - Public improvements, purchases, construction work.

No contract shall be entered into by the city for the making of any public improvement, performing any construction work, or for the purchase of any materials, tools, apparatus, or any other thing or things, the consideration or cost of which shall exceed twenty thousand dollars ($20,000.00), without specifications being prepared and published advertisement made for sealed proposals thereon. The city shall have the right to reject any or all such proposals.

No public improvement costing more than twenty thousand dollars ($20,000.00) shall be contracted for or commenced until drawings, profiles and estimates for same shall have been submitted to the city commission and approved by it; and the same or a copy thereof shall thereafter remain on file at the office of the city clerk subject to the inspection of the public.

(Ord. No. 392, § 1, 7-12-11)

Secs. 2-471—2-485. - Reserved.

DIVISION 3. - BUDGET STABILIZATION FUND

Sec. 2-486. - Created.

A budget stabilization fund is hereby created within the city.

(Ord. No. 180, § 1, 5-11-82)

Sec. 2-487. - Compliance with state law.

The amount of money to be appropriated to the fund, the investments of the fund, and the purposes for which the money in the fund may be appropriated, shall be determined in accordance with the provisions of Act No. 30 of the Michigan Public Acts of 1978 (MCL 141.441, et seq.).

(Ord. No. 180, § 4, 5-11-82)

Sec. 2-488. - Appropriations.

Monies for the budget stabilization fund may be appropriated annually by resolution of the city commission in accordance with the provisions of Act No. 30 of the Michigan Public Acts of 1978 (MCL 141.441, et seq.).

(Ord. No. 180, § 2, 5-11-82)

Sec. 2-489. - Taxes.

No taxes shall be imposed to produce revenue in excess of that needed in the estimated budget of the city in order to provide money for the budget stabilization fund.

(Ord. No. 180, § 3, 5-11-82)

Sec, 2-490. - Reserved.

DIVISION 4. - COST RECOVERY

Sec. 2-491. - Purpose and intent.

This division is adopted for the purpose and intent of requiring the reimbursement of costs incurred by the City of Bloomfield Hills in making responses to accidents or incidents involving persons, who operate motor vehicles while intoxicated or visibly impaired by intoxicating liquor or a controlled substance, or a combination thereof, be made to the city by the responsible persons.

(Ord. No. 353, § 1.01, 8-15-06)

Sec. 2-492. - Short title.

This division shall be known as and may be referred to or cited as the "Cost Recovery Ordinance".

(Ord. No. 353, § 1.02, 8-15-06)

Sec. 2-493. - Definitions.

When used in this division, the following terms shall have the following meanings:

Expense of the response means the direct and reasonable costs incurred by the city, or a private person or corporation operating at the request or direction of the city, when making a response to the accident or incident, including the cost of providing police, firefighting and emergency medical and/or rescue services at the scene. These costs further include, but are not limited to, all of the salaries and wages of the city personnel responding to the incident, all salaries and wages of the city personnel engaged in investigation, supervision and report preparation, all costs connected with supervision and report preparation, all costs connected with the administration and provision of all chemical testing of his or her blood, breath or urine and all costs related to any prosecution of the person causing the incident.

Response means the dispatch, provision or utilization of police, fire, emergency medical and/or rescue services by the city to an incident resulting in a traffic stop or arrest, or an accident involving a motor vehicle where one (1) or more of the drivers were operating a motor vehicle while intoxicated or impaired by intoxicating liquor or a controlled substance or a combination of intoxicating liquor or controlled substance.

(Ord. No. 353, § 2.01, 8-15-06)

Sec. 2-494. - Liability for expense of response.

(a) *Person responsible.* Any person is liable for the expense of a response if while intoxicated by intoxicating liquor or a controlled substance or a combination of intoxicating liquor or controlled substance, such person's operation of a motor vehicle proximately creates or causes any incident or accident resulting in the response.

(b)

Presumptions. For the purposes of this division, a person is intoxicated by intoxicating liquor or controlled substance, or the combined influence of intoxicating liquor or controlled substance, when his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle with the caution characteristic of a sober person of ordinary prudence. Further, it shall be presumed that a person was operating a motor vehicle while intoxicated if a chemical analysis of his or her blood, urine or breath indicates that the amount of alcohol in his or her blood was .08 or above or if there is the presence of a Schedule One controlled substance, or cocaine.

(c) *Charge against the person.* The expense of the response shall be a charge against the person liable for the expense under this division. The charge constitutes a debt of that person and is collectible by the city for incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied. Additionally, the 48th Judicial District Court is authorized to collect the above-described debt for the city and may charge a service fee for such collection in an amount mutually agreed upon by the court and the city.

(d) *Cost recovery schedule.* The city shall by resolution, adopt a schedule of costs included within the expense of the response. This schedule shall be available to the public from either the city clerk or the department of public safety.

(e) *Billing.* The city treasurer's office may within thirty (30) days of receiving the itemized costs, or any part thereof, incurred by the city for the response, submit a bill for these costs by first class mail or personal service to the person liable for the expense and/or the court requiring full payment.

(f) *Failure to pay.* The failure to pay by any person described in this division may be considered as a violation of terms of probation or terms of the sentence if the payment was ordered as such by the court. Further, the city may commence a civil suit to recover the expense and all cost allowed by law.

(Ord. No. 353, § 2.02, 8-15-06)

Secs. 2-495—2-600. - Reserved.

ARTICLE VI. - REVIEW EXPENSE REIMBURSEMENTS

Sec. 2-601. - Private payment of review expenses.

(1) *Rationale and purpose.* When individuals and entities seek reviews and approvals for their private and individual benefit, depending upon the type of review and/or approval involved, substantial costs and expenses may be incurred by the city for the work of city employees and consultants in determining whether approvals should be granted, and whether to the extent any conditions should be imposed. Therefore, it is the purpose of this Section to protect the taxpayers of the city against the allocation of substantial sums of general fund moneys that would otherwise be expended for the singular benefit of the private individuals and entities seeking the reviews and approvals. It is the policy of the city to secure payment for such reviews from the persons and entities seeking the special and singular benefit therefrom.

(2) *General requirement and obligation.* In circumstances in which the city is requested for an authorization, permission, permit selection of one (1) person or entity over others, or other approval reasonably requiring a review by the city, the person or entity making the request for authorization, permission, selection or approval, shall be obligated to advance the monies for such review.

(3) *Amount of payment required.* The amount of money required to be paid in to an escrow under this Section shall be reasonably related to the amount of costs and expenses calculated to be expected to be incurred by the city to complete the review, as periodically determined by the city. For purposes of administering this section, the city commission shall adopt one (1) or more resolutions setting the fixed amount of fees to be paid, in advance, by applicants seeking relief contemplating city review. The amount so established shall be based upon the amount reasonably estimated to be required to cover the anticipated costs and expenses to be incurred in the review.

(4) *Fee amount if not stated in resolution.* In the event a specific fixed fee amount has not been determined and specified by resolution for a particular purpose, the city administration, through an appropriate person having the experience and/or expertise in the subject matter, shall estimate an amount to be placed in escrow with the city, in advance of the review(s) being conducted.

(5) *[Additional amounts.]* If such escrow amount paid for any review under subsections (3) and/or (4), above, is determined to be insufficient to cover the costs of review, the city shall, thereafter, from time-to-time, as required, request and the applicant shall pay, additional amounts into escrow, as reasonably needed to proceed with and complete the review. The amount of additional payments into escrow shall be based upon an estimate of the sum required to cover the anticipated costs and expenses to be incurred to complete the review. To the extent such an escrow exceeds the actual cost and expense of the review, as ultimately determined, the excess shall be returned to the person or entity that posted the escrow. If the city cannot locate such person or entity at the last known address, the excess escrow monies shall be disbursed as otherwise provided by law or ordinance.

(6) *[Waiving of fees.]* If a person does not have adequate funds to pay for the review, as required under this section, the fees will be waived upon the filing of the following prior to the commencement of city review:

  (a) An affidavit stating that the applicant is an indigent, and specifying under oath that such person does not have adequate real or personal property to pay or secure all or any part of the funds; and

  (b) Such reasonable supporting documentation as may be requested by the city.

(Ord. No. 359, § 1, 5-15-07)

Sec. 2-602. - Appeal.

In the event a person or entity called upon to pay or escrow monies under section 2-601, above, feels aggrieved based upon the administration of such section, such person or entity may appeal decisions made in the administration of this article to the city manager of the city, provided such appeal must be taken within twenty-one (21) days of the decision to be appealed by submitting a letter or other signed writing to the city clerk requesting the appeal within such time; a copy of such letter shall be provided to the city manager, who shall set a timely hearing and make a written disposition of the appeal.

(Ord. No. 359, § 1, 5-15-07)

Chapter 2.5 - ALARM SYSTEMS

> *Footnotes:*
> *--- (1) ---*
> ***Editor's note—** Ord. No. 231, § 1, adopted Mar. 13, 1990, amended the Code by adding a new Ch. 25, §§ 25-1—25-7, which provisions have been redesignated by the editor as Ch. 2.5, §§ 2.5-1—2.5-7, in order to maintain the alphabetical sequence of the Code.*
> ***Cross reference—** Public safety department, § 2-191 et seq.; noise control, § 10-16 et seq.; false alarms, § 11-22; damaging, removing alarm box, § 11-63.*

Sec. 2.5-1. - Short title.

This chapter shall be known and referred to as the *regulation of alarm systems ordinance.*

(Ord. No. 231, § 1, 3-13-90)

Sec. 2.5-2. - Definitions.

For the purposes of this chapter, the terms used herein shall be defined as follows:

Alarm system: Any mechanical or electrical device which, when activated, emits a sound or transmits a signal or message and to which the public safety department may be summoned, directly or indirectly, to respond.

Alarm user: Any person, firm, business or corporation upon whose premises an alarm system is operated, maintained or used within the city except for alarm systems on motor vehicles.

Certified service agent: Any person, firm, business or corporation licensed and/or certified by the state to alter, install, maintain, move, repair, replace, service and/or respond to any alarm system.

False alarm: The activation of an alarm system through a mechanical failure, malfunction, improper installation or the negligence of the owner or user of an alarm system or negligence of the occupant of the residence and/or building in which the alarm system is located or of their employees or agents. *False alarm* also means any activation of an alarm system which indicates a crime or situation other than that which it was designed to indicate or, in the case of a fire alarm, any alarm condition not resulting from a fire or potential fire condition.

Public safety department: The public safety department of the city.

(Ord. No. 231, § 1, 3-13-90)

Sec. 2.5-3. - Permits required.

(a) No person, firm, business or corporation in the business of providing for the installation of an alarm system shall, from and after the effective date of this chapter install an alarm system in the city until such person, firm, business or corporation has first obtained a permit from the city for the installation of said alarm system.

(b) A fee shall be charged for the permits required by this section to help defray the costs incurred by the city in the administration, inspection and supervision of alarm systems. The fee shall be established by resolution of the city commission.

(Ord. No. 231, § 1, 3-13-90)

Sec. 2.5-4. - Licensing required.

No person, firm, business or corporation shall engage in the business of providing for the sale, installation, operation and/or maintenance of a burglar alarm system unless properly licensed by the state pursuant to 1968 PA 330, as amended, being MCLA 338.1051 et seq.

(Ord. No. 231, § 1, 3-13-90)

Sec. 2.5-5. - Audible and visual alarms.

(a) No person, firm, business or corporation shall install, operate, use or maintain an alarm system equipped with an audible bell, siren or sound and/or visible signal which, when activated, does not reset but continues to emit an audible bell, siren or sound and/or visible signal which disturbs the peace and/or tranquility of the surrounding area.

(b) No person, firm, business or corporation shall install, operate, use or maintain any residential or commercial alarm system that is equipped with an audible bell, siren or sound and/or a visible signal or that rings or signals directly into the public safety department unless said alarm system is also equipped with an automatic reset. No person, firm, business or corporation shall operate, use, maintain, install or direct to be installed any alarm system which emits an audible bell, siren or sound and/or visible signal for a period of longer than fifteen (15) minutes from the time of the initial activation of the alarm.

(Ord. No. 231, § 1, 3-13-90)

Sec. 2.5-6. - Separate systems required.

Buildings having more than one (1) occupant who utilize separate entrances for access to their individual units shall have separate alarm systems for each unit. This section shall not be construed to require the installation of alarm systems but only to require separate systems for separate units when installed.

(Ord. No. 231, § 1, 3-13-90)

Sec. 2.5-7. - False alarms.

(a) A false alarm notice shall be sent to an alarm user whose alarm system has produced a false alarm five (5) times during the calendar year. The alarm notice shall advise the alarm user that the public safety department has a received a minimum of five (5) false alarms during the calendar year and shall instruct the alarm user to have the alarm system checked by a certified service agent.

(b) The activation of an alarm system by an act of nature, act of God and/or disruption or disconnection of electricity shall not be considered a false alarm, and no false alarm notices shall be sent to an alarm user as a result of said activation.

(c) The activation of an alarm system during the course of maintenance and/or repair of the alarm system shall not be considered a false alarm, and no false alarm notice shall be sent to the alarm user provided that the person, firm, business or corporation performing the maintenance and/or repair has, prior to performing the maintenance or repair, notified the public safety department that said maintenance and/or repair would be undertaken.

(d) Any person who intentionally activates his alarm system not for the purpose of indicating a crime, fire or other situation for which it was designed to indicate and/or maintenance or repair purposes and who does not advise the public safety department prior to the activation that said activation is going to occur shall be in violation of this chapter, and the public safety department may immediately issue a citation to the alarm user without forwarding false alarm notices to said person.

(Ord. No. 231, § 1, 3-13-90; Ord. No. 277, §§ 2, 3, 12-14-93)

Sec. 2.5-8. - False alarm fee.

(a) *When fee required.* Notwithstanding any penalties provided for in the event of a conviction for violation of this chapter, and notwithstanding prosecution for a violation of this chapter has or has not been commenced, in order to defray the cost of responding to false alarms, any person, firm, or corporation operating an alarm system which signals seven (7) or more false alarms as defined in section 2.5-2 within a twelve-month period following the date of the first false alarm shall pay to the City of Bloomfield Hills a false alarm fee.

(b) *Schedule of false alarm fees:*

No fee ... first six (6) false alarms within a calendar year period.

One hundred dollars ($100.00) ... seventh and subsequent false alarms within a calendar year.

(c) *Payment due.* Payment of the false alarm fee shall be due within thirty (30) days after the day that the city mails written notice of the false alarm and the fee therefore to the address where the alarm system is located.

(d) *Failure to pay fee.* If the false alarm fee is not paid within the time specified in subsection (c) above, the city may initiate a special assessment procedure against the premises as provided for in the Charter of the City of Bloomfield Hills or the city manager in conjunction with the city attorney, is hereby authorized to commence the appropriate civil legal proceedings against the user of the alarm system in which event the user will be responsible for the false alarm fee together with the cost of collection.

(Ord. No. 270, § 2, 9-14-93)

Sec. 2.5-9. - Exceptions to alarm fees.

Alarm conditions existing under the following circumstances shall not constitute a false alarm and no fee shall be assessed.

(1) If measures to correct alarm system malfunctions have been instituted by the alarm user within a seventy-two (72) hour period, with notification to the Bloomfield Hills Public Safety Department, provided that the alarm user presents, within ten (10) days of the date of alarm response, documentation of repair service having been performed by the alarm company to remedy a malfunction. The owner or occupant of the building or residence shall thereafter have the alarm system inspected by a licensed alarm system contractor within ten (10) days and shall forward to the Bloomfield Hills Public Safety Department said contractor's report of the probable cause of the false alarms and the measures instituted to eliminate same.

(2) The activation of an alarm system by an act of nature, act of God and/or disruption or disconnection of electricity.

(3) The activation of an alarm system during the course of maintenance and/or repair of the alarm system, provided that the person, firm, business or corporation performing the maintenance and/or repair has, prior to performing the maintenance and/or repair, notified the public safety department that said maintenance and/or repair would be undertaken.

(Ord. No. 270, § 2, 9-14-93)

Chapter 3 - ANIMALS

> *Footnotes:*
> *--- (**1**) ---*
> ***State Law reference—*** *Authority to adopt animal control ordinance, MCL 287.290, MSA 12.541; crimes related to animals and birds, MCL 750.49 et seq., MSA 28.244 et seq.*

ARTICLE I. - IN GENERAL

Sec. 3-1. - Cruelty to animals.

Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates, or cruelly kills, or causes or procures to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated, or cruelly killed, any animal, and whoever having the charge or custody of any animal, either as owner or otherwise, inflicts unnecessary cruelty upon the same, or wilfully fails to provide the same with proper food, drink, shelter, or protection from the weather, is guilty of a misdemeanor. The cropping of dogs' ears shall be considered to be a mutilation or cruelty to an animal within the meaning of this section, unless such cropping is performed by a registered veterinary surgeon, while the dog is under an anaesthetic.

(Code 1971, § 9.61)

State Law reference— Similar provisions, MCL 752.21, MSA 28.161.

Sec. 3-2. - Poisoning.

No person shall throw or deposit any poisonous substances on any exposed public or private place where it endangers or is likely to endanger any animal or bird.

(Code 1971, § 9.62)

State Law reference— Poisoning of animals, MCL 750.377, 750.437, MSA 28.609, 28.692.

Sec. 3-3. - Birds and birds' nests.

No person, except a police officer acting in his official capacity, shall molest, injure, kill or capture any wild bird, or molest or disturb any wild bird's nest or the contents thereof.

(Code 1971, § 9.63)

Sec. 3-4. - Livestock prohibited.

(a) This section is adopted for the purpose and with the intent of exercising the city's power as provided in chapter II of the Charter, including the power under section 4 to define, prohibit, abate, suppress or prevent all nuisance and all things detrimental to the health, safety and welfare of the inhabitants of the city and the causes thereof, by prohibiting certain animals from being possessed or maintained within the city with limited, temporary exceptions, and providing for penalties to be applied for violations of the prohibitions. These regulations and the purpose and intent in adopting them is in recognition of existing development and uses that have been lawfully established within the city and determination that the reasonable and peaceful use, enjoyment and value of those uses and developments would be diminished or interfered with by the presence within the city of livestock, which as defined herein, are found to be undesirable, unsuitable and inconsistent with and detrimental to the health, safety and welfare of the city and its inhabitants.

(b) "Livestock" means horses and other equine, cattle, sheep, swine, mules, burros, goats, llamas or other new world camelids, bison, poultry, rabbits and other animals used for human food and fiber or primarily for service rather than companionship to humans. Livestock does not include dogs and cats.

(c) It shall be unlawful and a violation of this section for any person to possess or maintain livestock within the city. Owners or possessors of livestock shall be responsible for compliance with this section and subject to punishment for violations. For purposes of this section, "possess or maintain" means the act or ability of having or exerting control and influence over livestock, without regard to ownership and "owners or possessors" mean persons who have a right of property in livestock, who have livestock in their care of custody, or who knowingly permit livestock to remain on or about property occupied or controlled by them.

(d) The prohibition in section 3-4(c) shall not apply to lawfully established and maintained principal permitted uses under the City of Bloomfield Hills Zoning Ordinance, that by necessity require the possession or maintenance of livestock, and to the temporary possession or maintenance of livestock by persons or entities licensed by the state or U.S. Department of Agriculture if:

(1) The location of the livestock conforms to the provisions of the zoning ordinance of the city.

(2) All livestock and livestock quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(3) Livestock are maintained in quarters so constructed as to prevent their escape, and to provide for their biological needs.

(4) No person lives or resides within one hundred (100) feet of where the livestock are possessed or maintained.

(5) A written application containing all information necessary to confirm compliance with the preceding requirements is made by the licensed person or entity and a permit for the temporary possession or maintenance applied for is issued by the city.

(e) Owners and possessors of livestock in violation of this section shall be guilty of a misdemeanor and punished by a fine of not more than five hundred dollars ($500.00) plus costs of prosecution or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment in the discretion of the court, with each act of violation and every day upon which any such violation occurs constituting a separate offense, as provided in city Code section 1-11.

(f) Possessing or maintaining livestock in violation of this section is declared to be a public nuisance as if said offense were specifically listed in section 10-2 of the city Code.

(g) Possessing or maintaining livestock in violation of this article is declared to be a public nuisance as if said offense were specifically listed in section 10-2 of the city Code.

(Code 1971, § 9.64; Ord. No. 302, § 1, 10-14-97)

State Law reference— Regulation of animals running at large, MCL 433.11 et seq., 433.51 et seq., MSA 18.789(1) et seq., 18.801 et seq.

Secs. 3-5—3-20. - Reserved.

ARTICLE II. - DOGS

Footnotes:

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

State Law reference— *Dog law, MCL 287.261 et seq., MSA 12.511 et seq.*

DIVISION 1. - GENERALLY

Sec. 3-21. - Presumption of ownership.

Any person in possession of any dog or who shall suffer any dog to remain about his premises for a period of five (5) days shall be deemed the owner thereof under this article.

(Code 1971, § 9.72)

Sec. 3-22. - Restricted to premises of owner; leash exception.

No dog shall be permitted to go beyond the premises of its owner unless it is properly held in leash.

(Code 1971, § 9.71(3), (4); Ord. No. 431 , § 1, 4-10-18)

Sec. 3-23. - Noisy dogs.

No person shall own or harbor any dog which by loud, frequent or habitual barking, yelping or howling shall cause a serious annoyance to the neighborhood.

(Code 1971, § 9.71(2))

Sec. 3-24. - Vicious dogs.

No person shall own or harbor a dog that is vicious. Any dog shall be deemed vicious which has bitten a person or domestic animal without molestation, or, which by its actions gives indication that it is liable to bite any person or domestic animal without molestation.

(Code 1971, § 9.71(2))

Sec. 3-25. - Dogs known to have or suspected of having rabies.

(a) It shall be the duty of any person owning or harboring a dog which has contracted rabies, or which is suspected of having rabies, or which has been bitten by any animal known to be or suspected of being infected with rabies, or which has bitten any person, to immediately notify the public safety department or the health department that such person has such dog in his possession.

(b)

It shall be the duty of the public safety department or the health officer upon notification that any dog is known to have or suspected of having rabies to immediately take such action as may appear necessary to have such dog destroyed or properly segregated for observation and treatment as may be required by the health officer.

(c) Upon report that any person has been bitten by a dog the public safety department or health officer may order such dog segregated for observation for a sufficient period of time to satisfy the health officer that such dog is not infected with rabies or, if appears advisable, the public safety department may order such dog destroyed as a vicious dog.

(Code 1971, § 9.77)

State Law reference— Rules for control of rabies, MCL 333.5111, MSA 14.15(5111).

Sec. 3-26. - Impoundment.

(a) The city may provide a pound and the public safety department, or any other person who may be employed for the purpose may, with the approval of the city commission, seize and impound all dogs that may be found running at large or being kept or harbored in any place within the city contrary to the provisions of this article.

(b) No dog that has been impounded shall be released unless the owner or person entitled to claim the dog shall pay to the public safety department upon demand the actual cost for the care and feeding of the dog, and, furthermore, produce a proper license for the dog. Any such sums collected by the public safety department shall be turned over to the city treasurer.

(c) All dogs not claimed and released within seventy-two (72) hours after being impounded may be destroyed or may be sold or otherwise disposed of by the public safety department; provided, that any dog impounded that has been exposed to rabies or that has bitten or attacked a person shall be kept until such time and under such conditions as shall be required by the health officer.

(Code 1971, § 9.78)

Secs. 3-27—3-40. - Reserved.

DIVISION 2. - LICENSE

Sec. 3-41. - License, wearing of tag required.

No person shall own or harbor any dog four (4) months of age or over in the city, unless such dog shall be licensed by Oakland County, which county dog license can be applied for at Oakland County or at city hall, and unless such dog shall at all times wear a collar or harness with a valid county issued metal license tag attached. If Oakland County no longer offers county dog licenses or the city commission adopts a resolution requiring persons owning or harboring any dog four (4) months of age or over in the city to have a City of Bloomfield Hills dog license, then said persons must obtain a City of Bloomfield Hills dog license and comply with the requirements of sections 3-42—3-46 of the City Code.

(Code 1971, § 9.71(1); Ord. No. 450 , § 1, 2-8-22)

Sec. 3-42. - Application generally.

On or before March 1 of each year, the owner of any dog shall make application to the city clerk for the license required by section 3-41. Such application should give the full name and address of the applicant and shall state the breed, sex, age, color and markings of such dog. The application shall be accompanied by proof of vaccination of the dog for rabies within the year preceding if tissue vaccine was used, or within two (2) years preceding the date of application for license if modified live rabies virus of chicken embryo origin was used. Upon such application and proof, the city clerk shall issue a license to own or harbor a dog, as the case may be, for a term ending on the first day of January following.

(Code 1971, § 9.73(1); Ord. No. 175, § 1, 7-14-81; Ord. No. 450 , § 1, 2-8-22)

Sec. 3-43. - Application after March 1.

Any person becoming the owner after the first day of March of any dog four (4) months of age or over which has not been licensed, or any person owning a dog which becomes four (4) months of age after the first day of March, shall forthwith apply for and secure a city dog license for such dog. Such license shall be issued without penalty, provided that application for same be made within thirty (30) days after applicant has acquired such dog or such dog has reached the age of four (4) months. If a dog is acquired or becomes four (4) months old after the first day of July of any year the license fee for the dog shall be one-half (½) the amount fixed in section 3-44 as the annual license fee for such dog.

(Code 1971, § 9.75; Ord. No. 450 , § 1, 2-8-22)

Sec. 3-44. - Fees.

For each city dog license required by section 3-41, and for each renewal thereof, the city clerk shall collect a license fee of two dollars and fifty cents ($2.50) for each male or unsexed dog and five dollars ($5.00) for each female dog, provided that application for same is made on or before March 1. If the application is made after March 1, a penalty of five dollars ($5.00) per dog in addition to the regular license fee shall be collected, except as provided in this division.

(Code 1971, § 9.73(2); Ord. No. 175, § 1, 7-14-81; Ord. No. 450 , § 1, 2-8-22)

Sec. 3-45. - Issuance of tag.

Upon issuance of the city dog license required by section 3-41 the city clerk shall deliver to the applicant a metal tag which shall be dated and bear a serial number, together with the words, "Licensed, Bloomfield Hills, Michigan," and such serial number shall be inscribed upon the license issued. Such metal tag shall be attached to the dog for which it is issued by means of a substantial collar or harness, and no person shall remove any license tag from any dog without the consent of the owner or of the person to whom the license is issued. No such tag shall be attached to any dog other than the dog for which the tag was issued.

(Code 1971, § 9.73; Ord. No. 450 , § 1, 2-8-22)

Sec. 3-46. - Duplicate tags.

In case of loss of any metal tags issued under this division, duplicates may be secured from the city clerk upon application and payment of the cost of such tags.

(Code 1971, § 9.76; Ord. No. 450 , § 1, 2-8-22)

Secs. 3-47—3-70. - Reserved.

ARTICLE III. - WILD, EXOTIC OR DANGEROUS ANIMALS

Sec. 3-71. - Intent and purpose.

This article is adopted for the purpose and with the intent of exercising the city's powers as provided in chapter II of the Charter, including the power under section 4 to define, prohibit, abate, suppress or prevent all nuisances and all things detrimental to the health, safety and welfare of the inhabitants of the city and the causes thereof, by prohibiting certain animals from being possessed or maintained within the city and providing for procedures and penalties to be applied for violations of the prohibitions. These regulations and the purpose and intent in adopting them is in recognition of existing development and uses that have been lawfully established within the city and determination that the reasonable and peaceful use, enjoyment and value of those uses and developments would be diminished or interfered with by the presence within the city of dangerous animals, which as defined herein, are found to be undesirable, unsuitable and inconsistent with and detrimental to the health, safety and welfare of the city and its inhabitants.

(Ord. No. 301, § 1, 8-12-97)

Sec. 3-72. - Definitions.

(a) *Animal* means mollusks, crustaceans, and vertebrates other than human beings.

(b) *Domestic animal* means those species of animals indigenous to the state of Michigan which have lived under the management of humans so as to live and breed in a tame condition.

(c) *Exotic animal* means those animals that are not domestic or any cross of those animals not domestic to the state of Michigan.

(d) *Wild animal* means any nondomestic animal or any cross of a nondomestic animal. The maintenance in captivity of one or more generations of an animal does not alter its characterization as a wild animal.

(e) *Dangerous animal* means an animal that bites or attacks a person, that bites or attacks and causes serious injury or death to a lawfully possessed or maintained animal and an exotic or wild animal that due to its size, speed, strength, poisonous nature, temperament and/or traits, could, if allowed, attack, come in physical contact with persons or lawfully permitted animals, or be in the immediate visual proximity of persons within the city.

(f) *Owner or possessor* means any person who either has a right of property in any animal, or who has an animal in his care or custody, or who knowingly permits an animal to remain on or about any premises occupied or controlled by him.

(g) *Possess or maintain* means the act or ability of having or exerting control and influence over an animal regulated herein, without regard to ownership.

(Ord. No. 301, § 1, 8-12-97)

Sec. 3-73. - Dangerous animals prohibited.

It shall be unlawful and a violation of this section for any person to possess or maintain a dangerous animal within the city. Owners or possessors of the dangerous animal shall be responsible for compliance with this section and subject to punishment for violations.

(Ord. No. 301, § 1, 8-12-97)

Sec. 3-74. - Exceptions.

The prohibition in section 3-73 shall not apply to pet shops licensed by the State Department of Agriculture, zoological gardens licensed by the U.S. Department of Agriculture, and accredited by the American Association for the Accreditation of Zoological Parks and Gardens, and Circuses licensed by the U.S. Department of Agriculture if:

(a) Their location conforms to the provisions of the zoning ordinance of the city.

(b) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(c) Animals are maintained in quarters so constructed as to prevent their escape, and so as to humanly provide for their biological and social needs.

(d) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.

(Ord. No. 301, § 1, 8-12-97)

Sec. 3-75. - Complaints and court orders to protect public.

(a) Upon a sworn complaint that a dangerous animal prohibited by this article is being illegally possessed or maintained in the city, a district court or district court magistrate shall issue a summons to the owner and possessor, ordering an appearance to show cause why the animal should not be destroyed or removed from the city.

(b) Upon the filing of a sworn complaint as provided in subsection (a), the court or magistrate may order the owner or possessor to immediately turn the animal over to a proper animal control authority, an incorporated humane society, a licensed veterinarian, or a boarding kennel, at the owner's option, to be retained by them until a hearing is held and a decision is made for the disposition of the dangerous animal. The expense of the boarding and retention of the prohibited animal is to be borne by the owner and possessor.

(c) After a hearing, the magistrate or court shall order the destruction of the animal, at the expense of the owner and possessor, if the animal is found to be a dangerous animal that caused injury or death to a person or lawfully possessed and maintained animal. After a hearing, the court may order the destruction of the animal, at the expense of the owner and possessor, if the court finds that the animal is a dangerous animal that did not cause injury or death to a person but is likely in the future to cause injury or death to a person or in the past has been adjudicated a dangerous animal. If the court or magistrate finds that an animal is a dangerous animal but has not caused injury or death to a person or lawfully possessed or maintained animal, the court shall order the animal removed from the city under terms and conditions which ensure such removal.

(d) Illegally possessed and/or maintained dangerous animals that have bitten, attacked or otherwise come in physical contact with a person or lawfully possessed and maintained animal are subject to immediate seizure or pick-up by a proper animal control authority, to be held at a facility designated by the animal control authority, at the owner and possessor's expense, pending the prompt filing and processing of the complaint described in this section.

(Ord. No. 301, § 1, 8-12-97)

Sec. 3-76. - Penalties.

In addition to the orders and responsibilities provided in section 3-75, owners and possessors of dangerous animals in violation of this article shall be guilty of a misdemeanor and punished by a fine of not more than five hundred dollars ($500.00) plus costs of prosecution or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment in the discretion of the court, with each act of violation and every day upon which any such violation occurs constituting a separate offense, as provided in city Code section 1-11.

(Ord. No. 301, § 1, 8-12-97)

Sec. 3-77. - Nuisance.

Possessing or maintaining a dangerous animal in violation of this article is declared to be a public nuisance as if said offense were specifically listed in section 10-2 of the city Code.

(Ord. No. 301, § 1, 8-12-97)

Chapter 4 - BUILDINGS AND BUILDING REGULATIONS

> *Footnotes:*
> *--- (**1**) ---*
> ***Cross reference—*** *Fire prevention and protection, Ch. 6; floodplain regulations, Ch. 7; nuisances, Ch. 10; building and construction activity by contractors for hire prohibited on Sundays, legal holidays, and during certain hours, § 11-85; planning, Ch. 13; signs, Ch. 16; soil removal, Ch. 17; streets, sidewalks and other public places, Ch. 18; subdivision of land, Ch. 19; utilities, Ch. 21.*
> ***State Law reference—*** *Authority to adopt technical codes by reference, MCL 117.3(k); State Construction Code Act, MCL 125.1501 et seq.*

ARTICLE I. - IN GENERAL

> *Footnotes:*
> *--- (**2**) ---*

> ***Editor's note—*** *Section 1 of Ord. No. 327.1, adopted June 21, 2001, amended Art. I in its entirety to read as herein set out. Former Art. I pertained to the same subject matter and derived from Ord. No. 144, adopted Jan. 13, 1976.*

Sec. 4-1. - Administration and enforcement of state construction code act and code.

The city assumes and shall be responsible for administering and enforcing the Single State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended, and State Construction Code prepared and promulgated as provided in that Act (referred to in this chapter as the State Construction Code and Act) within the boundaries of the city.

(Ord. No. 327.1, § 1, 6-12-01)

Sec. 4-2. - Enforcing agency.

The city's building department, its chief building inspector, officials, inspectors, administrative, plan review and inspection personnel and consultants, and personnel and consultants of the city engineering, planning and environment and code enforcement departments that perform acts or provide services in the administration and enforcement of the State Construction Code and Act, are hereby designated as the enforcing agency to discharge the responsibility of the city to administer and enforce the State Construction Code and Act.

(Ord. No. 327.1, § 1, 6-12-01)

Sec. 4-3. - Violations and enforcement as local ordinance.

(a) Any person, firm or corporation determined to have been in violation of the provisions of this chapter shall be responsible for a municipal civil infraction and subject to the provisions of this Code.

(b) The building inspector, in addition to other remedies, may institute any appropriate action or proceeding to prevent, abate or restrain the violation.

(c) Each day's continuance of a violation shall be deemed a separate and distinct offense. Expenses in connection with such action shall be assessed as damages against the violation.

(Ord. No. 327.1, § 1, 6-12-01; Ord. No. 361, § 1, 7-10-07)

Sec. 4-4. - Code appendix enforced.

Pursuant to the provisions of the State Construction Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the city building official within the City of Bloomfield Hills.

(Ord. No. 352, § 1, 8-15-06)

Sec. 4-5. - Designation of regulated flood prone hazard areas.

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled "Flood Insurance Study, Oakland County, Michigan, and Incorporated Areas" and dated September 29, 2006, the Flood Insurance Rate Maps (FIRMS) panel numbers of 26125C0507F, 26125C0509F, 26125C0517F, 26125C0526F, 26125C0528F, 26125C0529, 26125C0536F and dated September 29, 2006, are adopted by reference and declared to be part of Section 1612.3 of the Michigan Building Code.

(Ord. No. 352, § 1, 8-15-07)

Sec. 4-6. - City commission review of site plans.

The city commission shall conduct the review for permit issuance under State Construction Code Appendix G for the following types of proposals which involve construction of improvements in flood hazard prone areas delineated on the flood insurance study (FIS) and flood insurance rate maps (FIRMS) adopted in section 4-5:

(a) Land development proposals subject to site plan review requirements in the City of Bloomfield Hills Zoning Ordinance.

(b) Subdivision plat proposals.

(c) Site condominium developments pursuant to the Condominium Act, PA 59 of 1978 as amended; MCLA 559.101 et seq.

(d) Any development on property divided by land division in connection with which one (1) or more public or private roads are created or extended.

(e) Any proposal to mine, excavate, or clear and grade or otherwise develop one (1) acre or more of land for purposes other than routine single-family residential landscaping and gardening, or any proposal within five hundred (500) feet of the top of the bank of an inland lake or stream.

(f) Development projects of federal, state and local agencies and school districts. Filling, grading, enclosing or otherwise modifying or improving an existing ditch, channel, swale or other overland drainage course.

(g) Modifying or connecting to an existing public or private separated storm sewer system.

(h) As directed by the city or their appointed agents or representatives.

The review for permit issuance for all other types of proposals shall be completed administratively by the city's building department.

(Ord. No. 352, § 1, 8-15-07)

Sec. 4-7. - Construction board of appeals.

A construction board of appeals is hereby established and appointed by the city commission for the purpose of enforcing the Code. The construction board of appeals shall consist of three (3) members, as determined by the city commission. Members of the board of appeals shall be appointed for two-year terms. A member of the board of appeals shall be qualified by experience or training to perform the duties of members of the board of appeals. A member need not be a resident of the city to qualify.

(Ord. No. 365, § 1, 12-11-07)

Sec. 4-8. - Jurisdiction and powers of the construction board of appeals.

If the enforcing agency, as defined in this article, refuses to grant an application for a building permit, or makes any other decision pursuant or related to Construction Code Act, or the Code, an interested person, or the person's authorized agent, may appeal in writing to the board of appeals. The board of appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the enforcing agency from whom the appeal was taken not more than 30 days after submission of the appeal. Failure by the board of appeals to hear an appeal and file a decision within the time limit is a denial of the appeal for purposes of authorizing the institution of an appeal to the State Construction Code Commission in accordance with the Act. A copy of the decision and statement of the reasons for the decision shall be delivered or mailed, before filing, to the party taking the appeal.

(Ord. No. 365, § 1, 12-11-07)

Sec. 4-9. - Conducting business at a public meeting

The business which the board of appeals may perform shall be conducted at a public meeting of the board of appeals held in compliance with Act No. 267 of the Public Acts of 1976. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(Ord. No. 365, § 1, 12-11-07)

Sec. 4-10. - Standards for a variance.

(1) After a public hearing the board of appeals may grant a specific variance to a substantive requirement of the Code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:
    (a) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the Code of that particular item or part for the health, safety and welfare of the people of this state; and
    (b) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the Code with respect to the condition reasonably practical or desirable.
(2) The board of appeals may attach in writing any condition in connection with the granting of a variance that in its judgment is necessary to protect the health, safety and welfare of the people of this state. The breach of a condition shall automatically invalidate the variance and any permit, license and certificate granted on the basis of it. In no case shall more than minimum variance from the Code be granted than is necessary to alleviate the exceptional, practical difficulty.

(Ord. No. 365, § 1, 12-11-07)

Sec. 4-11. - Fee for services.

For purposes of administering this section, the city commission shall adopt a resolution setting the fixed amount of fees to be paid, in advance, by applicants seeking relief from the board of appeals to cover overhead, and a reasonable fee to be paid to each member of the board for time expended and experience.

(Ord. No. 365, § 1, 12-11-07)

Sec. 4-12. - Bond required.

(1) At the time of acquiring a building permit as required by this chapter and section 24-258 of the City of Bloomfield Hills Zoning Ordinance, the builder shall deposit a building bond, being a cash bond in an amount to be specified by resolution of city commission, guaranteeing that the builder shall periodically obtain all inspections to ensure that the construction is performed in accordance with conditions of the building permit and is consistent with requirements of the code and other applicable laws and ordinances. The building bond shall guarantee that the builder diligently pursues the work in timely fashion and obtains all inspections necessary to obtain a final certificate of occupancy pursuant to this chapter and pays all costs, administrative fees, and assessments required in connection with such inspections and plan reviews by the city.
(2)

In the event that the builder shall fail to obtain all inspections required pursuant to this chapter, the adopted state building codes, and in accordance with section 24-261 of the City of Bloomfield Hills Zoning Ordinance, during the life of the building permit or any extension thereof, the work shall be deemed abandoned and the building bond shall be forfeited and deposited into the general fund of the city. Upon forfeiture of a bond because the work authorized by the permit has been suspended or abandoned, a replacement building bond shall be posted prior to issuance of a new permit and recommencing work.

(3) The building bond shall be returned by the city to the builder after final inspection and determination by the city's building official that all inspections required by this chapter and section 24-261 have been performed and certificates of occupancy have been issued. Unpaid costs, administrative fees, review fees and assessments required in connection with the work which is the subject of the building permit shall be deducted from the bond prior to refund. Application for refund of the building bond shall be made at the time the applicant applies for a certificate of occupancy in accordance with section 24-260 (8) of the zoning ordinance, in the format required by the city, or the building bond shall be forfeited and shall be deposited in the general fund of the city.

(4) If the building bond is sent by mail to the builder at the address specified on the refund application, and is returned undelivered, it shall be held by the city and returned to the builder on demand; however, if such demand is not made within six (6) months after the issuance of the certificate of occupancy, the building bond shall be deemed forfeited and shall be deposited in the general fund of the city.

(Ord. No. 389, § 1, 3-8-11)

Sec. 4-13. - Residential construction.

All new residential construction and major renovation permit holders are required to submit the following:

(1) Simplified plans to assist in residential emergencies (SPARE) plans to the building department prior to issuance of the final certificate of occupancy, along with a notarized authorization to use copyrighted material form signed by the copyright owner of the plans.

(Ord. 377, § 1 (4-7), 8-11-09)

Sec. 4-14. - Commercial construction.

All new commercial construction and major renovation permit holders are required to submit the following:

(1) Simplified plans to assist in commercial emergencies (SPACE) plans to the building department prior to issuance of the final certificate of occupancy, along with a notarized authorization to use copyrighted material form signed by the copyright owner of the plans.

(Ord. 377, § 1 (4-8), 8-11-09)

Sec. 4-15. - Plans.

(1) If the plans were created prior to 1976 and do not indicate on their face that the documents were copyrighted, the documents are in the public domain and are not copyrighted. An authorization is not required for such plans.

(2) If an architect or draftsman prepares original plans without access to the prior work, that author will be the copyright owner who will sign the authorization.

(Ord. 377, § 1 (4-9), 8-11-09)

Sec. 4-16. - Road preservation bonds.

At the time an application for a building, grading, or soil erosion control permit for a project that could potentially damage city roads or city rights-of-way are filed with the city, the applicant shall also deposit with the city a road preservation bond, being a cash or surety bond or letter of credit payable to the city, in an amount to be determined by the city manager as being necessary to preserve city roads and city rights-of-way as follows:

(1) The city manager and the city building official shall have the authority to waive the requirement that an applicant file with the city a road preservation bond, if the city manager and the city building official determines that the filing of a road preservation bond is not warranted and/or necessary to protect the city road or city rights-of-way under the particular circumstances involved.

(2) For larger and more substantial residential construction activities and/or construction projects and non-residential construction activities and/or construction projects to generally be in an amount based on number of locations, size, and frequency of potential damage, up to one hundred thousand dollars ($100,000.00) as determined by the city manager after recommendation from the city engineer.

(3) The amount of the road preservation bonds for most residential construction activities and/or projects that require the use of heavy vehicles and/or equipment that could potentially damage city roads or city rights-of-way, to generally be in the range of five thousand dollars ($5,000.00) to ten thousand dollars ($10,000.00) as determined by the city manager.

The condition of all such road preservation bonds that if such construction activities and/or construction projects damage city roads or city rights-of-way that the bond shall be forfeited to the city in the amount and to the extent necessary to repair and restore the city road or city right-of-way to its condition before the damage by the construction activities or construction project. City roads or city rights-of-way means any and all public rights-of-way, public streets, public highways, public roads, public sidewalks, public alleys, public thoroughfares, public easements and public places, including any shoulders, landscaped areas and/or other areas incidental and/or appurtenant thereto. An applicant may appeal to the city commission the amount of the road preservation bond and/or the amount of the road

preservation bond to be forfeited to the city to repair and restore city roads or city rights-of-way to their condition before the damage by the construction activities of construction projects. An appeal to the city commission of the amount of the road preservation bond must be filed in writing with the city clerk's office within thirty (30) days of the city notifying the applicant of the amount of the road preservation bond and an appeal to the city commission from the amount of the road preservation bond to be forfeited to the city to repair and restore the city roads or city rights-of-way must be filed in writing with the city clerk's office within thirty (30) days of the city notifying the applicant of the amount of the road preservation bond to be forfeited.

(Ord. No. 448 , § 1, 2-9-21)

Editor's note— Ord. No 448 , § 1, adopted Feb., 9, 2021, set out provisions for a new § 4-16. Insofar as § 4-16 was already in use, and at the editor's discretion, the former § 4-16 has been renumbered as § 4-25 and a new § 4-16 enacted as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

Secs. 4-17—4-24. - Reserved.

ARTICLE II. - BUILDING CODE

> *Footnotes:*
> *--- (**3**) ---*
> ***Editor's note—*** *Section 2 of Ord. No. 327.1, adopted June 21, 2001, amended Art. II in its entirety to read as herein set out. Former Art. II, §§ 4-16—4-19, pertained to the same subject matter and derived from Ord. No. 194, adopted Sept. 10, 1984; Ord. No. 221, adopted June 13, 1989; Ord. No. 225, adopted Sept. 12, 1989; Ord. No. 232, adopted May 8, 1990; Ord. No. 273, adopted Nov. 9, 1993; Ord. No. 280, adopted Aug. 16, 1994; Ord. No. 290, adopted Nov. 12, 1996; and Ord. No. 316, adopted Nov. 9, 1999.*

Sec. 4-25. - Building code.

The building code is part of the State Construction Code being administered and enforced by the city.

(Ord. No. 327.1, § 2, 6-12-01)

Editor's note— See editor's note at § 4-16.

State Law reference— Authority to adopt technical codes by reference, MCL 117.3(k).

Secs. 4-26—4-35. - Reserved.

ARTICLE III. - ELECTRICAL CODE

> *Footnotes:*
> *--- (**4**) ---*
> ***State Law reference—*** *Electricians, MCL 338.881, et seq.*

DIVISION 1. - GENERALLY

> *Footnotes:*
> *--- (**5**) ---*
> ***Editor's note—*** *Section 3 of Ord. No. 327.1, adopted June 21, 2001, amended Art. III, Div. 1, in its entirety to read as herein set out. Former Div. 1, §§ 4-36—4-40, pertained to the same subject matter and derived from Ord. No. 192, adopted Sept. 10, 1984; Ord. No. 213, adopted Aug. 9, 1988; Ord. No. 232, adopted May 8, 1990; Ord. No. 265, adopted June 9, 1992; Ord. No. 271, adopted Nov. 9, 1993; Ord. No. 272, adopted Nov. 9, 1993; Ord. No. 295, adopted Nov. 12, 1996; Ord. No. 298, adopted May 13, 1997; and Ord. No. 318, adopted Nov. 9, 1999.*

Sec. 4-36. - Electrical code.

The Electrical Code is part of the State Construction Code being administered and enforced by the city.

(Ord. No. 327.1, § 3, 6-12-01)

State Law reference— Authority to adopt technical codes by reference, MCL 117.3(k).

Sec. 4-37. - State registration and licensing.

An electrical contractor, master electrician, electrical journeyman, fire alarm contractor, fire alarm specialty technician, sign specialty contractor, sign specialist and others shall be licensed, and an apprentice electrician, fire alarm specialty apprentice technician and others shall be registered as required and provided in the Electrical Administrative Act, Act No. 217 of the Public Acts of 1956, as amended. The city will no longer perform such registration, licensing and examination functions and will transfer copies of its license applications and information for individuals previously licensed by the city to the licensing authority under the Electrical Administrative Act.

(Ord. No. 327.1, § 3, 6-12-01)

Secs. 4-38—4-55. - Reserved.

DIVISION 2. - PERMITS, INSPECTIONS, LICENSING AND OTHER ELECTRICAL REGULATIONS

> *Footnotes:*
> *--- (**6**) ---*
> ***Editor's note—*** *Ordinance No. 272, adopted November 9, 1993, repealed Ch. 4, Art. III, Divs. 2, 3, §§ 4-56—4-63, 4-81—4-94 which pertained to permits and inspections and licensing and derived from Code 1971, § 8.4. Ordinance No. 272 added a new Ch. 4, Art. III, Div. 2 to read as herein set out.*

Sec. 4-56. - Definitions.

(a) When used in this division, the following terms shall have the meaning ascribed to them in this section:

Apprentice electrician means an individual other than an electrical contractor, master electrician or electrical journeyman who is engaged in learning about and assisting in the installation or alteration of electrical wiring and equipment under the direct personal supervision of an electrical journeyman or master electrician.

Board means the City of Bloomfield Hills Electrical Appeals Board.

Department means the City of Bloomfield Hills Building Department.

Electric sign means fixed, stationary or portable self-contained, electrically illuminated equipment that has words and symbols designed to convey information or attract attention. The term includes outline lighting. Electric sign does not include those signs that are indoor or outdoor portable applications or recognized holiday residential signs listed with a recognized electrical testing laboratory and that use a cord cap-110 volt plug as the electrical energizing attachment method.

Electrical equipment means all electrical devices in connection with the generation, distribution, communication and utilization of electrical energy within or on a building, residence, structure or properties, including fire alarm and sign devices.

Electrical contractor means a person, firm or corporation engaged in the business of erecting, installing, altering, repairing, servicing or maintaining electrical wiring devices, appliances or equipment.

Electrical inspector means any person who has the necessary qualifications, training, experience and technical knowledge to inspect all electrical apparatus for compliance with the codes and who shall be the agent or employee of the department designated by the building official as an electrical inspector. Inspectors shall be registered pursuant to Act No. 54 of the Public Acts of 1986, being section 338.2301, et seq., of the Michigan Compiled Laws and known as the Building Officials and Inspectors Registration Act.

Electrical journeyman means a person other than an electrical contractor who, as his or her principal occupation, is engaged in the practical installation or alteration of electrical wiring. An electrical contractor or master electrician may also be an electrical journeyman.

Electrical wiring means all wiring, generating equipment, fixtures, appliances and appurtenances in connection with the generation, distribution, communication and utilization of electrical energy, within or on a building, residence, structure or properties and including service entrance wiring as defined by the code.

Fire alarm contractor means a person, firm or corporation engaged in the business of erecting, installing, altering, repairing, servicing or maintaining wiring, devices, appliances or equipment of a fire alarm system.

Fire alarm specialty apprentice technician means an individual other than a fire alarm contractor or a fire alarm specialty technician who is engaged in learning about and assisting in the installation or alteration of a fire alarm system wiring and equipment under the direct personal supervision of a fire alarm specialty technician.

Fire alarm specialty licensure means state licensure as a fire alarm contractor or a fire alarm specialty technician.

Fire alarm specialty technician means a person other than a fire alarm contractor who, as his or her principal occupation, is engaged in the practical installation or alteration of fire alarm system wiring.

Fire alarm system means a system designed to detect and enunciate the presence of fire, or by-products of fire, installed within a building or structure. Fire alarm system does not include a single station smoke detector.

Job site means the immediate work area within the property lines of a single construction project, alteration project or maintenance project where electrical construction or alteration of electrical wiring is in progress.

Master electrician means a person having the necessary qualifications, training, experience and technical knowledge to supervise the installation of electrical wiring and equipment in accordance with the standard rules and regulations governing that work.

Minor repair work means electrical work such as repairing or replacing flush and snap switches, fuses, lamp sockets or receptacles; replacement of fixtures; repairing or taping bare connections; replacing lamps or the connection of portable electrical equipment to suitable permanently installed receptacles; provided the total value does not exceed one hundred dollars ($100.00).

Municipality means a city, village or township.

Outline lighting means an arrangement of incandescent lamps or electric discharge tubing which is an integral part of an electrical sign that outlines certain features, such as the shape of a building or the decoration of a window.

Owner means any natural person, firm, partnership, association or corporation and their legal successors. In all proceedings, actions or prosecution hereunder, in which a corporation is the owner of any building, structure or part thereof, or of premises, any of its officers, directors or persons in control or management thereof, as well as the corporation, shall be subject to the provisions of this division.

Sign specialist means a person who, as his or her principal occupation, is engaged in the installation, alteration or repair of electric signs.

Sign specialty contractor means a person, firm or corporation engaged in the business of manufacturing, installing, maintaining, connecting or repairing electric sign wiring or devices, including wiring that is directly related to electric signs and is electrically dedicated as a sign circuit beginning at the load side of the sign circuit disconnect.

Sign specialty licensure means state licensure as a sign specialist or sign specialty contractor.

Related sign wiring:

(1) Except as otherwise provided in subdivisions (2), (3) and (4), that portion of the electric sign wiring that originates at the load-side terminals of a disconnecting means located in the vicinity of the electric sign involved but does not include the installation of the disconnecting means, complete with line-side connections.

(2) In the case of electric sign installations having sign transformers installed physically apart from the electric sign, that portion of the electric sign wiring that originates at the load-side terminals of a disconnecting means located in the vicinity of the electric sign involved but does not include the installation of the disconnecting means, complete with line-side connections.

(3) In the case of the free standing electric sign installations supplied through underground circuit conductors, that portion of the electric sign wiring that originates at a wiring termination point adjacent to, within or immediately above the permanent base for the electric sign but does not include, if the base of the sign structure is suitable for use as a raceway, the installation of bushing, complete with free-length circuit conductors extending through to accommodate the connection of the related wiring within the sign structure raceway.

(4) In the case of electric signs specifically designed to be connected directly to the building wiring raceway or cable supply, that portion of the electric sign wiring that originates at the point where the free-length circuit conductors extend through the building wiring raceway or cable at the specifically designed supply location for the electric sign involved but does not include the installation of the building wiring raceway or cable system to the specifically designated point of supply for the electric sign involved, complete with free-length circuit conductors extending through the building wiring raceway or cable to accommodate the connection of the related wiring.

(Ord. No. 272, § 1, 11-9-93; Ord. No. 339, §§ 1—3, 3-9-04)

Sec. 4-57. - Electrical inspection.

(a) The City of Bloomfield Hills Electrical Appeals Board, also referred to in this division as "the board", shall have and hereby is given jurisdiction, subject to review as hereinafter provided, over the inspection of all electrical installations, including changes, repairs and additions thereto within the City of Bloomfield Hills.

(b) The board is hereby empowered and it shall be their duty to promulgate and recommend such rules and regulations concerning electrical work in the City of Bloomfield Hills as may be required to properly provide for the situations therein. The rules and regulations so made by the board shall be effective upon approval by the Bloomfield Hills City Commission and the Michigan Construction Code Commission and shall take precedence over plans, specifications and national electrical code rules.

(c) The Bloomfield Hills City Commission shall appoint (an) electrical inspector(s), who shall be state licensed as an electrical journeyman or master electrician, who shall inspect all electrical installations and report to the inspection authority. This jurisdiction shall apply to the installation of electrical wiring, electrical devices, apparatus and equipment for connection to electrical supply systems except as provided in section 4-61(1), (2), (3), (4), (5), (6), and (8).

(Ord. No. 272, § 1, 11-9-93; Ord. No. 339, § 4, 3-9-04)

Sec. 4-58. - Fees for inspection.

When an application is made for a permit, registration or inspection required under the terms of this division, a fee shall be paid in an amount as prescribed by resolution of the Bloomfield Hills City Commission.

(Ord. No. 272, § 1, 11-9-93; Ord. No. 339, § 5, 3-9-04)

Sec. 4-59. - Right of access to buildings.

Subject to the Constitution and the laws of the State of Michigan, the electrical inspector(s) and/or his or her deputy shall have the right during reasonable hours to enter any building in the discharge of his or her official duties for the purpose of making any inspection or test or the installation of electrical wiring, electrical devices and/or electrical materials contained therein and shall have the authority to cause the turning off of all electrical supply and to disconnect, in cases of emergency, any wire where such electrical currents are dangerous to life or property or may interfere with the work of the fire department.

(Ord. No. 272, § 1, 11-9-93)

Sec. 4-60. - Permits.

It shall be unlawful for any person, firm or corporation to install, alter, maintain, service or repair electrical equipment in or on any building, structure or part thereof, or on premises, or cause or permit therein or thereon the installation, altering, maintaining, servicing or repairing of any electrical equipment without a permit having been obtained therefor as provided herein. Nothing in this section shall be considered as applying to any person engaged in repairing and maintaining electrical appliances. Permits shall be issued only to (1) through (4) below:

(1) State licensed electrical contractors.

(2) State licensed fire alarm contractors.

(3) State licensed sign specialty contractors.

(4) A bona fide owner of a single-family residence which is, or will be on completion, his or her own place of residence, and no part of which is used for rental or commercial purposes or is now contemplated for such purpose, provided that the owner applies for and secures a permit, pays the fee, does the work (him/her) self in accordance with the provisions hereof, applies for inspections and receives approval thereof. Failure to comply with these requirements will subject the owner's permit to cancellation.

(Ord. No. 272, § 1, 11-9-93; Ord. No. 339, § 6, 3-9-04)

Sec. 4-61. - Contractors requirements; exceptions.

No person, firm or corporation shall engage in the business of electrical contracting, fire alarm contracting or sign contracting unless such person, firm or corporation shall have received from the state the appropriate contractor's license; nor shall any person other than a master electrician, except a person duly licensed by the state and employed by and working under the direction of a holder of an electrical contractor's license issued by the state, fire alarm contractor's license issued by the state or sign contractor's license issued by the state, in any manner undertake to execute any electrical wiring; except, no license shall be required to perform the work indicated in subsections (7), (9), (10), (11), (12), (13), and (14); nor shall a license or permit be required to execute the work covered by subsections (1), (2), (3), (4), (5), (6) and (8):

(1) Minor repair work, as defined.

(2) The installation, alteration, repairing, rebuilding or remodeling of elevators, dumbwaiters, escalators or man lifts performed under a permit issued by an elevator inspection agency of the State of Michigan or political subdivision of the State of Michigan.

(3) The installation, alteration or repair of electrical equipment and its associated wiring, installed on the premises of consumers or subscribers by or for electrical energy supply or communication agencies for use by such agencies in the generation, transmission, distribution or metering of electrical energy or for the operation of signals or transmission of intelligence, not including fire alarm systems.

(4) The installation, alteration or repair of electrical wiring for the generation and primary distribution of electric current or the secondary distribution system, up to and including the meters, where such work is an integral part of the system owned and operated by an electric light and power utility in rendering its duly authorized services.

(5) Any work involved in the manufacture of electric equipment, including the testing and repairing of such manufactured equipment.

(6) The installation, alteration or repair of equipment and its associated wiring for the generation or distribution of electric energy for the operation of signals or transmission of intelligence where such work is in connection with a communication system owned or operated by a telephone or telegraph company in rendering its duly authorized service as a telephone or telegraph company.

(7) Any installation, alteration or repair of electrical equipment by a homeowner in a single-family home and accompanying outbuildings owned and occupied or to be occupied by the person performing the installation, alteration or repair of electrical equipment.

(8) Any work involved in the use, maintenance, operation, dismantling or reassembling of motion picture and theatrical equipment used in any building with approved facilities for entertainment or educational use and which has the necessary permanent wiring, floor and wall receptacle outlets designed for the proper and safe use of such theatrical equipment, but not including any permanent wiring.

(9) Work performed by mechanical contractors licensed in classifications listed in Section 6(3)(a), (b), (d), (e) and (f) of the Forbes Mechanical Contractor Act, Act No. 192 of the Public Act of 1984, being Section 338.976 of the Michigan Compiled Laws, plumbing contractors licensed under Act No. 266 of the Public Acts of 1929, being Sections 338.901 to 338.917 of the Michigan Compiled Laws, and employees of person licensed under Act No. 192 of the Public Acts of 1984 and Act No. 266 of the Public Acts of 1929 while performing maintenance, service, repair, replacement, alteration, modification, reconstruction or upgrading of control wiring circuits and electrical component parts within existing mechanical systems defined in the mechanical and plumbing codes provided for in the State Construction Code Act of 1972, including, but not limited to, energy management systems, relays and

controls on boilers, water heaters, furnaces, air conditioning compressors and condensers, fan controls, thermostats and sensors, and all manufacturer prewired system wiring associated with the mechanical systems in buildings which are on the load side of the unit disconnect, which is located on or immediately adjacent to the equipment, except for life safety systems wiring.

(10) Electrical wiring associated with the installation, removal, alteration or repair of a water well pump on a single family dwelling to the first point of attachment in the house from the well, by a registered pump installer under part 127 of the Public Health Code, Act No. 368 of the Public Acts of 1978, being Sections 333.12701 to 333.12771 of the Michigan Compiled Laws.

(11) The installation, maintenance or servicing of burglar alarm systems within a building or structure.

(12) The installation, maintenance or servicing of residential lawn sprinkling equipment.

(13) The installation, alteration, maintenance or repair of electric signs and related wiring by an unlicensed individual under the direct supervision of a state licensed sign specialist, except that the ratio of unlicensed individuals engaged in this activity shall not exceed two (2) unlicensed individuals to one (1) state licensed sign specialist. An enforcing agency shall enforce this ratio on a job site basis.

(14) The construction, installation, maintenance, repair and renovation of telecommunications equipment and related systems by a person, firm or corporation primarily engaged in the telecommunications and related information systems industry. This exemption does not include the construction, installation, maintenance, repair and renovation of a fire alarm system.

(Ord. No. 272, § 1, 11-9-93; Ord. No. 339, § 7, 3-9-04)

Sec. 4-62. - Inspection.

(a) Upon the completion of the wiring of any building, it shall be the duty of the person, firm or corporation installing the same to notify the electrical inspector(s) to inspect the installation as soon as possible and if it is found to be fully in compliance with this division and does not constitute a hazard to life and property, he/she shall issue, upon request to such person, firm or corporation for delivery to the owner, a certificate of inspection.

(b) All wires which are to be hidden from view shall be inspected before concealment and any person, firm or corporation installing such wires shall notify the Bloomfield Hills Building Department giving sufficient time in which to make the required inspection before such wires are concealed.

(Ord. No. 272, § 1, 11-9-93)

Sec. 4-63. - Reinspection.

The electrical inspector(s) may, when specifically authorized by state law or separate municipal ordinance, make periodically a thorough re-inspection of the installation in buildings of all electrical wiring, electrical devices and electrical material now installed or that may hereafter be installed, within the City of Bloomfield Hills. When the installation of any such wiring, devices and/or materials is found to be in a dangerous or unsafe condition, the person, firm or corporation owning, using or operating the same shall be notified and shall make the necessary repairs or changes required to place such wiring, devices and material in a safe condition and have such work completed within fifteen (15) days, or any longer period specified by the electrical inspector in said notice. The electrical inspector(s) is/are hereby empowered to disconnect or order in writing the discontinuance of electrical service to such wiring, devices and/or material found to be defectively installed until the installation of such wiring, devices and material has been made safe as directed by the electrical inspector(s).

(Ord. No. 272, § 1, 11-9-93)

Sec. 4-64. - Construction requirements.

No certificate of inspection shall be issued unless the electrical installation is in strict conformity with the provisions of this division, the statutes of the State of Michigan, the rules and regulations issued by the Michigan Public Service Commission under the authority of the state statutes and unless they are in conformity with approved methods of construction for safety to persons and property. The regulations as laid down in the National Electrical Code (N.F.P.A.-70), 1990 BOCA Building Code, with Amendments, and N.F.P.A.'s: 71, 72j, 73 and 74, for fire alarm systems as approved by the American National Standards Institute (ANSI) and in the amendments, rules and regulations established as hereinafter provided shall be prima facie evidence of such approved methods.

(Ord. No. 272, § 1, 11-9-93)

Sec. 4-65. - Approved materials.

(a) It shall be unlawful to install or use any electrical device, apparatus or equipment designed for attachment to or installation on any electrical circuit or system for heat, light, power or fire alarm system that is not of good design and construction and safe and adequate for its intended use. The electrical inspector(s) shall have power to disapprove the use or installation of devices not fulfilling these requirements.

(b) Devices, apparatus and equipment listed by such generally recognized authorities as United States Bureau of Standards or by qualified electrical testing laboratories such as: Electrical Testing Laboratories (ETL), Underwriters Laboratories (UL) or Factory Mutual (FM) may be given the approval by the Electrical Inspector(s) unless explicitly disapproved by said authority for reasons of faulty design or poor construction involving danger to persons and/or property.

(Ord. No. 272, § 1, 11-9-93)

Sec. 4-66. - Record and review.

(a) The Bloomfield Hills Building Department shall keep complete records of all permits issued and inspections made and other official work performed under the provisions of this division.

(b) When the electrical inspector condemns all or part of any electrical installation, the owner or his or her agent may, within five (5) days after receiving written notice from the electrical inspector, file a petition in writing for review of said action of the electrical inspector with the Bloomfield Hills Electrical Appeals Board. Upon receipt of the petition, the Board shall at once proceed to determine whether said electrical installation complies with this division and within three (3) days shall make a decision in accordance with its findings.

(Ord. No. 272, § 1, 11-9-93; Ord. No. 339, § 8, 3-9-04)

Sec. 4-67. - License and registration for electrical work.

(a) *Board constituted.* The City of Bloomfield Hills Electrical Appeals Board is hereby constituted consisting of the electrical inspector of the City of Bloomfield Hills; a representative of the electrical utility company; a state licensed electrical contractor who is also a state licensed master electrician; a state licensed master electrician; and an electrical engineer. The members of said board shall be appointed by the Bloomfield Hills City Commission for such terms as shall be designated at the time of appointment.

(b) *License secured from state.* All electrical contractors, master electricians, journeyman electricians, fire alarm specialty technicians, sign specialists, apprentice electricians and fire alarm specialty apprentice electricians having their legal address within the corporate limits of the City of Bloomfield Hills and/or performing work in the City of Bloomfield Hills shall secure their license from the State of Michigan.

(c) *Specially license not required.* A person holding a valid state electrical contractor's license, state master electrician's license, state electrical journeyman's license, or state apprentice electrician registration shall not be required to hold any specialty license in order to perform specialty installations.

(d) *Contractors.* It shall be unlawful for any person, firm or corporation to engage in the business of electrical contractor, fire alarm contractor, sign specialty contractor and to install, alter or repair electrical wiring, equipment, apparatus or fixtures for light, heat, power or fire alarm systems in or about buildings and/or structures located within the City of Bloomfield Hills without first having procured the appropriate state contractor's license.

(e) *Master, journeyman and apprentice electrician.* It shall be unlawful for any person to engage in the occupation or trade of master, journeyman or apprentice electrician and in the installation, alteration, maintenance or repair of electrical wiring equipment, apparatus or fixtures for light, heat, power or medical purposes in or about buildings and/or structures within the City of Bloomfield Hills without having first obtained a state license or state apprentice registration. All electrical work done by apprentice electricians shall be performed under the direct personal supervision of a state licensed journeyman or state licensed master electrician who shall be on the premises at all times when such apprentice electricians are performing such work.

(Ord. No. 272, § 1, 11-9-93; Ord. No. 339, § 9, 3-9-04)

Sec. 4-68. - Exemptions.

The provisions of this division shall not apply to apparatus and equipment installed by or for any utility operating under jurisdiction of the Michigan Public Service Commission in the exercise of its function as a utility and when such apparatus or equipment is used primarily for the purpose of communication or meeting; or for the generation, control, transformation, transmission and distribution of electrical energy.

(Ord. No. 272, § 1, 11-9-93; Ord. No. 339, § 11, 3-9-04)

Sec. 4-69. - Violations; penalties/minor violations and fines.

(a) Any person, firm or corporation who shall fail to comply with any of the provisions hereof, shall upon conviction thereof, be subject to a fine of not more than five hundred dollars ($500.00) or imprisonment in the Oakland County Jail or any other place of confinement provided for [by] the law for such purpose, in the discretion of the court for a period not to exceed ninety (90) days, or both such fine and imprisonment at the discretion of the court unless otherwise provided in the ordinance.

(b) Except as provided for in subsection (a), a person licensed or registered under this division who commits a violation of the division that is not a minor violation as described in the General Rules or a person not licensed or registered under this division who is performing any activity regulated by this division is guilty of a civil violation, punishable by a fine of not less than one thousand dollars ($1,000.00) per day for each day the violation, except that a fine shall not exceed five thousand dollars ($5,000.00) in total per violation. A second or subsequent violation is punishable by a fine of not less than two thousand dollars ($2,000.00) per day for each day the violation occurs except that a fine shall not exceed ten thousand dollars ($10,000.00) in total per violation.

(Ord. No. 272, § 1, 11-9-93; Ord. No. 339, §§ 10, 11, 3-9-04)

Sec. 4-70. - Liability.

This division shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electrical wiring, electrical devices and/or electrical material for damages to person or property caused by any defect therein nor shall the City of Bloomfield Hills or the electrical inspector(s) be held as assuming any such liability by reason of the inspection authorized herein or certificate of inspection issued as herein provided.

(Ord. No. 272, § 1, 11-9-93; Ord. No. 339, § 11, 3-9-04)

Secs. 4-71—4-110. - Reserved.

ARTICLE IV. - PLUMBING CODE

Footnotes:

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***Editor's note—** Section 4 of Ord. No. 327.1, adopted June 21, 2001, amended Art. IV, in its entirety to read as herein set out. Former Art. IV, §§ 4-111—4-128, pertained to the same subject matter and derived from the § 8.4 of the 1971 Code; Ord. No. 141, adopted Dec. 9, 1975; Ord. No. 222, adopted June 13, 1989; Ord. No. 234, adopted May 8, 1990; Ord. No. 275, adopted Nov. 9, 1993; Ord. No. 294, adopted Nov. 12, 1996; and Ord. No. 320, adopted Nov. 9, 1999.*

***Cross reference—** Water service, § 21-16 et seq.; sewer service, § 21-76 et seq.*

***State Law reference—** Regulation of plumbing and licensing of plumbers, MCL 338.901 et seq.*

Sec. 4-111. - Plumbing code.

The Plumbing Code is part of the State Construction Code being administered and enforced by the city.

(Ord. No. 327.1, § 4, 6-12-01)

State Law reference— Authority to adopt technical codes by reference, MCL 117.3(k).

Secs. 4-112—4-145. - Reserved.

ARTICLE V. - MECHANICAL CODE

Footnotes:

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***Editor's note—** Section 5 of Ord. No. 327.1, adopted June 21, 2001, amended Art. V, in its entirety to read as herein set out. Former Art. V, §§ 4-146—4-149, pertained to the same subject matter and derived from Ord. No. 199, adopted Nov. 12, 1985; Ord. No. 207, adopted Nov. 10, 1987; Ord. No. 235, adopted May 8, 1990; Ord. No. 274, adopted Nov. 9, 1993; Ord. No. 293, adopted Nov. 12, 1996; and Ord. No. 319, adopted Nov. 9, 1999.*

Section 6 of Ord. No. 327.1, adopted June 21, 2001, repealed Art. V.1, International One- and Two-Family Dwelling Code, in its entirety. Former Art. V.1, §§ 4-150—4-153, derived from Ord. No. 279, adopted Aug. 16, 1994.

Sec. 4-146. - Mechanical code.

The Mechanical Code is part of the State Construction Code being administered and enforced by the city.

(Ord. No. 327.1, § 5, 6-12-01)

State Law reference— Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Secs. 4-147—4-199. - Reserved.

ARTICLE VI. - SWIMMING POOLS

Sec. 4-200. - Title.

This article shall be known and may be referred to as the "City of Bloomfield Hills Swimming Pools Enclosure Ordinance."

(Ord. No. 279, § 1, 8-16-94)

Sec. 4-201. - Findings.

The city finds that swimming pools as defined in this article, and regardless of when built, constitute a hazard to the public health, safety and general welfare, including presenting a clear and present danger of harm or injury to children if the pool is not secured against accidental or intentional but unauthorized entry by adequate and appropriate enclosure. The city further finds that accident statistics and data from the National Safety Council and U.S. Consumer Product Safety Commission, and the BOCA National Building Code, which has been adopted, administered and enforced as an ordinance of the city for some time, confirm the public safety necessity of swimming pool enclosures according to reasonable minimum standards which should be required of all swimming pools in the City of Bloomfield Hills to help protect against accidental drownings or near drownings of children and others in the City of Bloomfield Hills.

(Ord. No. 279, § 1, 8-16-94)

Sec. 4-202. - Intent and purpose.

This article is adopted for the purpose and with the intent of requiring all swimming pools in the City of Bloomfield Hills to be enclosed with barriers to prevent or deter accidental or intentional but unauthorized access, to provide standards and a timetable for compliance, to allow for alternatives, waivers or exceptions and to provide penalties for violations.

(Ord. No. 279, § 1, 8-16-94)

Sec. 4-203. - Definitions.

The following words and terms shall have the meanings indicated. Words and terms used in this chapter which are not separately defined shall have the meanings provided for in section 1-2 of the Bloomfield Hills, Michigan, City Code.

(1) *Barrier.* A fence, wall, building wall, structure or combination thereof, including access gates, which completely surrounds and obstructs access to a swimming pool.

(2) *Swimming pool.* Any structure that does or may contain water over twenty-four (24) inches (610 mm) in depth and which is designed, used or intended to be used for swimming or recreational bathing and includes in-ground, above-ground and on-ground swimming pools, hot tubs, spas and other such structures by any name.

(Ord. No. 279, § 1, 8-16-94)

Sec. 4-204. - Enclosure requirements and standards.

A swimming pool shall be provided with a barrier which shall comply with the following.

(1) The top of the barrier shall be at least forty-eight (48) inches (1,219 mm) above finished ground, deck or patio level measured on the side of the barrier which faces away from the swimming pool.

(2) Access gates in the barrier shall be equipped to accommodate a locking device, open outwards away from the pool and be self-closing and have a self-latching device. The release mechanism of the self-latching device shall be located on the pool side of the gate.

(3) Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a fixed or removable ladder or steps, the ladder or steps shall be surrounded by a barrier which meets the requirements of this section. A removable ladder shall not constitute an acceptable alternative to enclosure requirements.

(4) The following shall be exempt from the provisions of this section.

a. A spa or hot tub with an approved safety cover.

b. Fixtures which are drained after each use.

(Ord. No. 279, § 1, 8-16-94)

Sec. 4-205. - Minimum standards.

The enclosure standards set forth in section 4-204, shall be considered the minimum standards for enclosure of all swimming pools in the City of Bloomfield Hills in existence as of the date this article takes effect. These standards are not intended to supersede more stringent standards or requirements which may be applicable under the BOCA National Building Code or other codes or ordinance which may be adopted, administered and enforced by the city in the future for new swimming pools or those which are enlarged or altered.

(Ord. No. 279, § 1, 8-16-94)

Sec. 4-206. - Compliance timetable and schedule.

Swimming pools lawfully in existence at the time this article becomes effective that are not secured against entry by the required barrier shall have until May 1, 1995, to comply, provided the owners and/or occupants of the property where the swimming pool is located provide the city with a written disclosure of their intention to comply and general plans for doing so not later than March 1, 1995.

(Ord. No. 279, § 1, 8-16-94)

Sec. 4-207. - Alternatives, waivers or exceptions.

If compliance with the enclosure standards and requirements of this article will be physically impossible or unnecessarily burdensome for an existing, lawfully built swimming pool, the city commission may approve a waiver or exception to the strict ordinance requirement by permitting an alternative means or method of providing the protection against entry and access that would otherwise be afforded by the required enclosure. A written request for such an approval must be delivered to the city prior to the compliance deadline in section 4-206.

(Ord. No. 279, § 1, 8-16-94)

Sec. 4-208. - Permits and inspections.

Enclosures required by this article shall not be erected or installed until a permit has been applied for and issued. The notices, disclosures or requests described in sections 4-206 and 4-207 shall be considered as the permit application, and if received by the city by the date required, shall not require the payment of any permit fees that would otherwise be applicable. The issuance of a pool enclosure permit shall not extend the deadline for ordinance compliance, which shall be determined by a city inspection after being notified that the enclosure is ready for inspection.

(Ord. No. 279, § 1, 8-16-94)

Sec. 4-209. - Compliance responsibility.

Compliance with this article shall be the joint and several responsibility of the property owners and occupants.

(Ord. No. 279, § 1, 8-16-94)

Sec. 4-210. - Violations.

Swimming pools that exist without the required enclosure after the compliance deadline in section 4-206, constitute a violation of this article, with each day the noncompliance continues considered a separate violation or offense.

(Ord. No. 279, § 1, 8-16-94)

Sec. 4-211. - Civil nuisance and misdemeanor penalties.

(a) Violations of this article, which has been specifically adopted in response to the potential for irreparable injuries to members of the public, whose health, safety and general welfare the city may legitimately protect, shall be and is hereby declared to be a nuisance, subject to abatement by civil proceedings for injunctive, equitable and related relief.

(b) Violations of this article shall also be considered misdemeanors, subject owners and occupants who are convicted to the penalties provided for in section 1-11 of the Bloomfield Hills, Michigan, City Code.

(Ord. No. 279, § 1, 8-16-94)

Secs. 4-212—4-300. - Reserved.

ARTICLE VII. - PROPERTY MAINTENANCE

Footnotes:

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***Editor's note—** Section 2 of Ord. No. 371, adopted May 12, 2009, repealed Ord. No. 345 from which Art. VII, §§ 4-301—4-303, had formerly derived.*

Sec. 4-301. - Property maintenance code adopted.

That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Bloomfield Hills, being marked and designated as the *International Property Maintenance Code*, 2015 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Bloomfield Hills, in the State of Michigan, 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 therefore; 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 ordinance, with the additions, insertions, deletions and changes, if any, prescribed in section 4-302 and 4-303.

(Ord. No. 371, § 1, 5-12-09; Ord. No. 401, § 1, 11-13-12 ; Ord. No. 426 , § 1, 5-9-17)

Sec. 4-302. - Revisions to code.

The following sections are hereby revised:

Section 101.1. Insert: City of Bloomfield Hills

Section 103.5. Insert: Fees shall be determined by a resolution of the City Commission.

Section 103.1. General. Amended to read:

The Building Department and Department of Public Safety shall constitute the Department of Property Maintenance Inspection, with the Building Official, Building Inspector, Code Enforcement official or their designee being authorized and designated to administer and enforce this Code as the *code official.*

Section 304.14. Insert: The dates of May 1 to September 30 as the dates during which doors, windows and other outside openings in certain structures or portions of structures are required to be equipped with insect screens.

Section 602.3. Insert: The dates of September 30 to May 1 as the dates during which residential landlords who agree to furnish heat to occupants shall maintain room temperatures required by the Code.

Section 602.4. Insert: The dates of September 30 to May 1 as the period during which every enclosed occupied work space is to be maintained at the minimum temperatures established by the Code during all working hours.

(Ord. No. 371, § 1, 5-12-09; Ord. No. 401, § 1, 11-13-12 ; Ord. No. 426 , § 1, 5-9-17)

Sec. 4-303. - Amendments and additions to code.

The following sections of the *International Property Maintenance Code*, 2015 edition, are amended or added to read as follows:

PM-106.6. Enforcement Cost Recovery. Added to read:

The jurisdiction's administrative and legal costs, fees and expenses that are incurred as a result of an unlawful act in violation of this Code shall be a joint and several responsibility of, and be paid to the jurisdiction by, the owner of the real estate in violation and such other persons that are responsible for the violation. Costs under this section are in addition to the penalties under section PM-106.4. Payment of penalties and costs shall be secured by a lien upon the real estate in violation, which may be assessed and collected as a delinquent special assessment on the tax rolls as provided by law.

PM-107.5. Penalties. Amended to read:

Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4, 106.5, and 106.6.

PM-111.2. Membership of the Board. Amended to read, the existing text, including subsections .1 through .5 being deleted:

The Board of Appeals shall be an Administrative Hearing Officer, selected and appointed by the Bloomfield Hills City Commission.

PM-111.3. Notice of Hearing. Amended to read:

The Administrative Hearing Officer shall meet upon written notice, which shall state the date, time and place of the hearing to be conducted, sent by First Class Mail to the person appealing from the Code Official's notice or order at least seven days before the scheduled hearing, and be posted at the City offices at least eighteen (18) hours before the scheduled hearing.

PM-111.4.1. Procedure. Amended to read:

The Administrative Hearing Officer shall establish and provide notice of the rules and procedures under which hearings will be conducted, which shall be consistent with the permitted scope and claim for appeal.

PM-111.5. Postponed Hearing. Amended to read:

The hearing may be adjourned from time to time as needed to properly complete the hearing.

PM-111.6. Board Decision. Amended to read:

At the conclusion of the hearing, the Administrative Hearing Officer may affirm, modify or reverse the decision of the Code Official, giving the reasons therefore.

PM-111.7 Court Review. Amended to read:

Any person having the right to appeal to the Administrative Hearing Officer shall have a limited right to appeal a decision of the Administrative Hearing Officer to the Oakland County Circuit Court, in the manner required by law, no later than twenty-one (21) days after the date of the meeting at which the decision of the Administrative Hearing Officer is made. The scope of review on appeal is limited to correction of errors of law by the Administrative Hearing Officer.

PM-112.4 Failure to Comply. Amended to read:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a misdemeanor and punished by a fine of not more than five hundred dollars ($500.00) plus costs of prosecution or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment in the discretion of the court, with each act of violation and every day upon which any such violation occurs constituting a separate offense, as provided in city Code section 1-11.

PM-202. Amended to add the following definition:

Condition of disrepair shall mean the condition of all, or any portion, of a structure which has not been maintained in a workmanlike manner, normal wear and tear for reasonable periods excepted, including, without limitation, instances where structures have windows and/or doors boarded up or which otherwise violate a provision of this Code, and shall also mean the lack of substantially continuous and material pursuit of construction of a structure toward obtaining a certificate or other required approval for a period in excess of six (6) months.

PM-302.1. Sanitation. Amended to read:

All exterior property and premises shall be free from any accumulation or storage of construction materials such as but not limited to lumber, block, brick, roofing, pipe, wire and fixtures, unless said materials are related to and necessary for lawful construction activities on the premises, the storage is neat and orderly and is limited in duration to the time reasonably necessary to incorporate the stored items into the construction on the premises.

PM-302.4 is deleted.

PM-304.20. Condition of Disrepair. Added to read:

Construction of the exterior of a building or structure, and construction of additions and renovations, shall, following issuance of a building permit, be pursued to completion and issuance of a certificate of occupancy (if a new certificate or occupancy is required), with work being regularly and actively performed, and such pursuit shall not be completely or substantially discontinued for a period in excess of six (6) months. Moreover, following completion, the exterior of a building or structure shall be maintained so as not to be in a condition of disrepair for a period of six (6) months.

(Ord. No. 401, § 1, 11-13-12 ; Ord. No. 426 , § 1, 5-9-17)

Sec. 4-304. - Violations and enforcement as local ordinance.

(a) Any person, firm or corporation determined to have been in violation of the provisions of this article shall be responsible for a municipal civil infraction and subject to the provisions of this Code.

(b) Violations of this article, which has been specifically adopted in response to the potential for irreparable injuries to members of the public, whose health, safety and general welfare the city may legitimately protect, shall be and are hereby declared to be a nuisance, subject to abatement by civil proceedings for injunctive, equitable and related relief, in addition to any other remedies. The building inspector may institute any appropriate action or proceeding to prevent, abate or restrain the violation.

(c) Each day's continuance of a violation shall be deemed a separate and distinct offense. Expenses in connection with such action shall be assessed as damages against the violation.

(Ord. No. 362, § 1, 7-10-07; Ord. No. 426 , § 2, 5-9-17)

Secs. 4-305—4-319. - Reserved.

ARTICLE VIII. - ABANDONED AND VACANT RESIDENTIAL STRUCTURE REGISTRATION AND MAINTENANCE

Footnotes:

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Editor's note— *Ord. No. 406, §§ 1, 2, adopted Dec. 11, 2012 , repealed the former Art. VIII, §§ 4-320—4-332, and enacted a new Art. VIII as set out herein. The former Art. VIII pertained to vacant property registration and maintenance and derived from Ord. No. 375, § 1, adopted July 14, 2009.*

Sec. 4-320. - Purpose.

The purpose of this article is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring safe and sanitary maintenance of residential structures.

(a) *Prevent blight.* Due to economic conditions, mortgage fraud, foreclosures and increased bankruptcies, many residential structures have become vacant and unsupervised contributing to blight. There is an increased instance of unsecured or open doors and windows, broken water pipes, theft of metals and other materials, overgrowth of grass, weeds, shrubs and bushes, illegal dumping, and vermin activity at vacant structures. In many cases, the interiors of the structures have been intentionally or negligently damaged by the former occupants or trespassers.

(b) *Protect property values and neighborhood integrity.* Abandoned and vacant residential structures have a negative impact on surrounding properties and neighborhoods. Potential buyers are deterred by the presence of nearby vacant abandoned structures. Such neglect devalues properties and causes deterioration in the community and integrity of the neighborhood.

(c) *Protect public health, safety and welfare.* It is important for the city to be able to contact owners of abandoned and vacant residential structures for fire safety and police purposes.

(d) *International Property Maintenance Code compliance required.* Many of the abandoned and vacant residential structures fail to meet minimum standards of the current International Property Maintenance Code, as adopted and incorporated in section 4-301, therefore, compliance with these minimum standards is required and the provisions of the International Property Maintenance Code will be strictly enforced.

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-321. - Scope.

The provisions of this article shall apply to all abandoned and vacant residential structures as defined in section 4-322, except those residential structures that comply with the criteria set forth in section 4-332, "For sale and seasonal residential structures".

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-322. - Definitions.

For purposes of this article, certain words and phrases are defined as follows:

Abandoned and vacant means a residential structure that has been vacant, as defined in this section, for thirty (30) days or more, and meets one (1) of the following criteria:

(a) The owner of record has no legal right to occupy the property; or

(b) The property is under a current complaint for foreclosure, a notice of foreclosure or notice of trustee's sale, a pending tax sale, or a property that has been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure, and any properties transferred under a deed in lieu of foreclosure/sale;

(c) The owner of record has relinquished responsibility for the structure and premises evident by the failure to maintain the structure and premises, pay the mortgage and/or taxes, and has left the property unoccupied and unsupervised, and subject to unauthorized entry leading to potential health and safety hazards.

Borrower means a borrower under a mortgage who grants a lien or interest in property to a trustee as security for the payment of a debt.

Building means a structure with a roof supported by columns or walls to serve as a shelter or enclosure.

Foreclosure means the process by which a mortgage is enforced against real property through sale or offering for sale to satisfy the debt of the borrower upon default.

Lender means a person, firm, or corporation holding a mortgage on a property.

Mortgage means a recorded instrument by which an interest in real property is transferred to a third party as security for a real estate loan.

Owner means an individual, co-partnership, association, corporation, company, fiduciary, or other person or legal entity having a legal or equitable title or any interest in any real property, including owners of record, lenders and possessory lenders.

Owner of record means each owner of a building or structure in whose name the property appears on the last local tax assessment records.

Residential structure means anything constructed or erected; and used for purposes of habitation; and which requires location on or attachment to the ground, including buildings.

Possessory lender means a person, firm, or corporation that has foreclosed a mortgage on a property but may not have legal or equitable title.

Vacant means a building or structure that has not been occupied for a period of thirty (30) days or more and meets one (1) of the following:

(a) The owner of record has no legal right to occupy the property; or

(b) The utilities are disconnected; or not in use for a period of thirty (30) days or more; or

(c) Is not maintained in compliance with this chapter, including, without limitation, other buildings and building regulations, the fire prevention code in chapter 6, and the solid waste regulations in chapter 17.3;

(d) The property has been unsupervised for a period of thirty (30) days, and is a potential location for unauthorized entry, loitering, vagrancy or other criminal activity leading to potential health and safety hazards;

(e) Is only partially completed and is not fit for human occupancy and there are no active building permits on the property that will result in restoration of the premises to a safe and habitable condition.

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-323. - Registration of abandoned and vacant residential structures.

(a) An owner of an abandoned and vacant residential structure in the city shall register the property with the department of building safety. Registration shall include filing an affidavit as required by section 4-324 and the registration fee required pursuant to section 4-325.

(b) An abandoned and vacant residential structure shall be registered within thirty (30) days of the vacancy.

(c) At time of registration, the owner of an abandoned and vacant residential structure shall also schedule, obtain and pay for the city's "safety and maintenance inspections" as described in section 4-327, which safety and maintenance inspection shall take place and occur within thirty (30) days from the date of registration.

(d)

In the event that the owner and/or responsible party of an abandoned and vacant residential structure has at the time of registration timely scheduled and then subsequently timely had the city's "safety and maintenance inspection" of the building and property, and the city's safety and maintenance inspection of the building and property establishes that said building and property is in compliance with all requirements of the City Code, then the registration affidavit as required by this section and section 4-324 shall not be recorded with the register of deeds but instead shall be kept on file with the city's department of building safety. In the event that at the time of registration the owner or responsible party of an abandoned and vacant residential structure fails to timely schedule and/or fails to subsequently timely have take place and/or occur the city's safety and maintenance inspection of the building and property or, in the event that the city's safety and maintenance inspection of the building and property establishes that the building and property are not in compliance with City Code requirements, then the registration affidavit as provided for in this section and section 4-324, shall be recorded by the city with the register of deeds, and said registration affidavit shall not be released and/or discharged until such time as said building and property are brought into compliance with all of the requirements of the City Code.

(Ord. No. 406, § 2, 12-11-12 ; Ord. No. 416 , § 1, 8-12-14)

Sec. 4-324. - Registration affidavit.

Owners, lenders, and/or possessory lenders who are required to register property pursuant to this article shall do so by submitting a copy of a driver's license and an affidavit containing the information specified in this section. The affidavit may be provided by an agent, provided the agent's written authorization from the owner, lender, or possessory lender is provided with the affidavit.

(a) The name of the owner of the property.

(b) A mailing address where mail may be sent that will be acknowledged as received by the owner. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed", or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

(c) The name of an individual or legal entity responsible for the care and control of the property. Such individual may be the owner, if the owner is an individual, or may be someone other than the owner with whom he/she has contracted.

(d) A current address, telephone number, facsimile number and email address where communications may be sent that will be acknowledged as received by the individual responsible for the care and control of the property. If certified mail return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed", or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-325. - Registration, inspection and other fees.

All fees applicable to this article shall be set by resolution of the city commission. Registration and inspection fees shall be paid at the time of submitting the registration affidavit. There shall also be a fee for the filing of any additional or new owner's affidavit, which fee shall be set by resolution of the city commission. For properties that are not registered within the required time, an additional fee for the added cost of the city's expenses in having to determine ownership, which may include, but is not limited to, title searches, shall be assessed and immediately payable. The payment of all fees required under this article is secured by a lien against the property, which may be placed on the tax roll for collection in the same manner and subject to the same interest and penalties applicable to delinquent special assessments.

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-326. - Requirement to keep information current.

If at any time the information contained in the affidavit is no longer valid, the property owner, lender, or possessory lender has ten (10) days to file a new affidavit containing current information. There shall be no fee to update a registered owner's current information.

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-327. - Safety and maintenance inspections.

(a) At time of registration, the owner or responsible party of an abandoned and vacant residential structure, is responsible for immediately scheduling, obtaining and paying for the city's "safety and maintenance inspection" of the building and property, which safety and maintenance inspection shall take place and occur within thirty (30) days from the date of registration, and is also responsible for obtaining necessary permits, making required repairs and obtaining inspections from the city annually thereafter until a certificate of occupancy has been issued and the building is lawfully occupied, to ensure the buildings are safe, secured and well maintained. The owner shall demonstrate that all water, sewer, electrical, gas, HVAC and plumbing systems, exterior finishes and walls, concrete surfaces, accessory buildings and structures, swimming pools and spas, roofing, structural systems, foundation, drainage systems, gutters, doors, windows, parking areas, signage, driveway aprons, service walks, sidewalks and other public areas are sound, operational or properly disconnected. No renewal certificate of occupancy will be issued until all code requirements are met.

(b) If, at the time of the safety and maintenance inspection, the inspector deems that the electrical, plumbing or mechanical systems may pose health or safety hazards and require additional inspection by the licensed code official in that discipline, the owner shall be responsible to obtain and pay for that required inspection.

(c) If an owner of record fails or refuses to complete the inspections required by subsection (a) of this section, the possessory lender shall be obligated to complete the inspection upon foreclosure of the property. Upon default by the borrower and within five (5) days after either the filing of a complaint for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure is by advertisement), any lender who holds a mortgage on the property shall perform the inspection pursuant to subsection (a), to the extent permitted by law or under the mortgage.

(Ord. No. 406, § 2, 12-11-12 ; Ord. No. 416 , § 1, 8-12-14)

Sec. 4-328. - Maintenance and security requirements.

All owners, including possessory lenders, and lenders, to the extent permitted by law or the terms of a mortgage, are responsible for compliance with the requirements of this section, which apply to all abandoned and vacant residential structures from the time of vacancy, including the time between vacancy and when registration is required.

(a) Property shall be kept free from weeds, grass, dry brush and dead vegetation in accordance with article III of chapter 10 of this Code, Grass and Noxious Weeds, as well as trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded items, including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials or any other items that give the appearance that the property is abandoned.

(b) Property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

(c) All visible front and side yards shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, ground covers, bushes, trees, shrubs, hedges or similar plantings. Maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of required landscaping and removal of all trimming.

(d) Pools, spas and other water features shall be kept in working order so that the water remains clear and free of pollutants and debris or drained and kept dry and free of debris. In either case, properties with pools and/or spas must comply with the minimum security fencing and barrier requirements of applicable construction, building and property maintenance codes and ordinances.

(e) Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors, gates and any other opening of such size that may allow a child to access the interior of the property and/or structures. Broken windows must be repaired or replaced within thirty (30) days. Boarding up of open or broken windows is prohibited except as a temporary measure.

(f) An owner shall inspect or cause the inspection of an abandoned and vacant residential structure on a regular basis to verify compliance with this section and other applicable laws. If the property is owned by a person other than an individual and/or the lender or possessory lender is located more than thirty (30) miles away, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section and any other applicable laws are being met. The property shall be posted with the name and twenty-four-hour contact telephone number of a property management company located within thirty (30) miles of the subject property. The posting shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be of a seventy-two-point Arial font and shall contain, along with the name and twenty-four-hour contact number, the words: "THIS PROPERTY MANAGED BY AND TO REPORT PROBLEMS OR CONCERNS CALL." The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building structure facing the street to the front of the property so that it is visible from the street, or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property, but not readily accessible to vandals. The local property management company shall inspect the property on a regular basis to determine if the property is in compliance with the requirements of this section.

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-329. - Fire damaged property.

If a building is fire damaged, the owner, including the lender or possessory lender has ninety (90) days from the date of the fire to apply for a permit to start construction or demolition. Additional ninety-day extensions may be granted by the city, provided the owner or possessory lender can demonstrate substantial progress towards completing repairs. Failure to do so will result in the property being deemed an abandoned and vacant residential structure and subject to the requirements of this article.

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-330. - Right of entry.

If the owner, lender or possessory lender has failed to secure a property and it has been secured by the city, the city and/or its contracted agent may enter or re-enter the structure to ensure the property is secure as required by section 4-328 and maintain such security to avert emergency or hazardous health and safety conditions.

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-331. - Re-occupancy.

An abandoned and vacant residential structure shall not be occupied until a certificate of occupancy has been issued by the building official, and all violations have been corrected in accordance with the applicable requirements of the state construction code, the International Property Maintenance Code and building, residential, electrical, mechanical, plumbing and other codes that are part of the state construction code administered and enforced by the city, and all other applicable provisions of this Code. All mechanical, electrical, plumbing, and structural systems shall be certified by a licensed contractor as being in good repair. In addition, a certificate of occupancy shall not be issued until all outstanding costs, assessments and/or liens owed to the city have been paid in full.

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-332. - For sale and seasonal residential structures.

The requirements of this article shall not apply to an unoccupied residential structure that complies with either subsection (a) or (b) as follows:

(a) *For sale.* An unoccupied building or structure shall not be deemed an abandoned and vacant residential structure if it is listed as being available for sale, lease, or rent with a real estate broker licensed under Article 25 of the Occupational Code, Act No. 299 of the Public Acts of 1980, being MCL 339.2501 to 339.2515; and the property is maintained so that there are no code violations; and the owner of record has a legal right to occupy the property.

(b) *Seasonal.* A seasonal dwelling of the owner that is regularly unoccupied for periods of thirty (30) consecutive days or more shall not be deemed an abandoned and vacant residential structure if the owner of record has registered the seasonal dwelling with the department of building safety not more than thirty (30) days after the dwelling becomes unoccupied; and the dwelling and adjoining grounds are maintained in accordance with all applicable ordinances, state statutes and regulations.

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-333. - Violation and penalty.

(a) The violation of any provision of this article is a municipal civil infraction. Persons found responsible for a municipal civil infraction shall be subject to the fines listed in subsection (b), plus costs, and all sanctions, remedies and procedures as set forth in section 1-11 of this Code. Each day that a violation continues to exist shall constitute a new and separate offense.

(b) The fine for a first offense of failure to obtain an annual inspection, failure to file the required affidavit or failure to maintain the affidavit containing current information shall be two hundred dollars ($200.00). The fine for all other violations shall be in an amount not to exceed five hundred dollars ($500.00).

(Ord. No. 406, § 2, 12-11-12)

Sec. 4-334. - Appeals.

If the owner or responsible party of a property containing a residential structure that has been determined by the department of building safety to be an abandoned and vacant residential structure, disagrees with the department of building safety's determination that the residential structure is an abandoned and vacant residential structure and/or disagrees with any other determination made by the department of public safety, the owner or responsible party may within fourteen (14) days from the determination of the department of building safety file a written appeal to the city construction board of appeals, which written appeal shall be filed with the city clerk. The construction board of appeals shall hear such appeal at a meeting to be scheduled no later than forty-five (45) days from the date that the written appeal is filed with the city clerk.

(Ord. No. 416 , § 1, 8-12-14)

ARTICLE IX. - PROHIBITION OF MARIHUANA ESTABLISHMENTS AND MEDICAL MARIHUANA FACILITIES

Sec. 4-335 - Title.

This article shall be known as and may be cited as the City of Bloomfield Hills Prohibition of Marihuana Establishments and Medical Marihuana Facilities Ordinance.

(Ord. No. 433 , § 1, 1-8-19)

Sec. 4-336. - Definitions.

As used in this article:

Act means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, et seq.

Cultivate means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

Department means the Michigan Department of Licensing and Regulatory Affairs.

Industrial hemp means a plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent (0.3%) on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.

Licensee means a person holding a state license.

Marihuana means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of the Act and this article, marihuana does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;

(2) Industrial hemp; or

(3) Any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

Marihuana accessories means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

Marihuana concentrate means the resin extracted from any part of the plant of the genus cannabis.

Marihuana establishment means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the department.

Marihuana grower means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana-infused product means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

Marihuana microbusiness means a person licensed to cultivate not more than one hundred fifty (150) marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are twenty-one (21) years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

Marihuana processor means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana retailer means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are twenty-one (21) years of age or older.

Marihuana secure transporter means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

Marihuana safety compliance facility means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

Michigan Medical Marihuana Facilities Licensing Act means P.A.2016, No. 281, as amended, MCL §333.27101, et seq.

Municipal license means a license issued by a municipality pursuant to Section 16 of the Act that allows a person to operate a marihuana establishment in that municipality.

Municipality means a city, village, or township.

Person means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.

Process or *Processing* means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

State license means a license issued by the department that allows a person to operate a marihuana establishment.

Unreasonably impracticable means that the measures necessary to comply with the rules or ordinances adopted pursuant to the Act subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.

(Ord. No. 433 , § 1, 1-8-19)

Sec. 4-337. - No marihuana establishments.

The City of Bloomfield Hills hereby prohibits all marihuana establishments within the boundaries of the City of Bloomfield Hills pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq., as may be amended.

(Ord. No. 433 , § 1, 1-8-19)

Sec. 4-338. - No medical marihuana facilities.

Pursuant to Section 205 of the Michigan Medical Marihuana Facilities Licensing Act (MCL §333.27205) the city may adopt an ordinance to authorize one (1) or more types of marihuana facilities within its boundaries and may limit the number of each type of marihuana facility. Pursuant to this authority, the city has refused to adopt an ordinance to authorize one (1) or more types of marihuana facilities within its boundaries. The City of Bloomfield Hills, therefore, specifically prohibits within the boundaries of the City of Bloomfield Hills any type of marihuana facility described in the Michigan Medical Marihuana Facilities Licensing Act, including but not limited to, "Medical Marihuana Growing Facilities," "Medical Marihuana Processing Facilities," "Medical Marihuana Provisioning Centers," "Medical Marihuana Safety Compliance Facilities," and "Medical Marihuana Secure Transport Facilities."

(Ord. No. 433 , § 1, 1-8-19)

Sec. 4-339. - Prohibition on sale and consumption of marihuana in public places.

(a) In conformance with Sections 4.1(e) and 6.2(b) of the Act, the sale or consumption of marihuana in any form and the sale or display of marihuana accessories, as defined by the Act, is prohibited in any public places within the boundaries of the City of Bloomfield Hills.

(b) Any person who violates any of the provisions of this Section shall be responsible for a municipal civil infraction punishable by a civil fine of five hundred dollars ($500.00), plus court-imposed costs.

(c) This section does not supersede rights and obligations with respect to the transfer and consumption of marihuana on private property to the extent authorized by the person who owns, occupies or operates such property, as provided in and authorized by the Act, and does not supersede rights and obligations with respect to the use of marihuana for medical purposes as provided by any law of the State of Michigan allowing for or regulating marihuana for medical use.

(Ord. No. 433 , § 1, 1-8-19)

Sec. 4-340 - Violations and penalties.

(a) Any person who disobeys, neglects or refuses to comply with any provision of this article or who causes allows or consents to any of the same shall be deemed to be responsible for the violation of this article. A violation of this article is deemed to be a nuisance per se.

(b) Except as otherwise provided in section 4-339 for violations of section 4-339, a violation of this article is a municipal civil infraction, for which the fines shall not be less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), in the discretion of the court. The foregoing sanctions shall be in addition to the rights of the city to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the city incurs in connection with the municipal civil infraction.

(c) Each day during which any violation continues shall be deemed a separate offense.

(d) In addition, the city may seek injunctive relief against persons alleged to be in violation of this article, and such other relief as may be provided by law.

(e) This article shall be administered and enforced by the Ordinance Enforcement Officer of the city, the Bloomfield Hills Public Safety Department and its officers, or by such other person(s) as designated by the Bloomfield Hills City Commission from time to time.

(Ord. No. 433 , § 1, 1-8-19)

Chapter 5 - CABLE COMMUNICATIONS

> *Footnotes:*
> *--- (**1**) ---*
> ***Editor's note—*** *Section 1 of Ord. No. 315, adopted Oct. 12, 1999, repealed Ch. 5 and enacted similar provisions to read as set out herein. Former Ch. 5 derived from Ord. Nos. 184 and 187, adopted Sept. 14, 1982, and Nov. 11, 1983, respectively.*

ARTICLE I. - IN GENERAL

Sec. 5-1. - Purpose.

The purpose of this chapter is to promote and encourage the furnishing of high-quality but economical cable communications service to the residents of the City of Bloomfield Hills and to regulate such service in the public interest.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-2. - Necessity of franchise.

No person shall own or operate a cable system, as defined herein, in The City of Bloomfield Hills, except by franchise granted by the city, which franchise shall comply with all the requirements of this chapter.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-3. - Definitions.

For purposes of this chapter, any subsequent chapters dealing with cable communications, any franchise agreement between the city and a cable communications company and any application or proposal submitted pursuant to an RFP, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

Access cablecasting. Services provided by a cable television system on its access channels.

Access channels. Channels that are dedicated to the public, educational and governmental interests.

Affiliate. Any entity, controlling, controlled or under common control with the entity in question.

Applicant. A person or company submitting a proposal for the franchise of a cable communications system.

Basic service. A separately available basic service tier to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following: all signals carried in fulfillment of the Cable Act, sections 614 and 615; any public, educational and governmental access channels required in this chapter or the franchise; any signal of any television broadcast station that is provided by the cable operator to any subscriber, except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station. Additional signals may be added to the basic tier by the grantee.

Cablecast. To distribute programs (both from broadcasting sources and original programs) through the community system by means of a coaxial cable or other electrical conductors or fiber optical transmitters.

Cable administrator. The person designated by the municipality as having principal responsibility for cable matters, such as monitoring the company's performance under this franchise agreement and this chapter.

Cable services.

(a) The one-way transmission to all subscribers of:

1. Video programming, or
2. Other programming services, by which is meant information which is made available to all subscribers generally, such as digital cable radio service; and

(b) Subscriber interaction, if any, which is used for the selection or use of such video programming or other programming services.

Cable television business. The business, in whole or in part, of providing cable services solely by means of the cable system.

Cable system. A system consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed and used solely to provide cable services, which includes video programming to multiple subscribers within the city, but such term does not include:

(a) A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations,

(b) A facility that serves subscribers without using any public right-of-way,

(c) A facility of a common or private carrier which is subject in whole or in part to the provisions of Title II of the Communications Act of 1934, as amended, except that such a facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, except if the extent of such use is solely to provide interactive on-demand services.

City. The City of Bloomfield Hills.

City commission. The Bloomfield Hills City Commission.

Community specific cablecasting. Programming or channel allocation which selectively cablecasts to individual communities to meet their unique needs or interests. "Community" refers to any unit with common needs or interests, such as individual cities, or neighborhoods, school districts or groups with common characteristics.

Connection. The attachment of the drop to the first radio or television set of the subscriber.

Converter. An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber and, by an appropriate channel selector, also permits a subscriber to view all basic subscriber signals included in the basic service delivered at designated converter dial locations. The converter may also allow reception of additional programming and/or services at extra cost to the subscriber.

Drop. The cable that connects the subscriber terminal to the nearest feeder cable of the cable system.

FCC. The Federal Communications Commission and any legally appointed, designated or elected agent or successor.

Feeder. Intermediate line of cable system that carries signals from trunk line to drops.

Franchise. The rights of a grantee to construct and operate a cable system in the city subject to federal law, state law, this chapter and the franchise agreement.

Franchise agreement. Agreement between cable operator and the city setting specific rights, obligations and responsibilities of each for construction and operation of cable system.

Franchise fee. The percentage, as specified by this chapter, of the grantee's gross revenues from all sources payable in exchange for the rights granted pursuant to this chapter and the franchise agreement.

Fraud or *deceit.* Shall not be limited to common law fraud and deceit, but shall include the meaning of those words under federal securities law.

Grantee. A person to whom a cable communications franchise has been granted.

Gross revenues. Any and all revenue received directly or indirectly by grantee, its affiliates and any person which the grantee has a financial interest from or in connection with the operation of the cable system to provide cable service in the city; provided, however, that such phrase shall not include any fees or taxes which are imposed directly on any subscriber thereof by any governmental unit or agency and which are collected by grantee on behalf of such governmental unit or agency. For any telecommunications service, excluding cable service, the grantee shall pay the maximum fee and provide the maximum facilities or services allowed by law.

Headend. The equipment at the antenna site in a master antenna or cable system. The point of origination that collects all the signals (from broadcast stations, cable stations and satellite stations) and sends them to the subscribers.

Hub. One (1) of two (2) or more elements in a large cable system from which trunk lines originate, from which programming and data is sent out via trunk lines and where upstream messages are received and where switching is accomplished. Large systems have multiple hubs linked to each other and/or to master headend.

Installation. The connection of the cable system from feeder cable to the point of connection.

Institutional network. The communications network described in the franchise constructed, operated and maintained by grantee for the provision to institutional network users as specified in the franchise (but not cable service subscribers).

Interactive on-demand services. Services providing video programming to subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider.

Interactive system. A two-way operational system. See, also, "two-way capability."

Interconnect. To link cable headends so that subscribers to different cable systems can see the same programming simultaneously.

Local origination. Programs produced locally, the content of which may be original or produced elsewhere and sold or leased to a grantee for use.

Lockout device. A device that prevents reception of one (1) or more channels at an individual drop.

Loop. A completely interactive closed-circuit net connecting specified municipal, educational, medical or commercial facilities within a system which should also have the capacity to be interconnected to the main cable system.

Normal operating conditions. Those service conditions which are within the control of grantee. Those conditions which are not within the control of grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are within the control of the grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the cable system.

Pay TV. Cable channels that require an additional subscriber fee.

Person. An individual, partnership, corporation or other entity as the context may indicate.

Point-to-point transmission. A signaling path provided by a system to transmit signals of any type from a subscriber terminal to another point in the system.

Producer. A user providing input services to the cable system for receipt by subscribers.

Proposal. An applicant's response to an RFP. A proposed franchise agreement submitted by an applicant.

Public property. Any real property owned by the city other than a public way.

Public ways. All dedicated public rights-of-way, streets, highways and alleys. "Public ways" shall not include property owned by the city which is not a dedicated public right-of-way, street, highway or alley.

Representative. A person or the authority who is delegated certain responsibilities by the city commission under this chapter or a franchise agreement.

RFP. Request by the city for a proposal from applicants for a cable system franchise.

School district. All school districts located, in whole or in part, within the city.

Security system. Optional two-way service(s) offered to cable subscribers which may alert authorities and/or subscribers of potential emergencies in the subscriber's home or public or private building.

Senior citizen. A person sixty-two (62) years or older.

Service area. The service area for the grantee shall be the entire corporate boundaries of the City of Bloomfield Hills and include any areas annexed to the city in the future.

Street or *highway.* The surface of and the space above and below any public street, road, highway, freeway, land, path, public way, alley, court, sidewalk, boulevard, parkway, drive, easement or right-of-way now or hereafter held by city or within and/or under the jurisdiction and/or control of the city.

Subscriber. A person who pays an installation charge and/or monthly fee to a cable system operator for connections to the system and for programs and services carried on the cable.

Subscriber problem. A service interruption affecting a single subscriber.

Subscriber service drop. Same as drop.

Trunk or *trunkline.* Main line of a cable system that carries signals from headend to extremities of cable system.

Two-way capability. The ability of a cable system to conduct signals to and from a headend (see, also, "loop").

User. A person or organization utilizing a system channel as a producer, for purposes of production and/or transmission of material, or as a subscriber, for purposes of receipt of material.

(Ord. No. 315, § 1, 10-12-99)

Secs. 5-4—5-20. - Reserved.

ARTICLE II. - SELECTION OF FRANCHISEE

Sec. 5-21. - Public hearing.

The city commission may award a franchise to an applicant only after a public hearing on the application and proposal, notice of which hearing shall be published in a local newspaper of general circulation at least ten (10) days prior to the date of the hearing. The city commission may reject any or all applicants.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-22. - Franchise application; form, contents and fees.

(a) All proposals shall be submitted in writing and shall be accompanied by a nonrefundable fee of two thousand five hundred dollars ($2,500.00). All proposals shall contain the information called for by the RFP in the manner prescribed by the RFP and the following:
   (1) Information regarding the identity of the applicant.
   (2) Biographical data of the applicant's principal owners and proposed management.
   (3) Audited financial statements for the applicant's last fiscal year.
   (4) A detailed description of the system and facilities proposed for the city in accordance with the requirements of this chapter.
   (5) A detailed timetable for the construction and commencement of operation of the system in accordance with the requirements of this chapter.
   (6) Such additional information as may be requested by the city.
(b) The city shall be entitled to verify any information furnished by the applicant in response to the RFP or in response to other requests for information by the city regarding the applicant and the applicant's affairs. The city may exercise such right by requiring reports from the applicant, or from third parties having knowledge of the applicant, or by conducting such other kinds of investigation as the city may deem proper.
(c) No applicant, or any person on behalf of any applicant, shall, in responding to an RFP or in responding to any other request for information by the city, make any untrue statement or omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they are made, not misleading. A violation of this provision shall constitute a fraud upon the city.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-23. - Criteria for selection.

The award of a franchise to an applicant shall be based upon the information contained in the applicant's proposal and such other relevant information as may be obtained by the city regarding such applicants and the proposals. Such award shall be based upon the criteria set forth below, together with such other factors as the city may deem relevant:

(1) The experience of the applicant in the cable communications field and the credentials of its owners and managers.
(2) The applicant's financial resources, including both present financial condition and the availability of committed funding to finance the applicant's proposed system.
(3) The applicant's system design, including channel capacity and ability to provide a broad range of services in conformity with the highest quality standards and state-of-the-art of the cable industry.

(4) The applicant's response to specific local and community concerns or needs, whether formulated by the city and made known to the applicant, or whether ascertained by the applicant, and the extent to which the applicant can meet the local and community concerns or needs, including customer choice.

(5) Any other factors deemed applicable by the city commission.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-24—5-40. - Reserved.

ARTICLE III. - FRANCHISE AGREEMENT, GRANT OF FRANCHISE

Sec. 5-41. - Franchise agreement.

The franchise agreement shall be in such form and contain such terms and provisions as shall be approved by the city commission. The franchise agreement shall be adopted by resolution of the city commission. Any amendment of the franchise agreement shall be by the mutual agreement of the city and the grantee and shall be approved and adopted by resolution of the city commission.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-42. - Grant of franchise.

A grantee shall be awarded a franchise, pursuant to the provisions of this chapter, by resolution of the city commission. The grantee shall be promptly notified of the award by the city by written notice thereof, sent by registered or certified mail, which notice shall be accompanied by one (1) or more copies of the franchise agreement. The grant of one (1) franchise does not establish priority for use over the other present or future permit or franchise holders or the city's own use of the public ways. The city shall at all times control the distribution of space in, over, under or across all streets or public grounds occupied by the cable communications system.

No grant of any franchise shall affect the right of the city to grant to any other person a right to occupy or use the streets, or portions thereof, for the construction and operation of a cable communications system within the city or the right of the city to permit the use of the public ways of the city for any purpose whatever. By accepting a franchise, the grantee thereby acknowledges the city's right to make such grants and permit such uses. No privilege or power of eminent domain is bestowed on grantee by the grant of a franchise.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-43. - Execution and delivery of franchise agreement by grantee.

The franchise shall not become effective until the grantee properly executes and delivers the signed franchise agreement to the city. The grantee shall have fifteen (15) days from the date the franchise agreement is signed by the mayor and city clerk to fully execute and deliver to the city the franchise agreement.

At the time of delivery of the franchise agreement by the grantee to the city, the grantee shall pay to the city all monies and payments provided for in the franchise agreement which are to be made to the city by the grantee in accordance with the terms and conditions of the franchise agreement.

At the time of delivery of the franchise agreement as provided in this section, the grantee shall also deliver to the city all documents and instruments required by this chapter or by the franchise agreement.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-44. - Term and other provisions of franchise agreement.

(a) The franchise agreement shall provide for a nonexclusive franchise for a term as specified in the franchise, which term shall commence as of the date set forth in the franchise agreement.

(b) Throughout the term of the franchise, the grantee shall pay the city a franchise fee of five (5) percent of the grantee's annual gross revenues for each calendar year or the maximum amount permitted by law, whichever is higher, and throughout the term of the franchise, the grantee's franchise fee payment shall be made within forty-five (45) days of the end of each calendar quarter. Should the maximum fee exceed five (5) percent, the city may provide written notice to the grantee that the franchise fee shall be increased. Any increase in the franchise fee shall be implemented as soon as practicable after receipt of notice from the city, but no longer than forty-five (45) days. The grantee shall quarterly submit to the city a financial report verified by a financial officer of the grantee containing an accurate statement of the grantee's gross revenues and a computation of how the franchise fee payment was derived. The grantee shall take any action with respect to any federal or state agency that may be necessary or appropriate to make the payment and receipt of such fees lawful. Acceptance of any payment by the city shall not be construed as a release of or as an accord and satisfaction regarding any claim the city may have for further and additional sums payable as a franchise fee or for the performance of any other obligation of the

grantee under this chapter or the franchise agreement. In the event that any franchise payment or recomputed amount is not made on or before the dates specified herein, grantee shall pay as additional compensation an interest charge, computed from such due date, at the annual rate equal to the commercial prime interest rate of the city's primary depository bank during the period that such unpaid amount is owed.

(c) The franchise agreement shall provide that the grantee will construct, install and maintain an institutional network on its cable television system, with the design, location, operation, cost, funding for marketing and development, use and details of the institutional network to be as provided in the franchise agreement.

(d) The grantee shall pay the payments provided for in this section within forty-five (45) days of the end of each calendar quarter. The grantee shall quarterly submit to the city a financial report verified by a financial officer of the grantee containing an accurate statement of the grantee's gross revenues and a computation of how payment to the city, pursuant to any negotiated provisions of the franchise, were derived.

(e) This chapter requires the following express undertakings by the grantee:

(1) That the grantee agrees to and accepts all provisions of this chapter and waives any claim that any provisions hereof are unreasonable, arbitrary, invalid or void.

(2) That the grantee recognizes the right of the city to make amendments to this chapter during the term of the franchise pursuant to the terms and conditions of the franchise agreement.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-45. - Negotiated provisions of franchise agreement.

The franchise agreement shall contain such further conditions or provisions as may be negotiated between the city and the grantee, except that no such conditions or provisions shall conflict with any provision of this chapter or other law. In the case of such conflict, the provisions of this chapter or other law shall prevail over the conflicting provision of the franchise agreement.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-46. - Rights reserved by the city.

(a) Any franchise granted pursuant to this chapter shall be subject to the right of the city, by resolution of the city commission, to revoke the franchise for just cause. Just cause shall include, without limitation:

(1) A violation by grantee of any material provision of the franchise agreement or this chapter, where such violation shall remain uncured. The procedure for revocation of the franchise as a result of a violation by a grantee of any material provision of the franchise agreement shall comply with the terms and provisions of this chapter.

(2) Any attempt by grantee to dispose of any of the facilities or property of the system in contravention of the franchise agreement.

(3) The commission of any fraud or deceit upon the city.

(4) Any other ground for termination and/or revocation provided for in the franchise agreement and/or this chapter.

(5) If the grantee shall fail to provide or maintain in full force and effect the liability and indemnification coverage or the performance bond as required herein.

(6) If the grantee shall violate any material orders or rulings of any regulatory body having jurisdiction over the grantee relative to this part or the franchise.

(7) The grantee becomes insolvent, unable or unwilling to pay its debts or is adjudged bankrupt.

(8) Failure to restore service after ninety-six (96) consecutive hours of interrupted service, except when approval of such interruption is obtained from the city.

(9) If the grantee ceases to provide services over the cable communications system for any reason within the control of the grantee.

(b) Any franchise granted hereunder shall be subject to all applicable provisions of other city code chapters, and any amendments thereto, whether made prior to or after the inception of the franchise.

(c) Any franchise granted hereunder shall be subject to the following additional requirements:

(1) The establishment of proper and adequate extension of plants and service and maintenance thereof at the highest practicable standard of efficiency, subject to the terms and provision of the franchise agreement.

(2) The establishment of reasonable standards of service and quality of products, and to prevent unjust discrimination in service or rates pursuant to the terms and provision of the franchise agreement, subject to applicable law.

(3) The establishment of continuous and uninterrupted service to the public in accordance with the terms of the franchise agreement throughout the entire period thereof.

(4) The imposition of such other regulations as may be determined by the city commission to be conducive to the health, safety, welfare and accommodation of the public.

(5)

Through the city's appropriately designated representative, the inspection of all construction, rebuild or installation work performed subject to the provisions of the franchise agreement and this chapter, and make such inspections as it shall find necessary to ensure compliance with the terms of the franchise agreement, this chapter and other pertinent provisions of law.

(6) Subject to the terms and provisions of the franchise agreement, at the expiration, termination or cancellation of the term, the grantee shall remove at grantee's sole expense any and all portions of the overhead system from the public ways within the city, except that grantee may abandon its facilities in place, only with the city's written consent in advance. Subject to the terms and provisions of the franchise agreement, the grantee shall not remove underground facilities without the city's consent in advance.

(7) To require grantee to safeguard and keep private all individual home subscriber information as required by applicable law and pursuant to the franchise agreement.

(d) At all times during the term of the franchise, grantee shall comply with all laws, rules or regulations of the city, state or federal governments, their regulatory agencies or commissions which are now applicable or may be applicable hereafter to the construction and operation of the cable communications system, including, without limitation, all laws, ordinances, chapters or regulations now in force or hereafter enacted. Nothing herein shall be deemed a waiver of grantee's right to challenge the validity of any such law, rule or regulation; provided, however, that grantee hereby expressly waives the claim that any city law, rule or [sic] sope of the city's powers.

(e) Notwithstanding any other provisions of this chapter to the contrary, the grantee shall at all times comply with all laws and regulations of the local, state and federal government. In the event that any actions of the state or federal government or any agency thereof, or any court of competent jurisdiction upon final adjudication, substantially reduce in any way the power or authority of the city under this chapter or the franchise, or if in compliance with any local, state or federal law or regulation, the grantee finds conflict with the terms of this chapter, the franchise, or any law or regulation of the city, then as soon as possible following knowledge thereof, the grantee shall notify the city of the point of conflict believed to exist between such law or regulation and the laws or regulations of the city, this chapter and the franchise. The city, at its option, may notify the grantee that it wishes to negotiate those provisions which are affected in any way by such modification in regulations or statutory authority. Thereafter, the grantee shall negotiate in good faith with the city in the development of alternate provisions which shall fairly restore the city to the maximum level of authority and power permitted by law. The city shall have the right to modify any of the provisions to such reasonable extent as may be necessary to carry out the full intent and purpose of this chapter and the franchise.

(f) The city reserves the right to exercise the maximum plenary authority, as may at any time be lawfully permissible, to regulate the cable communications system, the franchise and the grantee. Should applicable legislative, judicial or regulatory authorities at any time permit regulation not presently permitted to the city, the city may without the approval of the grantee engage in any such additional regulation as may then be permissible, whether or not contemplated by this chapter or the franchise, including, without limitation, regulation regarding franchise fees, taxes, programming, rates, charges to subscribers and users, consumer protection or any other similar or dissimilar matter.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-47. - Procedure for termination.

Any termination or revocation of the franchise prior to the expiration of the term thereof shall be made by resolution of the city commission only after a public hearing thereon if said public hearing is requested by the grantee. Prior to the termination or revocation of the franchise agreement, the city shall send a written notice indicating that the city will be considering revocation and/or termination of the franchise, and within ten (10) days after receipt of the written notice from the city, the grantee may request a hearing before the city commission. The public hearing shall be held within thirty (30) days from the city's receipt of the grantee's written request for the public hearing. Any such termination or connection shall be subject to applicable law and any limitation contained in the franchise agreement between the city and the grantee.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-48. - Contravention of franchise.

Any breach and/or default by the grantee of the franchise agreement, in addition to constituting a breach of contract, shall constitute a violation of this chapter. The reasonable costs of any litigation, including attorney fees, incurred by the city to enforce this chapter or the franchise agreement shall be reimbursed to the city by the grantee, in respect to such litigation or part thereof in which the city is the prevailing party.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-49. - Transfer, assignment and foreclosure.

(a) A franchise shall not be assigned or transferred, either in whole or in part, or leased, sublet or mortgaged in any manner, nor shall title to the cable system, legal or equitable, or any right, interest or property therein, pass to or vest in any person without the prior written consent of the city. Any transfer of the franchise without the prior consent of the city shall make the franchise subject to cancellation unless the city shall have consented thereto.

The grantee shall not sell, transfer or dispose of twenty (20) percent or greater ownership interest in the grantee or more at one time of the ownership or controlling interest in the system, or twenty (20) percent cumulatively over the term of the franchise of such interests to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert without the consent of the city. Every sale, transfer or disposition of twenty (20) percent or greater ownership interest as specified above in the grantee shall make the franchise subject to cancellation unless the city shall have consented thereto.

(b) The grantee shall not change control, in whatever manner exercised, of the grantee or any parent company without the prior written consent of the city. Every change, transfer or acquisition of control of the grantee shall make the franchise subject to cancellation unless and until the city shall have consented thereto.

(c) For the purpose of determining whether it shall consent to such change, transfer or acquisition of the franchise or ownership or control, the city may inquire into the legal, financial, character, technical and other public interest qualifications of the prospective transferee or controlling party, and the grantee shall provide the city with all required information. The city reserves the right to impose certain conditions on the transferee as a condition of the franchise to ensure that the transferee is able to meet existing requirements of this chapter and franchise requirements. If required by federal law and regulations, the franchising authority has not taken action on the grantee's request for transfer within one hundred twenty (120) days after receiving any information requested by the city, consent by the city shall be deemed given.

(d) The consent or approval of the city or any other public entity to any transfer of the grantee shall not constitute a waiver or release of the rights of the city in and to the public property or public rights-of-way, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of this chapter and the franchise.

(e) Based upon public information, the city reserves the right to review the purchase price of any transfer or assignment of the cable system.

(f) Any approval by the city of transfer of ownership or control of the franchise or grantee shall be contingent upon the prospective party becoming a signatory to the franchise agreement.

(g) Any foreclosure or judicial sale of all or any part of the system shall be considered default. Initiation of any such proceedings shall be treated as a notification of a change of control of the grantee.

(h) The city shall have the right to cancel the franchise one hundred twenty (120) days after the election or appointment of a receiver or trustee to take over and conduct the business of the grantee, whether in receivership, reorganization, bankruptcy or other action or proceedings, unless such receivership or trusteeship shall have vacated prior to the expiration of the one hundred twenty (120) days; or unless:

  (1) Within one hundred twenty (120) days after the election or appointment such receiver or trustee shall have fully complied with all provisions of this chapter and remedied all defaults thereunder; and

  (2) Within said one hundred twenty (120) days such receiver or trustee shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this chapter.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-50. - Renewal.

A franchise may be renewed by the city upon application by the grantee pursuant to the procedures and requirements of federal, state and other applicable laws, including, but not limited to, section 626 of the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, as amended.

(Ord. No. 315, § 1, 10-12-99)

Secs. 5-51—5-60. - Reserved.

ARTICLE IV. - DESIGN OF SYSTEM

Sec. 5-61. - System.

The grantee shall design, construct and/or rebuild (if a rebuild is authorized by the franchise agreement) a cable system which delivers cable television signals processed at the MH specified in the franchise agreement and which utilizes the materials, including fibers and cables, and the technology specifically provided for in the franchise agreement.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-62. - Channel capacity.

Grantee shall maintain, throughout the term of the franchise, the number of channels specified to be activated and operational in the franchise agreement and shall design the cable system to support the number of channels required in the franchise agreement. Grantee shall also activate additional channel capacity for public access or institutional users as provided in the franchise agreement.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-63. - State of the art.

The franchisee shall maintain its system facilities and equipment in a manner which shall continue to enable it to add new services and associated equipment and facilities as they are developed, available, and proved marketable to subscribers. The new services, associated equipment, and facilities shall be added to the system and made available to city subscribers within one (1) year of when they are provided in any other similar sized franchise areas owned by the franchisee, excluding

experimental and pilot projects.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-64. - Signal quality and technical requirements.

(a) The system shall produce a picture upon each subscriber's television screen in black and white or color, depending upon whether color is being telecast, and provided the subscriber's television set is capable of producing a color picture, which is undistorted and free from ghost images, without material degradation of color fidelity. The system shall produce a sound which is undistorted on a properly operating standard receiver of a subscriber.

(b) The system shall transmit or distribute signals to all television and radio receivers of all subscribers without causing cross-modulation in the cables or interfering with other electrical or electronic systems or the reception of other television or radio receivers.

(c) The cable system permitted to be operated pursuant to a franchise agreement shall be installed and operated in conformance with this chapter and FCC rules and regulations, and the system shall at all times meet the minimum FCC technical standards and guidelines, and if at anytime the FCC does not regulate technical standards, the last FCC standard shall be complied with.

(d) The system shall be designed for and operated on a twenty-four-hour-a-day continuous operation basis, subject to the terms and conditions of the franchise agreement.

(e) Not later than forty-five (45) days after any new or substantially rebuilt portion of the system is made available for service to subscribers, and thereafter annually, the grantee shall conduct technical performance tests to demonstrate full compliance with all technical standards contained in this chapter and the franchise, and the technical standards and guidelines of the FCC. A copy of the report shall be submitted to the city describing test results, instrumentation, calibration and test procedures and the qualifications of the engineer responsible for the tests. System monitor test points shall be established at or near the output of the last amplifier in the longest feeder line at or near trunk line extremities. Periodic tests shall be made at the test points as shall be required by the FCC and/or the franchise. A copy of any performance test reports required by the FCC shall be submitted to the city within sixty (60) days of completion.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-65. - Two-way capacity.

Except as otherwise provided in the franchise agreement, the grantee shall provide two-way system (audio, video and data impulse).

The grantee will not install or permit the installation of any equipment that will permit transmission of two-way service utilizing audio, video or digital signals without first obtaining written permission of the subscriber. This provision is not intended to prohibit the transmission of signals useful only for the control or measurement of the system performance or utility meter reading.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-66. - Facilities.

Grantee's proposal, if applicable, shall describe in detail the location of its headend, hubs, distribution system, studios, nodes, equipment and other facilities and a plan for implementing the construction, utilization and maintenance of those facilities, including plans for accommodating future growth and changing needs and desires of the community as determined by the city.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-67. - Special channel and access requirements.

(a) Grantee shall carry broadcast stations in accordance with FCC rules as from time-to-time revised and as provided in the franchise agreement.

(b) The grantee shall comply with the requirements of the Federal Emergency Alert System as specified by the FCC (47 CFR, Part 11.1, et seq.), and the franchisee shall provide the city with a local alert system which shall allow the city to initiate emergency messages to cable subscribers from any touch tone telephone with an access code. Persons to be provided with the access code shall be selected by the city. The city will consult with the grantee in developing the policies to govern the activation of the local alert system.

(c) Grantee shall provide access channels as provided for in the franchise agreement. All residential subscribers who receive all or any part of the total services offered by the cable system shall also receive all access channels at no additional charge. These access channels shall be activated, operated and maintained as provided in the franchise agreement, and the rules, regulations and procedures for the use of access channels shall be as provided in the franchise agreement.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-68. - Service to public buildings.

Grantee shall provide service to those publicly owned and leased buildings in the city specified in the franchise agreement. The provisions for such service shall be described in detail and shall be provided without charge or as provided in the franchise agreement.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-69. - Interconnection.

Upon request of the city, the grantee shall interconnect the cable system as provided for in the franchise agreement and follow all procedures set forth therein. However, notwithstanding the above, the city shall be interconnected with the Birmingham system to allow for the educational access channels operated by the public school systems serving the area to be shown in Birmingham and the city.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-70. - Community specific cablecasting.

Grantee's proposal, if applicable, shall describe the means and manner of providing community specific cablecasting, if any, over the system and the time of activation and points of delivery.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-71. - Computer service.

Grantee shall, subject to the terms and provisions of the franchise agreement, design and construct a system so that subscriber and institutional networks (serving residential and institutional uses) accommodate interactive data communications. Further, the system shall, subject to the terms and provisions of the franchise agreement, accommodate interactive communications of point-to-point, point-to-multi-point, and multi-point to multi-point communications between subscribers or potential subscribers.

(Ord. No. 315, § 1, 10-12-99)

Secs. 5-72—5-80. - Reserved.

ARTICLE V. - SERVICES AND PROGRAMMING

Sec. 5-81. - Services and programming.

Grantee's proposal, if applicable, shall state the extent of its commitment to provide for the following: a variety of origination programming; automated channels carrying information from local sources; local access programming; a home security package (with mechanisms to decrease incidents of false alarms); access support, including color broadcast studio and location production equipment, post-production equipment, access promotion plans, use of video facilities; plans accommodating growth of access, production centers; a system to accommodate data, audio and video transmissions between institutions; service to public buildings; expanding distant signal offerings as FCC rules allow; broadcast station signals in late night and early morning hours; an FM service with individual station processing; a means for using the system during emergencies; needs of schools and other learning institutions. The services and programming to be provided by the grantee shall be in conformance with this chapter and in accordance with the terms and provisions of the franchise agreement.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-82. - Local origination and cablecasting.

Grantee's proposal, if applicable, shall include detailed information on plans for local origination, origination cablecasting, automated channels carrying information from local sources, variety of origination programming, review of an incorporation of the needs and reports of the city, channel allocations, estimated programming hours, equipment, personnel and other resources committed to local origination production.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-83. - Use of channels.

(a) Advertising for any candidate for political office or for parties sponsoring such candidates shall be in accordance with federal and state law.

(b) Grantee is expressly prohibited from transmitting any form of subliminal advertising at anytime.

(c) Except as provided in subsections (a) and (b), use of channels shall be as provided for in the franchise agreement.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-84. - Parental control devices.

The grantee shall provide to subscribers upon request parental control devices that allow any channel or channels to be locked out. The parental control devices shall block both the video and the audio portion of such channels to the extent that both are unintelligible. The cost to subscribers for parental control devices shall be subject to FCC regulation. The grantee shall block the video and audio portions of all primarily adult programming services.

(Ord. No. 315, § 1, 10-12-99)

Secs. 5-85—5-90. - Reserved.

ARTICLE VI. - CONSTRUCTION, INITIAL SERVICE AREA, LINE EXTENSION AND CONSTRUCTION STANDARDS

Sec. 5-91. - Initial service area.

(a) Grantee's proposal, if applicable, and the franchise agreement shall clearly indicate the date by which system engineering and design shall be completed and dates on which each stage of system construction and/or rebuild shall be completed.

(b) The energized cable shall be extended substantially throughout the city in accordance with the schedule specified in the franchise agreement.

(c) A map prepared by grantee reflecting the areas within the city served by the system along with the schedule for development of the system shall be included in grantee's proposal, if applicable. The grantee shall provide cable service to all areas within the corporate boundaries of the city, and all new residents shall be offered service and provided with individual drops pursuant to the terms and provisions of the franchise agreement.

(d) The city shall cooperate with grantee in the development of its proposed service area by making available to grantee for copying all maps, data and other statistical information, then in possession of the city, needed for the preparation of a map detailing the service area.

(e) Grantee shall provide an initial set of "as built" maps for the city and annually shall provide revisions to the system's "as built" maps filed with the city. If requested by the city, such maps shall be provided by the grantee in a GIS compatible format.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-92. - Construction timetable.

(a) Grantee's construction and/or rebuild timetable shall be as set forth in the franchise agreement and shall reflect the specific method and schedule of construction and/or rebuild of the system. The plan of grantee shall reflect the following:

(1) Location of all facilities, including, but not limited to, studios, headends, nodes, equipment housings, microwave receivers and senders and all hubs and wiring.

(2) A timetable reflecting when each area within the service area will be served.

(b) Within sixty (60) days after the commencement of the franchise term or as otherwise provided in the franchise agreement, the grantee shall apply for all necessary permits, licenses, certificates and authorizations which are required in the conduct of its business, including, but not limited to, any joint use attachment agreements, microwave carrier licenses or any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of cable communications systems, or their associated microwave transmission facilities. If after six (6) months from the commencement of franchise term grantee has not received the permits, licenses, certificates and authorizations described in this paragraph, the city may, subject to the terms and provisions of the franchise agreement, terminate this franchise without regard to fault for delay in obtaining such permits, licenses, certificates and authorizations.

(c) The grantee shall promptly notify the city of all delays known or anticipated in the construction of the system. The city may extend the construction timetable in the event grantee, acting in good faith, experiences delays by reason of circumstances beyond its control.

(d) For delays in the system construction and/or rebuild due to causes which are within grantee's reasonable control or which are reasonably foreseeable, the city may, in its sole discretion, take the action provided for in section 5-162 of this chapter.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-93. - Construction standards.

(a) Except as otherwise provided in the franchise agreement, grantee shall not open or disturb the surface of any streets or public property without first obtaining a permit from the applicable governmental agency, for which permit the agency may impose a reasonable fee to be paid by grantee, and the lines, conduits, cables and other property placed in the streets and public property pursuant to such permit shall be located in such part of the street or public property as shall be determined by the agency. Grantee shall, in accordance with the terms and provisions of the franchise agreement, upon completion of any work requiring the opening, disruption and/or alteration of any streets or public property, restore, at its own cost, the same, including the pavement and its foundations to a good or better condition than existed previously and in a manner and quality approved by the agency, and shall exercise reasonable care to maintain the same thereafter in good condition. Such work shall be performed with diligence and due care, and if grantee shall fail to perform the work promptly, to remove all dirt and rubbish and to put the street or public property back into the condition required hereby, the agency shall have the right to put the streets or public property back into such condition at the expense of grantee. Grantee shall, upon demand, pay to agency the cost of such work done.

(b) All wires, conduits, cables, equipment housings and other property and facilities of grantee shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon or other use of the streets and public property of the applicable governmental agency. Grantee shall, at its own cost, keep and maintain all of its property in good condition, order and repair so that the same shall not menace or endanger the life or property of any person, and shall comply with all maintenance requirements of the franchise agreement.

The city shall have the right to inspect and examine at all reasonable times the construction and/or rebuild work, as well as all of the property owned or used, in part or in whole, by grantee. The grantee shall keep accurate, complete and current maps and records of the cable system and its facilities located in the city, and shall provide copies to the city as provided in the franchise agreement.

(c) All wires, conduits, cables, equipment housings and other property and facilities of grantee shall be constructed and installed in an orderly and workmanlike manner and in accordance with then current technological standards. All wires, conduits and cables shall be installed, where reasonably possible, parallel with existing electric and telephone lines. Multiple cable configurations shall be in parallel arrangement and bundled with due respect for aesthetic, engineering and safety considerations. Grantee shall participate in and use a utility location identification service and ensure that cable is buried at depth of twelve (12) inches and that temporary drops will be buried within one (1) month of installation, weather permitting.

(d) Equipment Housings. When requested by either the city or an adjacent property owner, any equipment placed on the ground in an easement, including power supplies and pedestals, shall be concealed with landscaping or other appropriate screening approved by the city. Such landscaping requirement shall not apply to equipment placed on utility poles or in an aerial configuration. The city shall have the right to approve size, equipment and screening in the event franchisee, in course of constructing, upgrading, operating, or maintaining its cable system, seeks to install equipment larger than twelve (12) cubic feet, unless otherwise specified in the franchise.

(e) Grantee shall be subject to and shall at all times comply with all federal, state and local laws, ordinances, chapters and regulations of the city and all other requirements of applicable governmental agencies, including, but not limited to, the following codes, rules, regulations, as amended, and any others supplemental to or in substitution thereof;

(1) National Electrical Safety Code (National Bureau of Standards).

(2) National Electrical Code (National Bureau of Fire Underwriters).

(3) Bell System Code of Pole Line Construction.

(4) Applicable FCC regulations.

In any event, the installation, operation or maintenance of the system shall not endanger or interfere with the safety of persons or property in the city.

(f) The grantee, after receiving a written request from the city, shall, at grantee's own cost and expense, protect, support, disconnect, relocate or remove from the streets or public rights-of-way any portion of the cable system when reasonably required to do so by the city due to street or other public excavation, construction, repair, grading, regrading, traffic condition, the installation of sewers, drains, water pipes, power or signal lines, trackways or tracks, municipally-owned facilities or the vacation, construction or relocation of streets or any other type of structure or improvement by the city or any other public agency or any other type of improvement which the city reasonably deems necessary for the public health, safety and welfare. The city may temporarily disconnect, remove or relocate any of the grantee's facilities which have not been disconnected, removed or relocated within a reasonable period of time after a written request from the city, and the grantee shall reimburse the city's entire expense, including a reasonable cost of overhead.

(g) Grantee's plans for constructing its system and the construction of the system shall be in accordance with its proposal as modified by the franchise agreement. However, grantee shall comply with the following minimum requirements:

(1) Grantee shall, at its own cost and expense, construct underground in any area where other utilities and lines have been installed underground.

(2) Grantee shall change from aerial to underground, at its own cost and expense, in any area where other utilities and lines are hereafter changed from aerial to underground.

(3) To enable grantee reasonable opportunity to change its wiring from aerial to underground, and also to allow it to prewire all new subdivisions or new development areas, the city shall provide grantee with written notice of the following (but without liability for failure to provide such notice):

a. Any underground trenching that may be pending; and

b. All chapter changes affecting the wiring of the system.

(h) Grantee, upon completion of any work on private property (or easements thereon), shall, at its own cost and expense, restore the same, including any and all landscape features, plantings, grass, lawns, turf, buildings, pipes and wires (overhead and underground), pavements, sidewalks, foundations or other features whatsoever to as good a condition as existed before construction.

(i) Grantee, prior to construction shall make a record of all underground construction and other specifically designated areas as provided in the franchise agreement. Such record shall be preserved for three (3) years after completion of the applicable construction.

(j) The grantee shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, watchmen and suitable and sufficient lighting.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-94. - Conditions on use.

(a) Grantee shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixtures, water hydrant or main.

(b) The grantee shall, upon the request of the city, move and/or replace its facilities to accommodate house and building moves conducted on behalf of the city free of charge to the city.

(c) The grantee, at its own cost and expense, may trim trees upon and overhanging the public rights-of-way so as to prevent the branches of such trees from coming into contact with the cable system. No trimming shall be performed in the public rights-of-way without previously informing the city. Except in emergencies, all trimming of trees on public property shall have the advance notice of the city, and all trimming of trees on private property shall require

notice to the property owner.

(Ord. No. 315, § 1, 10-12-99)

Secs. 5-95—5-100. - Reserved.

ARTICLE VII. - SYSTEM OPERATIONS, SUBSCRIBER POLICIES, CONSUMER PROTECTION

Sec. 5-101. - Information availability.

(a) Throughout the term of the franchise, grantee shall maintain books and records in accordance with normal and accepted bookkeeping and accounting practices for the cable communications industry, as well as keep all books and records required by the FCC, and, subject to applicable law regarding subscriber privacy, allow for inspection and copying of the same at reasonable times at its designated office. Except as otherwise provided by the franchise agreement, the books and records to be maintained by grantee shall include the following:

(1) A file of all subscriber contracts, except information that is protected as private.

(2) Grantee policies, procedures and company rules; and

(3) Financial records, pursuant to the terms and conditions of the franchise agreement.

(b) The city shall give grantee at least twenty-four (24) hours notice before making inspections of any books or records of grantee.

(c) Grantee shall file with the city at the time of its payment(s) of the franchise fee the following:

(1) A quarterly financial statement certified by grantee as correct showing in such detail as provided in the franchise agreement the gross operating revenues of grantee for the quarter to which the fee relates and such other financial information as is required by the franchise agreement.

(2) An annual statement prepared by the chief financial officer of the grantee who is a certified public accountant showing in such detail as required by the franchise agreement the gross operating revenues of grantee for the period to which the annual fee relates and such other financial information as may be required by the city.

(3) Current list of names and addresses of each officer and director, as well as each shareholder having legal or beneficial ownership of one (1) percent or more of grantee's stock if changed from a prior filing and a managerial person designated by grantee as the contact person for the city.

(4) A copy of each document filed with all federal, state and local agencies during the preceding fiscal year and not previously filed with the city, as well as a copy of all documents which the grantee sends to the FCC or Michigan Public Service Commission (or successor agencies having jurisdiction over the grantee), all records required by grantee to be maintained under section 76 of the FCC regulations (47 CFR section 76), all pleadings submitted by grantee in any lawsuit regarding the validity of statutes or regulations, whether federal or Michigan, all pleadings submitted by the grantee in any lawsuit with program suppliers regarding programming provided in the city and all pleadings to which the grantee is a party from judicial proceedings involving disputes with other cities, townships, or villages in Michigan.

(5) A statement of its current billing practices if changed from a prior filing.

(6) A copy of its current rules if changed from a prior filing.

(7) A copy of its current subscriber service contract if changed from a prior filing.

(8) A copy of the reports set forth in section 5-137 of this chapter.

(d) The city, its agents and representatives shall have authority to arrange for and conduct an audit of and copy the books and records of grantee. Grantee shall first be given ten (10) days notice of the audit request, the description of and purpose of the audit and the description, to the best of the city's ability, of the books, records and documents it wishes to review.

(e) The grantee shall prepare and furnish to the city at the times and in the form prescribed such additional reports with respect to its operation, affairs, transactions or property as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the city in connection with this chapter or the franchise.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-102. - Subscriber policies.

The grantee shall comply with all subscriber policies set forth in FCC regulations, this chapter and in the franchise agreement.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-103. - Provision of cable to subscriber.

The grantee shall install cable to a subscriber within ten (10) business days.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-104. - Subscriber information.

Before providing any service to any subscriber and upon request by any customer thereafter, the grantee shall provide the following subscription information:

(1) A description of the cable services provided by the grantee, accompanied by a listing of the charges for each such service, either alone or in combination.

(2) A listing of all rates, terms and conditions for each cable service or tier of cable service, both alone and in combination, and all other charges, such as for returned checks and for relocating cable outlets.

(3) Instructions on how to use other communications devices which may be used in conjunction with the system.

(4) A description of grantee's billing and collection procedures.

(5) The procedure for the resolution of billing disputes, including the telephone number of the office subscribers may call with regard to billing disputes, as specified by the city.

(6) Description of the grantee's policies concerning credits for outages and reception problems, consistent with these consumer protection standards.

(7) An explanation of the procedures and charges, if any, for upgrading, downgrading or disconnecting services, consistent with these consumer protection standards.

(8) The required time periods for the completion of installation requests, consistent with these consumer protection standards, and an indication of the penalties for failure to complete installation within such time periods.

(9) The complaint resolution process.

(10) The procedures by which the subscriber will be notified of any rate increase.

(11) The local numbers for the grantee's subscriber service telephone system.

(12) A description of significant rights accorded to the subscriber pursuant to applicable law.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-105. - Marker showing, converter dial locations.

The grantee shall provide subscribers with a channel line-up card for all cable services when channel line-up changes occur at the time of installation and upon request therefor.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-106. - Procedure for installation.

The grantee shall abide by the procedures set forth in this section for cable installation. Under normal operating circumstances, the standards set forth in this section shall be met not less than ninety-five (95) percent of the time as measured on an annual basis. The term "normal operating condition" shall be as defined in section 5-3 of this chapter. Upon receiving a request for cable service, the grantee shall either set a specific appointment time or specify a four (4) hour time block during normal business hours as requested by the subscriber or potential subscriber during which the grantee's work crew must install the new equipment to receive service. The term "normal business hours" means those hours during which most businesses in the community are open to serve customers. The grantee may schedule installation activities outside of normal business hours for the express convenience of and at the request of the subscriber. Unless a later date is requested by a potential subscriber, the grantee shall complete installation of service for any new subscriber within seven (7) days after any such request is received, where the installation is located up to one hundred fifty (150) feet from the existing distribution system.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-107. - Telephone lines.

The grantee shall have a local telephone number for receiving requests for repair or installation services, for reporting outages and for responding to billing questions. Telephone calls shall be answered by the grantee and/or its representatives twenty-four (24) hours a day, seven (7) days a week.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-108. - Standard of service for the telephone system.

The grantee's telephone system shall, as of the effective date of the franchise, have at a minimum enough incoming lines and adequate staff to process incoming calls such that telephone answer time, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. Subscribers shall receive a busy signal less than three (3) percent of the time.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-109. - Compliance.

The standards set forth in sections 5-107 and 5-108 of this chapter shall be met by the grantee no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis. The grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards unless a historical record of complaints indicates a clear failure to comply.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-110. - Format of subscriber bills.

The grantee shall comply with FCC regulations concerning the format and information contained on subscriber bills which may include the following:

(1) The bill shall be designed in such a way as to present the information contained therein clearly and comprehensibly to subscribers.

(2) The bill shall contain itemized charges for each category of service and equipment and any installation of equipment or facilities and monthly use thereof (together, "equipment") for which a charge is imposed (including late charges, if any), an explicit due date, the name and address of the grantee and telephone number for the grantee's office responsible for inquiries and billing, the telephone number specified by the city for the resolution of billing disputes and the FCC Community Unit Identifier Number. The bill shall state the billing period, amount of current billing and appropriate credits or past-due balances, if any.

(3) The grantee shall not charge a potential subscriber or subscriber for any service or equipment that the subscriber has not affirmatively requested by name. A subscriber's failure to refuse a cable operator's proposal to provide such service or equipment shall not be deemed to be an affirmative request for such service or equipment.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-111. - Payment options.

The grantee shall provide all individual residential subscribers with the option of paying for cable services by:

(a) Cash;

(b) Check;

(c) An automatic payment plan, where the amount of the bill is automatically deducted from a checking or savings account designated by the subscriber; or

(d) By major credit card.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-112. - Payment stations.

The grantee shall maintain full service locations at which bills can be paid and subscriber inquiries can be answered.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-113. - Billing procedures.

All bills shall be rendered by the grantee to subscribers monthly, unless otherwise authorized by the subscriber, or unless service was provided for less than one (1) month.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-114. - Procedures for collecting late bills.

The grantee shall comply with uniform bill payment and delinquent payment collection procedures set forth in the franchise agreement. Grantee may change the procedure in order to comply with changes in laws or business practices provided, however, that grantee's bill payment timetables, collection procedures and fees for city residents shall be consistent with those in other communities where grantee provides cable service. At all times, grantee shall comply with all applicable state or federal consumer protection laws concerning the collection of debts.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-115. - Subscriber equipment.

The grantee shall comply with all rules and regulations promulgated by the FCC pursuant to sections 623 and 624A of the Cable Act (47 U.S.C., sections 543 and 544a).

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-116. - Interruption of service.

The grantee shall exercise its good faith to limit any scheduled interruption of any cable service for any purpose to periods of minimum use. Except in emergencies or incidents requiring immediate action, the grantee shall provide the city and all affected subscribers with prior notice of scheduled service interruptions, if such interruptions will last longer than one and one-half (1½) hours.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-117. - Outages.

(a) The grantee shall maintain sufficient repair and maintenance crews so as to be able to correct or repair any reception problem or other service problem of either picture or sound quality, including any outage of sound and/or picture on any channel, except for a problem caused by an intentional, wrongful act of the subscriber or by the subscriber's own equipment which was not supplied by the grantee, promptly and in no event later than forty-eight (48) hours after the grantee either receives a request for repair service or the grantee learns of it. For purposes of this section, "reception problem" shall constitute reception that an affected subscriber reasonably determines is unsatisfactory, unless the grantee can demonstrate that the signals transmitted to such subscribers are in compliance with the FCC's technical signal quality standards.

(b) The grantee shall maintain at all times an adequate repair and service force in order to satisfy its obligations pursuant to subsection (a), above, and in cases where it is necessary to enter upon a subscriber's premises to correct any reception problem or other service problem, the grantee shall either set a specific appointment time or specify a four-hour time block during normal business hours, as requested by the subscriber or potential subscriber, during which the grantee's work crew shall work on the service problem. The grantee may schedule service calls outside of normal business hours for the express convenience of the subscriber, provided that the grantee's customer service representatives shall at all times endeavor to be aware of service or other problems in adjacent areas which may obviate the need to enter a subscriber's premises.

(c) In no event shall the grantee cancel any necessary scheduled service call after the close of business on the business day prior to the scheduled appointment. If the grantee needs to cancel a scheduled appointment, it must contact the subscriber and reschedule at a time convenient for the subscriber.

(d) Grantee shall provide subscribers with credits commensurate with the period of time a subscriber experiences an outage for system-wide or partial system outages in all cases where the grantee is aware of an outage and which subscribers are affected. Grantee, upon subscriber request, shall credit the subscriber's account for a pro-rata share of the monthly bill commensurate with the period of time a subscriber experiences an outage of one (1) channel or more beyond the first four (4) hours.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-118. - Failure to meet time periods may be excused.

The grantee's failure to correct outages or to make repairs within the stated time periods shall be excused in the following circumstances:

(1) If the grantee could not obtain access to the subscriber's premises, or

(2) If the city, acting reasonably, agrees with the grantee that correcting such outages or making such repairs was not reasonably possible within the allotted time period.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-119. - No charge for repair service.

The grantee shall not impose any fee or charge any subscriber for any service call to his or her premises to perform any repair or maintenance work on grantee's equipment unless such repair or maintenance is necessitated by customer's negligence or intentional act.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-120. - Service calls to be provided on a nondiscriminatory basis.

The grantee shall provide all service calls throughout the franchise area on a nondiscriminatory basis.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-121. - Records of repair service requests.

The grantee shall keep records capable of showing all requests for repair service and information on outage correction (to the extent available with respect to each of the following types of information), which shall show, at a minimum, the date and the approximate time of the request, the date and approximate time the grantee responds, the date and approximate time service is restored, the type and probable cause of the problem and the names of the grantee's employees who took the corrective action(s). Such records shall also describe the corrective action taken and, in the case of outages, shall estimate the number of subscribers affected. For the purpose of this section, "time" shall mean the time of request or appointment period, as applicable. Records required herein may be destroyed two (2) years after such information was collected, unless the city authorizes the grantee, in writing, to destroy any information required by this section prior to the expiration of such two-year period.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-122. - Time period for resolution of complaints.

For purposes of this section, "complaint" shall mean any written communication by a subscriber or potential subscriber or oral communication by a subscriber or potential subscriber reduced to writing, including to a computer form, expressing dissatisfaction with any nonprogramming aspect of the grantee's business or operations system. Except where another time period is required by any other provision of this chapter, the grantee shall make a good faith effort to resolve, as soon as practicable and in no event later than seven (7) business days, all complaints after they are received by the grantee.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-123. - Referral of complaints from the city to grantee.

If the city is contacted directly about a complaint concerning the grantee, the city shall notify the grantee. Within seven (7) business days after being notified about the complaint, the grantee shall issue to the city a report detailing the grantee's investigation and thoroughly describing the findings, explaining any corrective steps which are being taken and indicating that the person who registered the complaint has been notified of the resolution.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-124. - Complaint records.

The grantee shall maintain complaint records which shall record the date a written complaint is received, the name and address of the affected subscriber, a description of the complaint, the date of resolution and a description of the resolution. Any information in the records required herein may be destroyed two (2) years after such information was collected, unless the city authorizes the grantee, in writing, to destroy any information required by this section prior to the expiration of such two-year period.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-125. - Notice required.

The grantee shall provide the following notices:

(1) The grantee shall provide notice to the city and all subscribers of any change in any fee, charge, deposit, term or condition, which notice shall be provided no later than thirty (30) days prior to the effective date of any such change. All notices required by this section shall specify, as applicable, the service or services affected, the new rate, charge, term or condition, the effect of the change and the effective date of the change.

(2) The grantee shall provide notice, in writing, to the city and all subscribers of any change in any channel assignment or in any service provided over any such channel, which notice shall be provided no later than thirty (30) days prior to the effective date of any such change.

(3) The grantee may terminate service to any subscriber whose bill has not been paid after it becomes delinquent, so long as the grantee gives proper notice to the subscriber.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-126. - Resubscription to cable service.

The grantee shall not refuse to serve a former subscriber whose service was terminated, so long as all past bill and late charges have been paid in full.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-127. - Length of time to disconnection.

If disconnection occurs at the subscriber's written or oral request, then, for billing purposes, it shall be deemed to have occurred three (3) business days after the grantee receives the request for disconnection at grantee's business office, unless it in fact occurs earlier, or the subscriber requests a longer period.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-128. - Scheduling appointments.

The grantee shall either set a specific appointment time or specify a four-hour time period during normal business hours during which its work crew shall visit the subscriber's premises to disconnect service and to remove any equipment. The grantee may schedule such service outside normal business hours for the express convenience of the subscriber.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-129. - Restoration of subscriber premises.

The grantee shall ensure that the subscriber's premises are restored to their original condition if damaged by the grantee's employees or agents in any respect in connection with the installation, repair or disconnection of cable service.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-130. - No fee for disconnection.

The grantee shall not charge any fee for disconnection. The grantee shall make a seasonal plan available for part-time residents at discounted prices.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-131. - Charge for downgrades.

If the downgrading of a subscriber's service shall be affected solely by coded entry on a computer terminal or by another similarly simple method, the grantee's charge for such downgrading shall not exceed the cost. Charges for changes in service tiers or equipment that are impossible to be made by coded entry on a computer terminal or other similarly simple method and that involve a more complex method shall not exceed allowable costs.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-132. - Credits.

In the event applicable law permits, at anytime during the term of the franchise, the city requires the grantee to retroactively decrease or "rollback" rates, fees or charges for any service provided pursuant to the franchise agreement, the grantee shall automatically provide a credit on each subscriber's bill affected by such decrease or rollback.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-133. - National Cable Television Association's (NCTA) on-time customer service guarantee.

Grantee shall voluntarily comply with the NCTA's on-time customer service guarantee. The guarantee "promises on-time service calls or the customer receives twenty dollars ($20.00), and on-time installation calls or the customer receives a free installation." Grantee shall notify city in the event it determines to no longer participate in the NCTA program, or if the program is ended by the NCTA, or if the program's terms materially change.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-134. - Fire; free replacement.

If a subscriber's converter box or other cable-related grantee-owned customer premises equipment is destroyed by fire, flood, tornado, building collapse or otherwise such that the premises are not habitable, grantee shall refund any deposit for such equipment and shall not charge the subscriber for replacement equipment, but may seek reimbursement from applicable insurance policies.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-135. - Privacy and monitoring.

The grantee shall not tap or monitor, or arrange for the tapping or monitoring, or permit any other person to tap or monitor any cable, line, signal, input device or subscriber facility for any purpose without the written authorization of the affected subscriber. Such authorization shall be revocable at anytime by the subscriber without penalty by delivering a written notice of revocation to the grantee, provided, however, that grantee may conduct cable system-wide or individually addressed "sweeps" solely for the purpose of verifying cable system integrity, checking for illegal taps or billing. This section shall not apply to status monitoring activities for the sole purpose of monitoring the integrity of the cable system.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-136. - Truth in advertising.

The grantee's bills, advertising and communications to its current or potential subscribers shall be truthful and shall not contain any false or misleading statements. For the purposes of the preceding, a statement is false or misleading if it contains an untrue statement of any material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. The grantee shall comply with all applicable state and federal consumer protection laws concerning advertising for services.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-137. - Reports.

The grantee shall provide to the city on a quarterly basis the reports provided for in this section. The reports shall be in a form and substance acceptable to the city, showing on a consistent basis matters necessary to measure grantee's compliance with the standards set forth in this article. Such reports shall show grantee's performance, excluding periods of abnormal operating conditions, and if grantee contends any such conditions occurred during the period in question, it shall also describe the nature and extent of conditions and show grantee's performance, both including and excluding the time periods grantee contends such conditions were in effect.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-138. - Business office.

The grantee shall establish and maintain a business office within five (5) miles of the city which shall, at a minimum, be open to receive payments and subscriber equipment for at least forty-five (45) hours per week.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-139. - Rates and charges.

The grantee's rates and charges for the provision of cable services shall be subject to regulation by the city and to the full extent authorized by federal, state and other applicable law.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-140. - Tampering and fraudulent connections or sales.

No person, whether or not a subscriber to the cable system, may intentionally or knowingly remove or damage or cause to be damaged any wire, cable, conduit, equipment or apparatus of the grantee, or to commit any act with an intent to cause such removal or damage, or tap, tamper with or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus or appurtenances of the grantee with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the grantee, or obtain cable television or other communications, service or sell, rent, lend, offer or advertise for sale, rental or used any instrument, apparatus, device or plans, specifications or instructions for making or assembling the same to connect to the grantee's cable system with the intent to cheat or defraud the grantee of any lawful charge to which it is entitled.

(Ord. No. 315, § 1, 10-12-99)

Secs. 5-141—5-150. - Reserved.

ARTICLE VIII. - ADMINISTRATION AND ADVISORY BODY

Sec. 5-151. - Administrator.

The city commission may appoint an administrator who shall serve at the pleasure of the city commission and who will be responsible for the continuing administration of the franchise on the part of the city. The city shall provide written notice to the grantee of the initial appointment of the administrator and any subsequent appointments.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-152. - Advisory body.

The city commission may appoint a cable communications advisory committee to perform such duties and to have such powers as the city commission may determine. The composition and terms of office of the members of the committee, as well as the duties and powers of the committee, shall be determined and established by resolution of the city commission.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-153. - Delegation of authority by city.

The city reserves the right to delegate from time-to-time any of its rights or obligations under the franchise to any body or organization or city representative. Any such delegation shall be effective upon written notice thereof to grantee. Upon receipt of such notice, grantee shall be bound by all terms and conditions of the delegation not in conflict with the franchise agreement. Any such delegation or revocation thereof, no matter how often made, shall not be deemed to be an amendment to the franchise agreement or require grantee's consent.

(Ord. No. 315, § 1, 10-12-99)

Secs. 5-154—5-160. - Reserved.

ARTICLE IX. - SECURITY FUND, INSURANCE, INDEMNIFICATION, VIOLATIONS AND REMEDIES

Sec. 5-161. - Security fund.

The grantee shall provide as security for the faithful performance by the grantee of the provisions of the franchise agreement and compliance with all orders, permits and directions of the city the sum of not less than five hundred thousand dollars ($500,000.00), and of said amount no less than fifty thousand dollars ($50,000.00) must be in cash, deposited into an escrow bank account to the order of the city. The remainder of the security fund may be in the form of an irrevocable letter of credit, the issuing bank and form of which shall be subject to the prior approval of the city, which approval shall not be unreasonably withheld. Funds shall be maintained in the minimum amount and in the form indicated in the franchise agreement for the term of the franchise. In the event the security fund is assessed by the city, grantee shall have thirty (30) days within which to replenish the fund to the minimum amount required. The city may, upon completion of construction, waive or reduce the requirement of the grantee to maintain such a security fund.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-162. - Remedies available.

The city shall, in its sole discretion, in addition to any other remedies permitted and/or allowed by applicable law, also have the option to pursue any of the following remedies for delays in construction and/or rebuild or for the grantee's violation of any other material provision of the franchise agreement if the grantee has not commenced corrective action within thirty (30) days written notice of said violation:

(1) Assess liquidated damages not to exceed five thousand dollars ($5,000.00) per day or per incident for construction and/or rebuild related delays, and one thousand dollars ($1,000.00) per day or per incident for all other material franchise agreement violations. Damages may be required for grantee's individual, willful and/or repeated violation of the franchise agreement or failure to take corrective action with respect to the violation of any provision of the franchise. The assessment for these liquidated damages shall be levied against the security fund provided for in this chapter, and the city and grantee agree that the amount of such assessment shall be deemed without proof to represent liquidation of damages actually sustained by the city by reason of grantee's failure to conform. Such assessment shall not constitute a waiver by the city of any other right or remedy it may have under the franchise agreement or under applicable law.

(2) For violations considered by the city to have materially degraded the quality of service, the city may order and direct grantee to issue rebates or reduce its rates and/or charges to subscribers in an amount solely determined by the city to provide monetary relief substantially equal to the reduced quality of service resulting from grantee's failure to perform.

(3) Require grantee to cure all defaults and breaches of its obligations hereunder before grantee is entitled to increase any rate or charge to subscribers hereunder.

(4) Revoke and/or terminate the franchise agreement and franchise pursuant to sections 5-46 and 5-47 of this chapter.

(5) In the event a stated violation of the franchise agreement is not reasonably curable within sixty (60) days, the franchise agreement and franchise will not be terminated or revoked or damages imposed if the grantee provides within the said sixty (60) days a plan satisfactory to the city to remedy the violation and continues to demonstrate good faith in seeking to correct said violation.

(6) In determining which remedy or remedies for grantee's violation are appropriate, the city shall take into consideration the nature of the violation, the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further such violations and such other matters as the city may deem appropriate, provided, however, that adequate damages must be imposed if service is in any way materially lessened or if any material provision of the franchise agreement is not complied with.

a. Whenever the chapter shall set forth any time for any act to be performed by or on behalf of the grantee, such time shall be deemed by the essence. Any failure of the grantee to perform within the time allotted shall always be sufficient ground for the city to invoke an appropriate penalty, including possible revocation of the franchise.

b. No course of dealing between the grantee and the city, or any delay on the part of the city in exercising any rights hereunder, shall operate as a waiver of any such rights of the city or acquiescence in the actions of the grantee in contravention of rights, except to the extent expressly waived by the city or expressly provided for in the franchise.

(7) Notice. Within ten (10) days after the grantee's receipt of a written notice of violation of the franchise agreement from the city, the grantee may request a hearing before the city commission in a full public proceeding affording the grantee due process. The hearing shall be held within thirty (30) days after the receipt by the city of the grantee's written request for the hearing.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-163. - Liability and insurance.

(a) Prior to commencement of construction, but in no event later than sixty (60) days after the effective date of the franchise and thereafter continuously throughout the duration of the franchise and any extension or renewals thereof, the grantee shall furnish to the city certificates of insurance approved by the city for all types of insurance required under this section. Failure to furnish said certificates of insurance in a timely manner shall constitute a violation of this chapter. At the city's request, grantee shall furnish copies of any or all policies which are in effect from time-to-time.

(b) Any insurance policy obtained by the grantee in compliance with this section shall be filed and maintained with the city during the term of a franchise, and from time-to-time the city may require, and the grantee shall furnish, changes in such policies to reflect changing liability limits and/or compensate for inflation. Grantee shall immediately advise the city of any litigation that may develop that would affect this insurance.

(c) Neither the provisions of this section nor any damages recovered by the city hereunder shall be construed to or limit the liability of the grantee for damages under any franchise issued hereunder.

(d) All insurance policies maintained pursuant to this chapter or the franchise shall contain the following or a comparable endorsement:

It is hereby understood and agreed that this insurance policy may not be modified or canceled by the insurance company nor the intention not to renew be stated by the insurance company until thirty (30) days after receipt by the city manager by registered mail of a written notice of such intention to cancel or not to renew.

(e) All contractual liability insurance policies maintained pursuant to this chapter or the franchise shall include the provision of the following hold harmless clause:

The grantee agrees to indemnify, save harmless and defend the city, its agents, servants and employees and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorney fees for or on account of any injury to any person or any death at any time resulting from such injury, or any damage to any property which may arise or which may be alleged to have arisen out of or in connection with the work covered by the franchise and performed or caused to be performed.

(f) All insurance policies provided under the provisions of this chapter or the franchise shall be written by companies authorized to do business in the state and approved by the state:

(g) The city will be named as an additional insured on all general liability policies issued to the grantee.

(h) To offset the effects of inflation and to reflect changing liability limits, all of the coverages, limits and amounts of the insurance provided for herein are subject to reasonable increases at the end of every three-year period of the franchise, applicable to the next three-year period at the sole discretion of the city.

(i) The grantee shall maintain, and by its acceptance of any franchise granted hereunder, specifically agrees that it will maintain throughout the term of the franchise general liability insurance insuring the grantee in the minimum of:

  (1) $1,000,000.00 for property damage per occurrence;

  (2) $2,000,000.00 for property damage aggregate;

  (3) $5,000,000.00 for personal bodily injury or death to any one (1) person; and

  (4) $10,000,000.00 bodily injury or death aggregate per single accident or occurrence.

(j) Such general liability insurance must include coverage for all of the following: comprehensive form, premises, operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage and personal injury.

(k) The grantee shall maintain, and by its acceptance of any franchise granted hereunder, specifically agrees that it will maintain throughout the term of the franchise automobile liability insurance for owned, non-owned or rented vehicles in the minimum amount of:

  (1) $1,000,000.00 for bodily injury and consequent death per occurrence;

  (2) $1,000,000.00 for bodily injury and consequent death to any one (1) person; and

  (3) $500,000.00 for property damage per occurrence.

(l) The grantee shall maintain, and by its acceptance of any franchise granted hereunder specifically agrees that it will maintain throughout the term of the franchise, worker's compensation and employer's liability valid in the state in the minimum amount of:

  (1) Statutory limit for worker's compensation; and

  (2) $100,000.00 for employer's liability.

(m) None of the provisions of this chapter or any insurance policy required herein, or any damages recovered by the city hereunder, shall be construed to excuse the faithful performance by or limit the liability of grantee under this chapter or the franchise for damages either to the limits of such policies or otherwise.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-164. - Indemnification.

(a) To the fullest extent permitted by law, grantee shall, at its sole cost and expense, fully indemnify, defend and hold harmless the city, its officers, public officials, boards and commissions, agents and employees from and against any and all lawsuits, claims (including, without limitation, worker's compensation claims against the city or others), causes of action, actions, liability and judgments for injury or damages (including, but not limited to,

expenses for reasonable legal fees and disbursements assumed by the city in connection therewith):

(1) To persons or property in any way arising out of or through the acts or omissions of grantee, its subcontractors, agents or employees, to which grantee's negligence shall in any way contribute and regardless of whether the city's negligence or the negligence of any other party shall have contributed to such claim, cause of action, judgment, injury or damage.

(2) Arising out of any claim for invasion of the right of privacy, for defamation of any person, firm or corporation or the violation or infringement of any copyright, trademark, trade name, service mark or patent, or any other right of any person, firm or corporation.

(3) Arising out of grantee's failure to comply with the provisions of any federal, state or local statute, ordinances, chapters or regulation applicable to grantee in its business hereunder.

(b) The foregoing indemnity is conditioned upon the following:

The city shall give grantee notice of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the city from cooperating with the grantee and participating in the defense of any litigation by its own counsel at its own cost and expense. No recovery by the city of any sum by reason of the liquidated damages required by the franchise shall be subject to litigation by the grantee, except that any sum so received by the city shall be deducted from any recovery which the city might have against the grantee under the terms of this section.

(Ord. No. 315, § 1, 10-12-99)

Secs. 5-165—5-170. - Reserved.

ARTICLE X. - RENEWAL OF FRANCHISE FOR MEDIA ONE OF MICHIGAN, INC.

Sec. 5-171. - Renewal of franchise for Media One of Michigan, Inc.

The city hereby renews, for a period of fifteen (15) years, the revocable, nonexclusive, franchise of Media One of Michigan, Inc., for the construction and operation of a cable system in the City of Bloomfield Hills, said franchise being renewed subject to all of the terms and provisions of this chapter and the franchise agreement between the City of Bloomfield Hills and Media One of Michigan, Inc., which franchise agreement is hereby approved by the city.

(Ord. No. 315, § 1, 10-12-99)

Sec. 5-172. - Franchise agreement on file with city clerk.

The city clerk shall maintain a copy of the franchise agreement between the City of Bloomfield Hills and Media One of Michigan, Inc., for inspection and distribution to the public upon request during regular business hours.

(Ord. No. 315, § 1, 10-12-99)

Chapter 6 - FIRE PREVENTION AND PROTECTION

> *Footnotes:*
> *--- **(1)** ---*
> ***Cross reference—** Buildings and building regulations, Ch. 4; false alarms or reports, § 11-22; self-service retail filling stations, Ch. 15; fire control for self-service retail filling stations, § 15-6; fire hydrants, § 21-30.*
> ***State Law reference—** State fire prevention act, MCL 29.1 et seq.; crimes related to explosives and bombs, MCL 750.200 et seq.; crimes related to fires, MCL 750.240 et seq.*

ARTICLE I. - IN GENERAL

Sec. 6-1. - Injury to fire equipment.

No person shall wilfully molest, take for his own private use, or damage in any manner, any fire-fighting equipment or apparatus or anything pertaining to the fire-fighting equipment or apparatus or anything pertaining to the fire-fighting system, or drive any vehicle upon or against any hose or equipment of the public safety department.

(Code 1971, § 9.121)

Cross reference— Destroying, removing, etc., public property, § 11-63.

State Law reference— Destruction of fire department property, MCL 750.377b.

Sec. 6-2. - Obstruction of fire hydrants.

No person shall place any obstruction whatever nor shall any person responsible for such obstruction permit it to remain within fifteen (15) feet of any fire hydrant.

(Code 1971, § 9.122)

Sec. 6-3. - Inspection of premises, buildings, etc.

The director of public safety is hereby empowered to enter at any and all reasonable times upon and into any premises, building or structure for the purpose of examining and inspecting the same, to ascertain the conditions thereof with regard to fire hazards and the condition, size, arrangement and efficiency of any and all appliances for fire fighting. The director of public safety is hereby empowered to appoint members of the regular personnel of the public safety department to make the inspection provided for in this section, who shall report in writing the results of the inspection to the director of public safety and who are hereby empowered to make such written orders for the correction of any hazard or deficiency in fire-fighting appliances as the director of public safety is authorized to make. Every order made by the director of public safety or by authorized members of the public safety department shall be promptly obeyed and complied with.

(Code 1971, § 9.124)

Sec. 6-4. - Accumulations of wastepaper, ashes, etc.

No person owning or being responsible for any premises shall permit any wastepaper, ashes, oil, rags, waste rags, excelsior or any material of a similar nature to accumulate thereon, unless contained in fireproof receptacles.

(Code 1971, § 9.125)

Sec. 6-5. - Fire exits.

The following rules relative to passageways, stairs and fire exits shall be applicable to all public buildings, places of assembly, commercial and business buildings, hotels, apartment buildings, lodging houses, tourist homes and all other buildings except private dwellings and except as otherwise expressly limited in this section to a particular type of building:

(1) No fire escape, stairway, balcony or ladder on any building shall be obstructed, out of repair, or maintained in a hazardous condition. Doors and windows leading to any fire escape shall open easily from the inside.

(2) No combustible material shall be stored, placed or kept under or upon any passageway, stairs or elevator shaft, nor shall any such material be stored, placed or kept in any other part of any building in such a position as to obstruct or render hazardous egress therefrom.

(3) All doors, hallways and stairways shall be unobstructed at all times.

(4) In all theaters, churches, schools and other places of public assembly no door, aisle or passageway shall be obstructed with any furniture or article; nor shall any person sit or stand or be permitted to sit or stand in any aisle or in any exit or passageway; and all exits and the sidewalks leading therefrom shall be unobstructed while such places of public assembly are in use.

(5) No person shall do any act which causes any violation of any of the rules set forth in this section, nor shall any person owning any building or in charge thereof as agent, employee or otherwise permit any of such rules to be violated.

(Code 1971, § 9.126)

Sec. 6-6. - Open burning.

(a) The city commission has determined that certain open burning on residential property, including the open burning of waste material, refuse, trash, garbage, construction materials, paper, leaves, brush, grass clippings and yard waste can have a detrimental impact on the environment, can be a health hazard and can potentially cause damage to residences and/or properties in the city and it is the purpose of this section to regulate open burning in residential areas of the city to promote the public health, safety and welfare of the city and its residents.

(b) The open burning and/or open incineration of waste material, refuse, trash, garbage, construction materials, paper, leaves, brush, grass clippings, yard waste and other combustible debris, outside of a building or structure is prohibited in all residential areas of the city.

(c) Outdoor burning of wood in a wood-burning unit is permitted in all residential areas in the city provided the requirements of items (1)—(6) set forth below are complied with. "Outdoor burning" shall mean the burning in a wood-burning unit. "Wood-burning unit" shall mean a permanent and fixed outdoor fireplace, a permanent and fixed fire pit having sides, chiminea, patio warmer, portable fire pit or other portable wood-burning device used for outdoor recreation and/or heating, which wood-burning unit shall be constructed of steel, metal, concrete, clay, masonry, rock, brick or other non-combustible material. Outdoor burning of wood in a wood-burning unit shall be conducted in accordance with all of the following requirements:

(1) The wood-burning unit shall burn only dry and seasoned firewood or dry and seasoned kindling, the length of which firewood and/or kindling shall not exceed four (4) feet.

(2) The wood-burning unit shall be located at least fifteen (15) feet from the nearest structure or building.

(3) Fires in wood-burning units shall be supervised by at least one (1) person who is eighteen (18) years of age or older.

(4) There shall be a garden hose connected to a reliable water source or a fully functional fire extinguisher located within twenty (20) feet of the wood-burning unit.

(5) Outdoor burning shall only be allowed for an eight-hour period for each occasion of outdoor burning and at the end of each occasion of outdoor burning, the fire shall be completely extinguished, with no smoldering ashes and/or other smoldering items remaining.

(6) The burning space in a wood burning unit shall not exceed any of the following:

a. Four (4) feet in diameter;

b. Four (4) feet in width;

c. Four (4) feet in length.

(d) The prohibition of open burning in this section 6-6 does not apply to grilling or cooking food using charcoal cookers, propane or natural gas in cooking appliances, barbecue grills, braziers, hibachis, outdoor ovens, outdoor fireplaces or gas-fired stoves and similar semi-enclosed devices on the premises of a one-family dwelling.

(e) Any person who violates any provision of this section shall be deemed responsible for a municipal civil infraction punishable by a civil fine of two hundred dollars ($200.00). A person who violates any provision of this seection for a second time or any additional time thereafter shall be deemed responsible for a municipal civil infraction punishable by a civil fine of five hundred dollars ($500.00).

(f) To the extent that this section 6-6 is in conflict with any provision of the International Fire Code pertaining to open burning, this section 6-6 shall control and govern.

(Code 1971, § 9.127; Ord. No. 451 , § 1, 6-14-22 ; Ord. No. 455 , § 1, 12-13-22)

Sec. 6-7. - Nuisance prohibited.

It shall be a nuisance and unlawful for any person to burn or allow to be burned, at any time or place any materials of any kind which exclude [exude] obnoxious odors, or when such fire emits sparks or burning embers upon adjoining, adjacent, neighboring or nearby premises.

(Code 1971, § 9.128)

Sec. 6-8. - Burning of woodlands, grasslands etc.

It shall be unlawful for any person to set fire to any woodlands, grasslands, brush or slash within the city without first obtaining a written permit from the director of public safety, and without first providing some competent person or persons to be constantly in charge of such fire to prevent the spreading thereof. Such permit shall be given whenever such fire can be safely burned, having regard to public safety and the protection of wild life in the area and shall contain such reasonable conditions and restrictions as the director of public safety shall prescribe. It shall be unlawful for any person to wilfully, negligently or carelessly set on fire or cause to be set on fire any woods, grasslands or other combustible material within the city by reason whereof the person or property of another is injured or endangered.

(Code 1971, § 9.129)

Sec. 6-9. - Starting fires by smoking.

It shall be unlawful for any person in smoking or attempting to light or to smoke a cigarette, cigar or pipe, to set fire to any bed, bedding, furniture, curtains or draperies in any hotel, motel, lodging house or tourist home in the city.

(Code 1971, § 9.130)

Secs. 6-10—6-20. - Reserved.

ARTICLE II. - INTERNATIONAL FIRE CODE

Footnotes:

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Editor's note— *Section 2 of Ord. No. 341, adopted Sept. 14, 2004, amended Art. II, in its entirety to read as herein set out. Former Art. II, §§ 6-21, 6-22, pertained to similar subject matter and derived from § 9.133 of the 1971 Code; Ord. No. 215, adopted Oct. 11, 1988; Ord. No. 236, adopted May 8, 1990; Ord. No. 276, adopted Nov. 9, 1993; Ord. No. 291, adopted Nov. 12, 1996; and Ord. No. 321, adopted Nov. 9, 1999; Ord. No. 325, adopted June 13, 2000; and Ord. No. 327, adopted July 11, 2000.*

Sec. 6-21. - Adoption of the 2012 International Fire Code by reference.

The 2012 edition of the International Fire Code, including Appendix A, Appendix B, Appendix C and Appendix D, is hereby adopted and incorporated by reference by the City of Bloomfield Hills as the fire code for the City of Bloomfield Hills, for the purpose and intent of regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore, and each and all of the regulations, provisions, penalties, conditions and terms of said fire code on file in the office of the Bloomfield Hills City Clerk are hereby referred to, adopted and made a part hereof, as if fully set out in this article with the additions, insertions, deletions and changes, if any, prescribed in section 6-22 and 6-23 of this article.

(Ord. 341, § 1, 9-14-04; Ord. No. 395, § 1, 9-13-11; Ord. 418 , § 1, 12-9-14)

State Law reference— Authority to adopt technical codes by reference, MCL 117.3(k).

Sec. 6-22. - Changes in the International Fire Code.

The following sections and/or subsections of the International Fire Code, 2012 Edition, are hereby amended or deleted as set forth with the section numbers indicated below to refer to the like numbered sections of the International Fire Code, 2012 Edition:

Section 101.1 Insert "City of Bloomfield Hills."

Section 109.4 Insert "misdemeanor" and "$500 and/or 90 days in jail."

Section 111.4 Insert "$250 or more than $500."

Section 5003.3.1.4 Responsibility for cleanup.

The person, firm or corporation responsible for an unauthorized discharge shall institute and complete all actions necessary to remedy the effects of such unauthorized discharge, whether sudden or gradual, at no cost to the jurisdiction. When deemed necessary by the *fire code official,* cleanup may be initiated by the fire department or by an authorized individual or firm. Costs associated with such cleanup shall be borne by the *owner,* operator or other person responsible for the unauthorized discharge. The liability for and recovery of costs of the cleanup shall be governed by the Michigan Natural Resources and Environmental Protection Act (MCL 324.20101, et seq.) or any other law that preempts the cost recovery provisions of this Chapter, and the City may pursue collection of such costs of the cleanup in a civil action, pursuant to said laws.

(Ord. 341, § 1, 9-14-04; Ord. No. 378, § 1, 9-8-09; Ord. No. 395, § 1, 9-13-11; Ord. 418 , § 1, 12-9-14)

Sec. 6-23. - Geographic limits.

The geographic limits referred to in the following sections of the International Fire Code, 2012 Edition, are hereby established as follows:

Section 5704.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited): Refer to Michigan Department of Environmental Quality Storage and Handling of Flammable and Combustible Liquids Code.

Section 5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited): Refer to Michigan Department of Environmental Quality Storage and Handling of Flammable and Combustible Liquids Code.

Section 5806.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas): Refer to Michigan Department of Environmental Quality Storage and Handling of Liquefied Petroleum Gas Code.

Section 6104.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas: Refer to Michigan Department of Environmental Quality Storage and Handling of Liquefied Petroleum Gas Code.

(Ord. No. 341, § 1, 9-14-04; Ord. No. 395, § 1, 9-13-11; Ord. 418 , § 1, 12-9-14)

Sec. 6-24. - Code on file.

One (1) complete printed copy of the International Fire Code, 2012 Edition, herein adopted is available for public use and inspection at the office of the Bloomfield Hills City Clerk.

(Ord. No. 341, § 1, 9-14-04; Ord. No. 395, § 1, 9-13-11; Ord. No. 418 , § 1, 12-9-14)

Chapter 6.5 - EMERGENCY SERVICES

ARTICLE I. - COST RECOVERY FOR EMERGENCY POLICE AND FIRE SERVICES

Sec. 6.5-1. - Purpose.

In order to protect the city from extraordinary expenses resulting from the utilization of city resources in response to certain public safety incidents requiring, this article authorizes the imposition of charges to be assessed to responsible parties to recover actual costs incurred by the city in responding to such incidents.

(Ord. No. 354, § 1, 8-15-06)

Sec. 6.5-2. - Definitions.

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

Assessable costs mean those costs for services incurred by the city in connection with a response to a public safety incident, including, but not limited to:

(a) All labor costs (including wages, salaries, fringe benefits, and reimbursable expenses) of all personnel responding to the incident and all personnel engaged in the investigation, supervision and report preparation relating to the incident;

(b) All costs for materials, supplies, and equipment utilized or damaged in connection with a public safety incident;

(c) All costs for the repair or replacement of publicly owned property (real and personal property), buildings, facilities and infrastructure (such as utilities, roads, sidewalks, safety paths and other infrastructure and public improvements) damaged or destroyed in connection with or as a direct or indirect result of a public safety incident;

(d) Investigation of a public safety incident and firefighting, emergency services, extinguishment, cleaning up, inspecting, testing, abating, mitigating, restoring and crowd control at the site of a public safety incident;

(e) All costs for labor and services for which the city had to contract in connection with or as a direct or indirect result of a public safety incident;

(f) Service charges and interest; attorneys' fees, litigation costs and any costs, charges, fines or penalties to the city imposed by any court or state or federal governmental entities; and

(g) Any other expenses incurred by the city, and by any other governmental or intergovernmental entity providing services at the request or direction of the city's public safety department in connection with or as a direct or indirect result of a public safety incident.

Bomb threat means the verbal or written threat of a bomb or other explosive device which, if discharged as threatened, would violate a federal, state or local law.

Collapse at building or excavation site means any incident which requires public safety, police or fire rescue and/or recovery to respond to a building or excavation site for search and rescue or recovery operations to rescue or recover a person or persons trapped due to a building collapse or explosion, or collapse or cave-in of an underground excavation site or trench.

Emergency assistance means emergency medical, public safety, police, fire and civil defense services.

Excessive requests for emergency assistance means any request for emergency assistance made to a particular location or premises if such location or premises has requested emergency assistance more than five (5) times in the preceding thirty (30) days.

False report of a crime means intentionally making a false report of the commission of a crime, or intentionally causing a false report of the commission of a crime to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor, or employee of a contractor who is authorized to receive reports of a crime, knowing the report is false.

Hazardous material incident or emergency means an incident involving any chemical, substance, compound, mixture, or other material defined as, designated as, listed as, or having the same characteristics as any substance, compound, mixture or material listed as hazardous under the fire code adopted under this chapter, any other code adopted or enforced by the city, or any federal or state law or regulation.

Illegal fire means a fire set or determined to have been set in violation of a federal, state or local law and shall include an arson fire and a fire set in violation of a "no burning" ban or order. An illegal fire does not include an unintentional fire or fire caused by an act of God, i.e., a lightning storm; or by unexpected defects, such as faulty electrical wiring or building materials.

Motor vehicle means any self-propelled or towed vehicle designed for or used on the public streets, roads and highways to transport passengers or property, which is required to be registered for use upon such public streets, roads and highways and for the purposes hereof all trailers or appurtenances attached to any motor vehicle.

Public safety incident means an incident involving police, fire or medical services, including, but not limited to, the following:

(a) Excessive requests for emergency assistance;

(b) A hazardous material incident or emergency;

(c) An illegal fire;

(d) A bomb threat;

(e) A threat of harm to oneself or others;

(f) A utility line failure;

(g) A collapse at a building or excavation site; or

(h) False report of a crime.

Responsible party means:

(a) The owner, lessor and operator of any property to which there is a public safety incident;

(b) Any person or vehicle owner/lessee who owns, leases and/or operates a motor vehicle, other transporter or equipment of any kind, the operation of which results in a public safety incident;

(c) Any person owning, maintaining or operating a railroad, the operation of which results in a public safety incident;

(d) Any person obstructing, removing, tampering with or otherwise damaging any fire hydrant or city fire appliance;

(e) Any person who is responsible for or whose actions are a cause of a public safety incident giving rise to a need for an emergency response by public safety personnel;

(f) In the event of a utility emergency, the public utility whose activities or facilities (including, but not limited to, electric lines, telephone lines, cable lines and pipe lines) necessitated the public safety incident; and/or

(g) If more than one (1) person is liable for the expense of a public safety incident under the foregoing provisions, all such persons shall be jointly and severally liable for the cost.

Threats of harm to oneself or others mean the verbal or written threat of physical harm to oneself or another or another's property, which, if carried out, would be a violation of federal, state or local law.

Utility line failure means the disabling of any transmission or service line, cable, conduit, pipeline, wire or the like used to provide, collect or transport electricity, natural gas, communication or electronic signals (including, but not limited to, telephone, computer, cable television and stereo signals or electronic impulses), water or sanitary or storm sewage if the owner or party responsible for the maintenance of such utility line does not respond within one (1) hour to a request to repair or correct such failure.

(Ord. No. 354, § 1, 8-15-06; Ord. No. 379, § 1, 9-8-09)

Sec. 6.5-3. - Cost recovery authorization and procedure.

(a) The city may recover all assessable costs in connection with a public safety incident from any or all responsible parties jointly or severally.

(b) The city manager or his or her designee shall determine the total assessable costs and shall, in consultation with other city personnel involved in responding to a public safety incident, determine whether to assess any, all or part of such costs against any of the responsible parties. In making such determination, the following shall be considered:

(1) The total assessable costs incurred by the city;

(2) The risk the public safety incident imposed on the city, its residents and their property;

(3) Whether there was any injury or damage to person or property;

(4) Whether the public safety incident required evacuation;

(5) The extent the public safety incident required an unusual or extraordinary use of city personnel and equipment, and

(6) Whether there was any damage to the environment.

(c) After consideration of the factors in subsection (b), immediately above, the city manager may allocate assessable costs among and between responsible parties, including allocating all or some of such costs jointly and severally against more than one (1) responsible party regardless of whether a responsible party has other legal liability therefor or is legally at fault.

(d) If the city manager determines not to assess all or a pan of assessable costs against a responsible party, such determination shall not in any way limit or extinguish the liability of the responsible party to other parties.

(e) In the event of a public safety incident that involves a hazardous materials incident, to the extent the Michigan Natural Resources and Environmental Protection Act (being MCL 324.20101, et seq.) or any other law preempts the cost recovery provisions of this chapter, the liability for and recovery of costs of the public safety incident shall be governed by the Michigan Natural Resources and Environmental Protection Act or such other law, and the city may pursue collection of such costs of the public safety incident in a civil action, pursuant to said laws.

(Ord. No. 354, § 1, 8-15-06; Ord. No. 379, § 2, 9-8-09)

Sec. 6.5-4. - Billing and collection of assessable costs.

Except for a hazardous materials incident governed by the procedures set forth in the Michigan Natural Resources and Environmental Protection Act, after determining to assess assessable costs against a responsible party, the city treasurer shall mail an itemized invoice to the responsible party at its last known address. Such invoice shall be due and payable within thirty (30) days of the date of mailing and any amounts unpaid after such date shall bear a late payment fee equal to one (1) percent per month or fraction thereof that the amount due and any previously imposed late payment fee remains unpaid. If a responsible party shall appeal assessable costs, pursuant to section 6.5-5 hereof, such costs, if upheld, in whole or in part, shall be due and payable thirty (30) days from the date of determination of the appeal and any late payment fees shall apply thereafter.

(Ord. 354, § 1, 8-15-06; Ord. No. 379, § 3, 9-8-09)

Sec. 6.5-5. - Reserved.

Editor's note— Ord. No. 379, adopted Sept. 8, 2009, repealed § 6.5-5, which pertained to procedures for appealing assessable costs and derived from Ord. No. 354, adopted Aug. 15, 2006.

(Ord. No. 354, § 1, 8-15-06)

Sec. 6.5-6. - Assessable costs a lien upon property.

Assessable costs assessed against a responsible party not paid when due, including late payment fees, shall constitute a lien upon the real property of the responsible party in the city, from which, upon which or related to which the public safety incident occurred. Such lien shall be of the same character and effect as the lien created by City Charter for city real property taxes and shall include accrued interest and penalties. The city treasurer shall, prior to December 31 of each

year, certify to the city assessor the fact that such assessable costs are delinquent and unpaid. The city assessor shall then enter the delinquent amount on the next general ad valorem tax roll as a charge against the affected property, and the lien thereon shall be enforced in the same manner as provided and allowed by law for delinquent and unpaid real property taxes.

(Ord. No. 354, § 1, 8-15-06)

Sec. 6.5-7. - Other remedies.

In addition to the remedy set forth in section 6.5-7 above, the city shall be entitled to pursue any other remedy or may institute any appropriate action or proceeding in a court of competent jurisdiction as permitted by law to collect assessable costs from a responsible party.

(Ord. No. 354, § 1, 8-15-06)

Sec. 6.5-8. - No limitation of liability.

The recovery of assessable costs pursuant hereto does not limit the liability of a responsible party under applicable local, state or federal law.

(Ord. No. 354, § 1, 8-15-06)

Chapter 7.5 - GRADING

> *Footnotes:*
> *--- (1) ---*
> ***Editor's note—*** *Section 1 of Ord. No. 368, adopted Jan. 8, 2008, amended Ch. 7.5 in its entirety to read as herein set out. Former Ch. 7.5, §§ 7.5-1—7.5-7, pertained to the same subject matter and derived from Ord. No. 343, adopted May 10, 2005.*
> ***Cross reference—*** *Soil removal, Ch. 17; subdivision of land, Ch. 19.*

Sec. 7.5-0. - Purpose and intent.

The purpose and intent of this chapter is to regulate grading and grading related activities in the city, in order to:

(a) Maintain community character by not drastically altering existing topography and terrain through the final landscaping of properties located in the City of Bloomfield Hills;

(b) Generally prohibit mass grading;

(c) Ensure that residences and improvements are designed and constructed to fit their respective lots and sites, and to

(d) Ensure that development does not adversely impact drainage.

(Ord. No. 432 , § 1, 7-10-18)

Sec. 7.5-1. - Requirements.

(a) Detailed grading plans, as required in this chapter, shall be submitted to and approved by the city prior to any construction, grading, or other earth moving activity for the following improvements:

(1) New single-family construction or modifications of an existing structure of more than one (1) room on the at-grade floor and/or any building addition greater than six hundred (600) square feet on the at-grade floor.

(2) Multiple-family, commercial, or site condominium construction.

(3) Road and driveway construction on private property.

(4) Grading or filling, i.e. alteration of existing topography.

(5) Construction of landscape berms.

(6) The construction of any accessory structure as defined in the zoning ordinance.

(7) Any development or site construction requiring site plan approval from the city planning commission or as directed by the city manager, building official or engineer.

(b) The city may administratively waive the requirements to submit a detailed grading plan if it is determined the improvements are minor, in that the grade change is not more than three (3) feet, do not affect grading or drainage, or are otherwise in keeping with the existing site topography.

(c) For all improvements listed in subsection (a), above, a building permit shall not be issued until a grading plan has been submitted and approved by the city.

(d) In all new developments, where public utilities and other underground improvements are proposed, a master grading plan, i.e. a grading plan for the project which includes the building site in question as well as other building sites and improvements, shall be submitted along with the engineering drawings for the project. These drawings must be reviewed and approved by the city prior to any grading of the site.

(e)

All property disturbances regulated under this section shall be in conformance with the approved grading plan, unless deviations have been expressly approved by the city.

(Ord. No. 368, § 1, 1-8-08)

Sec. 7.5-2. - General grading requirements.

The following general grading requirements shall be applied in the design of the site grading plan:

(1) Applicants shall endeavor to design improvements that fit and respect the existing site conditions including drainage, topography, water features, natural features, wetlands, woodlands, landmark trees, adjacent properties, etc.

(2) For single-family homes, filling or cutting for the construction of the home and surrounding improvements shall be limited to two (2) feet from existing grades, unless otherwise permitted by the city, taking into account current site topography and drainage, elevations of surrounding properties, necessity, and purpose of the fill. Filling/cutting for the sake of curb appeal, forcing walkouts or garden view basement windows, or to avoid additional steps between the house and garage, front walk, rear patio, etc. will not be permitted.

(3) Drainage shall be adequately discharged off site with proper and appropriate protection for affected downstream properties including:

a. Single-family homes shall outlet drainage to the drainage outlet utilized prior to construction. This may require splitting flows on the property to drain to the front and rear yards as existed prior to construction.

b. Multiple-family, site condominium, commercial, or any other development requiring site plan approval shall provide detention or retention for the increase in stormwater runoff based on the current Oakland County Drain Commissioner method for a ten-year storm event or two (2) 100-year storm events respectively.

c. Additional stormwater management requirements affecting outlet volume, rate, or water quality may be required by the city.

(4) No upstream drainage shall be restricted or the existing pass through drainage characteristics altered.

(5) In general the developed portion of the site shall drain without standing water, unless specifically designed for retention and/or detention.

(6) Proposed grading shall meet abutting property line elevations; provided, a deviation to this requirement may be granted by the city in cases of unique characteristics on the site which would require special treatment.

(7) All sump pumps, roof conductors, gutters, and downspouts that do not discharge to an established wetland or surface watercourse must be directly connected to a storm drain. Where none of these outlets are available, these may discharge to grade near the home, but no closer than twenty-five (25) feet from the nearest property line. Water shall not drain onto neighboring property. Any existing sump pumps found to be connected to the sanitary or combined sewer shall be required to be disconnected and properly discharged as a condition of grading plan approval. Downspouts are not permitted to connect to the footing drains or sump pump system.

(8) The proposed side yard swale elevation between all houses or structures must be a minimum of one and one-half (1½) feet below the adjacent building or structure grade.

(9) Where topography prevents rear yard drainage from being practical, as determined by the city, rear-to-front drainage may drain only the specific lot in question unless specifically approved by the city. A lot shall not be graded so as to permit drainage across such lots from adjacent properties. Lots with rear to front drainage shall have swales shown around each building or structure of adequate size and depth to protect the structure.

(10) The use of dry laid retaining walls shall be permitted providing the grade differential meets the criteria herein. Walls shall be no higher than three (3) feet unless otherwise approved by the city.

(11) Patios shall be a minimum of six (6) inches higher than surrounding grades. The use of sunken walkout patios (i.e. patios requiring steps down from the surrounding grade) shall be prohibited.

(12) The city reserves the right to require the applicant to provide public easements over any existing or proposed public utilities (i.e. water main or sanitary sewer), public roads, or private drainage courses or storm sewers that do not show in the records that easements were previously recorded, as a condition of grading plan approval.

(13) Improvements to properties currently served by on-site sewage disposal systems (septic systems) shall be required to connect to the municipal system, if reasonably available, as a condition of grading plan approval. This shall include obtaining any and all necessary permits and approvals.

(14) It is acknowledged that the grading ordinance and zoning ordinance are interrelated as far as building heights, grading, and setbacks are concerned. Any revisions required by the city engineer or planner may impact the grading plan or site plan showing building heights or setbacks. The building department shall not release the building permit until such time as the submitted plan(s) meets the approval of all departments concurrently.

(Ord. No. 368, § 1, 1-8-08)

Sec. 7.5-3. - Specifications of grading plans.

A grading plan shall be prepared by a licensed, registered civil engineer, surveyor or landscape architect, signed and sealed, and shall conform with the following minimum requirements, with the final sufficiency of such plan to be determined by the city:

(1) The plan shall be submitted on 24" x 36" sheet paper.

(2) A scale of not less than one inch equals fifty feet (1" = 50'). Scales of one inch equals twenty feet (1" = 20') are preferred.

(3) Date, north arrow, scale and location map shall be shown on all sheets.

(4) The name, address and telephone number of the owner and the engineer responsible for the preparation of the grading plan.

(5) Benchmark description and location used for the development, based on United States Geological Survey datum.

(6) A legal description of the property and a statement affirming that the property has been surveyed and the boundary corners of the property have been properly located and marked.

(7) The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties.

(8) The location and widths of right-of-way of all abutting streets, and any driveway locations across abutting public streets.

(9) All required zoning setbacks shown and properly labeled.

(10) The location of all existing and proposed structures on the subject property and all existing structures within fifty (50) feet of the subject property with tie dimensions to the nearest property lines.

(11) The location and elevations of all existing and proposed drives, parking areas, fences, landscape walls, retaining walls, pools, patios, decks, wetlands, ponds, streams, woodlots, floodplains, sidewalks, signs, lighting, and easements on the property. Appropriate notation and dimensions shall be clearly labeled.

(12) Any existing features to be removed or demolished shall be properly noted.

(13) Existing and proposed ground elevations to the nearest tenth (1/10) of a foot, on the site on a twenty-five-foot by twenty-five-foot grid or by contours at one-foot intervals or other such topographic information satisfactory to the city engineer. Include existing ground elevations on adjacent land within fifty (50) feet of the subject property and existing building, drive and parking lot elevations, and elevations of any adjacent unusual surface conditions. Proposed grading shall be limited to the area necessary for the construction of the structure and related utility and drainage improvements. Mass grading a site will generally not be allowed. Lots shall be graded so as to direct surface runoff away from the structure. Typically, six (6) inches of fall away from the structure is required within the first ten (10) feet.

(14) Elevation data, to the tenth (1/10) of a foot, on the following must be clearly noted on the plans:

a. Existing finished floor, finished grade, brick ledge, walkout or conventional basement floor, garage elevations for any existing structures to remain, or for the primary structure to be removed.

b. Proposed finished floor elevation of all new structures. This elevation should be set within two (2) feet of the existing structure or existing grade in that location. At no time shall the proposed finished first floor exceed the average finished floor elevation from the immediate adjacent homes or buildings, except in circumstances where the existing home was at the highest/lowest elevation on the street.

c. Proposed brick ledge elevations around the footprint of the proposed structure. At minimum this shall include the structure corners and any changes in elevation of greater than one (1) foot.

d. Proposed basement or walkout finished grades. Walkout elevations should be set within two (2) feet of the existing structure or existing grade in that location.

e. Proposed garage floor finished elevation at the garage door.

f. Proposed finished grades around the structure. This shall generally be within six (6) inches of the brick ledge elevation.

(15) The proposed method of drainage including swale elevations and slopes or storm sewer sizes, lengths, slopes, inverts, structure finished grades and materials.

(16) General direction of the overland yard drainage indicated with arrows.

(17) The location, top and bottom finished grades and cross section (detail) of all existing and proposed retaining or landscaping walls.

(18) All detention or retention required and proposed volumetric calculations.

(19) The location of all existing and proposed utility leads (water, sanitary, sump pump, downspouts) including size, material and connection location and any public utilities such as gas, electric, cable, telephone, etc.

(20) Existing and/or proposed easements over utilities, drainage courses, roads, drives, etc.

(21) The location, type, and provisions for the installation and maintenance of proper on-site soil erosion control measures.

(22) Additional grades shown under special conditions as required by the city.

(23) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of the chapter are being observed.

(Ord. No. 368, § 1, 1-8-08)

Sec. 7.5-4. - Foundation certificate.

After placement of the foundation and prior to backfilling, a written certification from a licensed, registered surveyor or engineer, shall be submitted to the city and shall include:

(1) A general statement that that the proposed first floor, basement floor, walkout, garage floor, and brick ledge elevations and horizontal placement of the foundation are properly set and conform to the approved grading plan.

(2)

An interim as-built grading plan may be required showing the vertical and horizontal placement of the foundation for the house. This plan shall clearly show:

a. First floor elevation.

b. The basement elevation.

c. Any walkout basement areas and elevations.

d. The brick ledge elevations.

e. Offset dimensions and the appropriate setbacks.

f. The footprint of the house.

g. Any proposed changes.

No rough framing shall be placed without receipt of such approval of such certification by the city.

(Ord. No. 368, § 1, 1-8-08)

Sec. 7.5-5. - Progress reviews.

The city reserves the right to inspect the premises at any point to determine if the project is proceeding in accordance with the approved plans and the provisions of this chapter. If it is determined that the project has deviated from the approved plans, the city may enforce a stop work order. Any substantial deviations from the approved plans as determined by the city shall require (1) modifications to the premises to bring the project into compliance with approved plans, or (2) submittal of a revised grading plan meeting the requirements listed in section 7.5-3. The review and approval of the revised plan shall take place prior to continuing with the construction of the project. The stop work order may remain in effect until the applicant either complies with the approved plans or obtains approval of amended plans, and brings the project into compliance with amended plans. Note that should the deviation require approval from one or more of the city's boards or commissions, work may be stopped until such time as the plans are approved.

In the event of a failure to comply with this section, removal or modification of the structure may be required as determined by the city based upon a review of all applicable circumstances, including, without limitation, the cause and/or impact or the lack of conformance with the plans, as secured by bond or escrow.

(Ord. No. 368, § 1, 1-8-08)

Sec. 7.5-6. - Final grading approval.

(a) As-built plans shall be submitted to the city at least ten (10) business days prior to request for a final grading inspection and generally prior to final vegetative establishment. The as-built grading plan shall include all information as required for grading plan approval properly as-built including, but limited to, all proposed contours, floor elevations, brick ledge elevations, setbacks, lot corner elevations, drainage swales, storm sewers, berms, driveways, patios, finished floor and walkout elevations, etc. This data shall be marked "AS-BUILT." The as-built plans shall be accepted by the city prior to scheduling of a final grade inspection.

Upon completion of the work in accordance with the approved grading plan, the owner or developer shall request a final approval of the site. Upon receipt of this request, the city shall perform a final grading inspection. If all work has been completed in accordance with the approved plan, the city engineer shall notify the building department in writing. A certificate of occupancy shall not be issued without this written approval, unless final grading cannot be done due to seasonal weather conditions. In such case, a temporary certificate of occupancy may be issued, if determined appropriate by the city manager subject to deposit of an additional cash escrow in an amount to be established by the city manager to be filed with the city treasurer, for final grading inspection, to be released upon final grading inspection and approval by the city engineer. If all work has not been completed in accordance with the approved plan, the city engineer shall provide notice of specific revisions or site modification which must be made within the time frame required by the building permit as a condition to approval.

(b) The city will enforce the approved grading plan through the landscaping and final construction of the house. Patios, landscaping walls, garden beds, berms, etc., must be shown on the approved grading plan.

(Ord. No. 368, § 1, 1-8-08)

Sec 7.5-7. - Waivers.

The city reserves the right, through the city building official or the city manager, to waive one or more of the requirements herein providing the applicant submits a detailed explanation of why the requirement does not (a) apply in their certain circumstance, or (b) can not be met due to specific site or building conditions and the anticipated impacts are properly mitigated. In evaluating requested waivers, the city may consider preservation of existing conditions, impact to surrounding property owners, maintenance of drainage facilities, and overall site's conformance to the neighborhood prior to issuing a written waiver.

(Ord. No. 368, § 1, 1-8-08)

Sec. 7.5-8. - Fees.

A nonrefundable grading plan review fee in the amount to be established by resolution of the city commission shall be submitted with four (4) sets of grading plans when applying for a grading permit and for each substantial revision. In addition, a cash escrow in an amount to be established by resolution of the city commission shall be deposited with the city treasurer, to be released after final grade approval by the city.

(Ord. No. 368, § 1, 1-8-08)

Sec. 7.5-9. - Appeal.

In the event that the applicant is aggrieved by the recommendation of the city manager and/or the city engineer and/or the city building official in rejecting the applicant's grading plan, an appeal may be taken by the applicant to the planning commission whose decision shall be final. Appeals to the planning commission will require the posting of additional fees and/or escrow account as determined by resolution of the city commission.

The planning commission shall have the power and duty to hear, decide, and grant or deny the request for a grading permit where:

(a) The granting of the grading permit would not be materially detrimental to other property owners in the vicinity.

(b) Any unusual conditions applying to the specific property of the applicant do not apply generally to other properties in the city.

(c) The strict application of the provisions of the grading ordinance would cause undue and unnecessary hardship to the applicant because of unique or unusual conditions pertaining to the specific parcel of property in question and the granting of the grading permit will not be contrary to the general objectives of the grading ordinance.

In granting the grading permit, the planning commission may attach thereto such conditions as it may deem necessary to carry out the spirit and purpose of this chapter in the public interest.

(Ord. No. 368, § 1, 1-8-08; Ord. No. 432 , § 1, 7-10-18)

Chapter 8 - HOTELS

Sec. 8-1. - Definitions.

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

Accommodation shall mean any unit or combination of units set aside as a rental unit.

Hotel shall mean a dwelling, occupied as the more or less temporary abiding place of persons, in which the rooms are occupied for hire and in which rooms no provisions are made for cooking, and in which building there is a general kitchen and public dining room for the accommodation of its occupants.

Owner or *operator* includes the owner, manager, tenant, or any person owning or in charge of the hotel.

Unit shall mean a room or suite of rooms, in a hotel, occupied or designed for occupation for living or sleeping purposes.

(Code 1971, § 8.51)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 8-2. - Enforcement.

It shall be the duty of the director of public safety to enforce all provisions of this chapter or such provisions as may hereafter be enacted, and for the purpose of securing such enforcement the director and/or his duly authorized representatives shall have the right and are hereby empowered to enter upon any premises on which hotel units are located, or are about to be located, and inspect the same and all accommodations connected therewith at any reasonable time. The director is further empowered to issue orders granting, renewing and revoking such permits and licenses as are provided for in accordance with the provisions of this chapter.

(Code 1971, § 8.52)

Sec. 8-3. - License.

(a) *Required.* No person shall establish, operate or maintain, or permit to be established, operated or maintained upon any property owner or controlled by him, any hotel within the city without having first secured a license therefor. No such license shall be issued except on certification of the director of public safety.

(b) *Application.* The application for the license required by subsection (a) or the renewal thereof shall be filed with the director of public safety and shall be accompanied by a fee as provided in section 9-12 for each existing or proposed hotel unit. The application for a license or a renewal thereof shall be made on printed forms furnished by the director of public safety and shall include the name and address of the owner in fee of the tract (if the fee is vested in some person other than the applicant, a duly verified statement by that person that the applicant is authorized by him to construct or maintain the hotel and make the application), and such legal description of the premises upon which the hotel is or will be located as will readily identify and definitely locate the premises.

(c) *Inspection and approval of premises.* Before the license required by subsection (a) may be issued, the premises must be inspected and approved by the director of public safety or his duly authorized representative as complying with all the provisions of the code of the city.

(d) *Limitations.* Licenses issued pursuant to this section convey no right to erect any building, to do any plumbing work or to do any electrical work.

(e) *Transferability.* Licenses issued pursuant to this section shall not be transferable from one (1) person to another.

(Code 1971, § 8.53)

Cross reference— Licenses generally, Ch. 9.

Sec. 8-4. - Management.

(a) In every hotel there shall be an office in which shall be located the headquarters of the person in charge of the hotel. A copy of the hotel license and of this chapter shall be posted therein and the hotel register shall at all times be kept in the office.

(b) It is hereby made the duty of the attendant or person in charge, together with the licensee, to:

(1) Keep at all times a register of all guests (which shall be open at all times to inspection by state and federal officers and officers of the city showing for all guests:

a. Names and addresses of each guest for which accommodations are afforded;

b. Dates of arrival and departure;

c. License number, make and type of all guests' automobiles if any;

d. States issuing such automobile licenses.

(2) Maintain the hotel in a clean, orderly and sanitary condition at all times;

(3) See that the provisions of this chapter are complied with and enforced and report promptly to the proper authorities any violations of this chapter or any other violations of law which may come to his attention;

(4) Report to the health officer all cases of persons or their animals on the premises affected or suspected of being affected with any communicable disease;

(5) Prevent the running loose of dogs, cats, or other animals or pets on the premises;

(6) Maintain in convenient places approved by the director of public safety hand fire extinguishers in good operating condition;

(7) Prohibit the lighting of open fires on the premises;

(8) Prohibit the use of any hotel unit or suite by a greater number of occupants than that which it is designed to accommodate;

(9) Prohibit the use of any hotel unit or suite for the purpose of engaging in any commercial venture, operating any type of business, engaging in any retail and/or wholesale activity which requires the use of a hotel unit or suite as a salesroom and/or showroom.

(Code 1971, § 8.54; Ord. No. 161, 5-13-80)

Sec. 8-5. - Rates.

(a) It shall be unlawful for any owner or operator of a hotel to charge a price greater than the hotel's posted or advertised accommodations price, or as set out on the rate cards displayed in each unit.

(b) It shall be unlawful for any owner or operator of a hotel to advertise or to post any rates different than the rate signs displayed in each unit.

(c) It shall be unlawful for any owner or operator of a hotel to make an extra charge for the use of appliances or facilities such as air-conditioning, television, fans, radios, swimming pool, etc., unless such charge is clearly posted.

(Code 1971, § 8.55)

Sec. 8-6. - Inspections.

(a) The health officer shall inspect all hotels as often as request therefor shall be made, or whenever the health officer shall deem it necessary, and in any event, as often as once in each year. If after such inspection it is found by the health officer that a hotel is being conducted in an unclean or unsanitary manner or in violation of the code of the city as to the public health or safety, the health officer shall make a full report thereof to the director of public safety.

(b) The director of public safety shall inspect all hotels as often as he shall deem necessary and, in any event, at least once each year.

(Code 1971, § 8.56)

Chapter 9 - LICENSES AND BUSINESS REGULATIONS

> *Footnotes:*
> *--- (**1**) ---*
> ***Charter reference—*** *Licensing and regulatory powers, Ch. II, § 5.*
> ***Cross reference—*** *Administration, Ch. 2; finance, § 2-453 et seq.; licensing of electrical contractors and electricians, § 4-81 et seq.; licensing of plumbers, § 4-126 et seq.; license for hotels, § 8-3; license for in-home sales, § 14-26 et seq.; license for self-service retail filling stations, § 15-21 et seq.; business license for taxicabs, § 23-36 et seq.; driver's license for taxicabs, § 23-61 et seq.*
> ***State Law reference—*** *Determination of good moral character, MCL 338.41 et seq.*

ARTICLE I. - IN GENERAL

Sec. 9-1. - "Good moral character" defined.

(a) The phrase "good moral character," for the purposes of this Code, shall be construed to mean the propensity on the part 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 at the current time he has the ability to and is likely to serve the public in a fair, honest, and open manner, that he is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks to be licensed.

(c) The following criminal records shall not be used, examined or requested by the city in a determination of good moral character:

(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.

(d) When a person is found to be unqualified for a license because of a lack of good moral character, or similar criteria, the person shall be furnished by the city clerk with a statement to this effect. The statement shall contain a complete record of the evidence upon which the determination was based. The person shall be entitled, as of right, to a rehearing on the issue before the city clerk if he has relevant evidence not previously considered regarding his qualifications.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 9-2. - "Cause" defined.

The term "cause," as used in this chapter, shall include the making of fraudulent or false statements in the application and/or the doing or omitting of any act or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license or permit is granted under the provisions of this Code or upon any premises or facilities used in connection therewith, which act, omission or condition is:

(1) Contrary to the health, morals, safety or welfare of the public;

(2) Unlawful, irregular or fraudulent in nature;

(3) Unauthorized or beyond the scope of the license or permit granted; or

(4) Forbidden by the provisions of this Code or any duly established rule or regulation of the city applicable to the trade, profession, business or privilege for which the license or permit has been granted.

(Code 1971, § 7.16)

Sec. 9-3. - Required.

No person shall engage, or be engaged, in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license is required by any provision of this Code without first obtaining such license from the city in the manner provided for in this chapter.

(Code 1971, § 7.1)

Sec. 9-4. - Application.

Unless otherwise provided in this Code, every person required to obtain a license from the city to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall make application for the license to the city clerk upon forms provided by the city clerk and shall state under oath or affirmation such facts, as may be required for or applicable to the granting of such license.

(Code 1971, § 7.4)

Sec. 9-5. - License year, term.

Except as otherwise provided in this Code as to certain licenses, the license year shall begin January first of each year and shall terminate at midnight on December thirty-first of that year. Original licenses shall be issued for the balance of the license year at the full license fee. In all cases where the provisions of this Code permit the issuance of licenses for periods of less than one (1) year, the effective date of such licenses shall commence with the date of issuance thereof.

(Code 1971, § 7.5)

Sec. 9-6. - State licensed businesses.

(a) *City license required.* The fact that a license or permit has been granted to any person by the state to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt such person from the necessity of securing a license or permit from the city if such license or permit is required by this Code.

(b) *Proof of state license required.* No license or permit required by this Code shall be issued to any person who is required to have a license or permit from the state until such person shall submit evidence of such state license or permit and proof that all fees appertaining thereto have been paid.

(c) *Compliance with Code required.* No license shall be granted to any applicant therefor until such applicant has complied with all the provisions of this Code applicable to the trade, profession, business or privilege for which application for license is made.

(Code 1971, §§ 7.3, 7.6)

Sec. 9-7. - Multiple businesses.

The granting of a license or permit to any person operating, conducting or carrying on any trade, profession, business or privilege which contains within itself or is composed of, trades, professions, businesses or privileges which are required by this Code to be licensed, shall not relieve the person to whom such license or permit is granted from the necessity of securing individual licenses or permits for each such trade, profession, business or privilege.

(Code 1971, § 7.2)

Sec. 9-8. - Certificates.

(a) *Required prior to issuance of certain licenses.* No license shall be granted where the certification of any officer of the city is required prior to the issuance thereof, until such certification is made.

(b) *Health officer's certificate.* In all cases where the certification of the health officer is required prior to the issuance of any license by the city clerk, such certification shall be based upon an actual inspection and a finding that the person making application and the premises in which he proposes to conduct or is conducting the trade, profession, business or privilege comply with all the sanitary requirements of the state and of the city.

(c) *Public safety director's certificate.* In all cases where the certification of the director of public safety is required prior to the issuance of any license by the city clerk, such certification shall be based upon a finding that the person making application for such license is of good moral character as defined in section 9-1, and, if the applicant for such license proposes to conduct or is conducting the trade, profession, business or privilege to be licensed within any building in the city that such premises comply with all the fire regulations of the state and of the city.

(d) *Building inspector's certificate.* In all cases where the carrying on of the trade, profession, business or privilege involves the use of any structure or land, a license therefor shall not be issued until the building inspector shall certify that the proposed use is not prohibited by chapter 24.

(Code 1971, §§ 7.7—7.10)

Sec. 9-9. - Prerequisites to issuance.

No license shall be issued to any applicant unless he first pays to the city clerk the fee and posts a bond or evidence of insurance coverage in the amount required for the type of license desired.

(Code 1971, § 7.31)

Sec. 9-10. - Furnishing of bond or insurance.

(a) Where the provisions of this Code require that the applicant for any license or permit furnish a bond, such bond shall be furnished in an amount deemed adequate by the proper city officer or where the amount thereof is specified in the schedule of fees and bonds set out in section 9-12 or elsewhere in this Code in the amount so required. The form of such bond shall be acceptable to the city attorney.

(b) In lieu of a bond, an applicant for a license or permit may furnish one (1) or more policies of insurance in the same amounts and providing the same protection as called for in any such bond. Any such policies of insurance shall be approved as to substance by the city official issuing the license or permit and as to form by the city attorney.

(Code 1971, § 7.11)

Sec. 9-11. - Payment of fee.

The fee required by this Code for any license or permit shall be paid at the office of the city clerk upon or before the granting of such license or permit.

(Code 1971, § 7.14)

Sec. 9-12. - Amounts of fees, bonds, insurance coverage.

The fee required to be paid and the amount of any bond required to be posted, or insurance required to be carried, to obtain any license to engage in the operation, conduct, or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of this Code shall be as provided in this section. Fees for licenses shall be as prescribed below for the business, trade, occupation or privilege to be licensed. Bonds or insurance coverage, where

required, shall be in the amounts listed beneath the license fee prescribed for such business.

Electricians

Electrical contractors:

Annual fee $25.00

Bond (Foreign corporation) 1,000.00

Journeymen, annual fee 5.00

Registration:

Contractors, annual fee 5.00

Journeymen, annual fee 1.00

Heating contractors and installers

Contractors:

Annual fee 25.00

Reciprocal registration, annual fee 10.00

Installers:

Annual fee 5.00

Reciprocal registration, annual fee 1.00

Hotels

Each hotel unit, annual fee 1.00

In-home sales 100.00

Plumbers

Registration:

Master plumber, annual fee 1.00

Journeyman, annual fee 0.50

Self-service retail filling stations 100.00

Taxicabs

Each vehicle:

Annual fee 10.00

Bond 1,000.00

Liability insurance:

P.I. (one person) 500,000.00

P.I. (one accident) 500,000.00

P.D. (one accident) 250,000.00

Combined liability 750,000.00

Taxicab drivers, annual fee 10.00

(Code 1971, §§ 7.32—7.37; Ord. No. 140, 9-9-75)

Sec. 9-13. - Issuance.

If the application for any license is approved by the proper officers of the city as provided in this Code, such license shall be granted and shall serve as a receipt for payment of the fee prescribed for such license.

(Code 1971, § 7.13)

Sec. 9-14. - Existing licenses.

Any person duly licensed on the effective date of this Code shall be deemed licensed under this chapter for the balance of the current license year.

(Code 1971, § 7.1)

Sec. 9-15. - Carrying on person or exhibition in place of business.

No licensee shall fail to carry any license issued in accordance with the provisions of this chapter upon his person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted; except that where such trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, said license shall be exhibited at all times in some conspicuous place in his place of business. Every licensee shall produce his license for examination when applying for a renewal thereof or when requested to do so by any city police officer or by any person representing the issuing authority.

(Code 1971, § 7.18)

Sec. 9-16. - Exhibition on vehicle and machine.

No licensee shall fail to display conspicuously on each vehicle or mechanical device or machine required to be licensed by this Code such tags or stickers as are furnished by the city clerk for such purpose.

(Code 1971, § 7.19)

Sec. 9-17. - Displaying invalid license.

No person shall display any expired license or any license for which a duplicate has been issued.

(Code 1971, § 7.20)

Sec. 9-18. - Transferability; misuse.

No license or permit issued under the provisions of this Code shall be transferable unless specifically authorized by the provisions of this Code. No licensee or permittee shall, unless specifically authorized by the provisions of this Code, transfer or attempt to transfer his license or permit to another nor shall he make any improper use of the same.

(Code 1971, § 7.21)

Sec. 9-19. - Renewals.

(a) Unless otherwise provided in this Code, an application for renewal of a license shall be considered in the same manner as an original application. License applications for license renewals shall be accepted and licenses issued for a period of fifteen (15) days prior to the annual expiration date.

(b) All fees for the renewal of any license which are not paid at the time such fees shall be due, may be paid without penalty for the first thirty (30) days that such license fee remains unpaid and thereafter the license fee shall be that stipulated for such licenses under section 9-12, plus fifty (50) percent of such fee.

(Code 1971, §§ 7.5, 7.12, 7.17)

Sec. 9-20. - Suspension, revocation, denial of application.

Any license issued by the city may be suspended by the city manager for cause, and any permit issued by the city may be suspended or revoked by the issuing authority for cause, except as otherwise specifically provided in this Code. The licensee shall have the right to a hearing before the commission on any such action of the city manager, provided a written request therefor is filed with the city clerk within five (5) days after receipt of the notice of such suspension. The commission may confirm such suspension or revoke or reinstate any such license. The action taken by the commission shall be final. The same procedure shall apply where a license application is denied. Upon suspension or revocation of any license or permit, the fee therefor shall not be refunded. Except as otherwise specifically provided in this Code, any licensee whose license has been revoked shall not be eligible to apply for a new license for the trade, profession, business or privileges for a period of one (1) year after such revocation.

Secs. 9-21—9-40. - Reserved.

ARTICLE II. - PRECIOUS METAL AND GEM DEALER REGISTRATION

Footnotes:

> --- ***(2)*** ---
> ***Editor's note—*** *Ordinance No. 261, adopted March 10, 1992, did not specifically amend the Code; hence, inclusion of §§ 1, 2, as §§ 9-41—9-43 was at the discretion of the editor.*

Sec. 9-41. - Definitions.

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

Agent or *employee* means a person who, for compensation or valuable consideration, is employed either directly or indirectly by the dealer.

Customer means the person from whom the dealer or the agent or employee of the dealer receives or purchases a precious stone.

Dealer means any person, corporation, partnership, or association, which, in whole or in part, engages in the ordinary course of repeated and recurrent transactions of buying or receiving precious items from the public within this state.

Gold means elemental gold, having an atomic weight of 196.967 and the chemical element symbol of Au, whether found by itself or in combination with its alloys or any other metal.

Internet drop-off store means a person, corporation, or firm that contracts with other persons, corporations, or firms to offer its precious items for sale, purchase, consignment, or trade through means of an internet website and meets the conditions described in section 9-42(c).

Jewelry means an ornamental item made of a material that includes a precious gem.

Local police agency means the public safety department of the City of Bloomfield Hills.

Platinum means elemental platinum, having an atomic weight of 195.09 and the chemical element symbol of Pt, whether found by itself or in combination with its alloys or any other metal.

Precious gem means a diamond, alexandrite, ruby, sapphire, opal, amethyst, emerald, aquamarine, morganite, garnet, jadeite, topaz, tourmaline, turquoise, or pearl.

Precious item means jewelry, a precious gem, or an item containing gold, silver, or platinum. Precious item does not include the following:

(1) Coins, commemorative medals, and tokens struck by, or in behalf of, a government or private mint.
(2) Bullion bars and discs of the type traded by banks and commodity exchanges.
(3) Items at the time they are purchased directly from a dealer registered under this Act, a manufacturer, or a wholesaler who purchased them directly from a manufacturer.
(4) Industrial machinery or equipment.
(5) An item being returned or exchanged at the dealer where the item was purchased and which is accompanied by a valid sales receipt.
(6) An item which is received for alteration, redesign, or repair in a manner that does not substantially change its use and returned directly to the customer.
(7) An item which does not have a jeweler's identifying mark or a serial mark and which the dealer purchases for less than five dollars ($5.00).
(8) Scrap metal which contains incidental traces of gold, silver, or platinum which are recoverable as a by-product.
(9) Jewelry which a customer trades for other jewelry having a greater value, and which difference in value is paid by the customer.

Silver means elemental silver, having an atomic weight of 107.869 and the chemical element symbol of Ag, whether found by itself or in combination with its alloys or any other metal.

(Ord. No. 261, § 1, 3-10-92; Ord. No. 394, § 1, 8-9-11)

Sec. 9-42. - Registration procedures.

(a) A dealer shall not conduct business in the City of Bloomfield Hills unless the dealer has obtained a valid certificate of registration from the city.
(b) This section does not require an internet drop-off store complying with subsection (c), or a person engaged in the sale, purchase, consignment, or trade of precious items for himself or herself, to obtain a registration under this Act.
(c) An internet drop-off store in compliance with the following conditions is exempt from registration as a dealer under this Act:
  (1) Has a fixed place of business within this state, except that he or she exclusively transacts all purchases or sales by means of the internet and the purchases and sales are not physically transacted on the premises of that fixed place of business.
  (2) Has the personal property or other valuable thing available on a website for viewing by photograph, if available, by the general public at no charge, which website shall be searchable by zip code or state, or both. The website viewing shall include, as applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable.
  (3) Maintains records of the sale, purchase, consignment, or trade of the personal property or other valuable thing for at least two (2) years, which records shall contain a description, including a photograph, if available, and, if applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(4) Provide the department of public safety with any name under which it conducts business on the website and access to the business premises at any time during normal business hours for purposes of inspection.

(5) Within twenty four (24) hours after a request from a local police agency, provide an electronic copy of the seller's or consignor's name, address, telephone number, driver's license number and issuing state, the buyer's name and address if applicable, and a description of the personal property or other valuable thing as described in subsection (3). The provision of information shall be in a format acceptable to the department of public safety and shall at least be in a legible format and in the English language.

(6) Provide that payment for the personal property or other valuable thing is executed by means of check or other electronic payment system, so long as the payment is not made in cash. No payment shall be provided to the seller until the item is sold.

(7) Immediately remove the personal property or other valuable thing from the website if the department of public safety determines that the personal property or other valuable thing is stolen.

(d) A dealer shall on a yearly basis apply to the city for a certificate of registration, and pay a fee as established by the city commission to cover the reasonable cost of processing and issuing the certificate of registration, by disclosing the following information:

(1) The name, address, and thumbprint of the applicant.

(2) The name and address of the business under which the applicant conducts business, or intends to conduct business.

(3) The name, address, and thumbprint of all agents or employees of the dealer. Within twenty-four (24) hours after hiring a new employee, the dealer shall forward to the city the name, address, and thumbprint of all new employees.

(e) A dealer shall not conduct business after the expiration date of the certificate of registration unless the dealer has applied for and received a renewal of the certificate of registration from the city.

(f) A dealer or an agent or employee of a dealer who is convicted of a misdemeanor under this article or under MCL 750.535, shall not be permitted to operate as a dealer within the city for a period of one (1) year after conviction.

(g) A dealer or an agent or employee of a dealer who is convicted of a felony under MCL 750.535, shall not be permitted to operate as a dealer within the City of Bloomfield Hills for a period of five (5) years after the conviction.

(h) This article shall not be construed to excuse a dealer from complying with the city zoning ordinance or other regulating ordinances.

(i) Upon receipt of the application described in subsection (b), the city shall issue a certificate of registration in accordance with this section.

(j) Upon receipt of the certificate of registration from the city, the dealer shall post it in a conspicuous place in the dealer's place of business.

(k) Not less than ten (10) days before a dealer changes the name or address under which the dealer does business, the dealer shall notify the city of the change.

(l) No business shall be conducted at any location not currently registered with the City of Bloomfield Hills.

(Ord. No. 261, § 1, 3-10-92; Ord. 394, § 1, 8-9-11)

Sec. 9-43. - Record of transactions.

(a) A dealer shall maintain a permanent record of each transaction, each record of transaction shall be filled out in triplicate. One (1) copy to the city, a copy to the customer and one (1) copy shall be retained by the dealer. At the time a dealer receives or purchases a precious item, the dealer or agent or employee of the dealer shall ensure that the following information is recorded accurately on a record of transaction from before the end of the next business day:

(1) The dealer certificate of registration.

(2) A general description of the precious item or precious items received or purchased, including the type of metal or precious gem. In the case of watches, the description shall contain the name of the maker and the number of both the works and the case. In the case of jewelry, all letters and marks inscribed on the jewelry shall be included in the description.

(3) The date of the transaction.

(4) The name of the person conducting the transaction.

(5) The name, date of birth, driver's license number or state of Michigan personal identification card number, and street and house number of the customer, together with a legible imprint of the right thumb of the customer, or, if that is not possible, of the left thumb or finger of the customer. However, the thumbprint or fingerprint shall only be required on the record of transaction form retained by the dealer. The thumbprint or fingerprint shall be made available to a police agency during the course of a police investigation involving a precious item or items described on the record of transaction. After a period of one (1) year from the date of the record of transaction, if a police investigation concerning a precious item or items described on the record of transaction has not occurred, the dealer and the Bloomfield Hills Public Safety Department shall destroy, and not keep a permanent record of, the record of transaction. A dealer who goes out of business or changes his or her business to another local jurisdiction either within or out of this state shall transmit the records of all transactions made by the dealer within one (1) year before his or her closing or moving to the department of public safety.

(6) The price to be paid by the dealer for the precious item or precious items.

(7) The form of payment made to the customer; check, money order, bank draft, or cash. If payment is by check, money order, or bank draft, the dealer shall indicate the number of the check, money order, or bank draft.

(8) The customer's signature.

(b) The record of transaction forms of a dealer and each precious item received shall be open to an inspection by the Bloomfield Hills Department of Public Safety during the ordinary business hours of the dealer as a condition of doing business, a dealer is considered to have given consent to the inspection prescribed in this article.

(c) Within forty-eight (48) hours after receiving or purchasing a precious item, the dealer shall send a copy of the record of transaction form to the department of public safety, and pay a fee set by the city commission to cover the reasonable cost of processing the information. If the record of transaction form indicates that the customer resides outside of the city, the dealer shall send a copy of the record of transaction form to the police agency of the city, village, or township in which the customer resides as set forth on the record of transaction, or if that city, village, or township does not have a police agency, to the sheriff's department of the county in which the customer resides as set forth on the record of transaction. The record of transaction forms received by the department of public safety shall not be open to inspection by the general public and are not subject to disclosure under the Freedom of Information Act.

(d) A precious item received by a dealer shall be retained by the dealer for nine (9) calendar days after it was received, without any form of alteration other than required to make an accurate appraisal of its value.

(Ord. No. 394, § 1, 8-9-11)

Sec. 9-44. - Penalty.

Any precious metal or gem dealer found by a court of competent jurisdiction to have neglected to register with the city and/or pay a fee for said registration shall be found guilty of a misdemeanor punishable by imprisonment for not more than ninety (90) days, or a fine of not more than five hundred dollars ($500.00), or both.

(Ord. No. 261, § 2, 3-10-92; Ord. 394, § 1, 8-9-11)

Secs. 9-45—9-59. - Reserved.

ARTICLE III. - INITIAL MERCHANT LICENSE

Sec. 9-60. - 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:

Merchant means any person and/or entity that engages in or conducts a business of selling goods, wares, merchandise and/or services, and who for the purpose of carrying on such business uses, leases or occupies either in whole or in part, a room, building, structure, or vacant property for the exhibition and sale of such goods, wares, merchandise and/or services.

(Ord. No. 407, § 1, 1-8-13)

Sec. 9-61. - Exceptions.

The provisions of this article shall not apply to:

(1) Commercial travelers making sales to dealers or selling agents in the usual course of business for resale;

(2) Persons making bona fide sales of goods, wares and merchandise for future delivery;

(3) Canvassers, peddlers or solicitors;

(4) Societies making sales for charitable, religious or public purposes;

(5) Sales made by persons, entities and/or organizations where such sale is sponsored and supervised by an entity and/or organization conducted for charitable, religious or public purposes, provided that such sale does not extend over a period of more than six (6) consecutive days.

(Ord. No. 407, § 1, 1-8-13)

Sec. 9-62. - Other licenses and requirements.

Nothing in this article shall be deemed to relieve any licensee from complying with all other requirements of this Code pertaining to the operation of the licensed business including the payment of any license fee or the filing of any bond required as a condition to the operation of such business.

(Ord. No. 407, § 1, 1-8-13)

Sec. 9-63. - Required.

Every merchant, before opening and/or operating a mercantile establishment in the city or before advertising, exposing or offering its goods, wares, merchandise and/or services for sale, shall procure from the city clerk an initial merchant's license.

(Ord. No. 407, § 1, 1-8-13)

Sec. 9-64. - Application.

Application for an initial merchant's license shall be made in writing to the city clerk and shall contain a statement under oath containing the name and address of the owner of the business, facts relating to the character of the business which the applicant desires to transact and the place where such business shall be conducted.

(Ord. No. 407, § 1, 1-8-13)

Sec. 9-65. - Transfer.

All licenses issued under this article shall be transferable from one (1) location to another in the city. Applications for all such transfers of location shall be made in writing to the city clerk and shall contain a statement of the new location of such business. Upon the sale of a licensed mercantile business in the city, the license therefor may be transferred from the seller to the purchaser of such business. Application for transfer of a license from seller to purchaser shall be made in writing to the city clerk and shall contain a statement, under oath, of the names and addresses of the owners or persons in whose interest such business is conducted.

(Ord. No. 407, § 1, 1-8-13)

Sec. 9-66. - Fees.

The city commission shall, by resolution duly adopted and published, establish a fee schedule for applications filed pursuant to the provisions of this article.

(Ord. No. 407, § 1, 1-8-13)

Sec. 9-67. - Existing businesses.

Any merchant, person and/or entity currently operating a business on the effective date of this article shall be deemed licensed under this article. A merchant, person and/or entity operating a business deemed to be licensed under this section shall complete the initial merchant license application and file the same with the city clerk and shall be exempt from the application fee.

(Ord. No. 407, § 1, 1-8-13)

Sec. 9-68. - Penalty.

Any merchant, person and/or entity found by a court of competent jurisdiction to be in violation of this article shall be guilty of a misdemeanor punishable by imprisonment for not more than ninety (90) days, or a fine of not more than five hundred dollars ($500.00) or both.

(Ord. No. 407, § 1, 1-8-13)

Chapter 10 - NUISANCES

> *Footnotes:*
> *--- **(1)** ---*
> ***Cross reference—*** *Alarm systems, Ch. 2.5; buildings and building regulations, Ch. 4; offenses, Ch. 11; nuisance, § 17.5-12; utilities, Ch. 21.*
> ***State Law reference—*** *Air pollution act, MCL 336.11 et seq.; environmental protection act, MCL 691.1201 et seq.*

ARTICLE I. - IN GENERAL

Sec. 10-1. - "Nuisance" defined and prohibited.

Whatever annoys, injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance. Public nuisances shall include but not be limited to whatever is forbidden by any provision of this chapter. No person shall commit, create, or maintain any nuisance.

(Code 1971, § 9.1)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 10-2. - Enumerated.

The following acts, services, apparatus and structures are hereby declared to be public nuisances:

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

(2)

The throwing, placing, depositing or leaving in any street, highway, lane, alley, public place, square or sidewalk, or in any private place or premises where such throwing, placing, depositing or leaving is in the opinion of the health officer dangerous or detrimental to public health, or likely to cause sickness or attract flies, insects, rodents and/or vermin, by any person, firm or corporation of any animal or vegetable substance, dead animal, fish, shell, tin cans, bottles, glass, or other rubbish, dirt, excrement, filth, rot, unclean or nauseous water, liquid or gaseous fluids, hay, straw, soot, garbage, swill, animal bones, hides or horns, rotten soap, grease or tallow, offal or any other offensive article or substance whatever;

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

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

(5) Any vehicle used for any illegal purpose;

(6) Betting, bookmaking, and all apparatus used in such occupations;

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

(8) All houses kept for the purpose of prostitution, gambling houses, houses of ill fame and bawdy houses;

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

(10) Any use of the public streets and/or sidewalks which causes large crowds to gather, obstructing the free use of the streets and/or sidewalks;

(11) All dangerous, unguarded excavations or machinery in any public place or so situated, left or operated on private property as to attract the public;

(12) The owning, driving or moving upon the public streets and alleys of a truck or other motor vehicle which is constructed or loaded so as to permit any part of its load or contents to blow, fall, or be deposited upon any street, alley, sidewalk or other public or private place, or which deposits from its wheels, tires, or other parts onto the street, alley, sidewalk or other public or private place dirt, grease, sticky substances or foreign matter of any kind; provided, however, that under circumstances determined by the city manager to be in the public interest, he may grant persons temporary exemption from the provisions of this subsection conditioned upon cleaning and correcting the violating condition at least once daily and execution of an agreement by such person to reimburse the city for any extraordinary maintenance expenses incurred by the city in connection with such violation;

(13) The keeping of bees, when such keeping results in the disturbance of the safety, comfort and repose of one (1) or more persons, or shall render one (1) or more persons insecure in the use of his or her property;

(14) All wires over streets, alleys, or public grounds which are strung less than fifteen (15) feet above the surface of the ground;

(15) All barbed wire fences which are located within three (3) feet from any public sidewalk.

(Code 1971, § 9.7)

Secs. 10-3—10-15. - Reserved.

ARTICLE II. - NOISE CONTROL

> *Footnotes:*
> *--- (**2**) ---*
> ***State Law reference—** Motor vehicle noise, MCL 257.707 et seq.*

Sec. 10-16. - Excessive noise declared nuisance.

All loud or unusual noises or sounds and annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities are hereby declared to be public nuisances.

(Code 1971, § 9.10)

Sec. 10-17. - Specific offenses.

Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive, namely:

(1) *Animal and bird noises.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person.

(2) *Building construction activity and landscaping noises.* The erection, excavation, demolition, alteration or repair of any building, the excavation of streets and highways, the use of landscaping equipment, including, but not limited to, chainsaws, front end loaders and bulldozers, but excluding lawn mowers, power blowers and power rakes, are prohibited on Monday through Friday, except between the hours of 7:00 a.m. and 5:00 p.m. and on Saturdays except between the hours of 9:00 a.m. and 5:00 p.m. and is completely prohibited on Sundays and legal holidays, unless a permit is first obtained from the city manager. A building permit holder shall require compliance with and be deemed responsible for any violation of this section by any contractor, subcontractor or worker.

a. Sunday and holiday construction hours:

1. *Definition.* For purposes of this section, the term "holiday" shall mean the day on which New Year's Day, Easter, Memorial Day, July 4, Labor Day, Thanksgiving or Christmas is officially celebrated.
2. *Permissions required.* Construction on Sunday or holiday shall only be permitted by special written permission granted by the city manager where, in his or her discretion, hardship is shown. In addition, the building permit holder shall require compliance with and be deemed responsible for any violation of this section by any contractor, subcontractor or worker.
3. *Display of permission.* The permission required in subsection (2) of this section, which shall designate the hours during which construction is allowed, shall be obtained in advance, and any such construction or construction activity on Sunday or a holiday shall be conducted only if the written permission granted by the city manager is on site and available for inspection by any building or engineering department representative or the public safety department.
4. *Notice.* Building permits shall contain notice of the restriction of Sunday and holiday construction and construction activity in accordance with the following:

i. *Posting of notice.* On all work sites the building permit holder shall conspicuously post the notice of construction hour restrictions at each vehicular entrance and on the structure under construction during the period of construction.

ii. *Form of notice.* The notice shall be legibly and conspicuously printed on contrasting background, with letters at least two (2) inches in height, so as to be readily visible for fifty (50) feet. The notice shall state as follows:

NOTICE

WORK PERMITTED ONLY DURING THE HOURS OF 7 A.M. TO 5 P.M. MONDAY THROUGH FRIDAY, AND ON SATURDAYS DURING THE HOURS OF 9 A.M. TO 5 P.M. SUNDAY & HOLIDAY WORK WITHOUT SPECIAL WRITTEN PERMISSION FROM THE CITY MANAGER IS PROHIBITED BY CITY ORDINANCE.

b. Off-street parking must be provided for all vehicles.

(3) *Sound amplifiers.* Use of any loud speaker, amplifier or other instrument or device, whether stationary or mounted on a vehicle for any purpose except one which is noncommercial in character and when so used shall be subject to the following restrictions:

a. The only sounds permitted are music or human speech.

b. Operations are permitted for four (4) hours each day, except on Sundays and legal holidays when no operations shall be authorized. The permitted four (4) hours of operation shall be between the hours of 11:30 a.m. and 1:30 p.m. and between the hours of 4:30 p.m. and 6:30 p.m.

c. Sound amplifying equipment mounted on vehicles shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten (10) miles per hour except when the truck is stopped or impeded by traffic.

d. Sound shall not be issued within one hundred (100) yards of hospitals, schools or churches.

e. The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) feet from the sound amplifying equipment and so that the volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility.

f. No sound amplifying equipment shall be operated with an excess of fifteen (15) watts of power in the last state of amplification.

(4) *Engine exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

(5) *Handling merchandise.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(6) *Blowers.* The discharge into the open air of air from any noise creating blower or power fan unless the noise from such blower or fan is muffled sufficiently to deaden such noise.

(7) *Hawking.* The hawking of goods, merchandise, or newspapers in a loud and boisterous manner.

(8) *Horns and signal devices.* The sounding of any horns or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(9) *Radio and musical instruments.* The playing of any radio, television set, phonograph, or any musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

(10) *Shouting and whistling.* Yelling, shouting, hooting, whistling, or singing or the making of any other loud noise on the public streets between the hours of 11:00 p.m. and 7:00 a.m., or the making of any such noise at any time so as to annoy or disturb the quiet, comfort, or repose of persons in any school, place of worship, or office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

(11) *Whistle or siren.* The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger.

(Code 1971, § 9.11; Ord. No. 268, § 1, 9-15-92; Ord. No. 331, §§ 2—4, 6, 12-10-02)

Sec. 10-18. - Exceptions to section 10-17.

None of the terms or prohibitions of section 10-17 shall apply to or be enforced against:

(1) *Emergency vehicles.* Any police or fire vehicle or any ambulance, while engaged upon emergency business.

(2) *Highway maintenance and construction.* Excavations or repairs of bridges, streets, or highways by or on behalf of the city or the state during the night, when the public safety, welfare, and convenience renders it impossible to perform such work during the day.

(Code 1971, § 9.12)

Secs. 10-19—10-35. - Reserved.

ARTICLE III. - GRASS AND NOXIOUS WEEDS

> *Footnotes:*
> *--- **(3)** ---*
> ***Cross reference—*** *Vegetation generally, Ch. 22.*

Sec. 10-36. - Dense, noxious growth prohibited.

No owner of any parcel of land within the city or the agent of such owner shall permit on such parcel of land or upon any sidewalk abutting the same, or upon that portion of any street or alley adjacent to the same between the property line and the curb or traveled portion of such street or alley, any growth of weeds, grass or other rank vegetation to a height no greater than seven (7) inches on the average, or any accumulation of dead weeds, grass, or brush. Nor shall such owner or agent permit on such land poison ivy, ragweed or any other poisonous, noxious or unhealthful growths.

(Code 1971, § 9.31; Ord. No. 280, § 1, 8-16-94)

Sec. 10-37. - Cutting required.

Prior to May first in any year the city manager is authorized to notify the owner of any parcel of land or the agent of the owner to cut, destroy, and/or remove the material and vegetation referred to in section 10-36 and to keep it cut, destroyed and/or removed until October fifteenth next following the giving of the notice. Such notice shall be given by publishing the same in a newspaper circulating in the city and by such other method as may be directed by the city commission.

(Code 1971, § 9.32)

Sec. 10-38. - Work done at owner's expense.

(a) If at any time during a period commencing ten (10) days after the publication of the notice authorized in section 10-37 and October fifteenth, the city manager shall find that any owner or owner's agent has failed to cut, destroy and/or remove the material and vegetation referred to in section 10-36, he shall cause such material and vegetation to be cut, destroyed and/or removed, bill the owner for the cost thereof at rates established by the city commission, and shall at the end of the fiscal year report any such charges remaining unpaid to the city commission.

(b) Such unpaid charges, when thus reported, shall become a lien upon the property on which such work has been done or upon the property abutting or adjoining the alley, street or sidewalk upon which such work has been done and shall be assessed and collected in the manner provided in section 1-9 where any cost is incurred in connection with a single lot or parcel of land.

(Code 1971, § 9.33)

Chapter 11 - OFFENSES

> *Footnotes:*
> *--- **(1)** ---*
> ***Cross reference—*** *Nuisances, Ch. 10; traffic and motor vehicles, Ch. 20.*

ARTICLE I. - IN GENERAL

Sec. 11-1. - Definition.

The term "public place" as used in this chapter shall mean any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.

(Code 1971, § 9.101)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 11-2. - Securing, aiding, etc., another to commit offense.

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

(Code 1971, § 1.7)

State Law reference— Abolition of distinction between agency and principal, MCL 767.39.

Sec. 11-3. - Reserved.

Editor's note— Ord. No. 414 , § 1, adopted January 14, 2014, repealed § 11-3, which pertained to begging and derived from Code of 1971, § 9.102(7).

Sec. 11-4. - Fortune-telling.

No person shall pretend for money or gain, to predict future events by cards, tokens, trances, the inspection of the hands or the conformation of the skull of any person, mind reading so-called, or by consulting the movements of the heavenly bodies.

(Code 1971, § 9.102(10))

State Law reference— Similar provisions, MCL 750.267.

Sec. 11-5. - Window peeping.

No person shall be found looking into the windows or doors of any house, apartment or other residence in the city, in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy and without the occupant's express or implied consent.

(Code 1971, § 9.102(6))

State Law reference— Person window peeping defined as a disorderly person, MCL 750.167(1)(e).

Sec. 11-6. - Spitting in public.

No person shall spit on any sidewalk or on the floor or seat of any public carrier, or on any floor, wall, seat or equipment of any place of public assemblage.

(Code 1971, § 9.102(32))

Sec. 11-7. - Minor in possession of alcoholic liquor; penalty.

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

(a) For the first violation, the minor is responsible for a municipal civil infraction and shall be fined not more than one hundred dollars ($100.00). A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and may order the minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5). A minor may be found responsible or admit responsibility only once under this subdivision.

(b) If a violation of this subsection occurs after one (1) prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than thirty (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, or by a fine of not more than two hundred dollars ($200.00), or both. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).

(c) If a violation of this subsection occurs after two (2) or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than sixty (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, or by a fine of not more than five hundred dollars ($500.00), or both, as applicable. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).

(2)

A person who furnishes fraudulent identification to a minor, or notwithstanding subsection (1), a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not more than one hundred dollars ($100.00), or both.

(3) If an individual pleads guilty to a misdemeanor violation of subsection (1)(b) or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of subsection (1)(b), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions set forth in subsection (1)(c), including the costs of probation. If the court finds that an individual violated a term or condition of probation or that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. A discharge and dismissal under this section is 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 disqualifications or disabilities imposed by law upon conviction of a crime. An individual may obtain only one (1) discharge and dismissal under this subsection. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. This record shall be furnished to any of the following:

(a) To a court, prosecutor, or police agency upon request for the purpose of determining if an individual has already utilized this subsection.

(b) To the state department of corrections, a prosecutor, or a law enforcement agency, upon the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

1. At the time of the request, the individual is an employee of the state department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department of corrections, the prosecutor, or the law enforcement agency.
2. The record is used by the state department of corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(4) A misdemeanor violation of subsection (1) successfully deferred, discharged, and dismissed under subsection (3), a misdemeanor violation under state law, MCL 436.1703, that is successfully deferred, discharged and dismissed under MCL 436.1703(3), or a misdemeanor violation under another municipality or state that is similar to a misdemeanor violation found under MCL 436.1703 that was successfully deferred, discharged and dismissed by a municipal ordinance of another municipality or by the law of another state, is considered a prior judgment for the purposes of subsection (1)(c).

(5) The court may order an individual found responsible for or convicted of violating subsection (1) to undergo substance abuse screening and assessment 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. A court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (1) to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a minor who is less than eighteen (18) years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6, may request a random or regular preliminary chemical breath analysis as part of the probation.

(6) The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of violating subsection (1) or (2), as provided in section 319 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.319.

(7) A peace officer who has reasonable cause to believe a person under twenty-one (21) years of age has consumed alcoholic liquor or has any bodily alcohol content may request the individual to submit to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. 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 municipal civil infraction proceeding or criminal prosecution to determine whether the person has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(8) The public safety department, upon determining that a person less than eighteen (18) years of age who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (1) shall notify the parent or parents, custodian, or guardian of the individual as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the public safety department. The notice required by this subsection shall be made not later than forty-eight (48) hours after the public safety department determines that the individual who allegedly violated subsection (1) is less than eighteen (18) years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. 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 seventeen (17) years of age is incarcerated for violating subsection (1), his or her parents or legal guardian shall be notified immediately as provided in this subsection.

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

(10) The following individuals are not considered in violation of subsection (1):

(a) A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.

(b) A minor who accompanies an individual who meets both of the following criteria:

1. Has consumed alcoholic liquor.
2. Voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.

(c) A minor who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.

(11) If a minor who is less than eighteen (18) years of age and who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, voluntarily presents himself or herself to a health facility or agency for treatment or for observation as provided under subsection (10), the health facility shall notify the parent or parents, custodian, or guardian of the individual as to the nature of the treatment or observation if the name of a parent, custodian, or guardian is reasonably ascertainable by the health facility or agency.

(12) 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 section or any other law or act.

(13) 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 section if the purpose of the consumption is solely educational and is a requirement of the course.

(14) 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.

(15) Subsection (1) does not apply to a minor who participates in either or both of the following:

(a) 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.

(b) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the state liquor control commission, or the public safety department 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 state liquor control commission, or the public safety department and was not part of the undercover operation.

(16) The state police, the state liquor control commission, or the public safety department shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (1), section 801(2), or section 701(1) of the Michigan Liquor Control Code of 1998.

(17) In a criminal prosecution for the violation of subsection (1) 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.

(18) As used in this section:

(a) "Any bodily alcohol content" means either of the following:

1. An alcohol content of 0.02 grams or more per one hundred (100) milliliters of blood, per two hundred ten (210) liters of breath, or per sixty-seven (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.

(b) "Emergency medical services personnel" means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(c) "Health facility or agency" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(d) "Prior judgment" means a conviction, juvenile adjudication, finding of responsibility, or admission of responsibility for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

1. This section, section 701, or 707 of the Michigan liquor control code of 1998, 1998 PA 58 - Minor in possession of alcohol, MCL 436.1703, selling/furnishing alcohol to a minor, MCL 436.1701, or violations for serving or furnishing alcohol, MCL 436.1707.
2. Sections 624a, 624b, or 625 of the Michigan vehicle code, 1949 PA 300 - Open intoxicants in a motor vehicle, MCL 25.624a, possession of alcohol by a minor in a motor vehicle, MCL 257.624b, or operating while intoxicated or impaired, MCL 257.625.
3. Sections 80176, 81134, or 82127 of the natural resources and environmental protection act, 1994 PA 451 - OWI in watercraft, MCL 324.80176, OWI on ORV, MCL 324.81134, or OWI on a snowmobile, MCL 324.82127.
4. Section 167a or 237 of the Michigan penal code, 1939 PA 328 - Hunting while intoxicated, MCL 750.167a, or possession of a firearm while intoxicated, MCL 750.237.

(Code 1971, § 9.102(40); Ord. No. 262, § 1, 3-10-92; Ord. No. 358, § 1, 1-9-07; Ord. No. 381, § 1, 12-8-09; Ord. No. 427 , § 1, 12-12-17)

State Law reference— Similar provisions, MCL 436.1703.

State Law reference— Similar provisions, MCL 436.33b.

Sec. 11-8. - Regulating the use of alcoholic beverages and drugs at open house parties.

(1) *Definitions.* For the purpose of this section, the following terms shall be defined as follows:

(a) *Adult* means a person seventeen (17) years of age or older.

(b) *Alcoholic beverage* means any beverage containing more than one-half (½) of one (1) percent of alcohol by weight. The percentage of alcohol by weight shall be determined in accordance with the provisions of Michigan Compiled Laws, section 436.2, as the same may be amended from time to time.

(c) *Minor* means a person not legally permitted by reason of age to possess alcoholic beverages pursuant to Michigan Compiled Laws, section 436.33b, as the same may be amended from time to time.

(d) *Residence* or *premises* means a motel room, hotel room, home, apartment, condominium or other dwelling unit including the curtilage of the dwelling unit, or hall, meeting room or other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for social functions, and whether owned, leased, rented or used with or without compensation.

(e) *Open house party* means a social gathering of persons at a residence or premises, other than the owner of the residence or premises or those with rights of possession to the residence or premises or their immediate family members.

(f) *Drug* means a controlled substance as defined now or hereafter by the Public Acts of the State of Michigan.

(g) *Control* means any form of regulation or dominion including a possessory right.

(2) *Possession or use by minors prohibited.* No adult having control of any residence or premises shall allow an open house party to take place at the residence or premises if any alcoholic beverage or drug is possessed or consumed at the residence or premises by any minor where the adult knew or reasonably should have known that any alcoholic beverage or drug was in the possession of or being consumed by a minor at said residence or premises, and where the adult failed to take reasonable steps to prevent the possession or consumption of the alcoholic beverage or drug at the residence or premises.

(3) *Exception.* The provisions of this section shall not apply to legally protected religious observances or legally protected educational activities.

(4) *Penalties:*

(a) For the first violation, a fine not exceeding five hundred dollars ($500.00) or imprisonment in the county jail for a term not to exceed thirty (30) days or by both such fine and imprisonment.

(b) For subsequent violations, a fine not exceeding five hundred dollars ($500.00) or imprisonment in the county jail for a term not to exceed ninety (90) days or by both such fine and imprisonment.

(Ord. No. 218, § 1, 5-9-89)

Sec. 11-9. - Possession of marijuana.

No person shall use or knowingly or intentionally possess marijuana unless the substance was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the practitioner's professional practice.

(Ord. No. 263, § 1, 3-10-92)

Editor's note— Ordinance No. 263, adopted March 10, 1992, did not specifically amend the Code; hence, inclusion of § 1 as § 11-9 was at the discretion of the editor.

Sec. 11-10. - Retail fraud; penalty.

(a) A person who does any of the following in any retail and/or wholesale establishment whose business is to offer property for sale, or in the immediate vicinity of such an establishment, or within the area of the sidewalk, parking lot, adjacent yard, or outdoor storage lot, and/or within the area in which business is being conducted, shall be guilty of retail fraud.

(b) While a store is open to the public, alters, transfers, removes, and replaces, conceals, or otherwise misrepresents the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which a product is offered for sale.

(c) While a store is open to the public, steals property of the store that is offered for sale.

(d) With intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store.

(e) Any person found by a court of competent jurisdiction to have committed a retail fraud in an amount less than one hundred dollars ($100.00) shall be found guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500.00) and costs of prosecution or by imprisonment for not more than ninety (90) days, or by both fine, costs, and imprisonment at the discretion of the court.

(Ord. No. 258, § 1, 2, 3-10-92)

Editor's note— Ordinance No. 258, adopted March 10, 1992, did not specifically amend the Code; hence, inclusion of §§ 1, 2, as § 11-10 was at the discretion of the editor.

Sec. 11-11. - Possession of drug paraphernalia.

It is unlawful for any person to use, or to possess, drug paraphernalia used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

This section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropodists, veterinarians, pharmacists, and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma, or any other medical condition requiring self-injection.

Any drug paraphernalia used or possessed in violation of this division shall be seized and forfeited to the city or the seizing agency.

(Ord. No. 357, § 1, 1-9-07)

Sec. 11-12. - Probation of individual with no previous conviction.

(a) When an individual who has not previously been convicted of an offense under section 11-9 or under any law of the United States or of any state or any ordinance of a local unit of government relating to narcotic drugs, coca leaves, marijuana, stimulant, depressant, or hallucinogenic drugs, pleads guilty to possession or use of a controlled substance under section 11-9, the court, without entering a judgment of guilt with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that shall include, but are not limited to, payment of a probation supervision program, community service, fines and costs and all other conditions determined by the court. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and, except as provided in subsection (b)(2), is not a conviction for purposes of this section. An individual is not eligible for adjudication under this section if the individual has previously received a dismissal under this section, MCL 333.7411, or any other statute or ordinance for a controlled substance offense.

(b) The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to any or all of the following:

  (1) To a court, police agency, or prosecuting attorney upon request for the purpose of showing that a defendant in a criminal action involving the possession or use of a controlled substance has already once utilized this section for a dismissal of a controlled substance offense.

  (2) To a court, police agency, or prosecuting attorney upon request for the purpose of determining whether the defendant in a subsequent criminal action is eligible for discharge and dismissal of proceedings.

(Ord. No. 374, § 1, 6-9-09)

Sec. 11-13 - Definitions.

For the purpose of this chapter, the definitions set out in Article IX, Sec. 4-336 are used in interpreting the following sections and are derived from MCL 333.27951, et seq., the Michigan Regulation and Taxation of Marihuana Act, and said definitions shall apply unless the context clearly indicates or requires a different meaning.

(Ord. No. 440 , § 1, 11-12-19)

Sec. 11-14 - Possession of mariuana by minor prohibited.

(a) *Minor in possession of marihuana.* It shall be unlawful for a person under twenty-one (21) years of age to possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana.

(b) *Penalty.* A person under twenty-one (21) years of age who possesses no more than two and one-half (2.5) ounces of marihuana or who cultivates no more than twelve (12) marihuana plants shall be subject to the following penalties:

  (1) For a first violation:

    a. Is responsible for a civil infraction and if less than eighteen (18) years of age, by a fine of not more than one hundred dollars ($100.00) or community service, forfeiture of the marihuana, and completion of four (4) hours of drug education or counseling.

    b. If the person is at least eighteen (18) years of age, is responsible for a civil infraction, a fine of not more than one hundred dollars ($100.00) and forfeiture of the marihuana.

  (2) For a second or subsequent violation:

    a. If the person is under eighteen (18) years of age, is responsible for a civil infraction, a fine of not more than five hundred dollars ($500.00) or community service, forfeiture of the marihuana, and completion of eight (8) hours of drug education or counseling;

    b. If the person is at least eighteen (18) years of age, is responsible for a civil infraction, a fine of not more than five hundred dollars ($500.00) and forfeiture of the marihuana.

(3) If the minor is in possession of marihuana in an amount greater than as set forth in this subsection, the penalty shall be five hundred dollars ($500.00) and/or ninety-three (93) days in jail and forfeiture of the marihuana.

(Ord. No. 440 , § 2, 11-12-19)

Sec. 11-15. - Offenses and penalties.

(a) *Personal use.* A person may not possess, use or consume, internally possess, purchase, transport or process more than two and one-half (2.5) ounces of marihuana, except up to and including fifteen (15) grams of marihuana may be in the form of marihuana concentrate.

(b) *Personal residence.* Within the person's residence, a person may not possess, store, or process more than ten (10) ounces of marihuana and any marihuana produced by marihuana plants cultivated on the premises or grow, possess, cultivate or process more than twleve (12) marihuana plants for personal use.

(c) *Visible cultivation.* A person shall not cultivate marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area.

(d) *Assist person under twenty-one (21).* A person may not assist another person who is under twenty-one (21) years or younger in any of the acts described in this section.

(e) *Storage at residence.* A person shall not possess more than two and one-half (2.5) ounces of marihuana within a person's place of residence unless the excess marihuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the contents of the container or area.

(f) *Consumption in a public place.* A person shall not consume marihuana in a public place or smoke marihuana where prohibited by the person who owns, occupies, or manages the property.

(g) *Transferring to another person.* A person may not give away or otherwise transfer marihuana except as follows:

(1) The transfer is without remuneration.

(2) Up to two and one-half (2.5) ounces of marihuana may be transferred, except that not more than fifteen (15) grams of marihuana may be in the form of marihuana concentrate,

(3) The transferee is a person twenty-one (21) years of age or older; and

(4) The transfer is not advertised or promoted to the public.

(h) *Penalty.* If a person is in violation of the actions set forth above, he or she shall be responsible for a civil infraction with a fine of not more than one hundred dollars ($100.00) and forfeiture of the marihuana.

(i) *Penalties involving more than the allowed amount.* A person who

(1) Possesses more than five (5) ounces, of which thirty (30) grams are in concentrate form; or

(2) Possesses more than twenty (20) ounces in his or her residence;

(3) Cultivates more than twelve (12) plants;

is responsible for a civil infraction and may be punished by a fine of not more than five hundred dollars ($500.00) and forfeiture of the marihuana.

(Ord. No. 440 , § 3, 11-12-19)

Sec. 11-16. - Intent to deliver; penalty.

(a) *Possession with intent to deliver.* A person shall not possess, cultivate, or deliver without remuneration to a person who is at least twenty-one (21) years of age more than five (5) ounces, up to and not more than thirty (30) grams of which are in the form of concentrate.

(b) *Penalty.* The penalty for violating this section shall be a misdemeanor, punishable by a fine of up to five hundred dollars ($500.00) and/or ninety-three (93) days in jail and shall be subject to imprisonment if the violation was habitual, willful, and for a commercial purpose or the violation involved violence.

(Ord. No. 440 , § 4, 11-12-19)

Sec. 11-17. - Offenses and penalties for consumption while operating.

(a) *Consumption while operating.* A person shall not use or consume marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoking marihuana within the passenger area of a vehicle upon a public way.

(b) *Operating under the influence of marihuana.* The offense of operating under the influence of marihuana shall be prosecuted under the Motor Vehicle Code MCL 257.1, et seq. and its relevant provisions and penalties which was adopted by the city at section 20-16.

(c) *Penalties.* The penalty for consumption while operating set out in this section is a misdemeanor and is punishable by five hundred dollars ($500.00) and/or ninety-three (93) days jail.

(Ord. No. 440 , § 5, 11-12-19)

Secs. 11-18—11-20. - Reserved.

ARTICLE II. - OFFENSES AGAINST PUBLIC ADMINISTRATION

> *Footnotes:*
> *--- (**2**) ---*
> ***Cross reference—** Administration, Ch. 2.*

Sec. 11-21. - Obstruction of public safety officer.

No person shall obstruct, resist, hinder or oppose any member of the public safety department, or any peace officer in the discharge of his duties as such.

(Code 1971, § 9.102(29))

State Law reference— False personation of officers, MCL 750.215; obstruction of police officers, MCL 750.479.

Sec. 11-22. - False alarms or reports.

No person shall summon, as a joke or prank or otherwise without any good reason therefor, by telephone or otherwise the public safety department or any public or private ambulance to go to any address where the service called for is not needed.

(Code 1971, § 9.102(14))

Cross reference— Fire prevention and protection, Ch. 6.

State Law reference— False fire alarms, MCL 750.240; false report on crime, MCL 750.411a.

Secs. 11-23—11-40. - Reserved.

ARTICLE III. - OFFENSES AGAINST THE PERSON

Sec. 11-41. - Assault and assault and battery.

(a) No person shall commit an assault, or an assault and battery on any person.

(b) No person shall commit an assault, or an assault and battery on his or her own spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household.

(c) A police officer may arrest a person for violating subsection (b) regardless of whether the police officer has a warrant or whether the violation was committed in his or her presence, if the police officer has reasonable cause to believe both of the following:

  (1) The violation has occurred or is occurring.

  (2) The person has had a child in common with the victim, resides or has resided in the same household as the victim, or is the spouse or former spouse of the victim.

(d) When an individual who has not been convicted previously of an assaultive crime pleads guilty to a violation of subsection (b) and the victim of the assault is the offender's spouse or former spouse, an individual who has had a child in common with the offender, or an individual residing or having resided in the same household as the offender, the court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney in consultation with the victim, may defer further proceedings and place the accused on probation as provided in this section. However, before deferring proceedings under this subsection, the court shall contact the department of state police and determine whether, according to the records of the department of state police, the accused has previously been convicted of an assaultive crime or has previously availed himself or herself of this subsection, MCL 769.4a, or similar local ordinance. If the search of the records reveals an arrest for an assaultive crime but no disposition, the court shall contact the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this subsection.

  (1) Upon a violation of a term or condition or probation, the court may enter an adjudication of guilt and proceed as otherwise determined by the court.

  (2) An order of probation entered under this subsection may include any condition of probation authorized under section 3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3, including, but not limited to, requiring the accused to participate in a mandatory counseling program. The court may order the accused to pay the reasonable costs of the mandatory counseling program. The court also may order the accused to participate in a drug treatment program, or may order the defendant to be imprisoned for not more than ninety-three (93) days at the time or intervals, which may be consecutive or nonconsecutive and within the period of probation, as the court determines.

  (3) The court shall enter an adjudication of guilt and proceed as otherwise provided in this subsection if any of the following circumstances exist:

    a. The accused commits a crime during the period of probation.

    b. The accused violates an order of the court.

    c.

The accused violates an order of the court that he or she have no contact with a named individual.

(4) Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this subsection shall be without adjudication of guilt and is not a conviction for purposes of the subsection or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(5) There may be only one (1) discharge and dismissal under this subsection with respect to any individual. The department of state police shall retain a nonpublic record of an arrest and discharge and dismissal under this subsection. This record shall be furnished to a court or police agency upon request pursuant to this subsection or to an office of prosecuting attorney for the purpose of showing that a defendant in a criminal action under this subsection has already once availed himself or herself of these provisions or for the purpose of determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings.

(Code 1971, § 9.102(1); Ord. No. 412, § 1, 10-8-13)

State Law reference— Assaults, MCL 750.81 et seq.

Sec. 11-42. - Neglect of family.

No person shall neglect or fail to support his spouse, children or family, if he shall have sufficient ability to do so, or leave or desert his spouse, children or family without sufficient means of support.

(Code 1971, § 9.102(35))

State Law reference— Desertion and nonsupport, MCL 750.161 et seq.; person of sufficient ability who refuses or neglects to support his family defined as a disorderly person, MCL 750.167(1)(a).

Sec. 11-43. - Larceny under one hundred dollars ($100.00).

No person shall commit the offense of larceny by stealing the property of another, any money, goods or chattels, the value of which is less than one hundred dollars ($100.00).

(Ord. No. 259, § 1, 3-10-92)

Editor's note— Ordinance No. 259, adopted March 10, 1992, did not specifically amend the Code; hence, inclusion of § 1 as § 11-43 was at the discretion of the editor.

Sec. 11-44. - Use of a telephone; penalty.

(a) It shall be unlawful for any person to maliciously use the telephone with intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy any other person, or to disturb the peace and quiet of any other person by any of the following:

(1) Threatening physical harm or damage to any person or property in the course of a telephone conversation.

(2) Falsely and deliberately reporting by telephone that any person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime or of an accident.

(3) Using any vulgar, indecent, obscene, or offensive language or suggesting anything lewd or lascivious.

(4) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered.

(5) Falsely and deliberately order goods, food, or service to be sent or delivered to another person or location, for the purpose of harassment.

(b) Any person found by a court of competent jurisdiction to have maliciously used a telephone shall be found guilty of a misdemeanor punishable by imprisonment for not more than ninety (90) days, or a fine of not more than five hundred dollars ($500.00), or both.

(Ord. No. 260, §§ 1, 2, 3-10-92)

Editor's note— Ordinance No. 260, adopted March 10, 1992, did not specifically amend the Code; hence, inclusion of §§ 1, 2, as § 11-44 was at the discretion of the editor.

Secs. 11-45—11-60. - Reserved.

ARTICLE IV. - OFFENSES AGAINST PROPERTY

Sec. 11-61. - Trespass upon vineyards, orchards or gardens.

No person shall enter any vineyard, orchard or garden, without the consent of the owner, and pick, take, carry away, destroy or injure any of the fruits, vegetables or crops therein, or in any way injure or destroy any bush, tree, vine or plant.

(Code 1971, § 9.111)

State Law reference— Similar provisions, MCL 750.550.

Sec. 11-62. - Trespass after entry prohibited.

No person shall wilfully enter upon the lands or premises of another without lawful authority, after having been forbidden to do so by the owner or occupant, agent or servant of the owner or occupant, and no person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, the agent or servant of either, shall without lawful authority neglect or refuse to depart therefrom.

(Code 1971, § 9.112)

State Law reference— Similar provisions, MCL 750.552.

Sec. 11-63. - Destroying, removing, etc., public property or property of another.

No person shall wilfully destroy, remove, damage, alter or in any manner deface any property not his own, or any public school building, or any public building, bridge, fire hydrant, alarm box, streetlight, street sign, traffic-control device, railroad sign or signal, parking meter, or shade tree belonging to the city or located in the public places of the city, or mark or post handbills on, or in any manner mar the walls of, any public building, or fence, tree, or pole within the city, or destroy, take, or meddle with any property belonging to the city, or remove the same from the building or place where it may be kept, placed or stored, without proper authority, or disturb, tamper with, disconnect or damage any city water meter without proper authority.

(Code 1971, § 9.102(13))

Cross reference— Injury to fire equipment, § 6-1.

State Law reference— Malicious mischief, MCL 750.377 et seq.

Sec. 11-64. - Prohibited deposits on street rights-of-way.

(a) No person shall sweep or cause to be swept any dirt or litter of any kind whatsoever into or on the public right-of-way of any street or highway or throw or cause to be thrown or drained to or upon the public right-of-way of any street or highway, any waste water or other fluids, except as storm water may be drained thereon due to its natural flow.

(b) No person shall place or cause to be placed any grass clippings, leaves, lawn rakings, tree or bush trimmings, tree trunks, stumps, ashes, soil, dirt or household debris in or upon the right-of-way of any street or highway.

(Code 1971, § 9.102(36), (37))

State Law reference— Littering, MCL 752.901.

Secs. 11-65—11-75. - Reserved.

ARTICLE V. - OFFENSES AGAINST PUBLIC PEACE

DIVISION 1. - GENERALLY

Sec. 11-76. - Loitering.

(a) *Public place.* Public place for the purpose of this section shall mean any place to which the general public has access and a right of resort for business, entertainment, travel or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public ways, grounds, areas or parks.

(b) *Obstruction.* It shall be unlawful for any person to remain idle in essentially one (1) location in any public place and thereby obstruct the passage of the public after having been told to move on by a police officer.

(c) *Requests for money.* It shall be unlawful for any person in any public place, while requesting or soliciting money or other valuable things, to do any of the following acts:

(1) Obstruct the path of any person;

(2) Obstruct the entrance to any building, parking area, or vehicle;

(3) Obstruct any safety path, sidewalk, street, or right-of-way, by sitting on the pavement in an area that is not designated for pedestrian sitting;

(4) Interfere with the flow of pedestrian or vehicular traffic;

(5) Follow behind, along side, or ahead of a person who has walked away or expressed disinterest; and

(6) Touch another person without their consent or otherwise assault any person.

(Code 1971, § 9.102(30); Ord. No. 414 , § 2, 1-14-14)

State Law reference— Certain loiterers deemed disorderly persons, MCL 750.167.

Sec. 11-77. - Prowling.

It shall be unlawful for any person to loiter or prowl in a place within the city at a time or in a manner such that a reasonably prudent person would deem unusual for law-abiding individuals and under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether or not alarm is warranted is the fact that the person takes flight upon the appearance of a police officer, refuses to identify himself, or endeavors to conceal himself or any object.

(Code 1971, § 9.102(31); Ord. No. 256, § 1, 3-10-92)

Sec. 11-78. - Disorderly persons.

(a) This section shall be known as the "Disorderly Persons Ordinance" and it shall be deemed sufficient, in any actions for the enforcement of the provisions hereof, to define the same by such short title, and by reference to the number hereof.

(b) Any person who shall engage in any act or acts of "disorderly conduct" as defined in this section, shall be deemed a "disorderly person" and shall be punished as hereinafter provided.

(c) The following conduct shall be deemed disorderly conduct:

(1) Any common prostitute, or any person employed in, or found in any house of prostitution or where lewdness is practiced, encouraged or allowed, or in any house of assignation, or the keeper, operator, proprietor of such place, or the owner of property who shall knowingly permit such property to be used for such a place, or any person who shall solicit for any such place, or who shall solicit, accost, call or invite another person for any common prostitute, or for any act of prostitution or lewdness or who shall attempt to procure the commission by another or by others of any act of illicit intercourse or lewdness.

(2) Any person who shall intentionally exhibit himself or herself in any place of entertainment, or in any public place, or to the public view, indecently clad or in the nude, or who shall engage in any indecent, immoral or obscene conduct in such places, or shall make any indecent or open exposure of his or her person or of the person of another.

(3) Any window peeper, or any person, who shall designedly molest, assault or interfere with persons, or the safety, comfort and repose of any person in any public place.

(4) Any person who shall use indecent, obscene, immoral, vile, vulgar, or profane language in any public place, or who shall use such language in the presence or hearing of any woman or child, or who shall communicate such language to any woman or child via telephone.

(5) Any person who shall be drunk, or intoxicated (by drugs or alcohol) in any public place, and any person who shall imbibe any intoxicating liquor including beer and wine, in any public place not licensed to sell such liquor for consumption on the premises.

(6) Any person found unnecessarily shoving or jostling people in any public place, and any person who shall create any disturbance in any public place, or who shall create a disturbance in any private place which shall result in any annoyance to the occupants and invitees of the immediate vicinity, or who shall in any wise cause a breach of the peace.

(7) Any person who shall knowingly loiter in and about any place where an illegal occupation or business prohibited by state law or local ordinance is being conducted, practiced, encouraged or allowed.

(8) Any person who shall illegally sell, keep for sale, offer for sale or otherwise dispense alcoholic beverages, or spirituous liquor either by the bottle or glass; any person who shall aid and abet in the illegal sale of alcoholic beverages or spirituous liquor; any person who shall have in his possession illegally an alcoholic beverage or spirituous liquor; any person found loitering in or about a place where alcoholic beverages or spirituous liquor, either by bottle or by glass, is illegally sold, offered for sale, or otherwise dispensed.

(9) Any person who stands, loiters, or strolls in any public place awaiting or seeking an opportunity to obtain money or valuable things from others by trick or fraud, or to aid or assist therein.

(10) All persons who engage in or aid and abet any fight, quarrel, riot, or other disturbance in Bloomfield Hills.

(11) Any person who shall make any improper, loud or tumultuous noise or disturbance which interferes with the peaceful enjoyment of the premises of others.

(12) Any person who shall harbor or keep any dog, which by loud, frequent, or habitual barking, yelping or howling, shall cause a serious annoyance to the neighborhood, or to people passing to and from upon the street.

(13) Any person or persons collecting, standing in crowds so as to hinder or impede the free access to and departure from, or inside of any public hall, courtroom or place of entertainment or worship, or commit any act or acts of riotously congregating or assembling.

(d) Any person deemed a disorderly person or committing any of the acts of disorderly conduct set forth in this section shall be guilty of a misdemeanor, and upon conviction thereof, before a court of competent jurisdiction, shall be punished by a fine not to exceed five hundred dollars ($500.00) and costs of prosecution, or by imprisonment in the Oakland County Jail, not to exceed ninety (90) days or both, in the court's discretion.

(Ord. No. 334, § 1, 6-10-03)

Secs. 11-79—11-82. - Reserved.

Editor's note— Section 2 of Ord. No. 334, adopted June 10, 2003, repealed §§ 11-78—11-82, which had pertained to prohibited language, fighting, disorderly intoxication, under influence of controlled substances, and unlawful assembly, respectively. Said sections had derived from § 9.02 of the 1971 Code. Similar provisions can be found under a new § 11-78 adopted under § 1 of Ord. No. 334.

Sec. 11-83. - Unlawful entry into schools, churches and other institutions.

No person shall enter or remain in any public, private or parochial school, church, or other institution in the city, except when in attendance as a regularly enrolled student, teacher, administrator or employee, or when engaged in legitimate business or pursuits.

(Code 1971, § 9.102(38))

Sec. 11-84. - Disturbance of schools, churches and other institutions.

No person shall wilfully or maliciously make or cause any noise, disturbance or diversion in or near any building or grounds, by which the peace, quiet or good order of any public, private or parochial school, church or other institution is disturbed.

(Code 1971, § 9.102(39))

State Law reference— Disturbance of religious worship, MCL 750.169, 752.525; disturbing public places, MCL 750.170.

Sec. 11-85. - Building and construction activity and landscaping prohibited on Sundays, legal holidays, and during certain hours on other days.

The erection, excavation, demolition, alteration or repair of any building, the excavation of streets and highways, the use of landscaping equipment including, but not limited to, chain saws, front end loaders and bulldozers but, excluding lawnmowers, power blowers and power rakes are prohibited on Monday through Friday, except between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays except between the hours of 9:00 a.m. and 5:00 p.m. and is completely prohibited on Sundays and legal holidays, unless a permit is first obtained from the city manager.

(Ord. No. 226, § 1, 9-12-89; Ord. No. 267, § 1, 9-15-92)

Sec. 11-86. - Fireworks.

(a) The purpose of this section is to regulate the ignition, discharge and use of fireworks in the City of Bloomfield Hills in accordance with the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, as amended.

(b) Definitions and adoption by reference. As used in this section, the following words and phrases have the meanings indicated:

Act means the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, as amended, MCL 28.451 to 28.471, and as amended by Public Act No. 635 of 2018, which is hereby adopted by reference as a part of this section.

Articles pyrotechnic, as defined in the Act, means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction.

Consumer fireworks, as defined in the Act, means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and that are in compliance with the construction, chemical composition, labeling, and other requirements in the Act. Novelties and low-impact fireworks as defined in the Act are not consumer fireworks.

Display Fireworks, as defined in the Act, means 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 detonation.

Fireworks, as defined in the Act, means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation, and consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

Low-impact fireworks, as defined in the Act, means ground and handheld sparkling devices.

Minor is an individual who is less than eighteen (18) years of age.

Novelties, as defined in the Act, means all of the following:

(a) Toy plastic or paper caps for toy pistols in sheets, strips, roll, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(b) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (a) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.

(c)

Flitter sparklers in paper tubes not exceeding one-eighth (⅛) inch in diameter.

(d) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

Special effects, as defined in the Act, 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.

(c) Fireworks permit. Display fireworks shall not be ignited, discharged or used within the City of Bloomfield Hills except in compliance with a permit granted by the city commission as provided in the Act.

(d) Prohibited ignition, discharge, and use. Consumer fireworks shall not be ignited, discharged or used in the City of Bloomfield Hills except in the following situations:

(1) Consumer Fireworks may be ignited, discharged or used on the following dates and times:

(a) December 31 until 1 a.m. on January 1.

(b) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.

(c) June 29 to July 4 until 11:45 p.m. on each of those days.

(d) July 5, if that date is a Friday or Saturday, until 11:45 p.m.

(e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(2) Consumer fireworks shall not be ignited, discharged, or used on public, school, church, or private property of another person without the express written permission from the person or entity legally in possession and control of that property.

(e) Consumer fireworks sales. As provided in and subject to punishment under the Act:

(1) Consumer fireworks shall not be sold to a minor.

(2) Persons shall not sell consumer fireworks at a retail location without prominently displaying the consumer fireworks certificate obtained under the Act for that location.

(f) Minors. A minor shall not possess, use, discharge or ignite any consumer fireworks at any time unless supervised by a parent or legal guardian.

(g) Under the Influence. An individual shall not discharge, ignite, or use consumer fireworks or low impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and controlled substance.

(h) Unmanned free-floating devices. Any unmanned free-floating device (sky lanterns) which requires fire underneath to propel it and is not moored to the ground while aloft, have an uncontrolled and unpredictable flight path and descent area so as to pose a potential fire risk and are therefore prohibited.

(i) Novelties; inapplicability of ordinance. This section does not apply to novelties. Nothing in this section regulates, the sale, storage, display for sale, transportation, use, or distribution of novelties.

(j) Zoning Ordinances. Any person selling, distributing or transporting fireworks shall otherwise comply with the Act, and is required to comply with the zoning ordinance of the city, including obtaining necessary approvals hereunder. Failure to obtain necessary zoning approvals is subject to penalty as provided in the zoning ordinance of the city.

(k) Imminent dangers. Notwithstanding the Act, no person shall use, discharge or ignite fireworks thereby creating or causing an imminent danger or threat to the public health, safety, or welfare, and such fireworks being used, ignited or discharged may be immediately seized.

(l) Seizure. All fireworks possessed, used, discharged, and/or ignited in violation of the Act and/or this section are subject to seizure. Any costs incurred by the city to seize and store the fireworks shall be paid by the responsible party.

(m) Penalties. The penalty for a violation of this Ordinance is deemed a municipal civil infraction, punishable by a civil fine for a violation of not more than one thousand dollars ($1,000.00) for each violation, of which fine amount a minimum of five hundred dollars ($500.00) of the fine collected shall be remitted to the City of Bloomfield Hills, and a civil fine of five hundred dollars ($500.00) for violations of all other sections and subsections in this ordinance, plus costs, damages, and expenses and any other relief allowed under law.

(Ord. No. 398, § 1, 7-10-12 ; Ord. No. 409, § 1, 8-13-13 ; Ord. No. 437 , § 1, 6-11-19)

Secs. 11-87—11-90. - Reserved.

DIVISION 2. - PICKETING

Footnotes:

--- ***(3)*** ---

Editor's note— *Ord. No. 230, § 1, adopted Mar. 13, 1990, amended the Code by adding a new Ch. 26, §§ 26-1 and 26-2, which provisions have been redesignated by the editor as Div. 2, §§ 11-91 and 11-92, for purposes of classification and to facilitate indexing.*

Sec. 11-91. - Purpose.

The city commission has recognized the sanctity of the home and has determined that the public health and welfare and good order of the community require that the sanctity and privacy of the home be protected and that members of the community be allowed to enjoy the well-being, tranquility and privacy of the home and that a dwelling carries with it the sense of security inherent in the assurance that it will be a place to which one may return to find enjoyment, tranquility and privacy. The city commission has also determined that the practice of picketing on and/or immediately in front of and/or surrounding a residence and/or a dwelling where picketing is directed against the occupant has the unreasonable and offensive result of such occupant being a captive in his or her own home and causes emotional disturbance and distress to the occupant. Such practice has the further result of obstructing and interfering with the free use of public sidewalks and public ways of travel. The city commission has further determined that without resort to such picketing full opportunity exists and under the terms of these provisions will continue to exist for the exercise of freedom of speech and other constitutional rights. Based on said determinations, the city commission enacts this division to protect the public interests and to avoid the detrimental results as set forth herein.

(Ord. No. 230, § 1, 3-13-90; Ord. No. 237, § 1, 5-8-90)

Sec. 11-92. - Restricted.

It shall be unlawful for any person to engage in picketing directed against the occupant of a residence or other dwelling in the city where such picketing occurs on and/or within one hundred twenty (120) feet of the front, rear or either side of the property line of and focuses upon such residence or dwelling.

(Ord. No. 230, § 1, 3-13-90; Ord. No. 237, § 1, 5-8-90)

Secs. 11-93—11-95. - Reserved.

ARTICLE VI. - OFFENSES AGAINST PUBLIC SAFETY

Sec. 11-96. - Abandoned refrigerators.

No person shall have in his possession, either inside or outside of any building, structure or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or any other similar airtight container of any kind which has a snap latch or other locking device thereon, without first removing the snap latch or other locking device, or the doors, from such icebox, refrigerator or other similar container.

(Code 1971, § 9.15)

State Law reference— Similar provisions, MCL 750.493d.

Sec. 11-97. - Hunting prohibited.

No person shall hunt nor shall any person carry for the purpose of hunting any rifle, shotgun or other firearm within the city. Any person carrying a loaded rifle, shotgun or other firearm within the city limits shall be deemed to be hunting. This section shall not apply to a person carrying an unloaded rifle, shotgun or other firearm while traveling through or from the city for the purpose of hunting without the city limits.

(Code 1971, § 9.105)

State Law reference— Game law, MCL 311.1 et seq.; firearms and weapons, MCL 28.421 et seq., 750.222 et seq.

Sec. 11-98. - Discharging of weapons.

No person shall discharge any firearm, air rifle, air pistol or bow and arrow in the city, except when lawfully acting in the defense of persons or property or the enforcement of law or at a duly established range, the operation of which has been approved by the commission, or with a written permit.

(Code 1971, §§ 9.102(4), 9.106)

Sec. 11-99. - Trapping, injuring game.

No person shall by use of any form of trap or by any drug, poison or explosive, injure, capture or kill any bird or any game or fur-bearing animal, nor shall any person at any time, or in any manner whatever molest or harass any such bird, or game or fur-bearing animal within the city limits, unless he shall have in his possession a written permit as provided in section 11-100.

(Code 1971, § 9.107)

Sec. 11-100. - Permit to discharge firearms, destroy bird or animal.

The director of public safety shall have the authority to issue to any resident of the city a written permit for the discharging of firearms within the city, provided that such permit shall not be for the purpose of hunting and provided that such discharge of firearms shall not endanger the lives and property of others. The director of public safety shall have the authority to issue to any resident of the city a written permit to shoot, trap or poison any bird or animal upon his property,

provided that such bird or animal is causing damage to such property and that such shooting, trapping or poisoning shall not endanger the lives or property of others nor be in violation of any state law.

(Code 1971, § 9.108)

Sec. 11-101. - Throwing objects from moving automobiles.

No person shall wrongfully throw or propel any snowball, missile or object from any moving automobile.

(Code 1971, § 9.102(33))

Sec. 11-102. - Throwing objects at persons or moving automobiles.

No person shall wrongfully throw or propel any snowball, missile or object toward any person or automobile.

(Code 1971, § 9.102(34))

Secs. 11-103—11-115. - Reserved.

ARTICLE VII. - OFFENSES AGAINST PUBLIC MORALS

Sec. 11-116. - Nude swimming prohibited.

No person shall swim or bathe nude in any public place.

(Code 1971, § 9.102(8))

Sec. 11-117. - Indecent exposure.

No person shall knowingly make any open or indecent exposure of his or her person in any public place.

(Code 1971, § 9.102(11))

State Law reference— Similar provisions, MCL 750.335a.

Chapter 11.5 - OPERATING HOURS OF RESTAURANTS

> *Footnotes:*
> *--- **(1)** ---*
> ***Editor's note—** Ord. No. 210, § 1, adopted Feb. 9, 1988, amended the Code by adding provisions designated as Ch. 25, § 25-1. For purposes of classification and in order to maintain the alphabetical sequence of chapters, said provisions have been redesignated by the editor as Ch. 11.5, § 11.5-1.*

Sec. 11.5-1. - Definition; operating prohibited during certain hours.

(1) "Restaurant" shall be defined as any coffee shop, cafeteria, short-order cafe, fast food establishment, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria or eating establishment, in-plant or employee eating establishment, and any other eating or dining establishment, organization, club, including veterans' clubs, boardinghouse, guesthouse, or political subdivision, which gives, sells or offers for sale, food to the public, guests, patrons or employees as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering functions. The term "restaurant" shall not include vending machines, food delivery vehicles, cooperative arrangements by employees who purchase food or beverages for their own consumption and where no employee is assigned full time to care for or operate equipment used in such arrangements, or private homes; nor shall the term "restaurant" include churches, church societies, private clubs or other nonprofit associations of a religious, philanthropic, civic improvement, social, political, or educational nature, which purchase food, food products, or beverages or which receive donations of food, food products, or beverages, for service without charge to their members, or for service or sale at a reasonable charge to their members.

(2) In all zoning districts in the city, no restaurant shall remain open for business during the hours of 2:00 a.m. to 5:00 a.m., inclusive.

(Ord. No. 210, § 1, 2-9-88)

Chapter 12 - SOLICITORS

> *Footnotes:*
> *--- **(1)** ---*
> ***Editor's note—** Ord. No. 249, § 2, adopted June 11, 1991, amended the Code repealing Ch. 12, § 12-1 and enacting a new Ch. 12, §§ 12-1—12-11. Former Ch. 12, § 12-1 pertained to peddlers and solicitors and derived from Code 1971, § 7.71.*

> ***Cross reference—*** *Offenses, Ch. 11; sales, Ch. 14; streets, sidewalks and other public places, Ch. 18.*
>
> ***State Law reference—*** *Home solicitation sales, MCL 445.111 et seq.; transit merchants, MCL 445.371 et seq.; exemption for a veteran's license, MCL 35.441.*

Sec. 12-1. - Purpose.

The city commission having determined that it is in the best interest of the city to enact an ordinance regulating organizations and persons soliciting in the city and the enactment of the ordinances being necessary to promote and protect the public safety of those persons soliciting as well as to protect the public safety, protect residents' privacy, as well as preventing fraud as to those persons in the city being solicited.

(Ord. No. 249, § 1, 6-11-91; Ord. No. 329, § 1, 12-10-02)

Sec. 12-2. - Definitions.

The following words and terms shall have the following definitions for the purposes of this chapter:

Person means an individual, organization, group, association, partnership, corporation, trust, business entity or any combination of the above.

Soliciting material means printed or similar materials including, but not limited to, labels, posters, brochures, flyers, pamphlets, magazines, booklets, books and other like items used in the course of and for the purpose of soliciting.

Solicitor:

(1) Means a person who solicits when traveling either by foot, automobile, motor truck or other means of conveyance from place to place, from house to house or from street to street.

(2) Means a person who hires, leases, uses or occupies any building, structure, hotel, room, shop or any other place for the sole purpose of exhibiting samples or soliciting material and taking orders for future delivery.

(3) Shall include, but not limited to the words canvasser, peddler, and hawker.

Solicits means the act of offering or attempting to offer wares, merchandise, services, items of personal property, real property, either for immediate or future delivery; or the act of seeking or attempting to seek contributions either in money or services, for charitable or commercial purposes.

(Ord. No. 249, § 1, 6-11-91; Ord. No. 329, § 1, 12-10-02)

Sec. 12-3. - License required.

No person shall be a solicitor and/or solicit in Bloomfield Hills without first obtaining a license therefor. An application for a license shall be made to the city clerk not less than two (2) weeks prior to commencing any solicitation activity. In the event that the application is made by an organization, group, association, partnership, corporation, trust, business entity or any combination of the above, an application must be made for each agent or employee who shall be engaging in the act of soliciting. Upon certification by the Bloomfield Hills Public Safety Department to the city clerk that the requirements of section 12-4 have been satisfied, after investigation and after receipt of payment for applicable fees, the license shall be issued by the city clerk.

(Ord. No. 249, § 1, 6-11-91; Ord. No. 312, § 1, 6-8-99)

Sec. 12-4. - License application.

A license application filed hereunder shall furnish the following information:

(1) Name and description of the applicant.

(2) Permanent home address and full local address of the applicant.

(3) A brief description of the nature of the solicitation contemplated.

(4) If the applicant is an employee, the name and address of the employer, together with the credentials establishing the exact employer/employee relationship.

(5) The length of time the applicant intends to solicit.

(6) The place where the wares, merchandise, services, items of personal property or real property are located, manufactured or produced, where such items are located at the time said application is filed and the proposed method of delivery.

(7) Two (2) photographs of the applicant, one photograph being a photograph taken within one hundred twenty (120) days prior to the date of filing of the application and the other photograph being from the applicant's driver's license, a copy of said driver's license to be attached to the applicant's application. The photograph which is not from the applicant's driver's license shall be at least two (2) inches by two (2) inches and shall show the head and shoulders of the applicant in a clear and distinguishing manner. In the event that the applicant does not have a driver's license, then the applicant shall submit a second separate photograph with his application, said photograph being at least two (2) inches by two (2) inches and showing the head and shoulders of the applicant in a clear and distinguishing manner.

(8) A statement as to whether or not the applicant has been convicted of any felony, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(Ord. No. 249, § 1, 6-11-91)

Sec. 12-5. - Administrative fee.

An administrative processing fee for a solicitor's license shall be established by resolution of the city commission and said administrative processing fee shall be paid when the application is filed with the city.

(Ord. No. 249, § 1, 6-11-91)

Sec. 12-6. - License revocation.

A license may be suspended or revoked by the city manager for violation of this chapter after reasonable written notice and a hearing by the city manager. The written notice shall be mailed by regular mail to the license holder and shall set forth the alleged violation of the chapter and also the date, time, and place of the hearing before the city manager. At the hearing, the license holder shall have the right to present evidence and witnesses on his behalf. After the hearing, the city manager shall make his or her decision as to whether to suspend or revoke the license and shall put the decision and the reasons thereof in writing and forward the same to the license holder.

(Ord. No. 249, § 1, 6-11-91; Ord. No. 312, § 1, 6-8-99)

Sec. 12-7. - Prohibited activities.

The following acts or activities shall be prohibited:

(1) *Fixed stands prohibited.* No solicitor shall stop or remain in one (1) place upon any street, alley or public place.

(2) *Prohibited areas.* No solicitor shall obstruct any street, alley, sidewalk or driveway.

(3) *Curb service prohibited.* No solicitor shall operate or maintain any stand, vehicle, store or place of solicitation on or near any highway. No solicitor shall be permitted to use the streets, alleys, lanes or public places of the city for soliciting or to use any stands, stores or other places of transaction in any manner that requires the person wishing to participate in a transaction, when engaged in the transaction, to stand within the limits of the streets, highways, alleys or public places of the city.

(4) *Prohibition of entry upon private property expressly requesting no solicitation.* Prohibition of entry upon private property expressly requesting no solicitation. No solicitor shall enter upon and/or call upon a place of residence or business within the city after having been expressly notified by the occupant of the place of residence or business or by a sign posted on the residence or business that no solicitation is desired, or if the place of residence or business visibly displays on its property and/or premises a sign indicating "no soliciting", "no solicitation" and/or other language specifically conveying the message that no soliciting is desired. No solicitor shall enter upon and/or call upon a place of residence or business within the city which is designated on the list kept at the Bloomfield Hills city clerk's office pursuant to section 12-10.

(5) *Prohibition of harassment or creation of nuisance.* No solicitor shall threaten or harass any resident of the city in the course of their solicitation or in any way engage in any conduct which is or would tend to create a nuisance.

(Ord. No. 249, § 1, 6-11-91; Ord. No. 329, § 1, 12-10-02)

Sec. 12-8. - Hours of operation.

Soliciting may take place within the city only between the hours of 10:00 a.m. and 8:00 p.m.

(Ord. No. 249, § 1, 6-11-91)

Sec. 12-9. - Exempt persons.

The following persons shall be exempt from the licensing requirements of this chapter but shall be subject to the other provisions herein:

(1) Persons engaged in the occupation of distribution of newspapers.

(2) Persons engaged in soliciting within one (1) mile from their residence for an educational, charitable, religious or youth organization.

(3) Persons engaged in noncommercial, religious canvassing.

(4) Persons engaged in the distribution of hand bills, signed or unsigned, political or otherwise.

(Ord. No. 249, § 1, 6-11-91; Ord. No. 329, § 1, 12-10-02)

Sec. 12-10. - List of persons not wanting to be solicited.

Any person who owns and/or occupies a residence and/or business in Bloomfield Hills who does not wish to have solicitors enter upon and/or call upon the residence or business to solicit may inform the city clerk's office of the same in writing and the city clerk's office shall keep on file a list of the addresses of those persons that do not want solicitors to enter upon and/or call upon their residence and/or place of business. A list of the addresses of those persons not wanting solicitors to enter upon and/or call upon their residence and/or place of business shall be given to each person who files an application for a solicitation license in Bloomfield Hills.

(Ord. No. 249, § 1, 6-11-91)

Sec. 12-11. - Penalty.

Any person or persons violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more the five hundred dollars ($500.00) plus costs of prosecutions or by imprisonment for not more than ninety (90) days, or by both fine and costs and imprisonment in the discretion of the court.

(Ord. No. 249, § 1, 6-11-91)

Chapter 13 - PLANNING

Footnotes:
*--- (**1**) ---*
Charter reference— *Zoning and other land use powers, Ch. II, § 3.*
Cross reference— *Administration Ch. 2; buildings and building regulations, Ch. 4; signs, Ch. 16; soil removal, Ch. 17; streets, sidewalks and other public places, Ch. 18; subdivision of land, Ch. 19; utilities, Ch. 21; zoning, Ch. 24.*
State Law reference— *Authority to regulate land use, MCL 125.581, et seq.; municipal planning, MCL 125.31, et seq.*

ARTICLE I. - IN GENERAL

Secs. 13-1—13-15. - Reserved.

ARTICLE II. - PLANNING COMMISSION

Footnotes:
*--- (**2**) ---*
Cross reference— *Administration, Ch. 2; boards of commissions generally, § 2-301, et seq.*
State Law reference— *Authority to create a planning commission.*

Sec. 13-16. - Definitions.

For the purposes of this article, the following words shall have the meanings ascribed to them in this section:

Plan shall mean the master plan and every part, amendment or extension thereof and addition thereto, made and adopted in the manner provided in state law.

Plat shall include any plat, map, drawing or chart of any lot, tract or parcel of land, whether the same is recorded or not, and whether or not the same meets all the requirements of Act 288 of the Public Acts of Michigan for 1967, as amended (MCL 560.101, et seq.)

Street shall include street, avenue, boulevard, road, lane, viaduct and other ways.

Subdivide and its derivatives shall mean the partitioning or dividing by a recorded or unrecorded plat of a lot, tract or parcel of land into three (3) or more lots, sites or other divisions for the purpose, whether immediate or future, of sale for dwelling or commercial uses or development.

(Code 1971, § 5.181)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 13-17. - Continued.

The planning commission of the City of Bloomfield Hills heretofore created and established is hereby continued, with the powers and duties set forth in this chapter. This article is adopted pursuant to the authority granted the city commission under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., as amended, to establish a planning commission with the powers, duties and limitations provided by those acts. The purpose of this article is for the city commission to confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the city planning commission to establish the appointments, terms and membership of the planning commission; to identify the officers and the minimum number of meetings per year of the planning commission and to prescribe the authority, powers and duties of the planning commission as provided in and subject to the terms and conditions of this article.

(Code 1971, § 5.182; Ord. No. 390, § 1, 6-14-11)

Sec. 13-18. - Composition.

The planning commission shall consist of nine (9) members, one (1) of whom shall be the mayor, one (1) an administrative official of the city selected by the mayor, and one (1) a member of the city commission selected by it, to sit as members ex officio, and six (6) persons who shall represent insofar as possible different professions or occupations and be representative of important segments of the community, such as the economic, governmental, educational and social development of the city in accordance with the major interests as they exist in the city, such as natural resources, recreation, education, public health, government, transportation, residential uses, industry and commerce. The membership shall also be representative of the entire geography of the city to the extent practical. The six (6) members shall be appointed by the mayor, subject to the approval, by a majority vote, of the city commission. None of the six (6) members shall hold any other municipal office, except that one (1) of such members may be a member of the zoning board of appeals. To be qualified to be a member and remain a member of the commission, the individual shall be a qualified elector of the City of Bloomfield Hills.

(Code 1971, § 5.183; Ord. No. 390, § 1, 6-14-11)

Sec. 13-19. - Terms of members.

The terms of the ex officio members shall correspond to their respective official tenures, except that the term of the administrative official selected by the mayor shall terminate with the term of the mayor selecting him. Members shall be appointed for three-year terms until their successors are appointed and qualified; provided, however, the initial appointments effective on or after June 30, 2011, shall occur in such a manner as to create three (3) sets of staggered appointments with the initial terms of the first set of three (3) members to be no more than one (1) year, the second set of three (3) members to be no longer than two (2) years and the third set of three (3) members to be no longer than three (3) years such that as nearly as possible the terms of one third of all commission members will expire each year. Members shall be eligible for reappointment for any number of terms.

(Code 1971, § 5.184; Ord. No. 390, § 1, 6-14-11)

Sec. 13-20. - Compensation, removal of members; conflict of interest; vacancies.

(a) All members of the planning commission shall serve as such without compensation.

(b) Any member of the planning commission may, after public hearing, be removed by the city commission, by a vote of four-fifths of its membership, such removal shall be for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. Before casting a vote on a matter on which a member of the planning commission may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office. For purposes of this subsection, a "conflict of interest" exists when a member of the planning commission or a member of their family has a proprietary or financial interest in an issue or matter that is before the planning commission, beyond that which is experienced by the public in general, or the member may receive or gain a financial benefit as a result of a vote on such issue or matter, or which would result in a violation of the Standards of Conduct for Public Officers and Employees Act, 196 PA 1973 (being MCL 15.341, et seq.), the Incompatible Public Offices Act, 566 PA 1978 (being MCL 15.181, et seq.), or any other state law or city charter, ordinance, ethics code or policy provision applicable to conflicts of interest.

(c) Vacancies occurring for any reason whatsoever shall be filled in the manner provided in section 13-18, for the original selection of members of the planning commission.

(Code 1971, § 5.185; Ord. No. 390, § 1, 6-14-11)

Sec. 13-21. - Officers.

The planning commission shall elect a chairman, a vice chairman and a secretary from among its appointed members, and shall create and fill such other offices as shall be determined by it. The term of all such offices shall be one (1) year, with eligibility for reelection.

(Code 1971, § 5.186; Ord. No. 390, § 1, 6-14-11)

Sec. 13-22. - Meetings.

Regular meetings of the planning commission shall be held at such times as may be prescribed by resolution, provided that, consistent with its duties and the amount of work which it has to do, such meetings shall be held not less than once a month.

The business that the planning commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261, et seq.

The planning commission shall keep a public record of its resolutions, transactions, findings and determinations. A writing prepared, owned, used, in the possession of or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

(Code 1971, § 5.187; Ord. No. 390, § 1, 6-14-11)

Sec. 13-23. - Rules and/or bylaws; reports.

The planning commission shall adopt rules and/or bylaws for the transaction of business, and shall keep current a record of its resolutions, transactions, findings, determinations and finances, which record shall be a public record. It shall make and file an annual report with the city commission on or before the first day of September in each year of its activities during the fiscal period ending with the thirtieth day of June immediately preceding.

(Code 1971, § 5.188; Ord. No. 390, § 1, 6-14-11)

Sec. 13-24. - Finances, contracts.

The city commission shall annually appropriate the funds necessary in its judgment for the conduct of the planning commission's work for the ensuing fiscal year. Such appropriation shall be based upon a detailed estimated budget prepared and submitted by the planning commission to the city commission on or before the tenth day of May in each year. The planning commission may hire such employees, enter into such contracts with city planners, engineers, architects or other consultants, and incur such expenses as it may determine to be requisite to the performance of its work, provided, however, that its expenditures for all purposes shall not at any time exceed the aggregate amount of such appropriation and the unexpended or unallocated portion of gifts of money which it may have received, unless expressly approved by a duly adopted resolution of the city commission. The city commission shall likewise provide the equipment and accommodations necessary for the conduct of the planning commission's work.

(Code 1971, § 5.189; Ord. No. 390, § 1, 6-14-11)

Sec. 13-25. - Powers, duties.

The planning commission shall have the powers and duties as set forth in PA 33 of 2008, as amended, being the Michigan Planning Enabling Act, MCL 125.3801, et seq., and PA 110 of 2006, as amended, being the Michigan Zoning Enabling Act, MCL 125.3101, et seq.

The duties and responsibilities of the planning commission shall include, but shall not be limited to:

(a) Prepare, review and update a master plan as a guide for development within the city's planning jurisdiction.

(b) Take such action on petitions, staff proposals and city commission requests for amendments to the zoning ordinance as required.

(c) In accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, consider, no less frequently than every five (5) years, whether a revision of the master plan or updated amendments in the master plan are needed and prepare, consider and approve any such revisions or amendments.

(d) Take such actions as are required by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended.

(e) Review subdivision and condominium proposals and recommend appropriate actions to the city commission.

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

(g) Prepare an annual written report to the city commission concerning its operations and the status of planning activities, including recommendations regarding actions by the city commission related to planning and development.

(h) Promote understanding of and interest in the master plan and the city zoning ordinance.

(i) Carry out other duties and responsibilities as set forth in the Michigan Planning Enabling Act, Public Act 33 of 2008.

(j) Exercise all powers and duties of a zoning board, as previously done and hereby confirmed as transferred to the planning commission, as outlined in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

(Code 1971, §§ 5.190—5.202; Ord. No. 390, § 1, 6-14-11)

Sec. 13-26. - Approval, ratification and reconfirmation.

All official actions taken by all City of Bloomfield Hills' planning commissions, preceding the commission established by this article, are hereby approved, ratified and reconfirmed. Any project, review or process taking place at the effective date of this article shall continue with the planning commission created by this article, subject to the requirements of this article, and shall be deemed a continuation of any previous City of Bloomfield Hills planning commission. This article shall be in full force and effect from and after its adoption and publication.

(Ord. No. 390, § 1, 6-14-11)

Chapter 14 - SALES

> *Footnotes:*
> *--- **(1)** ---*
> ***Cross reference—*** *Peddlers and solicitors, Ch. 12.*

ARTICLE I. - IN GENERAL

Secs. 14-1—14-15. - Reserved.

ARTICLE II. - IN-HOME SALES

DIVISION 1. - GENERALLY

Secs. 14-16—14-25. - Reserved.

DIVISION 2. - LICENSE

> *Footnotes:*
> *--- (**2**) ---*
> ***Cross reference—** Licenses generally, Ch. 9.*

Sec. 14-26. - Required; exception.

It shall be unlawful for any person to sell or display goods, wares or merchandise from residential property without first having obtained a license therefor; provided however, that this prohibition shall not be applicable to isolated sales of used personal property pursuant to classified newspaper advertising in which the property is specifically identified and where the property being sold is not placed on display for sale to the general public.

(Ord. No. 138, § 2(7.150), 9-9-75)

Sec. 14-27. - Application.

(a) Any person seeking a license under this division shall apply therefor in writing to the city clerk at least ten (10) days prior to the time for which a license is sought.

(b) At the time of filing such application, the applicant shall pay to the city clerk the license fee established by section 9-12.

(c) The application shall also contain the name of the agent, if any, who will be conducting the sale and shall be signed by both the owner and the agent. The application shall also state the following:

(1) The location within the home, where the sale is to be conducted;

(2) A traffic and parking plan and the proposed method for controlling same to ensure access at all times to both the site and the adjoining neighborhoods for all emergency vehicles. In the case of a condominium development, the applicant must provide notice to the association board noticing the sale, and comply with their parking requirements and procedure to access the building, especially where there is a shared, common entrance/lobby. As part of the traffic and parking plan, temporary no parking signs may be erected by the applicant on or near the street that the property having the sale is located, which temporary no parking signs and their size, design, and location must be approved by the city prior to the erection of the temporary no parking signs and the temporary no parking signs shall only remain in place for the duration of the sale. The temporary no parking signs shall not advertise or draw attention to the sale and the temporary no parking signs shall not prohibit residents in the area of the sale or said residents' non-sale attending visitors from parking on the street.

(3) The date and time that the sale is to be conducted;

(4) That the owner has never before conducted a sale, either personally or through an agent, at the stated address.

(5) A written representation from the owner that the goods, wares, merchandise or other personal property to be sold is owned by the owner and not owned by either an agent or third party.

(Ord. No. 138, § 2(7.151, 7.152), 9-9-75; Ord. No. 310, § 1, 4-13-99; Ord. No. 453 , § 1, 9-13-22)

Sec. 14-28. - Investigation, issuance.

Upon the filing of the application for the license required by section 14-26, it shall be referred to the city manager and if, after investigation by him, he shall be satisfied that all conditions of this article have been satisfied and the sale will not create undue hardship to the surrounding property he shall authorize the city clerk to issue the applicant a license subject to the following:

(1) The sale and display of goods shall be restricted to no more than three (3) consecutive days and shall be conducted between the hours of 8:00 a.m. and 5:00 p.m. only.

(2) The sale or display shall only be by personal invitation or notice on social media and shall not be advertised in the newspapers, on the radio, on television, on dedicated phone lines or via telemarketing.

(3) The sale or display of goods shall be restricted to the interior living area of the home or garage and no goods may be sold or displayed on driveways, in the front yard or from any other locations visible from the street.

(4) The sale or display of goods, wares, merchandise or other personal property shall be restricted to property owned by the owner pursuant to, section 14-27(c)(5). The applicant or owner shall not be permitted to transport or allow to be transported goods, wares, merchandise or other personal property for sale in a city residence.

(5) Parking shall be controlled pursuant to section 14-27(c)(2).

(6) One sign advertising the in-home sale or estate sale shall be permitted on the property at which the sale is occurring, provided that the sign meets the requirements of section 16-4(4) and temporary no parking signs that are part of a traffic and parking plan shall also be permitted in accordance with section 14-27(c)(2). Except as otherwise provided in this subsection, no other signs shall be erected or displayed to call attention to the sale.

(7) Such further conditions as the city manager shall deem necessary to ensure that the sale will not be injurious to the general health, safety and welfare of the community.

(Ord. No. 138, § 2(7.153), 9-9-75; Ord. No. 310, § 1, 4-13-99; Ord. No. 453 , § 1, 9-13-22)

Sec. 14-29. - Revocation.

The city manager shall have the right to revoke the license at any time and order the sales stopped if after a factual determination he determines that any of the conditions of this article have been violated.

(Ord. No. 138, § 2(7.154), 9-9-75)

Chapter 15 - SELF-SERVICE RETAIL FILLING STATIONS

> *Footnotes:*
> *--- (**1**) ---*
> ***Cross reference—*** *Fire prevention and protection, Ch. 6.*

ARTICLE I. - IN GENERAL

Sec. 15-1. - Definition.

The following definition shall apply in the interpretation of this chapter: The term "self-service retail filling station" shall include any installation from which flammable liquids are sold direct to the consumer and in which persons not employed by the installation are permitted to pump or dispense gasoline or other flammable liquid for the purposes of filling the tank of a motor vehicle or any approved barrel, drum, can, or other container with gasoline or other flammable liquid.

(Ord. No. 166, § 7.161, 9-9-80)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 15-2. - Design plans.

Every person, firm, corporation, or entity which intends to construct, reconstruct, convert, or alter any retail filling or service station to provide self-service gasoline dispensing shall furnish the chief building inspector with plans of the proposed station that shall include the location of the pump islands in respect to the control console and the location of all fire extinguishers. These plans shall be reviewed by the chief building inspector to determine that all requirements of this chapter have been met. The chief of building inspector shall report the findings of this review to the city commission.

(Ord. No. 166, § 7.171, 9-9-80)

Sec. 15-3. - Full-service islands.

Every person obtaining a license to operate a self-service retail filling or service station within the city shall maintain at least fifty (50) percent of the pump islands on the premises solely for the pumping or dispensing of gasoline or other petroleum products by a service station attendant. Such island shall be designated by a sign in three-inch block letters, conspicuously placed and stating "Full Service." No person shall permit any purchaser, customer or other person not employed by the retail filing or service station to use, manipulate or operate any gasoline dispensing pump, hose or other device located at any island designated full service. The full service island shall be open at all times while a self-service retail filling station is open to the public. Access to all full service islands shall remain clear at all times. No self-service retail filling station shall remain open to the public unless all full service pump islands are working and in operation.

(Ord. No. 166, § 7.165, 9-9-80)

Sec. 15-4. - Intercommunication systems.

Self-service stations shall be equipped with an intercommunication system providing constant audible contact between the pump island and control console operator. The intercommunication system shall be maintained in proper operating condition and shall be turned on at all times during which the station is open for business.

(Ord. No. 166, § 7.166, 9-9-80)

Sec. 15-5. - Unobstructed view of control console operator.

Self-service stations shall be designed so that the control console operator shall have an unobstructed view of the self-service pump islands. Placing or allowing any obstacle to come between the self-service pump islands and the attendant control area is prohibited. Mirrors are not accepted for providing adequate visual control.

(Ord. No. 166, § 7.167, 9-9-80)

Sec. 15-6. - Fire control.

Each self-service station shall be equipped with portable fire extinguishers having a minimum classification of 5B, C, as defined by the National Fire Protection Association, and at least two (2) such extinguishers shall be located within fifty (50) feet of each gasoline dispensing device.

(Ord. No. 166, § 7.168, 9-9-80)

Cross reference— Fire prevention and protection, Ch. 6.

Sec. 15-7. - Warning signs.

Each self-service island shall be conspicuously posted with metal warning signs, printed in not less than three-inch block letters, incorporating the following or equivalent wording:

(1) Turn ignition off;

(2) No smoking in or out of vehicle;

(3) Unlawful and dangerous to dispense gasoline into unapproved containers.

(Ord. No. 166, § 7.169, 9-9-80)

Sec. 15-8. - Minimum age for dispensing gasoline.

No person shall operate a gasoline dispensing device at a self-service station when under sixteen (16) years of age. No person shall permit another, who is under sixteen (16) years of age to operate a gasoline dispensing device at a self-service station.

(Ord. No. 166, § 7.170, 9-9-80)

Sec. 15-9. - Self-service attendants.

At least one (1) qualified self-service attendant shall be on duty at all times while a self-service retail filling station is open to the public. A self-service attendant's primary function shall be to supervise, observe, and control the dispensing of gasoline while it is being dispensed. It is the responsibility of the self-service attendant to prevent the dispensing of gasoline into a portable container which does not comply with subrule (d) of Rule 105 of the Michigan Flammable Liquids Regulations and Section 502 of Act 328 of Public Acts of 1931, to control sources of ignition, to handle accidental spills, to monitor the control console, and to ensure that an obstructed view of the self-service pumps is maintained and to make certain that all required procedures are followed. At least one (1) additional attendant shall be on duty at all times while a self-service retail filling station is open to the public to handle all transactions and services at the full-service island.

(Ord. No. 166, § 7.176, 9-9-80)

Secs. 15-10—15-20. - Reserved.

ARTICLE II. - LICENSE

> *Footnotes:*
> *--- **(2)** ---*
> ***Cross reference—** Licenses generally, Ch. 9.*

Sec. 15-21. - Required.

No person shall operate a self-service retail filling or service station without first obtaining a license therefor from the city commission.

(Ord. No. 166, § 7.162, 9-9-80)

Sec. 15-22. - Application.

Any person desirous of obtaining a license to operate a self-service retail filling or service station shall file an application with the city commission, setting forth the name and address of the applicant and specifying the location at which the self-service retail filling or service station is to be operated. At the time of filing such application, there shall be paid a fee as provided in section 9-12 to cover the cost of inspection.

(Ord. No. 166, § 7.163, 9-9-80)

Sec. 15-23. - Required certification.

No application for a license as required by section 15-22 shall be approved by the city commission until the chief building inspector has, upon investigation, certified that the following statutes and regulations have been complied with: Applicable provisions of the BOCA Basic Building Code; National Fire Prevention Association (N.F.P.A.), flammable liquids regulations; state and county laws; and any regulations promulgated thereunder.

(Ord. No. 166, § 7.164, 9-9-80)

Sec. 15-24. - Approval, issuance; fee.

The city commission shall approve the self-service retail filling station license when it has determined, based upon the reports and certifications of the chief building inspector, that there has been compliance by the applicant with all applicable provisions of the City Code, and all provisions of this chapter. Upon approval of the application, the city commission shall authorize the city clerk to issue a license to the applicant upon the payment of a license fee in such amount as it shall from time to time establish.

(Ord. No. 166, § 7.172, 9-9-80)

Sec. 15-25. - Expiration, renewal.

All licenses issued pursuant to this article shall expire December thirty-first next following their issuance. Unrevoked licenses may be renewed upon expiration by payment of the annual license fee and upon completion of an application for annual license.

(Ord. No. 166, § 7.173, 9-9-80)

Sec. 15-26. - Revocation.

Revocation of self-service retail filling station licenses shall be accomplished in accordance with the provisions contained in section 9-20.

(Ord. No. 166, § 7.174, 9-9-80)

Secs. 15-27—15-35. - Reserved.

ARTICLE III. - GASOLINE SERVICE STATIONS OPERATING HOURS

Sec. 15-36. - Purpose and intent.

It is the general purpose and intent of the city to regulate the operating hours of gasoline service stations in the City of Bloomfield Hills.

(Ord. No. 300, § 2(1), 6-10-97)

Sec. 15-37. - Background.

The Bloomfield Hills Department of Public Safety has recorded numerous problems occurring in the area of the Shell Gasoline Service Station located at Long Lake Road and Woodward Avenue and has reported its findings accordingly to the city commission. The city commission finds that the problems include armed robberies, larcenies of gasoline, loitering, and public nuisances. The city commission finds that these events are occurring during the early morning hours between midnight and 6:00 a.m. when the Shell Station is the only establishment open for several miles along Woodward Avenue in the city. The city commission also finds that the Mobil Station located nearby experienced the same problems in past years before they voluntarily closed between the hours of midnight and 6:00 a.m. The city commission further finds that city code section 11.5-1 regulating operating hours of restaurants in the city has been very successful in closing restaurants during the hours of 2:00 a.m. to 5:00 a.m. and that the many crimes which were formerly committed at Denny's Restaurant which formerly was open twenty-four (24) hours a day have now vanished. Accordingly, the city commission finds that in order to protect the public health, safety, and welfare, as well as the prevention public nuisances that it should regulate the use of gasoline service stations within its municipal boundaries through an ordinance limiting the hours of operation between midnight and 6:00 a.m.

(Ord. No. 300, § 2(2), 6-10-97)

Sec. 15-38. - Definition.

The following definition shall apply in the interpretation of this article:

Gasoline service station shall be defined as any retail gasoline filling station whether self-service or otherwise from which flammable liquids are sold to the customer and in which persons pump or dispense gasoline or other flammable liquid for the purpose of filling the tank of a motor vehicle or any approved barrel, drum, can, or other container with gasoline or other flammable liquid.

(Ord. No. 300, § 2(3), 6-10-97)

Sec. 15-39. - Hours.

In all zoning districts in the city, no gasoline service station shall remain open for business during the hours of midnight to 6:00 a.m., inclusive.

(Ord. No. 300, § 2(4), 6-10-97)

Chapter 16 - SIGNS

> *Footnotes:*
> *--- (**1**) ---*
> ***Editor's note—*** *Ord. No. 419 , adopted February 10, 2015, in effect repealed former ch. 16, §§ 16-1—16-12, and enacted a new ch. 16, §§ 16-1—16-11 as set out herein. Former ch. 16 pertained to similar subject matter and derived from Ord. No. 182, adopted July 13, 1982; Ord. No. 217, adopted March 14, 1989; Ord. No. 281, adopted November 15, 1994; Ord. No. 326, adopted June 13, 2000; Ord. No. 388, adopted December 14, 2010; and Ord. No. 399 , adopted August 14, 2012.*
> ***Cross reference—*** *Buildings and building regulations, Ch. 4; planning, Ch. 13; streets, sidewalks and other public places, Ch. 18; subdivision of land, Ch. 19; traffic and motor vehicles, Ch. 20; zoning, Ch. 24.*
> ***State Law reference—*** *Highway advertising act, MCL 252.301 et seq.*

Sec. 16-1. - Purpose.

The purpose of this chapter is to regulate all types of signs with outdoor visibility. It is intended to enhance the physical appearance of the city, preserve scenic and natural beauty, make the city a more enjoyable and pleasing community, preserve standards which establish character of the city including the color, size and placement of signage and create a more attractive economic and business climate. This chapter also intends to reduce sign or advertising distractions which may cause traffic accidents and reduce sign clutter and requires that all signs in the city will eventually conform to its regulations by establishing deadlines by which all signs must conform.

(Ord. No. 419 , 2-10-15)

Sec. 16-2. - Definitions.

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

Accessory sign shall mean a sign which pertains to the principal use of the premises.

Address identification sign shall mean a sign which identifies the property or premises by a street number.

Animated sign shall mean a sign depicting action, motion, flashing or other light or color changes through electronic, electrical or mechanical means. Although technologically similar to flashing signs, the animated sign emphasizes graphics and artistic display.

Building sign shall mean a sign which identifies only the building name and/or street number of the building or group of buildings. A building sign shall not contain the name of the occupants and/or tenants in the building, unless the name of the building is based on the name of one of the building's occupants and/or tenants. A building sign shall not contain any corporate images, symbols and/or logos.

Directional sign shall mean a sign which contains information to direct pedestrian or vehicular traffic to the location of a facility on the property on which the sign is located. Such signs may include, but are not limited to, arrows or words.

Directory sign shall mean a sign which identifies the location of persons, tenants, firms or activities within a building or group of buildings to persons who are on the premises. The sign shall be placed at a location on or near the building or group of buildings so that it conveys its message to only on-site pedestrian and vehicular traffic. The sign is not intended to display information related to goods or services for sale or other advertisement.

Ground sign shall mean a freestanding sign which is supported by uprights, braces, columns, or some object on the ground, and is not attached to any building.

Identification sign shall mean a sign which identifies the name of a building, institution, occupant, tenant and/or the activity occurring in the building. An identification sign shall not contain any corporate images, symbols and/or logos.

Off-premises sign shall mean a sign which advertises or directs attention to a business, product, service, or activity which is not available on the premises where the sign is located.

Political sign shall mean a sign relating to the election of a person to public office or relating to a political party, or a matter to be voted upon in connection with a local, state, or national election or referendum.

Residential identification sign shall mean a sign which identifies only the name of the subdivision or similar residential development complex.

Residential nameplate shall mean a sign which identifies only the street number of the premises and/or name of the occupant residing on the premises.

Roof sign shall mean a sign that is painted on or erected upon or above the roof of a building.

Sign shall mean the use of any letters, words, numerals, figures, devices, designs, trademarks or insignias, by which anything is made known so as to show an individual, firm, profession, institution, activity, business, product or message and is visible to the general public.

Sign area shall mean the gross surface area within a single continuous perimeter which forms the outside shape including any frame which forms an integral part of the display. The area of a sign which consists of open type letters or numbers mounted on a wall or other surface shall be the smallest rectangular figure which can encompass all the letters and descriptive matters. The area of a ground sign shall exclude the necessary supports, uprights or structure on which the sign is placed.

Sign height shall mean the vertical distance from top to bottom which encompasses the extreme limits of all descriptive matter including the frame which forms an integral part of the display, and the posts and support structure in the case of a ground sign. The height of a ground sign shall be measured from grade level at the sign base to the top of the sign or structure.

Snipe or bandit sign shall mean a sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, stakes, fences, or other like objects, the advertising matter of which is not applicable to the present use of the premises on which the sign is located.

Temporary sign shall mean a sign which is intended for a limited period of display, but not including decorative holiday displays.

Vehicular sign shall mean any sign on any vehicle parked temporarily, incidental to its principal use for transportation. This definition shall not include signs being transported to a site for permanent erection.

Wall sign shall mean a sign which is attached to the wall of a building with the exposed face of the sign in parallel plane to the plane of the building wall on which attached.

Window sign shall mean a sign affixed to a window or positioned inside of a building or window and observable from the outside. A window sign is regulated as a wall sign.

(Ord. No. 419 , 2-10-15; Ord. No. 442 , § 1, 1-14-20)

Sec. 16-3. - General rule.

All signs within the city shall be regulated by this chapter and shall require a permit, unless expressly exempted herein.

(Ord. No. 419 , 2-10-15)

Sec. 16-4. - Signs not requiring a permit.

The following signs are allowed under this chapter without a permit, provided all other regulations regarding size and placement of signs and protection of public safety are met:

(1) Signs stating "No Trespassing" or "No Soliciting," or the equivalent thereof. Such signs shall not exceed three (3) square feet in area and be limited to one (1) sign per road on which the property has frontage.

(2) Temporary real estate signs with a sign area of six (6) square feet or less which announce the sale, lease or other disposition of real estate on the property to which it pertains, or construction/building signs with a sign area of twelve (12) feet or less which identify architects, builders or contractors in connection with actual construction work in progress. Such signs shall be limited to one (1) of each sign per property, shall be located on the property which is being announced for sale, lease, disposition or construction, and immediately removed upon disposition of the property or completion of construction.

(3) Address identification sign, subject to these limitations:

a. Each character shall be not less than four (4) inches in height and not less than one-half (½") inch in width. The street address number shall be displayed using Arabic numerals, in a readily legible text style and be plainly visible from the street or road fronting the property. In residential zoning districts, the signs shall be installed on a contrasting background.

b. If the height of the address numbers exceeds eight (8) inches, the street address number shall be considered a sign and be subject to the limitations on size, placement and number of signs contained in this chapter.

(4) A sign advertising an in-home sale or estate sale is permitted on the property to which it pertains. One (1) sign up to four (4) square feet is allowed on the premises only during the days of the event.

(5) Signs located in the interior of buildings, with the exception of window signs.

(6) On-premises directional signs, subject to the following limitations:

a. Shall not exceed three (3) square feet in area.

b. Shall be located a minimum of five (5) feet from the public right-of-way and limited to one (1) sign per entrance or exit.

c. Shall not contain any listing of goods or services for sale, corporate images, names or symbols.

(7) Ancillary on-premises signs which are not directional in nature, such as restricting parking, shall be limited to the number of barrier free parking spaces allowed for the building to which they apply where such signs are visible to an adjoining property or public roadway.

(8) Signage affixed to the face of a fuel pump at a gas/fuel station, not to include appurtenances affixed to the pump. Television and video monitors affixed to fuel pumps are prohibited.

(9) Signage in a commercial district which displays hours of operation or "open" that is placed in a window or on the building face no less than five (5) feet and no greater than seven (7) feet above the finished ground floor and does not exceed four (4) square feet. Such signs may include an illumination of the word "open" in one (1) color of a size not to exceed three (3) square feet.

(10) Public flags. A flag pole for the primary purpose of display of the United States flag, other country flags, state flag, school flags and municipal flags is permitted, subject to the following limitations:

a. The flags are displayed in accordance with the standards of the United States and the State of Michigan.

b. The flag pole does not exceed thirty (30) feet in height and is set back from the property line a minimum distance of twenty-five (25) feet.

c. The flag's dimensional height does not exceed twenty (20) percent of the flag pole height and the flag's dimensional length does not exceed twenty-five (25) percent of the flag pole height.

(11) Any signs maintained or required by the United States of America, the state, any agencies or political subdivisions thereof, the county and the city, including temporary or permanent traffic-control signs, building or fire code signs, or other signs of a public purpose.

(12) Political signs, subject to the following limitations:

a. Political signs shall be removed within five (5) calendar days after the election to which they pertain.

b. In residential districts, signs shall not be more than four (4) square feet in area per face, with a maximum of two (2) faces, and no more than three (3) feet in height measured from grade or surface of surrounding ground level.

c. In non-residential districts, signs shall not be more than twelve (12) square feet in area per face, with a maximum of two (2) faces, and no more than five (5) feet in height measured from grade or surface of surrounding ground level.

d. Political signs are exempt from the sign color requirements stated in section 16-5(2)a.

e. All political signs shall be located at least ten (10) feet from the back of the curb, outer edge of the traveled portion of the road or outer edge of the road shoulder, whichever is greater.

f. There shall be no illumination of political-election signs.

g. No political sign shall be located on city owned property, a public right-of-way, the Woodward Avenue median, or attached to any utility pole, tree or other structure.

h. No political sign shall be erected at the intersection of any street in a manner which obstructs free and clear vision, or at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device in a manner as to interfere with, mislead or confuse traffic.

(Ord. No. 419 , 2-10-15)

Sec. 16-5. - Schedule of regulations.

All signs located in the city shall be of an accessory sign type and subject to the following sign types and quantities permitted by use/ zoning district and general standards, except as otherwise permitted by this chapter.

(1) Sign types and quantities permitted by use/zoning district.

SCHEDULE OF REGULATIONS LIMITING TYPE, NUMBER, PLACEMENT, HEIGHT, AREA AND ILLUMINATION OF SIGNS BY LAND USE AND ZONING DISTRICT

Uses Permitted by Zoning District	Type of Sign Permitted by Use		Maximum Number of Signs Permitted By Unit of Measure	Sign Height and Area Limitations			
				Wall Sign		Ground Sign	
	Function	Sign Type		Maximum Sign Height in Ft.	Maximum Sign Area in Sq. Ft.	Maximum Sign Area in Sq. Ft.	Maximum Height of Sign Structure in Ft.

A-1 through A-6 Districts, B-1 District							
One-family dwellings	Residential nameplate	Wall or ground	One (1) per dwelling unit	None	2	2	5
Residential Developments - Per development as approved by the Planning Commission	Residential identification	Wall or ground	One (1) per development when incorporated as part of the entranceway structure	2	24	24	5
Golf & country clubs, riding & hunt clubs, and churches	Identification Sign	Wall or ground	One (1) per development under common ownership or control	2	24	24	5
C-1 District							
Multiple tenant buildings except Offices and Banks	Identification Sign	Wall	One (1) for each individual establishment with separate building entrance at the ground floor level	2	24		
Offices, Banks and single tenant buildings	Identification Sign	Wall or ground	One (1) per development under common ownership control	2	24	24	5
Offices	Directory Sign	Wall or ground	One (1) per development under common ownership or control	2	24	24	5
O-1 and O-2 Districts							

All Permitted Uses	Building Sign	Wall or ground	One (1) per development under common ownership or control.	2	24	24	5
	Directory Sign	Wall or ground	One (1) per development under common ownership or control.	2	15	15	5
I-1 District							
All Permitted Uses	Identification Sign	Wall or ground	One (1) per development under common ownership or control.	2	24	24	5
	Directory Sign	Wall or ground	One (1) per development under common ownership or control.	2	15	15	5

(2) General sign standards.

a. Sign color. Unless specifically cited in this chapter, all signs constructed, erected or located in the city shall have a black background and gold colored lettering or numerals produced by applying pigments to the sign surface. Said black and gold colors shall be in Pantone Matching System (PMS) color chart colors PMS 871C—874C with or without a gloss aqueous coating for gold and PMS 3C or 6C for black, or their equivalent.

1. In the event an applicant for signage requests an exception from the requirements of this paragraph due to a registered trademark or service mark, they may apply to the planning commission to create an exception so as to allow the applicant to utilize a sign evidencing a different color.
2. In the exercise of its discretion, the planning commission may authorize the use of a different color than the black and gold requirement of this paragraph provided the applicant satisfies the planning commission that (a) it possesses in good standing a registered trademark or service mark with the state or federal government; (b) that the applicant has consistently used the registered trademark or service mark on a continual basis; and (c) any other relevant considerations, which, in the discretion of the planning commission and in the spirit of this paragraph, are relevant to its decision.

b. Ground sign requirements:

1. Location and setback. All signs or displays regulated by this chapter shall be located at least twenty-five (25) feet from any property line or right of way, unless otherwise exempted herein. No sign shall block or obstruct the sight line of vehicles entering or exiting the premises or create a hazardous condition. At street intersections, no sign shall be located in the triangle formed by the property lines paralleling the streets and extending for a distance of twenty-five (25) feet each way from the intersection of the right-of-way lines at the corner.
2. Sign height. The height of all signs shall be measured from the natural grade level immediately adjacent to where the sign is erected to the top of the sign or sign structure.
3. Foundation. All ground signs, except signs as permitted in section 16-4, shall be securely built and erected upon posts (other than wood) with standards sunk at least forty-two (42) inches below the material surface of the ground embedded in concrete or shall be structurally attached to a concrete foundation of equal quality as approved by the building inspector. The sign area of a ground sign shall exclude the necessary supports, uprights or structure on which the sign is placed, the area of which shall not exceed twenty (20) square feet.

c. Wall sign requirements:

1. Location. The sign shall be placed on the building face which most closely parallels the principal street frontage. In the case of a corner lot at the intersection of two (2) major thoroughfares, such sign may be placed on either building face.

(a) No wall sign shall be located higher than whichever of the following is the lowest:

i. Twenty (20) feet above building grade.

ii. The top of the sills of the first level of windows above the first story.

iii. The lowest point of the roof, except in the case of a one-story building with a continuous parapet above the roof, in which cases a sign may be located as high as the top of the parapet.

(b) The top of the sign shall be below the roof line and at a height no greater than twenty (20) feet above the ground immediately adjacent to the sign.

(c) The side of a wall sign on a multi-tenant building shall not extend closer than two (2) feet to the separation wall of the tenant unit.

(d) No sign shall cover any portion of wall opening or project beyond the top or ends of the wall or unit to which it is attached.

(e) No wall sign shall be attached to elevator towers, penthouses; or screening devices for roof top equipment.

(f) The sign shall be installed flat against the wall of the building and shall not extend from the wall more than twelve (12) inches.

2. Attachment. All wall signs shall be safely and securely attached to structural members of the building by means of metal anchors, bolts or expansion screws. In no case shall any wall sign be secured with wire, strips of wood or nails.

d. Sign lighting:

1. No sign shall be illuminated by other than electrical means or devices and wiring shall be in accordance with the city electrical code. Underground wiring shall be required for all illuminated signs not attached to a building.

2. Signs shall be lit indirectly (backlit) or by external means; internal lit signs are not permitted. External lighting shall be directed either downward or upward onto the sign face and shielded so that it illuminates only the sign face and does not shine directly into a public right-of-way or residential premises.

3. Signs shall be illuminated only by steady, stationary shielded light sources directed solely at the sign, or internal to it.

4. Lighting shall be ambient and subdued and use of glaring undiffused lights or bulbs shall be prohibited. Lights shall be shaded so as not to project onto adjoining properties or thoroughfares.

5. Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.

6. Illumination by bare bulbs, exposed neon tube lighting or flames is prohibited.

e. General construction requirements:

1. All letters, figures, characters, or representations shall be securely built and/or attached to the sign structure. No nails, tacks or wires shall be permitted to protrude from the front of any sign.

2. All exposed surfaces shall be maintained in good order.

3. All signs, except as permitted in section 16-4, shall be constructed and erected to withstand a horizontal wind load of thirty (30) pounds per square foot in any direction, and the dead load of the construction, and shall be substantially constructed throughout, and adequately braced and supported.

4. Signs shall be aesthetically harmonious with the architectural character of the building, group of buildings, and/or related development features of the premises on which located with respect to design, shape, color, materials, texture and similar features.

5. No sign, except those established by the city, county, state or federal governments, shall be located in, project into, or overhang a public right-of-way or dedicated public easement.

6. No sign or any part thereof shall move or rotate, no sign illuminated so as to make it appear that the message or any symbols are moving, no signs of a banner type, no signs painted upon or consisting of paper sheets applied in any manner to the wall or roof of any building or other structure, no signs consisting of paper sheets applied in any manner to the surface of any sign structure, and no signs on which notices or announcements are to be affixed by the use of adhesives shall hereafter be built, erected or constructed within the city.

7. The city manager is hereby empowered to promulgate from time to time and keep on file in his office such additional reasonable rules establishing minimum requirements of engineering standards for the construction and maintenance of signs as he may deem necessary in his sound discretion to promote the public safety and welfare.

f. Maintenance requirements: Signs and their supporting members must be properly maintained and painted so as to keep a neat and orderly appearance and kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. All bulbs or component parts of the sign, including the electrical switches, boxes and wiring used in the illumination of the sign must be well-maintained and in good repair.

(Ord. No. 419 , 2-10-15)

Sec. 16-6. - Temporary signs requiring a permit.

(a) Real estate signs. An on-site sign announcing the sale, lease or other disposition of real estate which is larger than six (6) square feet and up to twelve (12) square feet is allowed by permit in all commercial, office and institutional districts and in residential districts where such sign announces a development of two (2) or more homes located on their own street or entrance. The sign shall be a wall or ground sign which contains only a description of the property, the purpose for which it is being advertised, and the name and address of the owner, agent or seller, as the case may be, and shall not exceed

six (6) feet in height measured from ground level. No more than one (1) such sign shall be permitted per development under common ownership or control including condominium developments and/or where parking facilities are shared in common with adjoining buildings. All such signage shall be removed within twelve (12) months after the permit is issued or immediately after such land or building is rented, leased, or sold. A new permit may be issued after twelve (12) months, provided the sign is in compliance with the requirements of this chapter and in good repair.

(b) Announcement signs. Certain temporary signs announcing civic, church, local affairs, or sporting events occurring in the city may be allowed within city limits by written permission of the city manager subject to the following conditions:

(1) Such affairs or events shall be sponsored by an established school, church, or nonprofit club, and conducted for a period not to exceed one (1) week. Signage may remain up for a period no longer than two (2) consecutive weeks, and shall be removed immediately upon the conclusion of such affairs or events. Such signs shall not exceed twelve (12) square feet in area.

(2) So called "open house" signs directing persons to and/or identifying a specific real estate in the city for the purpose of inspection relative to sale, lease or other disposition.

a. Not more than one (1) sign shall be permitted which shall be located in the immediate proximity of or located on the real estate involved. Not more than one (1) additional sign may be permitted when in the judgment of the city manager the real estate in question is not readily visible from the right-of-way of a major thoroughfare.

b. Such signs shall not remain up for a period exceeding eight (8) hours. Such sign shall not exceed nine (9) square feet in area.

c. Such sign shall contain only a description of the property, the purpose for which it is being advertised, and the name and address of the owners, agent or seller, as the case may be.

(c) The location of a temporary sign under this section shall not interfere with the free passage of vehicular and pedestrian traffic upon the public right-of-way or constitute a hazard to public safety, and be in reasonable proximity to the event or real property sought to be published.

(Ord. No. 419 , 2-10-15; Ord. No. 446 , § 1, 6-9-20)

Sec. 16-7. - Prohibited signs.

The following signs are prohibited in the city:

(1) Animated signs as defined by section 16-2.

(2) Off-premises signs as defined by section 16-2, except for signs permitted by 16-6(b).

(3) Roof signs as defined by section 16-2.

(4) Snipe or bandit signs as defined by section 16-2.

(5) Any sign which, by reason of its size, location, content, coloring or manner of illumination constitutes a traffic hazard or a detriment to traffic safety, by obstructing the vision of drivers, or by obstructing or detracting from the visibility of any traffic control device on public streets or roads.

(6) Signs which display words such as "Stop," "Look," "Danger" or any other words, phrases, symbols or characters, in such a manner as to interfere with, mislead or confuse traffic.

(7) Signs and sign structures that are no longer in use as originally intended or have been abandoned, or that are structurally unsafe, constitute a hazard to safety and health, or that are not kept in good repair.

(8) Any sign which obstruct free ingress to or egress from a required door, window, fire escape or other required exit way.

(9) Any sign or other advertising structure containing any obscene, indecent or illegal matter.

(10) Any sign unlawfully installed, erected or maintained.

(11) Signs having flashing, blinking or running type lights or having any visible portion either in motion or having the appearance of being in motion or containing any video display or electronic message.

(12) Signs with an audible message or sound.

(13) Display or parking of a motor vehicle or trailer upon a lot or premises in a location visible from the public right-of-way, for the purpose of displaying a sign attached to, painted on or placed on the vehicle or trailer, with the exception of vehicles used regularly in the course of conducting the principle use located on the premises.

(14) Use of pennants, string lights, ribbons, or other such features which are hung or strung across any property, and which are not an integral part of a building or other permanent structure on the property.

(15) Any sign installed prior to enactment of this chapter without a sign permit, when in fact such prior ordinance or regulation did require a sign permit.

(16) Searchlights, when used as a promotional device.

(17) Any sign not specifically exempted or permitted by this chapter.

(Ord. No. 419 , 2-10-15)

Sec. 16-8. - Administration and permit procedures.

(a) Administration. The city manager shall have the responsibility and authority to administer and enforce all provisions of this chapter, other than those provisions with powers specifically reserved to the planning commission or the city commission. The inspection and notification responsibilities of the city manager under this section may be performed by employees, agents or contractors of the city appointed by and under the supervision of the city manager.

(b) Planning commission. The planning commission shall review and approve all signs for any use that is before the planning commission for site plan approval under the provisions of section 24-236 based on the requirements of this chapter.

(1) Any proposed changes to signs that were approved by the planning commission at the time of site plan approval, must be reviewed and approved by the planning commission.

(2) Changes to other existing signs that were not previously approved by the city and which are not substantially similar to said existing sign and which don't comply with city ordinance requirements must be reviewed and approved by the planning commission and obtain the required variances from the city commission.

(c) Permit procedures. No sign, except as provided by section 16-4, signs not requiring a permit and section 16-9, nonconforming signs, shall be erected, displayed, altered, relocated or replaced until the city of issues a sign permit.

(1) Permit application. Applications for sign permits shall be submitted on forms provided by the city and completed as required, including:

a. Location of the sign on the property in relation to property lines, buildings, streets, public rights-of-way and street intersections of the proposed sign.

b. Drawing(s) of the proposed sign which specifies sign type, height, area and dimensions, types of lettering proposed, means of support, building materials of sign and those on associated building, colors, method of illumination and any other significant characteristics.

c. Any other information requested by the city manager, or his or her designee in order to carry out the purpose and intent of this chapter.

(2) Permit review and action. The city manager, or his or her designee shall review the sign permit application and issue or deny a permit in conformance with the following standards.

a. Official date of submission. The official date of submission shall be the day the city manager determines that the submitted application is complete.

b. Review period. The city shall issue or deny a sign permit within twenty-one (21) days of the official date of submission. If denied, the applicant shall be provided with a description of the reasons for denial.

c. Construction inspections. The applicant is responsible for requesting and obtaining all necessary and appropriate inspections during the course of construction, including those for footings and foundations and electrical work.

d. Final inspection. When complete, the applicant shall submit a photograph of the completed sign noting its size and other dimensional measurements to the city manager. The city manager or his or her designee shall perform a final inspection of the completed sign within thirty (30) days of applicant's submission to determine if the sign complies with the requirements of this chapter and the approved sign permit application. The applicant will be notified in writing of any construction or other deficiencies and have thirty (30) days to correct the stated deficiencies, unless the matters are of a nature that creates a hazard which requires immediate attention. If the deficiencies are not corrected in the allotted time, the city may order the sign be removed, with all costs borne by the applicant.

(3) Expiration of sign permit.

a. If the sign authorized by any sign permit has not been erected or completed within six (6) months from the date of issuance of that permit, the sign permit shall be deemed expired.

b. An expired sign permit may be renewed within ten (10) business days from the expiration date for good cause shown and upon payment of a permit extension fee, as established by resolution by the city commission.

(4) Revocation of a sign permit. The city manager may revoke any sign permit if there is any violation of these regulations or if there is any misrepresentation of any material fact, in either the sign permit application or the plans.

(Ord. No. 419 , 2-10-15; Ord. No. 442 , § 2, 1-14-20)

Sec. 16-9. - Nonconforming signs.

(a) Nonconforming signs, which for purposes of this chapter are defined as existing signs, that on the effective date of this chapter of the City Code, the ordinances comprising it and any amendments thereto, do not comply with one (1) or more of the regulations of this chapter, shall not:

(1) Be changed to another type of sign which is not in compliance with this chapter.

(2) Be structurally altered so as to prolong the life or change the shape, size, type or design of the sign.

(3) Have its face or faces changed or relocated unless the sign is brought into conformance with the requirements of this chapter.

(4) Exist or be placed, maintained or displayed after the activity, business or usage to which it relates has been discontinued for a period of ninety (90) days or longer.

(5) Exist or be placed, maintained or displayed after damage or destruction if the estimated expense of repair exceeds fifty (50) percent of the estimated replacement cost as determined by the city manager, or his or her designee.

(6) Exist or be placed, maintained, or displayed by anyone other than the person who owned the real property on which the sign is located on the date of adoption of this chapter or subsequent amendment that renders the sign nonconforming.

(7) Exist or be placed, maintained or displayed by any person on or after January 1, 2016, or one (1) year from the date of any amendment to this chapter that makes the sign nonconforming, provided the nature and extent of the nonconformities of the sign, as determined by city inspection, are documented and communicated in writing to the responsible persons at least one (1) year from the date of notice prior to the compliance deadline date.

(b) No sign shall be subject to the applicable compliance deadline date in section 16-9(a)(7) above, unless, at least one (1) year prior to the applicable date, the responsible persons have been notified in writing by First Class Mail to last known address, of the city's noncompliance determination, the applicable compliance deadline date for the sign and the administrative appeal and variance relief provided for under section 16-10.

(c) Notices of noncompliance provided for in section 16-9(b) may be based on existing city records, including permits, reports or certificates and/or actual physical inspection or examination of the sign, the results of which shall be placed in the form of a written report identifying the nature and extent of noncompliance with this chapter. A copy of the records and/or reports described in this subsection shall be mailed with the notices required by section 16-9(b).

(d) The responsible persons may appeal a determination of noncompliance by the city manager and/or request one (1) or more variances under the procedure provided in section 16-10. All appeals or variance requests shall be in written form and be filed with the city clerk within one (1) month of the notice by the city of sign noncompliance under section 16-9(b).

(Ord. No. 419 , 2-10-15)

Sec. 16-10. - Appeals and variances.

(a) An appeal from the decision of the city manager or planning commission, pursuant to the terms of this chapter in respect to location, erection, alteration, maintenance or removal of a sign, may be taken to the city commission.

(b) The city commission may review the decisions of the city manager or planning commission and grant variances from the requirements of this chapter. The city commission shall have the power and duty to hear, decide and grant or deny the request variance from the provisions or requirements of this chapter only where:

(1) The literal interpretation and strict application of the provisions and requirements of this chapter would cause undue and unnecessary hardship to the sign user because of unique or unusual conditions pertaining to the specific building or parcel or property in question;

(2) The granting of the requested variance would not be materially detrimental to the property owners in the vicinity;

(3) The unusual conditions applying to the specific property do not apply generally to other properties in the city; and

(4) The granting of the variance will not be contrary to the general objectives of this chapter moderating the size, number and obtrusive placement of signs and the reduction of clutter.

In granting a variance, the city commission may attach thereto such conditions regarding the location, character and other features of the proposed sign as it may deem necessary to carry out the spirit and purpose of this chapter in the public interest.

(c) A filing of an appeal with the city commission shall serve to stay further actions against the owner or erector of the sign in action for the removal thereof, until the decision of the city commission is rendered, unless the city manager certifies thereto that a condition exists which endangers the safety of lives or property and constitutes a danger to the public well-being, in which event such action shall proceed unless enjoined by a court of competent jurisdiction.

(d) The city commission shall make no decision except in a specific case and after a hearing conducted by the city commission. The concurring vote of a majority of the membership of the city commission (three (3) city commissioners) shall be necessary to reverse any order, requirement, decision or determination of the city manager or planning commission or to decide in favor of an application of any matter upon which they are required to pass under this chapter. A written notice of the time and place of the public hearing shall be mailed by First Class Mail, postage prepaid, at least ten (10) days prior to the date of the hearing, to the owners of record of all lots or parcels of land lying within five hundred (500) feet of the property in question. A proof of service of such mailing shall be filed prior to the commencement of the hearing. The city commission shall by resolution make the necessary provisions requiring the applicant to pay the costs required relative to the hearing of the appeal, including costs of mailing and administrative expenses.

(Ord. No. 419 , 2-10-15)

Sec. 16-11. - Violations and enforcement.

(a) A violation of this chapter shall constitute a municipal civil infraction as set forth in section 1-11 of the City Code. In addition, any sign which is located, erected, altered or maintained in violation of the any of the provisions of this chapter is hereby declared to be a nuisance per se. If the city manager or his or her designee orders such violations to be abated and such order is not obeyed, he or she may apply to any court of competent jurisdiction to restrain the person against whom his or her order was directed from such disobedience in violation; any such violation may be punished by fine or imprisonment or both as provided in section 1-11, or utilize remedies described in section 16-11(c)(1) and (2) below.

(b) Compliance with the provisions of this chapter shall be the responsibility of the owners of the real property upon which the sign is located and such other persons as are responsible for the creation, existence or maintenance of the violation condition.

(c) Remedies—Unsafe signs and other violations.

(1) Unsafe signs: When any sign becomes unsafe and an immediate danger, the owner or lessee shall make such sign conform to the provisions of this chapter, abate such condition or cause the sign to be removed within twenty-four (24) hours of receipt of a written notice from the city manager or his or her designee. If the order is not complied with within twenty-four (24) hours, the city manager or his or her designee may abate such condition or remove sign at the expense of the owner or lessee. If such expense is not paid, the city shall have a lien on the property and such cost shall be added to the tax bill for the property.

(2) Other violations: Signs must conform to all provisions of this chapter. In the event of a violation of any provisions of this chapter and the condition is not an unsafe sign governed by section 16-11(c)(1) above, the city manager or his or her designee shall give written notice specifying the violation to the responsible parties as specified in section 16-11(b) to conform to the provisions of this chapter or to remove the sign. Such written notice shall be sent by U.S. First Class Mail. Such notice shall provide to the responsible party that a continued violation may result in a municipal civil infraction citation and a violation will be adjudicated by the 48th District Court. In the event the violation is not abated within twenty-one (21) days from the date of the notice and without a good faith effort to comply acceptable to the city, and there has not been an appeal of the decision, the city manager or his or her designee may revoke the sign permit, abate the condition, or remove such sign at the expense of the owner or lessee. If such expense is not paid, the city shall have a lien on the property and such cost shall be added to the tax bill for the property.

(Ord. No. 419 , 2-10-15)

Chapter 17 - SOIL REMOVAL

Footnotes:

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Cross reference— *Buildings and building regulations, Ch. 4; planning, Ch. 13; streets, sidewalks and other public places, Ch. 18; subdivision of land, Ch. 19; utilities, Ch. 21; vegetation, Ch. 22; zoning, Ch. 24.*

State Law reference— *Soil conservation districts law, MCL 282.1 et seq.; soil erosion and sedimentation control act, MCL 282.101 et seq.*

ARTICLE I. - IN GENERAL

Sec. 17-1. - "Soil" defined.

The word "soil" as used in this chapter shall mean topsoil, subsoil, sand, gravel, rock, stone and heavy aggregate, earth or any other material proposed to be removed from land.

(Code 1971, § 5.211)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 17-2. - Purpose.

The purpose of this chapter is to promote the public health, safety and general welfare of the residents of the city and preserve the natural resources and to prevent the creation of nuisances and hazards to the public welfare, health, safety, morals and well being, and general welfare.

(Code 1971, § 5.212)

Sec. 17-3. - Requirements of permittee.

Any person to whom a permit is issued under this chapter shall comply with the following:

(1) *Excavations.*

a. All vehicles transporting soil or other materials from excavations over the public streets of the city shall travel only directly over such route as may be directed by the director of public safety to be least dangerous to the public safety, cause the least interference with general traffic and cause the least damage to the public streets.

b. The floor of any such excavation shall not be made lower than the level thereof as set forth in the permit application.

c. If, in the opinion of the city manager, any such excavation will present a dangerous condition if left open, such excavation shall be enclosed by a chain link or wire mesh fence completely surrounding the portion of the site where the excavation extends. Such fence is to be not less than five (5) feet in height complete with gates, which gates shall be kept locked when operations are not being carried on. Barbed wire shall not be permitted to be used.

d. Any roads used for the purpose of ingress and egress to such excavation site which are located within three hundred (300) feet of an occupied residence shall be kept dust free by surface treatment with bituminous substance or chemical treatment.

e. Where excavation operations result in body of water, the owner or operator shall place appropriate "Keep Out-Danger" signs around such premises not more than one hundred (100) feet apart.

f. No cut or excavation shall be made closer than fifty (50) feet from the nearest street or highway right-of-way nor nearer than forty (40) feet to the nearest property line; provided, however, that the city commission may prescribe more strict requirements in order to give sublateral support to surrounding property where soil or geographic conditions warrant it.

g. During the period in which excavation is being made or a pit is being operated, no person, firm or corporation shall allow pools or puddles of water to form and become stagnant and any person operating a pit shall at least once each month spray any pools or ponds which may exist in conjunction with such operations to keep such from becoming breeding places for mosquitoes or otherwise creating an unhealthy condition.

h. In all cases wherein a lake, pool, or pond is constructed with the operation of a pit and the same is within one thousand (1,000) feet of any residence, fences shall be placed around such body of water adequate to prevent children from entering the area therein.

i. The city commission shall require such other performance standards where because of peculiar conditions, they deem it necessary for the protection of health, safety, morals, preservation of natural resources and well being of the citizens of the city.

(2) *Stripping operations.* No soil or other materials shall be removed in such manner as to cause water to collect or to result in a place of danger or menace to the public health. The premises shall at all times be graded so that surface water drainage is not interfered with.

(Code 1971, § 5.219)

Secs. 17-4—17-20. - Reserved.

ARTICLE II. - PERMIT

Sec. 17-21. - Required; exception.

It shall be unlawful for any person to remove or strip any soil or other material without a permit from the city commission. No permit is required pursuant to this chapter where the moving, grading or leveling of the aforesaid materials is carried on for the immediate use or development of the land upon which the substances are found or pursuant to a building permit issued by the city manager, however, the moving, grading or leveling of said materials must comply with all terms and provisions of Chapter 7.5, Grading, of the Bloomfield Hills City Code and all permits and approvals must be obtained as required in Chapter 7.5. Where soil or other substances are removed from the site or development where found to another site or development, a permit from the city commission is required pursuant to this chapter.

(Code 1971, § 5.213; Ord. No. 247, § 1, 6-11-91)

Sec. 17-22. - Application.

The application for any permit required by section 17-21 shall be filed with the city clerk in quadruplicate, the original of which shall be sworn to before some person lawfully authorized to administer oaths, and shall set forth the following information and shall be accompanied by the following data:

(1) A full identification of the applicant and all persons to be directly or indirectly interested in the permit if granted;

(2) The residence and business address of the applicant, including all members of any firm or partnership, or all officers of any corporation applying;

(3) A complete description and location of the property on which the work is proposed to be done;

(4) The exact nature of the proposed excavation and soil to be removed and an estimate of the approximate number of cubic yards to be removed;

(5) A statement of the manner in which it is proposed to excavate and remove the soil or other materials, including the slope of the sides and the level of the floor, and the kind of equipment proposed to be employed in making such excavation and removing such materials;

(6) The proposed route which applicant proposes to use over the public streets and over private property in transporting such material;

(7) The past experience of the applicant in the matter to which the permit appertains; the name, address and past experience in such matter of the person to be in charge of the proposed operations;

(8) Whether or not any permit of the applicant has been revoked, and if so, the circumstances of such revocation;

(9) The time within which such excavation is to be commenced after the granting of the permit and the time when it is to be completed; and

(10) Such further information as the city manager or city commission may require.

(Code 1971, § 5.214)

Sec. 17-23. - Topographic map; filing fee.

At the time of the filing of an application for the permit required by section 17-21, the applicant shall file with the city clerk a topographic map of the property on which the proposed work is to be done covering the area having a radius of three hundred (300) feet, so far as may be possible, from the exterior boundary of the proposed site. The map shall indicate the number of acres on which excavation work is to be performed. At the time of filing the map and application for permit, the applicant shall pay a filing fee of one hundred dollars ($100.00). Such sum is to be used to defray the cost of engineering services, investigation, publication charges, and the other miscellaneous administrative expenses occasioned by processing such application. In addition to the filing fee the applicant shall pay a permit fee in accordance with the provisions of section 17-25.

(Code 1971, § 5.215)

Sec. 17-24. - Investigation; considerations; grounds for denial.

(a) Immediately upon the filing of an application for the permit required by section 17-21, one (1) copy thereof shall be delivered to the city manager who shall make an investigation of the facts set forth in the application and shall make a written report of his investigation together with his recommendations to the city commission at its next regular meeting.

(b) The city commission, in granting or denying any applications for a permit, shall take into consideration the zone of the proposed site, character of the applicant as respects morality, honesty, integrity, financial responsibility, and all pertinent things concerning the proposed application which may concern the health, safety, morals and well-being and general welfare of the public, the preservation of natural resources and the preventing of nuisances and hazards, and shall exercise a reasonable and sound discretion in the premises.

(c) Any permit for which application is made shall be denied if it appears from the investigation thereof that the project would remove the lateral and subjacent land and result in a dangerous topographic condition, or result in seepage or slides or create an unattractive nuisance dangerous to public safety, or that it otherwise would be any manner endanger the public health, morals and prevent the preservation of natural resources or be detrimental to the general public welfare.

(Code 1971, § 5.216)

Sec. 17-25. - Permit fee.

At the time of the issuance of the permit required by section 17-21, if the application for the excavation is granted, the applicant shall pay a permit fee to cover the expenses of the inspection and examination of the continued operation of the site of five dollars ($5.00) per acre of land on which excavation operations are performed. At any time that the number of acres of land on which excavation operations are performed amounts to the number of acres set forth in the estimate filed with the original application, the permit granted shall termi nate and no further materials may be removed from the site until a new application has been filed and a permit granted in the same manner as the original application and permit. Nothing in this chapter shall prohibit the applicant from exercising his discretion as to the number of acres to be excavated per year provided that the applicant does not exceed the total number of acres as set forth in the original estimate.

(Code 1971, § 5.217)

Sec. 17-26. - Bond required.

The city commission shall require, as a condition to the granting of any permit under this chapter, that the applicant deposit a surety bond in an amount to be fixed by the city commission inuring to the benefit of the city and the general public, guaranteeing that the applicant will faithfully perform all of the conditions and requirements under which the permit is issued.

(Code 1971, § 5.218)

Sec. 17-27. - Revocation, suspension.

Any permit granted pursuant to this chapter may be revoked or suspended for failure to comply with any of the provisions of this chapter. A hearing on revocation of a permit shall be held before the city commission after five (5) days' notice to such permit holder stating the grounds of complaint against permittee and stating the time and place which such hearing will be held. If, in the opinion of the city manager, the public health, safety or welfare requires it, the city manager may suspend any permit pending hearing by the city commission. Such revocation or suspension of any permit shall not affect the prosecution of any person for a violation of this chapter.

(Code 1971, § 5.220)

Secs. 17-28, 17-29. - Reserved.

ARTICLE III. - SOIL EROSION AND SEDIMENTATION CONTROL

Sec. 17-30. - Enforcing agency.

The city building department shall be the municipal enforcing agency responsible for administering and enforcing Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended ("Part 91"), within the municipal limits of the city.

(Ord. No. 402, § 1, 11-13-12)

Sec. 17-31. - Rules adopted.

The city hereby adopts Part 91 and by reference the latest rules (the "rules") promulgated by the Michigan Department of Environmental Quality pursuant to Part 91. Such rules shall be available for public distribution, at a reasonable charge, at the office of the city clerk.

(Ord. No. 402, § 1, 11-13-12)

Sec. 17-32. - Submission of plans.

Before undertaking any earth change activity in the city that disturbs one (1) or more acres of land, is on a parcel or parcels adjacent to a public street, or is within five hundred (500) feet of waters of the state as defined by Act 51, unless exempted in Part 91 or the rules, the landowner shall secure a soil erosion and sedimentation control permit from the city. Prior to receiving the permit, the landowner shall submit a soil erosion and sedimentation control application to the city in accordance with the rules adopted in this article.

A soil erosion and sedimentation control plan shall be designed to effectively reduce accelerated soil erosion and sedimentation and shall identify factors that may contribute to soil erosion or sedimentation or both. The plan shall include, but not be limited to, the following:

(1) A soils survey or a written description of the exposed land area contemplated for the earth change including predominant land features and soil types.

(2) Details for proposed earth changes, including:

a. A description and the location of the physical limits of each proposed earth change.

b. A description and the location of all existing and proposed on-site drainage and dewatering facilities.

c. The timing and sequence of each proposed earth change.

d. A description and the location of all proposed permanent or temporary soil erosion and sediment control measures.

e. A program proposal for the continued maintenance of all temporary and permanent soil erosion and sediment control facilities that remain after project completion, including the designation of the person responsible for the maintenance. Maintenance responsibilities shall become part of any sales or exchange agreement for the land on which the permanent soil erosion control measures are located.

(3) A boundary line survey or legal description of the land on which the work is to be performed.

(4) A plan of the site at a scale of not more than forty (40) feet to the inch unless otherwise approved by the city and any variance shall not exceed two hundred (200) feet to the inch showing:

a. Name, address, and telephone number of the landowner or designated agent.

b. Name and contact information of individual who prepared the soil erosion and sedimentation control plan.

c. Legal description of the site.

d. Existing topography at a maximum of five-foot contour intervals.

e. Identify soil type and data information on the plan.

f. Identify ultimate drainage outlet.

g. Proposed topography at a maximum of five-foot contour intervals.

h. The location of any structure or natural features on the site. A "natural feature" shall mean a wetland as defined in the City Wetlands Ordinance, and shall mean a watercourse, including a lake, pond, river, stream, or creek.

i. Location of any structure or natural features on the land adjacent to the site within fifty (50) feet of the site boundary line.

j. Location of any proposed additional structures or development on the site.

k. The proximity of any proposed earth change to lakes, drains, wetlands or streams.

(5) The location of stockpiles, access to site, tracking protection, location of storm inlets and traffic routes.

(Ord. No. 402, § 1, 11-13-12)

Sec. 17-33. - Review of plans; fee schedule.

Upon payment of the necessary fees to the city in accordance with a fee schedule to be determined by the city commission and amended from time to time by simple resolution, the plans under this article shall be reviewed and approved and a permit shall be issued, if it is determined by the city that the plans meet the standards and specifications pursuant to the rules to prevent soil erosion and off-site sedimentation.

(Ord. No. 402, § 1, 11-13-12)

Sec. 17-34. - Application and permit forms.

Application and permit forms to be used in accordance with this article shall be the state-prescribed application and permit forms, as expanded from time to time as may be deemed necessary by the city.

(Ord. No. 402, § 1, 11-13-12)

Sec. 17-35. - Site inspection.

The building official, or his or her designee, shall inspect earth change sites to ensure compliance with the requirements of Part 91 and this article. Site inspections shall occur at a frequency necessary to ensure compliance with Part 91 and this article, but will always be at a minimum, at the beginning of construction, during construction, and at the end of the project. The building official, or his designee, may utilize all compliance and enforcement actions authorized in Part 91 and the rules to bring sites into compliance with Part 91 and this article. In advance of the issuance of a soil erosion and sedimentation control permit, the landowner shall pay into escrow with the city, an amount determined by the city to be sufficient to cover the costs of the inspections for the project under this section, which amount shall be determined based upon the size of the project, expected construction and restoration period, anticipated number of inspections, and the inspection fee schedule established by the city commission and amended from time to time by simple resolution. If it is at any time determined by the city that the escrowed amount will be insufficient to cover the city's costs of inspection, the city shall thereafter, from time to time, as required, request and the owner shall pay, additional amounts into escrow as reasonably estimated by the city to be necessary to proceed with and complete the inspections in accordance with this section and Part 91, and all rules, regulations and policies established thereunder. Failure to pay such additional amounts shall constitute a violation of this Code and the soil erosion and sedimentation control permit issued by the city. The costs incurred by the city for any inspections that are necessary due to other violations requiring the city to construct, implement and maintain soil erosion and sedimentation controls on the property and for which the escrow is insufficient to cover, due to a failure to remit payment pursuant to this section, shall constitute a lien against the property for which the permit was issued, which lien shall have the force, effect and priority as provided under Part 91. To the extent such escrow exceeds the actual cost and expense of the inspections for the project, as ultimately determined, the excess shall be returned to the person or entity that posted the escrow.

(Ord. No. 402, § 1, 11-13-12)

Sec. 17-36. - Performance bond.

At the time an application for a permit and plans are filed with the city in accordance with this article, the applicant shall also deposit with the city a permit performance bond, being a cash or surety bond or letter of credit payable to the city, in an amount equal to the cost of all soil erosion and sedimentation control activities covered by such application, it being the condition of such bond that such activities shall be completed by the applicant and that upon the failure of the applicant to achieve a timely completion of such activities the bond shall be forfeited to the city. The city manager and the city building official shall have the authority to waive the requirement that an applicant file with the city a permit performance bond, if the city manager and the city building official determines that the filing of a permit performance bond is not warranted and/or necessary under the particular circumstances involved.

(Ord. No. 402, § 1, 11-13-12 ; Ord. No. 447 , § 1, 12-8-20)

Sec. 17-37. - Denial of permit.

Permits shall not be issued where:

(a) The proposed work would cause uncontrolled soil erosion and sedimentation; or

(b) The proposed work would cause hazards to the public safety and welfare; or

(c) The proposed work will damage any public or private property, interfere with an existing drainage course so as to cause damage to adjacent property, result in the deposit of debris or sediment on any public way, waters of the state or create an unreasonable hazard to persons or property; or

(d) The land area in which work is to occur is subject to geological hazard such that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability or any other such hazard to persons or property; or

(e) The land area in which the work is to occur is within the floodplain of any stream or watercourse, unless a permit from the MDEQ approving the work accompanies the application and the hydrologic report prepared by a professional engineer is submitted certifying that the proposed work will have no detrimental influence on the public welfare or upon the total development of the watershed; or

(f) The proposed work unreasonably exposes the land to repeated disturbances.

(Ord. No. 402, § 1, 11-13-12)

Sec. 17-38. - Modification of approved plans.

Any modification of an approved plan must be submitted to and approved by the city prior to commencement of the changes being proposed. All necessary supplemental reports shall be submitted with the proposal to modify the approved plan. No work in connection with any proposed modification shall be permitted without the prior approval of the city.

(Ord. No. 402, § 1, 11-13-12)

Sec. 17-39. - Appeals.

Any applicant who is aggrieved by any administrative determination by the building official, or his designee, pursuant to this article may appeal the determination to the city commission, which shall afford a hearing to the applicant within one (1) month following the written submission of such appeal. Any decision of the city commission cannot be contrary to the requirements of Part 91 and the rules. The decision of the city commission shall be final. At least one (1) member of the city commission shall obtain an SESC certificate pursuant to section 9123.

(Ord. No. 402, § 1, 11-13-12)

Sec. 17-40. - Penalties.

Violations of this article shall be punishable as a municipal civil infraction. Each day on which a violation of this article exists shall be deemed to constitute a separate offense.

(Ord. No. 402, § 1, 11-13-12)

Sec. 17-41. - Temporary groundcover.

Where construction activities extend more than eighteen (18) months or the exterior construction of the principal structure has been completed in the opinion of the building official, temporary groundcover shall be installed and maintained until such time as the final and permanent landscaping is installed. Temporary groundcover shall include, but not be limited to annual ryegrass, clover and tall fescue seed mixes.

(Ord. No. 423 , § 1, 8-9-16)

Chapter 17.3 - SOLID WASTE COLLECTION, RECYCLING AND DISPOSAL

> *Footnotes:*
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> ***Editor's note—*** *Ord. No. 417 , § 2, 3, adopted November 2, 2014, repealed former ch. 17.3, §§ 17.3-1—17.3-6, and enacted a new ch. 17.3, §§ 17.3-16—17.3-38 as set out herein. Former ch. 17.3 pertained to similar subject matter and derived from Ord. No. 252, adopted October 15, 1991; Ord. No. 255, adopted March 10, 1992; and Ord. No. 415, adopted February 11, 2014.*
> ***State Law reference—*** *Garbage disposal act, MCL 123.361 et seq.; solid waste facilities, MCL 324.4301 et seq.; hazardous waste management act, MCL 324.11101 et seq.; hazardous materials transportation act, MCL 29.417 et seq.; solid waste management act, MCL 324.11501 et seq.; waste reduction assistance act, MCL 324.14501 et seq.; clean Michigan fund act, MCL 324.19101 et seq.; low-level radioactive waste authority act, MCL 333.26201 et seq.*

ARTICLE I. - IN GENERAL

Secs. 17.3-1—17.3-15. - Reserved.

ARTICLE II. - COLLECTION, RECYCLING AND DISPOSAL

Sec. 17.3-16. - Intent and purpose.

(a) Part 115 of Public Act No. 451 of 1994 (MCL 324.11501 et seq.) provides that a municipality shall assure that all solid waste is removed from sites of generation frequently enough to protect the public health, and delivered to solid waste disposal areas authorized to operate pursuant to such act. The city commission has determined that the collection of solid waste would most appropriately be undertaken at this time by the city, acting by and through contract with the private sector. Because solid waste collection directly affects the public health, safety and general welfare and due to the fact that multiple contractors result in excessive wear and tear on city roads, the city shall contract with a single contractor in order to facilitate city governance and control of the solid waste program. In addition, the city commission has determined that it would be in the public interest if the private contractor were selected on a bid basis, requiring demonstration of the contractor's capability and strength to provide a high level of service to sites of generation within the city, and to promote and protect the public health, safety and welfare.

(b) The city commission has further determined that its solid waste program should include recycling and composting, consistent with the county solid waste plan.

(c) For purposes of establishing and carrying out a program of solid waste collection, recycling and disposal, the city commission has adopted this article to provide standards and specifications for services to be provided, provide for administration of the program and operational specifications, and provide penalties for failure to comply with the provisions of this article.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-17. - 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:

Construction and *demolition debris* mean nonhazardous wastes generated from construction and demolition activities, including but not limited to concrete, asphalt, wood, metal and plaster.

Hazardous waste means any material or substance which by reason of its composition or characteristics is:

(1)

Hazardous waste as defined in the Solid Waste Disposal Act, 42 USC 6907 et seq., as amended, replaced or superseded, and the regulations implementing the same;

(2) Material the disposal of which is regulated by the Toxic Substance Control Act, 15 USC 2601 et seq., as amended, replaced or superseded, and the regulations implementing the same;

(3) Special nuclear or byproduct materials within the meaning of the Atomic Energy Act of 1954, 42 USC 2011 et seq.; or,

(4) Hazardous waste as defined in part III of Public Act No. 451 of 1994 (MCL 324.11101 et seq.), and as identified in administrative rules and regulations adopted by published resolution of the city commission from time to time and/or by regulations adopted by the state department of environmental quality.

Industrial special waste means nonhazardous wastes generated by industrial users, which due to their size or composition, require special handling and/or disposal procedures, including but not limited to foundry; sand, incinerator/boiler bottom ash, fly ash, sludges, scrap pallets and other wastes from manufacturing processes which require special handling and/or disposal procedures.

Premises means any area used for residential, commercial, or industrial purposes, separately or in combination to which a separate street address, postal address or box, tax roll description, or other similar identification has been assigned or is in use by a person having control of the area.

Recyclable materials means the following commingled and/or presorted materials that are separated from solid waste prior to the collection of solid waste from a site of generation: high grade paper, glass, metal, plastic, aluminum, newspaper, corrugated paper and yard clippings. Recyclable materials shall not include hazardous waste. More detailed specification of the items deemed to be recyclable materials shall be provided from time to time by duly published resolution.

Site of generation means any premises in the municipality in or on which solid waste or recyclable materials is generated by any person.

Solid waste means garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludges, solid commercial and solid industrial waste, and animal waste other than organic waste generated in the production of livestock and poultry. Solid waste does not include the following:

(1) Human body waste.

(2) Medical waste as it is defined in part 138 of the public health code, Public Act No. 368 of 1978 (MCL 333.13801 et seq.), and regulated under that part and part 55 (MCL 333.5501 et seq.).

(3) Organic waste generated in the production of livestock and poultry

(4) Liquid waste.

(5) Ferrous or nonferrous scrap directed to a scrap metal processor or to a reuser of ferrous or nonferrous products.

(6) Slag or slag products directed to a slag processor or to a reuser of slag or slag products.

(7) Sludges and ashes managed as recycled or nondetrimental materials appropriate for agricultural or silvicultural use pursuant to a plan approved by the department. Food processing residuals; wood ashes resulting solely from a source that burns only wood that is untreated and inert; lime from Kraft pulping processes generated prior to bleaching; or aquatic plants may be applied on, or composted and applied on, farmland or forest- land for an agricultural or silvicultural purpose, or used as animal feed, as appropriate, and such an application or use does not require a plan described in this subsection or a permit or license under this part. In addition, source separated materials approved by the department for land application for agricultural and silvicultural purposes and compost produced from those materials may be applied to the land for agricultural and silvicultural purposes and such an application does not require a plan described in this subsection or permit or license under this part. Land application authorized under this subsection for an agricultural or silvicultural purpose, or use as animal feed, as provided for in this subsection shall occur in a manner that prevents losses from runoff and leaching, and if applied to land, the land application shall be at an agronomic rate consistent with generally accepted agricultural and management practices under the Michigan Right to Farm Act, Public Act No. 93 of 1981 (MCL 286.471 et seq.).

(8) Materials approved for emergency disposal by the state department of environmental quality.

(9) Source separated materials.

(10) Site separated material.

(11) Fly ash or any other ash produced from the combustion of coal, when used in the following instances:

a. With a maximum of six (6) percent of unburned carbon as a component of concrete, grout, mortar, or casting molds.

b. With a maximum of twelve (12) percent unburned carbon passing MDOT test method MTM 101 when used as a raw material in asphalt for road construction.

c. As aggregate, road, or building material which in ultimate use will be stabilized or bonded by cement, limes, or asphalt.

d. As a road base or construction fill that is covered with asphalt, concrete, or other material approved by the state department of environmental quality and which is placed at least four (4) feet above the seasonal groundwater table.

e. As the sole material in a depository designed to reclaim, develop, or otherwise enhance land, subject to the approval of the state department of environmental quality. In evaluating the site the department shall consider the physical and chemical properties of the ash including leachability, and the engineering of the depository, including, but not limited to, the compaction, control of surface water and groundwater that may threaten to infiltrate the site, and evidence that the depository is designed to prevent water percolation through the material.

(12) Other wastes regulated by statute.

Solid waste management plan means the county solid waste management plan approved by the county board of commissioners, by two-thirds (⅔) of the cities, villages and townships in the county and by the director of the state department of environmental quality; pursuant to the requirements and provisions of state law, and any updates thereof and any amendments thereto.

Waste hauler means any person other than the city, awarded a contract by the city for, and engaged in the business of, collecting and transporting, delivering and disposing of solid waste and recyclable materials generated within the city.

Yard clippings and *yard waste* means leaves, grass clippings, vegetable or other garden debris, shrubbery, or brush or free trimmings, less than four (4) feet in length and two (2) inches in diameter, that can be converted to compost humus. Yard clippings do not include stumps, agricultural wastes, animal waste, roots, sewage sludge, or garbage.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-18. - Generators of solid waste and recyclable materials.

All solid waste and recyclable materials from any site of generation intended for collection and/or disposal shall be stored and placed for pick-up and collection at the times and in the manner provided in rules and regulations adopted by duly published resolution.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-19. - Recyclables.

(a) Commencing on April 1, 2015, all persons who are owners, lessees or occupants of any site of generation shall separate recyclable materials from solid waste and prepare the recyclable materials for pick-up, collection and delivery in the manner provided by the rules and regulations adopted by the city by duly published resolution.
(b) Yard wastes shall either be disposed of at the site of generation in a manner which will not create a nuisance and/or be injurious to the public health, or yard wastes shall be placed at the curb side or other designated location for pick-up, collection and delivery by the waste hauler in the manner provided by rules and regulations adopted by duly published resolution. This provision shall not prohibit a person engaged in the business of providing landscaping services from removing yard wastes from a site of generation, provided, however, such a person shall be obligated to dispose of such yard wastes by composting, direct delivery to the waste hauler and/or delivery to a premises outside of the city in a lawful manner.
(c) Any recyclable materials authorized for collection by or at the direction of the city in accordance with the terms of this article shall become the property of the waste hauler at the time the material is placed at the curb side or other designated location. It shall be a violation of this article for any person not authorized by the city to collect or pick-up or cause to be collected or picked up any such recyclable materials.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-20. - Exemption from mandatory separation of recyclable materials.

Individuals living alone who have been declared legally blind or who have a permanent physical disability as determined by a licensed physician in the state, to the extent which would prevent the individual from complying with the mandatory recycling requirements of this article, shall be exempt from the mandatory recycling provisions of this article.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-21. - Collection and disposal of solid waste and recyclable materials.

No person shall dispose of any solid waste or recyclable materials generated within the city other than by means of the designated waste hauler awarded a contract by the city for such purpose.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-22. - Solid waste and recyclable materials to be delivered to waste hauler.

Commencing on April 1, 2015, all solid waste and recyclable materials, including yard wastes (subject to the exclusions noted above), generated within the city shall be collected and delivered to the designated waste hauler. If a contract with a company other than the designated waste hauler was in existence on or before October 1, 2014, for the collection and disposal of solid waste from a site of generation, delivery of solid waste from such site of generation to the company specified in such contract may be continued for the duration of the contract, provided, however, such contract shall be subject to verification by the city and its designee. In addition, solid waste shall in all events be delivered to the designated waste hauler on and after April 1, 2015 unless a copy of a written contract providing for services subsequent to April 1, 2015 is provided to the city together with a demonstration that such contract was in existence on or before November 5, 2014.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-23. - City shall publish established rules and regulations.

The city shall, by resolution duly published, establish rules and regulations governing procedures for collection. Such procedures shall include the pick-up schedule, items which are deemed to be recyclable materials, and the manner, location and containers for storage and collection. Such rules and regulations shall be consistent with this article and consistent with the contract entered into between the city and the waste hauler. A failure to comply with such rules and regulations shall be a violation of this article.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-24. - Waste hauler to pay all disposal fees.

The waste hauler shall deliver solid waste to a facility authorized to operate pursuant to state law for disposal, and the waste hauler shall pay all disposal fees established for the particular licensed facility for any delivery of solid waste or recyclable materials to such facility. The obligation to pay the disposal fee pursuant to this article shall be absolute and unconditional.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-25. - No individual shall engage in the business of waste hauling without a contract with the city.

No person shall engage in the business of collecting, transporting, delivering, or disposing of solid waste or recyclable materials generated within the city without first being authorized to do so by contract with the city as provided in this article.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-26. - Waste hauler to comply with solid waste management plan.

The waste hauler shall comply with the solid waste management plan and all applicable federal, state and county laws, statutes, rules and regulations in the collection, transportation and delivery of solid waste and recyclable-materials.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-27. - Hazardous waste not to be placed at curbside.

A person shall not knowingly place hazardous waste at curb side or other designated location for collection, and a waste hauler shall not knowingly collect or deliver hazardous waste to a processing or disposal site.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-28. - Rates and payment to contractor for solid waste collection, recycling and disposal services.

Rates for solid waste collection, recycling and disposal services shall be determined and established by the city based upon competitive bids in accordance with this article.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-29. - Rate to be adopted by resolution.

Following such bidding, the city shall adopt resolutions from time to time specifying the rates. Such resolution shall be published in order to provide notice to the public.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-30. - Quarterly billing.

(a) The contractor shall send a quarterly billing, in advance, to each site of generation for which services are provided in the city. Such billing shall represent charges for services to be rendered in the following quarter.

(b) The billing shall be transmitted by regular mail at least two weeks prior to the beginning of the quarter for which charges are imposed

(c) The due date for payment shall be the last business day prior to the beginning of the quarter for which the charges are imposed.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-31. - Nonpayment or late payments.

Such charges shall constitute a lien upon the property which is the site of generation. If a payment is not made on or before the due date a penalty in the amount of one (1) percent per month shall be added for each month or portion of a month payment has not been made in full. Moreover, if there is an outstanding balance owing to the contractor with respect to any property as of October 1 in any year, such outstanding balance, together with all accrued penalties, shall be placed upon

the delinquent tax roll of the city, and shall accrue further interest and penalties, and shall be collected, in the manner made and provided for delinquent real property taxes in the city.

Sec. 17.3-32. - Waiver of collection fees.

Property owners meeting the following criteria shall be eligible to receive a full or partial waiver of collection fees:

(1) An individual that has an annual gross household income of less than or equal to ten thousand dollars ($10,000.00) and who timely files with the city assessor's office an application for waiver of solid waste collection fees along with proof of annual gross household income from the previous year shall receive a waiver of all of the solid waste collection fees required by this article for the year for which the application for waiver of solid waste collection fees was filed.

(2) An individual that has an annual gross household income of more than ten thousand dollars ($10,000.00) but less than or equal to sixteen thousand eight hundred seventy-five dollars ($16,875.00) and who timely files with the city assessor's office an application for waiver of solid waste collection fees along with proof of annual gross household income from the previous year shall receive a waiver of one-half (½) of all of the solid waste collection fees required by the article for the year for which the application for waiver of solid waste collection was filed.

(3) An individual filing an application for waiver of solid waste collection fees pursuant to subsections (1) and (2) of this section shall file said application for waiver of solid waste collection fees each year on or before July 1 to be eligible for the waiver of solid waste collection fees for the following twelve (12) month period.

(4) All applications for waiver of solid waste collection fees will be considered by the solid waste review commission. The solid waste review commission shall be comprised of three (3) members who shall be the city assessor, city treasurer and an individual designated by the city manager. The solid waste review commission shall have the authority to waive the solid waste collection fees or any part thereof for a period of up to twelve (12) months if it finds that a hardship as defined in subsections (1) and (2) of this section exists.

(5) Those persons who pursuant to section 17.3-20 qualify for exemptions from the mandatory recycling provisions and requirements of this article shall be exempt from all recycling fees required by this article.

(6) The rates established by this amendatory article shall remain in effect for a period of two (2) years from the effective date of this article and thereafter the rates may be modified from time to time by a resolution of the city commission without the further necessity of amending this article.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-33. - Contract for solid waste collection, recycling and disposal.

The city manager shall develop contract specifications and a public bid procedure for the award of a contract for solid waste collection, recycling and disposal in the city. A waste hauler shall be selected by the city commission to provide for the collection, disposal, resource recovery; recycling and composting of solid waste in the city with respect to all existing and future residences, multiple dwellings and commercial sites in the city in accordance with this article, in accordance with the contract to be awarded, and in accordance with all applicable laws, ordinances, codes and regulations.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-34. - Bid specifications.

The city manager is authorized to include in bid specifications for the contract to be awarded those requirements and specifications determined by the manager to be reasonably related to:

(1) Promoting and protecting the public health, safety and welfare.

(2) Providing appropriate services to properties within the city.

(3) Promoting the general understanding of and need for resource recovery; recycling and composting.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-35. - Contract; minimum provisions.

The contract to be awarded by the city commission to the waste hauler shall, as a minimum, provide for:

(1) The collection of mixed wastes and recyclables from single-family dwellings, multiple dwellings and commercial sites of generation.

(2) A household hazardous waste program.

(3) The requirement of a program for recycling and composting.

(4) Other miscellaneous services to be specified by the manager as part of the bid process, including, without limitations, dumpster service at municipal buildings and facilities, a drop-off center, and spring clean up assistance.

(5) Insurance and bonding requirements, including liability; workers' compensation and a performance bond.

(6)

The preparation and submission of reports by the waste hauler describing the volume and location of solid waste generated in the city, as well as other reports required by the city to determine the efficiency and effectiveness of the solid waste program, including the effectiveness and efficiency of recycling and composting in the city.

(7) A provision for the rights of the city in the event of a failure to perform on the part of the waste hauler.

(8) The rights and obligations of the city for termination of the contract.

(9) Operational specifications, including specifications for collection trucks and equipment, employees, contractor maintenance facility; waste container handling and condition, schedules and routes, addressing citizen complaints, and other matters deemed necessary or appropriate by the city manager.

(10) Right and authorization of the city to inspect records and operations of the waste hauler

(11) Provision for a multi-media informational program with respect to resource recovery; recycling and composting.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-36. - Waste hauler—Compliance.

The contract shall require the waste hauler to comply with applicable laws, codes, ordinances, rules and regulations.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-37. - Same—Permits and licenses.

The contract shall require the waste hauler to secure and maintain in good standing all permits and licenses required by law, ordinance, code, rule or regulation.

(Ord. No. 417 , § 2, 11-2-14)

Sec. 17.3-38. - Penalties.

(a) Any person who shall violate the provisions of this article shall he responsible for a municipal civil infraction, subject to the following penalties:

(1) *Fines.* The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction, unless a different fine is specified in connection with a particular ordinance:

a. First offense. The civil fine for a first offense violation shall be in an amount of seventy-five dollars ($75.00), plus costs and other sanctions, for each offense.

b. Repeat offense. The civil fine for any offense which is a repeat offense shall be in an amount of one hundred fifty dollars ($150.00), plus costs and other sanctions for each offense.

(2) *Enforcement.* In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation, of this article.

(3) *Continuing offense.* Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.

(4) *Remedies not exclusive.* In addition to any remedies provided for by this article, any equitable or other remedies available may be sought.

(b) The judge or magistrate shall be authorized to impose costs, damages and expenses as provided by law.

(c) A municipal civil infraction shall not be a lesser included offense of a criminal offense or of an ordinance violation which is not a civil infraction.

(Ord. No. 417 , § 2, 11-2-14)

Chapter 17.5 - SPECIAL EVENTS

Footnotes:

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Editor's note— *Ordinance No. 228, § 1, adopted October 10, 1989, amended the Code by adding provisions designated as Chapter 24, §§ 24-1—24-12. These provisions have been redesignated as Chapter 17.5, §§ 17.5-1—17.5-12, in order to avoid duplication of previously assigned chapter and section numbers, and to maintain the alphabetical sequence of chapters, at the discretion of the editor.*

Sec. 17.5-1. - Definitions.

For the purposes of this chapter, the following terms shall have the following meanings.

City means the City of Bloomfield Hills, Oakland County, Michigan.

City commission means the city commission of the city.

City manager means the city manager of the city or his designee.

Nonprofit organization means a nonprofit corporation, ecclesiastical corporation, fraternal association, or other entity which is recognized by the United States Internal Revenue Service and the State of Michigan as a nonprofit entity and whose earnings are exempt from federal and State of Michigan income taxes.

Parade means a procession of more than fifty (50) vehicles or people on a street, road or other public right-of-way.

Person means an individual, corporation, partnership, association and any other legal entity.

(Ord. No. 228, § 1, 10-10-89)

Sec. 17.5-2. - Permit—Required.

No person or persons shall organize or lead, cause to be organized or lead, sponsor, engage in, permit, allow or participate in a parade, carnival, athletic event, festival, fair, celebration or other activity, event or use which blocks, closes, hinders or impairs the vehicular or pedestrian traffic flow in a street, road, or other public right-of-way within the city without first obtaining a permit therefor from the city manager.

(a) Such permits shall be issued in accordance with this chapter and policies adopted from time to time by resolution of the city commission.

(b) If the activity, event or use will continue for more than four (4) hours, or if the vehicular or pedestrian traffic will be hindered or impaired or the public way closed or blocked for more than four (4) hours, a permit shall be issued only upon the approval of the city commission.

(c) If a fee, rate or other charge is made or donations are accepted to participate in or view the activity, event or use or if the activity, event or use is for the purpose of or results in the raising of funds, a permit shall be issued only to nonprofit organizations and only upon the approval of the city commission.

(d) A permit shall be granted only to the person or persons who organizes, sponsors or leads the activity, event or use.

(Ord. No. 228, § 1, 10-10-89)

Sec. 17.5-3. - Same—Application.

The application for a permit issued pursuant to this chapter shall be on a form provided by and filed with the city manager and shall include the following information:

(a) The name, address and telephone number of the applicant.

(b) If an applicant is other than an individual, the name(s), address(es) and telephone number(s) of all directors, officers, partners and other persons having an equity interest of ten (10) percent or more in the applicant.

(c) If the applicant is a nonprofit organization, a copy of the recognition of the organization as nonprofit by the United States Internal Revenue Service and the State of Michigan and, if applicable, a State of Michigan license to solicit funds.

(d) Description of the activity, event or use.

(e) Identification of the streets, roads or other public rights-of-way to be used or affected by the activity, event or use.

(f) List or description of anticipated participants in the activity, event or use.

(g) The date(s) of and starting and ending times of the activity, event or use including time required for set-up and clean-up.

(h) The anticipated number of persons participating in and attending the activity, event or use.

(i) Proposed plans to provide necessary parking, security, crowd control, traffic control, refuse disposal, utility service, sanitation facilities, private property protection and restoration, noise control, traffic control, refuse disposal, utility service, sanitation facilities, private property protection and restoration, noise control, staging areas, and other areas, personnel and equipment which is or may reasonably be necessary.

(j) The type, nature and amount of any rate, fee, charge to be paid or donation made by anyone participating in or attending the activity, event or use.

(k) The vendor(s) and type(s) of any food, beverages, souvenirs or other goods to be sold or distributed at the activity, event or use.

(l) If a rate, fee or charge is to be paid or donation made or if the activity, event or use is for the purpose of or results in the raising of funds, the proposed use of all the funds to be received at the activity, event or use including the use of funds remaining after the payment of expenses.

(m) Unless waived by the city manager, a copy of the articles of incorporation, bylaws, partnership agreement, charter or other organizing or creating documents of the applicant.

(n) Copies of insurance policies naming the city and any property owners abutting the affected street(s), road(s) or public rights-of-way as named or additional insureds in amounts of coverage to be determined from time to time by resolution of the city commission and insuring the city and the abutting property owners against any and all liability for damage to property and insuring the city against any and all liability for personal injury or death as a result of the activity, event or use, as a result of participation in or attendance at the activity, event or use.

(o) A certification acceptable to the city that the applicant will indemnify the city for and hold it harmless from and defend it against any and all claims, lawsuits or other liability arising from or as a result of the activity, event or use.

(p) A certification that the statements in the application are true, accurate and complete.

(q) The signature of an authorized person on behalf of the applicant.

(r) The location of any privately owned premises to be used in conjunction with the activity, event or use and the duration, extent and purpose of such use.

(s) A statement of the benefit of the activity, event or use to the general public and the nonprofit organization applicant and of the reasons for the activity, event or use.

(t) Any other information deemed necessary by the city.

(Ord. No. 228, § 1, 10-10-89)

Sec. 17.5-4. - Same—Issuance.

A permit issued pursuant to this chapter shall be issued only if the following criteria are met:

(a) Verification that adequate provisions have been made by the applicant or others for the protection of public and private health, safety, welfare and property.

(b) The location(s), time(s) and date(s) of the activity, event or use will not unreasonably affect the use or enjoyment of private or public property and will not cause unreasonable traffic hazards or delays.

(c) The activity, event or use, its duration, its repetition or its location, will not adversely impact upon the value of private property in its vicinity.

(d) The application requirements are fully met.

(e) The applicant currently meets and has not in the past failed to meet all of the requirements of this chapter.

(f) The activity, event or use will not constitute a public nuisance.

(g) Unless waived by resolution of the city commission, the applicant has agreed to reimburse the city and costs incurred by the city as a result of the activity, event or use.

(h) The activity, event or use does not exceed ten (10) days in duration in any calendar year.

(i) The application and all past applications of the applicant are true, accurate and complete.

(Ord. No. 228, § 1, 10-10-89)

Sec. 17.5-5. - Same—Contents.

Permits issued pursuant to this chapter shall indicate the location(s) of the affected streets, roads and public rights-of-way, the location of any private property used in conjunction with the permitted activity, event or use, the times, dates and duration of the permit, any restrictions including without limitation those regarding traffic, parking security, noise, and any other information deemed appropriate by the city.

(Ord. No. 228, § 1, 10-10-89)

Sec. 17.5-6. - Same—Effect of permit.

Notwithstanding any other city ordinance provision to the contrary, any activity, event or use for which a permit is issued pursuant to this chapter may be conducted without being deemed a violation of any other ordinance provision while the permit is in effect so long as the applicable ordinance provision is noted on the permit. Provided, further, that during the term of the permit, a permittee shall comply with all reasonable requests of the city manager made to protect the public health, safety, welfare or convenience or to protect public or private property.

(Ord. No. 228, § 1, 10-10-89)

Sec. 17.5-7. - Same—Fee.

The city may charge an application fee for applications filed pursuant to the provisions of this chapter as established from time to time by the city commission. The fee shall not be refundable in the event a permit is not used.

(Ord. No. 228, § 1, 10-10-89)

Sec. 17.5-8. - Vendors.

A nonprofit organization granted a permit under this chapter for an activity, event or use shall have the right to designate and approve all vendors of any food, beverages, souvenirs or other goods to be sold or distributed within the area in which the activity, event or use is conducted. Provided, however, this section shall not apply to any existing business located within the area of the activity, event or use.

(Ord. No. 228, § 1, 10-10-89)

Sec. 17.5-9. - Monitoring.

It is the intent of the city that, with respect to permits issued pursuant to this chapter, an activity, event or use at which a rate, fee or charge is to be paid or donation made or which it is the purpose of or results in the raising of funds, shall not be used for the profit or benefit of any person other than a nonprofit organization, and that activities, events or uses conducted pursuant to permits issued pursuant to this chapter shall benefit the general public and the nonprofit organization permittee pursuant to the stated purposes for which the organization was formed and that any funds collected by a permittee or others as a result of

the activity, event or use be in fact used for the purposes stated in the permit application. Therefore, any person issued a permit pursuant to this chapter shall, within seven (7) days of a request from the city manager, permit the city to examine, inspect and copy any financial accounting and other records of the person. Any such person shall keep and maintain accurate records of any funds received by it, including the source(s) and use of the funds, of its expenses and of any profits and their distribution.

(Ord. No. 228, § 1, 10-10-89)

Sec. 17.5-10. - Severability.

This chapter shall be applied in a nondiscriminatory manner and shall not be applied so as to violate any constitutional rights such as those of free speech, freedom of assembly and to petition government. If any provision of this chapter is found to be illegal or invalid, the remainder of the chapter shall be applied as though the illegal or invalid provision was not a part of it.

(Ord. No. 228, § 1, 10-10-89)

Sec. 17.5-11. - Violation; penalty.

The violation or failure to comply with any provision of this chapter or of a permit issued pursuant to this chapter and the making of any false, inaccurate or incomplete statement on an application for a permit shall be cause for the immediate revocation of the permit. In addition, each violation of this chapter shall be a misdemeanor punishable by a fine of up to five hundred dollars ($500.00), by imprisonment in the county jail of up to ninety (90) days, or both such fine and imprisonment. Each day of a violation shall be deemed an additional violation.

(Ord. No. 228, § 1, 10-10-89)

Sec. 17.5-12. - Nuisance.

Any violation of or failure to comply with this chapter is hereby declared to be a nuisance per se and may be abated by any and all available means, including, without limitation, the issuance of equitable relief by any court with jurisdiction. Any person violating or failing to comply with this chapter shall pay any costs and expenses, including actual reasonable attorney's fees, incurred by the city to enforce this chapter.

(Ord. No. 228, § 1, 10-10-89)

Cross reference— Nuisances generally, Ch. 10.

Chapter 18 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

Footnotes:

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***Charter reference—** Streets and sidewalks, Ch. XI.*

***Cross reference—** Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city saved from repeal, § 1-4(3); any ordinance establishing or prescribing grades in the city, § 1-4(6); buildings and building regulations, Ch. 4; cable communications, Ch. 5; peddlers and solicitors, Ch. 12; planning, Ch. 13; signs, Ch. 16; soil removal, Ch. 17; subdivision of land, Ch. 19; traffic and motor vehicles, Ch. 20; utilities, Ch. 21; vegetation, Ch. 22; vehicles for hire, Ch. 23.*

ARTICLE I. - IN GENERAL

Sec. 18-1. - Authority of city manager to make additional regulations.

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

(Code 1971, § 4.37)

Sec. 18-2. - Removal of encroachment.

Encroachments and obstructions in the street may be removed and excavations refilled and the expense of such removal or refilling charged to the abutting land owner when made or permitted by him or suffered to remain by him, otherwise than in accordance with the terms and conditions of this chapter. The procedure for collection of such expense shall be as prescribed in section 1-9.

(Code 1971, § 4.38)

Sec. 18-3. - Temporary street closings.

The city manager and/or building official shall have authority to temporarily close any street, or portion thereof, when he shall deem such street to be unsafe or temporarily unsuitable for use for any reason. He shall cause suitable barriers and signs to be erected on such street, indicating that the same is closed to public travel. When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over such street except as the same may be necessary incidentally to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the city manager and/or building official.

(Code 1971, § 4.39; Ord. No. 420 , § 1, 4-14-15)

Secs. 18-4—18-20. - Reserved.

ARTICLE II. - STREETS

Sec. 18-21. - Definition.

Unless the context specifically indicates otherwise, the meanings of terms used in the chapter shall be as follows:

Street shall mean all of the land lying between property lines on either side of all streets, alleys and boulevards in the city, and includes lawn extensions and sidewalks and the area reserved therefor where the same are not yet constructed.

(Code 1971, § 4.1)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 18-22. - Damage and obstructions.

No person shall make any excavation in, or cause any damage to any street in the city, except under the conditions and in the manner permitted in this chapter. No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in this chapter, but this provision shall not be deemed to prohibit the following:

(1) Such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises;

(2) The lawful parking of vehicles within the part of the street reserved for vehicular traffic;

(3) The planting of trees and shrubs as permitted in chapter 22.

(Code 1971, § 4.2)

Sec. 18-23. - Permits, insurance, deposits.

(a) Where permits are authorized in this chapter, they shall be obtained upon application to the city manager and/or building official upon such forms as he shall prescribe, and there shall be a charge of one dollar ($1.00) for each such permit, except as otherwise provided by resolution of the commission. Such permit shall be revocable by the city manager and/or building official for failure to comply with this chapter, rules and regulations adopted pursuant hereto, and the lawful orders of the city manager and/or building official or his duly authorized representative, and shall be valid only for the period of time endorsed thereon. Application for a permit under the provisions of this chapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the city in connection therewith, repair all damage done to the street surface and installations on, over or within such street, including trees, and protect and save harmless the city from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith.

(b) Where liability insurance policies are required to be filed in making application for a permit, said liability policies shall be in the amounts of one million dollars ($1,000,000.00) per occurrence and a total combined/aggregate amount of two million dollars ($2,000,000.00). All liability policies shall name the city and its officials, officers, employees, agents contractors and representatives as additional insureds. A duplicate executed copy or photostatic copy of the original of such insurance policy, approved as to form and amount by the city attorney, shall be filed with the city clerk.

(c) Where cash deposits are required with the application for any permit issued pursuant to this chapter, such deposit shall be in the amount of five hundred dollars ($500.00), except as otherwise specified in this chapter, and such deposit shall be used to defray all expenses to the city arising out of the granting of the permit and work done under the permit or in connection therewith. Six (6) months after the completion of the work done under the permit, any balance of such cash deposit unexpended, shall be refunded. In any case where the deposit does not cover all costs and expenses of the city, the deficit shall be paid by the applicant.

(Code 1971, § 4.3; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-24. - Street openings generally.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the city manager and/or building official. No permit shall be granted until the applicant has posted a cash deposit and filed a liability insurance policy as required by section 18-23.

(Code 1971, § 4.4; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-25. - Emergency street openings.

The city manager and/or building official may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this chapter shall be complied with.

(Code 1971, § 4.5; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-26. - Backfilling.

All trenches in a public street or other public place, except by special permission, shall be backfilled in accordance with regulations adopted pursuant to this chapter. Any settlement shall be corrected within eight (8) hours after notification to do so.

(Code 1971, § 4.6)

Sec. 18-27. - Utility poles.

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

(Code 1971, § 4.7; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-28. - Maintenance of installations.

Every owner of, and every person in control of, any estate hereafter maintaining a sidewalk vault, coal hole, manhole, or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit or other structure in, under, over or upon, any street which is adjacent to or a part of his estate, shall do so only on condition that such maintenance shall be considered as an agreement on his part with the city to keep the same and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his ownership or control thereof, and to indemnify and save harmless the city against all damages or actions at law that may arise or be brought by reason of such excavation or structure being under, over, in or upon the street, or being unfastened, out of repair or defective during such ownership or control.

(Code 1971, § 4.8)

Sec. 18-29. - New paving.

Whenever the city commission shall determine to pave or resurface any street, the city manager and/or building official shall, not less than thirty (30) days prior to commencement of construction, serve notice upon all public utilities, requiring them to install all necessary underground work in advance of the paving or resurfacing.

(Code 1971, § 4.9; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-30. - Sewer and water connections.

(a) When paving or resurfacing of any street has been ordered or declared necessary by the city commission, such sewer and water connections as are necessary shall be installed in advance of such paving or resurfacing, and the cost thereof shall be charged against the premises adjacent thereto, or to be served thereby, and against the owner of such premises. Where such paving or resurfacing is financed in whole or in part by special assessment, the cost of such sewer and water connections may be made chargeable against the premises served or adjacent thereto as a part of the special assessment for such paving or resurfacing. Where such paving or resurfacing is financed otherwise than by special assessment, the cost of the sewer and water connections so installed, shall be a lien on such premises adjacent thereto, or to be served thereby, and shall be collected as provided for assessments on single lots pursuant to the provisions of section 1-9.

(b) The necessity for such sewer and water connections shall be determined by the city manager and/or building official, which determination shall be based upon the size, shape and area of each abutting lot or parcel of land, the lawful use of such land under the zoning regulations of the city, the character of the locality and the probable future development of each abutting lot or parcel of land. The city manager and/or building official shall give written notice of the intention to install such sewer and water connections and to charge the cost of the same to the premises, to each owner of land abutting the street, to be furnished with such connections, as shown by the records of the city assessor in accordance with section 1-9. Any owner objecting to the installation of any such sewer or water connection, shall file his objections in writing within seven (7) days after service of such notice with the city manager and/or building official who shall after considering each such objection made in writing make a final determination of the sewer and water connections to be installed.

(Code 1971, §§ 4.10, 4.11; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-31. - Prohibited openings.

No permit to make any opening or excavation in or under a paved street shall be granted to any person within a period of two (2) years after the completion of any paving or resurfacing thereof. If a street opening is necessary as a public safety measure, the city manager and/or building official may suspend the operation of this section as to such street opening.

(Code 1971, § 4.12; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-32 - Parking on paved portion of city streets and city rights-of-way.

The parking of any and all vehicles, trailers and machinery on those paved city streets and/or paved city rights-of-way where parking is allowed, shall only be permitted on the paved portion of said city streets and/or city rights-of-way. The parking of any vehicles, trailers and machinery on the unpaved portion of said city streets and/or city rights-of-way, including but not limited to parking on gravel, dirt and/or soft shoulders and/or parking on adjacent landscaped or grass areas, shall be expressly prohibited. City streets or city rights-of-way means any and all public rights-of-way, public streets, public highways, public roads, public sidewalks, public alleys, public thoroughfares, public easements and public places, including any shoulders, landscaped areas and/or other areas incidental and/or appurtenant thereto. A violation of this section shall be a municipal civil infraction, having the penalties set forth in section 1-11(c)(2) of the Bloomfield Hills City Code, as amended.

(Ord. No. 434 , § 1, 2-12-19)

Secs. 18-33—18-45. - Reserved.

ARTICLE III. - SIDEWALKS

Sec. 18-46. - Specifications, approval.

No person shall construct, rebuild or repair any sidewalk except in accordance with the line, grade, slope and specifications established by the city manager and/or building official, nor without first obtaining approval of the city commission. The city commission may establish a fee for a written permit to be established by resolution of the city commission.

(Code 1971, §§ 4.51—4.57; Ord. No. 420 , § 1, 4-14-15)

Secs. 18-47—18-60. - Reserved.

ARTICLE IV. - ROAD AND/OR CURB CUTS

Sec. 18-61. - Road and/or curb cuts.

No opening in or through or to any road, curb or any street shall be made without first obtaining a written permit from the city manager and/or building official. Curb cuts and sidewalk driveway crossings to provide access to private property shall comply with the following:

(1) No single curb cut shall be less than ten (10) feet wide.
(2) The minimum distance between any curb cut and a public crosswalk shall be five (5) feet.
(3) The minimum distance between curb cuts, except those serving residential property, shall be twenty-five (25) feet.
(4) The maximum number of lineal feet of sidewalk driveway crossings permitted for any lot, parcel of land, business or enterprise, shall be forty-five (45) percent of the total abutting street frontage up to and including two hundred (200) lineal feet of street frontage plus twenty (20) percent of the lineal feet of street frontage in excess of two hundred (200) feet.
(5) The necessary adjustments to utility poles, light standards, fire hydrants, catch basins, street or railway signs, signals, or other public improvements or installations shall be accomplished without cost to the city.
(6) All construction shall be in accordance with plans and specifications approved by the city manager and/or building official.

(Code 1971, § 4.18; Ord. No. 420 , § 1, 4-14-15)

Secs. 18-62—18-75. - Reserved.

ARTICLE V. - SAFETY REQUIREMENTS

Sec. 18-76. - Barricades, warning lights at excavations.

All openings, excavations and obstructions, shall be properly and substantially barricaded and railed off and at night shall be provided with prescribed warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three (3) feet apart, and parallel to the flow of traffic not over fifteen (15) feet apart.

(Code 1971, § 4.23)

Sec. 18-77. - Sheeting, bracing of excavations.

All openings and excavations shall, where necessary, be properly and substantially sheeted and braced as a safeguard to workmen and to prevent cave-ins or washouts which would tend to injure the thoroughfare or subsurface structure of the street.

(Code 1971, § 4.24)

Secs. 18-78—18-90. - Reserved.

ARTICLE VI. - MOVING OF BUILDINGS, LARGE MACHINERY, ETC.

Sec. 18-91. - Permit.

No person shall move, transport, or convey any building, machinery, truck or trailer, more than eight feet eight inches (8'8") wide or higher than thirteen feet six inches (13'6"), above the surface of the roadway, into, across or along any street, or other public place in the city, without first obtaining a permit from the city manager and/or building official.

(Code 1971, § 4.26; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-92. - Clearances.

An applicant for the permit required by section 18-91 shall file written clearances from the light, telephone, gas and water utilities, stating that all connections have been properly cut off and, where necessary, all obstructions along, proposed route of moving will be removed without delaying moving operations. In addition, clearance shall be obtained from the public safety department, approving the proposed route through the city streets and the time of moving, together with an estimated cost to the public safety department due to the moving operations.

(Code 1971, § 4.26)

Sec. 18-93. - Deposits, insurance.

An applicant for the permit required by section 18-91 shall deposit with the city the total estimated cost to the public safety department and department of public works, plus a cash deposit as required by section 18-23(c) and shall file with the city a liability insurance policy in the amount of five hundred thousand dollars ($500,000.00) for injury to one (1) person and five hundred thousand dollars ($500,000.00) for injury to more than one (1) person and property damage insurance in the amount of two hundred fifty thousand dollars ($250,000.00).

(Code 1971, § 4.26)

Secs. 18-94—18-100. - Reserved.

ARTICLE VII. - RIGHT-OF-WAY MANAGEMENT

> *Footnotes:*
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> ***Editor's note—*** *Ord. No. 338, adopted January 13, 2004, amended Art. VII, §§ 18-101—18-153, in its entirety to read as herein set out. Former Art. VII pertained to the same subject matter and derived Ord. No. 309, adopted March 9, 1999.*

DIVISION 1. - GENERALLY

Sec. 18-101. - Short title.

This article shall be known and may be cited as the City of Bloomfield Hills "Right-of-Way Management Ordinance."

(Ord. No. 338, 1-13-04)

Sec. 18-102. - Purpose/legislative findings.

(1) Pursuant to Section 29 of Division 7 of the Michigan Constitution of 1963, and other applicable state and federal legislation, including but not limited to, MCL 247.183, and the City Charter, the City of Bloomfield Hills has the authority to exercise reasonable control over its highways, streets, alleys and public places. The City of Bloomfield Hills finds that, in the furtherance of control and to ensure and protect the public health, safety and welfare, it is appropriate for the city to monitor, review and regulate activities and persons that disrupt and/or use a city right-of-way.

(2) This article is further intended to minimize disruption, disturbance and damage to the city's right-of-way, to exercise reasonable control over and monitor the use of the same, and to maintain aesthetic, quality, and property values by requiring those persons who seek to disrupt and/or use a city right-of-way by constructing, installing, locating, operating, using and/or maintaining improvements, including utilities and telecommunications, gas, and/or electric transmission systems therein, to obtain a disruption permit and/or a use permit and pay fair and reasonable permit fees.

(3) The city further finds that requiring the payment of the application and permit fees when authorized by law will assist in protecting the city's interests in its rights-of-way, by allowing the city to cover some of its costs of maintaining, monitoring, and ensuring quality control with regard to its rights-of-way and related records.

(4) This article is further intended 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 Act No. 48 of the Public Acts of 2002) ("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.

(Ord. No. 338, 1-13-04)

Sec. 18-103. - Definitions.

The following words, terms and phrases when used in this article shall have the meanings indicated. Other terms used in this article shall have the same meaning as defined or provided in the Act.

AASHTO shall mean the American Association of State and Highway Transportation Officials.

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

City means the City of Bloomfield Hills, and unless this article or resolution of the city commission indicates otherwise, means the city manager or city manager's designee for purposes of reviews, decisions and actions on all permit and ordinance issues and applications.

City or *city's right-of-way* or *right-of-way* means any and all public rights-of-way, streets, highways, roads, sidewalks, alleys, thoroughfares, public easements and public places located within the city, including within any curbs, shoulders, landscaped areas and/or other areas incidental and/or appurtenant thereto. Right-of-way shall not include federal and state highways for purposes of telecommunication permit applications.

Crash zone shall mean the area five (5) feet from the back of a curb or twelve (12) feet from the edge of the pavement of a thru lane, whichever is greater.

Disruption means a physical change, modification, alteration, disturbance, injury and/or damage to or in a city right-of-way, including but not limited to, construction, installation, location, maintenance, modification, alteration, replacement or repair of improvements, and the removal or alteration of a right-of-way surface grade or material, tree, sign, marker, hydrant or other material or object.

Disruption permit, which may also be called or referred to as a construction permit, means a nonexclusive limited permit issued by the city to a person pursuant to this article allowing an activity which will result in disruption to the city's right-of-way.

Facility or *facilities* means an improvement or improvements as defined in this section.

Franchise means a nonexclusive limited city commission approved authorization to transact, conduct and/or operate a use in the city, including but not limited to, the operation or use of improvements in the city's right-of-way.

Franchise disruption means disruption that is necessary for the franchisee to satisfy or comply with its rights or duties under a franchise and which is performed by the franchisee or its authorized contractor whose authority is disclosed in writing to the city in advance of the disruption.

Improvement means any equipment, conduit, facility, pipe, pole, structure, wire, cable, fiber, building, equipment cabinet or any other manmade or placed material or object, including but not limited to any water or sewer main, pipe, catch basin, manhole or other structure used for the accumulation or transportation of water, stormwater, sewage, liquid, gas or other fuel and any overhead or underground cable, wire and/or a combination thereof, for the transmission or distribution of electrical energy or current impulses, sounds, voices, telephone service, telecommunications services or other utility or communication services or signals, including service connections and any other material protecting said improvements used in connection therewith.

Minor disruption means disruption in connection with work or an improvement on an individual lot or parcel that:

(1) Will not extend beyond the property's right-of-way frontage;

(2) Will not result in any obstruction or interference with the traveled portion of the right-of-way;

(3) As determined by the city, will not have any impact on existing or planned city utilities or other existing or permitted improvements in the right-of-way; and

(4) As determined by the city, is not of sufficient size or consequence and has no other aspects or components that warrant or necessitate compliance with otherwise applicable disruption permit requirements. An excavation of less than two (2) feet in depth is not of sufficient size to require a disruption permit if all other requirements to be considered as a minor disruption are satisfied.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "Commission" in the Act.

Ordinances means all laws, codes and regulations duly enacted and adopted by the city.

Permittee means a person who has been issued a disruption or use permit pursuant to the terms and provisions of this article and all employees, agents, contractors and other persons that direct or perform any activity covered by the permit.

Person means a natural person, company, corporation, partnership, joint venture, voluntary association, organization or other form of legal entity.

Practical difficulty, for purposes of this chapter only, shall be established upon satisfactory evidence, as determined by the city, of the following:

(1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;

(2) The alternative proposed by the applicant will be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and

(3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property, nor contrary to the overall purpose and goals of the chapter or article containing the regulation in question.

Public easement means any area of land which has been granted or dedicated to the city or to public use, including but not limited to, road or right-of-way, utility, water main, sewer line, access, drainage, recreation, conservation and other public areas, whether as easements or in fee.

Public emergency shall mean any condition which poses an immediate threat to life, health, or property caused by any natural or manmade disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, etc.

Public place means any area owned, under the jurisdiction of, or controlled by the city.

Residential district means land that is zoned and used or proposed for use as a one-family detached dwelling under the current and any future city zoning ordinance.

Residential use permit means a use permit for a structure in a residential district.

Sight triangle shall mean a triangular-shaped portion of land established at roadway, highway, or street intersections in which there are restrictions on structures erected, placed or planted which would limit or obstruct the sight distance of motorists entering or leaving the intersection.

Street means the paved area or area designated for vehicular travel within the right-of-way, and the word street shall be synonymous with the words highway and road.

Structure means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Telecommunication facilities or *facilities* means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications provider, provider and *telecommunications services* mean those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 118, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of Part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this article only, a provider also includes:

(1) A cable television operator that provides a telecommunications service;

(2) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way; and

(3) A person providing broadband internet transport access service.

Telecommunication system means conduit, improvements and other materials which are designed and/or used to provide telecommunications services.

Use may be limited by the Act to meaning the ownership of an improvement by a telecommunications provider. For all other persons, use means the ownership, lease or rental, possession, operation, occupancy or use of all or part of an improvement.

Use permit means a nonexclusive limited permit issued by the city to a person pursuant to this or a prior Ordinance, allowing use of the city's right-of-way for an improvement therein, and includes a use permit described in division 3 and a telecommunications permit described in division 4.

Utility shall mean any public or private utility company, person, corporation or other entity, including, but not limited to telecommunication, water, sewer, electric, gas and other fuel provider.

Zone of influence shall mean the area within a forty-five (45) degree angle from a pipe invert.

(Ord. No. 338, 1-13-04; Ord. No. 356, § 1, 12-12-06; Ord. No. 364, § 1, 11-13-07; Ord. No. 370, § 1, 9-9-08)

Sec. 18-104. - Application.

This article applies to all disruption or use of city right-of-way, regardless of whether persons are excepted or exempted from the disruption and/or use permit requirements, with the provisions of division 4 applying to telecommunications providers and controlling in the event of any conflict or inconsistency with other provisions of this article.

(Ord. No. 338, 1-13-04)

Sec. 18-105. - Reserved.

Editor's note— Section 4 of Ord. No. 370, adopted Sept. 9, 2008, repealed § 18-105, use of public right-of-way, which derived from Ord. No. 364, adopted Nov. 13, 2007.

Secs. 18-106—18-110. - Reserved.

DIVISION 2. - DISRUPTION PERMITS

Sec. 18-111. - Disruption permit required.

(a) *Generally.* Except as otherwise provided in this division, no person, including persons who have or are exempt from having a use permit, shall direct or perform any activity which causes or results in any disruption to any city right-of-way unless the consent of the city commission, as delegated to the city manager and/or building official, is first obtained, as evidenced by a disruption permit issued by the city pursuant to this article. Activity approved by the city manager and/or building official shall be performed in accordance with the disruption permit and in the manner provided for in this article.

(b) *Exemptions.* Subject to compliance with all applicable terms and conditions in division 6, a disruption permit is not required for:

  (1) Activities or improvements by or under contract with the city, Michigan Department of Transportation, Road Commission of Oakland County or other public agency including, but not limited to, flagging activities.

  (2) Activities or improvements that have been disclosed and described to the extent required by this article and that are thereafter approved as part of a permit, site plan, plat or other approval under another city ordinance.

  (3) Temporary obstructions which are incidental to the expeditious movement of property and things to and from abutting premises.

  (4) The lawful operation and parking of vehicles within a city right-of-way.

  (5) The lawful and customary use of property by adjoining property owners for such things as landscaping and lawful repairs, maintenance and other activities of, for or on a sidewalk, driveway or other similar improvement in public road right-of-way within the city, provided that any residential or other use permit required under this article and all other city required permits or approvals are first obtained. Landscaping trucks and landscaping equipment on trailers connected to such trucks and small amounts of landscaping materials may be temporarily located in the city right-of-way during the period that said landscaping is actually being physically performed at that time on the adjoining property provided said landscaping trucks, equipment and materials do not obstruct or otherwise impair and/or impede the flow of traffic on the road and/or street.

  (6) Minor disruptions by adjoining owners of property zoned for single-family residential.

  (7) Connection from a main or branch utility line, including, but not limited to wires, cables, pipes, conduits or other equipment used for the transmission of electrical current impulses, sounds, voices or communications, water sewage, gas or other fuel, to an individual user or subscriber provided such connection does not service more than four (4) users.

  (8) Replacement or repair of damaged or obsolete wires, cables, pipes, conduits or other equipment so long as the replacement or repair of such wires, cables, pipes, conduits or other equipment shall not deviate from the location of the equipment being replaced or repaired.

  (9) Replacement or repair of damaged or obsolete substation or generating equipment.

(c) *Emergencies.* In a public emergency, a person and/or a permittee may disrupt a city right-of-way without first receiving a disruption permit from the city provided that the city has approved the emergency repairs before the disruption takes place.

(d) *Violations.* Failure to obtain a disruption permit under this section shall constitute a violation of and subject the violating person to the penalties provided for in this article. A person who violates this section shall pay the required application fee and disruption permit fee, as well as any additional charge established by resolution of the city commission for that period of time that the person did not have a valid disruption permit.

(Ord. No. 338, 1-13-04; Ord. No. 356, § 1, 12-12-06; Ord. No. 370, § 2, 9-9-08; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-112. - Forms of and applications for disruption permits.

(1) *Applications.* A person that wants to direct or perform any activity which will or may result in any disruption to a city right-of-way shall apply to the city for

a disruption permit pursuant to this division and division 5.

(2) *Franchise disruptions.* An annual disruption permit may be applied for and issued for all franchise disruptions in a calendar year under a single franchise, provided that the plans and other applicable information for each disruption are filed with the city sufficiently in advance of the work that they may be reviewed.

(3) *Minor disruptions.* Permits for minor disruptions may be approved and issued by the city without requiring full compliance with the application requirements in division 5.

(Ord. No. 338, 1-13-04)

Sec. 18-113. - Disruption permit fees.

(a) At the time of filing an application, the applicant must pay the city a nonrefundable application review and processing fee in an amount established by resolution of the city commission. The application review and processing fee includes amounts necessary to reimburse the city for the costs in reviewing, processing, investigating, granting or denying and issuing the use permit.

(b) In addition to the nonrefundable application review and processing fees, at or prior to the time the city issues the disruption permit, the permittee shall pay the city a disruption permit fee in an amount which will cover all of the city's administrative, inspection, consulting, plan review, monitoring and other costs in conjunction with the permittee's disruption of the city right-of-way. The disruption permit fee shall be based on rates and factors established by resolution of the city commission in an amount representing the city's estimate of what its costs in connection with the disruption are likely to be. Additional disruption permit fees may be required by the city during construction to cover unanticipated inspection and/or review costs, and shall be paid by the permittee within three (3) calendar days of the city's notice. If they are not, the permittee shall immediately restore the work site to a safe condition and suspend activities authorized under the permit until the additional inspection fees are paid.

(Ord. No. 338, 1-13-04; Ord. No. 373, § 1, 6-9-09; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-114. - Disruption permit term and extension.

(1) The disruption permit granted to the permittee by the city shall be for a specified time period established by the city after taking into consideration the information in the permittee's disruption permit application.

(2) Prior to the expiration of the term of the disruption permit, a permittee may apply in writing to the city for an extension of the permit, which shall be granted by the city if the permittee demonstrates a valid reason and explanation for why the disruption activities could not be completed during the term initially established. For purposes of seeking an extension of its disruption permit, the applicant shall pay an extension fee to the city in an amount established by resolution of the city commission. The city shall have the right to impose additional conditions on disruption permit extensions.

(Ord. No. 338, 1-13-04; Ord. No. 373, § 1, 6-9-09)

Sec. 18-115. - Disruption permit terms and conditions.

In addition to any individual conditions included by the city in a permit as provided in division 5, all disruption permits shall be considered to include and require compliance with all terms and conditions set forth in division 6.

(Ord. No. 338, 1-13-04)

Sec. 18-116. - Revocation of permit and stop work orders.

All disruption permits shall be subject to stop work orders and/or revocation under the standards and procedures contained in division 7.

(Ord. No. 338, 1-13-04)

Secs. 18-117—18-120. - Reserved.

DIVISION 3. - USE PERMITS

Sec. 18-121. - Use permit required.

(a) *Generally.* Except as modified for telecommunications permits under division 4 and as otherwise provided in this division, no person shall use a city right-of-way for any improvements therein unless the consent of the city commission, as delegated to the city manager and/or building official, is first obtained, as evidenced by a use permit issued by the city pursuant to this article.

(b) *Exemptions.* An exemption described in this section shall not apply until it has been documented and proven in written form by the person claiming it to the city's satisfaction. A use permit is not required for any person that has a valid, effective and current franchise from the city to use the city's rights-of-way for improvements.

(c) *City permit decisions.* Applications to use and/or occupy city rights-of-way that do not abut real property owned by the applicant, shall be approved,

approved with conditions or denied for issuance by the city manager and/or building official as provided in division 5.

(d) *Violations.* Failure to obtain a use permit under this section shall constitute a violation of this division and shall subject the violating person to the penalties provided for in this article. A person who violates this section shall pay the required application and use permit fee, as well as any additional charge established by resolution of the city commission for that period of time that the person did not have a valid permit pursuant to this article.

(Ord. No. 338, 1-13-04; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-122. - Use permit application procedures and fees.

(a) A person that wants to use a city right-of-way shall apply to the city for a use permit as provided in the permit application requirements and procedures in division 5.

(b) At the time of filing an application, the applicant must pay to the city a nonrefundable application review and processing fee in an amount established by resolution of the city commission. The application review and processing fee includes amounts necessary to reimburse the city for the costs in reviewing, processing, investigating, granting or denying and issuing the use permit. If in any particular case, the application review and processing fee as established by city commission resolution does not completely cover the city's costs in reviewing, processing, investigating, granting or denying and issuing the use permit the applicant shall pay to the city the additional amounts necessary to completely cover and reimburse the city for the city's costs.

(Ord. No. 338, 1-13-04; Ord. No. 373, § 2, 6-9-09; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-123. - Use permit fee.

(1) Except for telecommunications permits under division 4 and residential use permits, in addition to the nonrefundable application review and processing fee, the permittee shall pay a use permit fee to the city in an amount established by resolution of the city commission. The use permit fee shall be based on the annual fixed and variable cost to the city in maintaining the right-of-way in, under or over which the permittee's use occurs, taking into consideration factors including the total amount of area that the permittee will be using; the cost of monitoring the rights-of-way; and, the cost of maintaining and administering records of right-of-way use. The use permit fee shall be paid prior to use permit issuance for the full ten-year term of the permit.

(2) The amount of the use permit fee shall be fair and reasonable, competitively neutral, nondiscriminatory and reasonably related to the city's costs in connection with the permit and city right-of-way involved and shall not exceed what is authorized by applicable laws. Upon the written request of the city or applicant, the fees established by the city commission resolutions shall be reviewed on a case-by-case basis for the purpose of determining whether the fee should be more or less. In making such determination, the city commission shall take into consideration the following factors:

   (a) The annual fixed and variable cost to the city in maintaining the right-of-way in, under or over which the permittee's use occurs.

   (b) The total amount of area that the permittee will be using and occupying in the city right-of-way, including but not limited to, the length of right-of-way and the number and size of the improvements to be used.

   (c) The frequency and unit cost of monitoring the rights-of-way on a regular basis to ensure that the use by permittee conforms with applicable law, ordinance and permit conditions, and that such use has not created the need for public attention.

   (d) The proportionate cost of maintaining and administering records of right-of-way use, including administration to assist in the avoidance of conflicts in the use of the rights-of-way by other users, and auditing of the extent of permittee's use.

   (e) Any unique aspects of permittee's use or improvements that are likely to affect the cost to the city of permittee's use of the rights-of-way.

(3) By resolution, the city commission may establish the amount of a one-time fee for approved residential use permits that must be paid prior to issuance.

(Ord. No. 338, 1-13-04; Ord. No. 356, § 1, 12-12-06; Ord. No. 373, § 2, 6-9-09)

Sec. 18-124. - Use permit term, renewal and reviews.

(1) Except for telecommunications permits under division 4 and residential use permits, a use permit shall be issued for a term of ten (10) years, with the first year ending on December 31 of the year the use permit is issued. The permittee may apply to the city for ten-year renewals of its use permit, which renewal periods would run from January 1 to December 31 of each ten-year term. Unless earlier terminated by the permittee or the city, a permittee must file an application for renewal of its use permit with the city not less than one hundred twenty (120) days before the expiration of the current term, and pay a renewal application review and processing fee to the city in an amount established by resolution of the city commission. The city shall review all renewal applications and, not later than December 1 of each year, shall approve or deny all renewal applications. Decisions on renewal applications shall be made by the city in the same manner as the original permit. The city shall have the right to impose additional reasonable conditions on those use permit renewals.

(2) Although permits are to be granted for a ten-year term, the city may conduct an interim review at the end of the fifth year of a permit to determine whether the use permit fee then in effect should be revised and/or to require the permittee to affirmatively demonstrate that it is complying with all permit and ordinance terms and conditions. If the city determines that the fee should be revised, a resolution to do so shall be presented to the city commission, and upon approval, shall be established and be effective for the balance of the permit term. Any additional amounts required for the balance

of the permit term must be paid within thirty (30) days of the date of the resolution. If a permittee fails to demonstrate ordinance and permit compliance, the city may impose further conditions upon the use permit, or, where the review reveals a material failure of compliance, may initiate revocation proceedings as provided in division 7.

(3) Residential use permits shall be issued for an indefinite term, are subject to the transfer/assignment provisions in section 18-171(4), and regardless of whether those requirements are complied with, shall be binding on the property served by or using the structure allowed by that permit and all current and future owners and occupants of that property.

(Ord. No. 338, 1-13-04; Ord. No. 356, § 1, 12-12-06; Ord. No. 373, § 2, 6-9-09)

Sec. 18-125. - Use permit terms and conditions.

In addition to any individual conditions imposed by the city on a permit as provided in division 5, all permits shall be considered to include and require compliance with all terms and conditions set forth in division 6.

(Ord. No. 338, 1-13-04)

Sec. 18-126. - Revocation of permit and stop use orders.

All use permits shall be subject to stop use orders and/or revocation under the standards and procedures contained in division 7.

(Ord. No. 338, 1-13-04)

Sec. 18-127. - Residential use permit application, exemption and review standards.

(a) *Application.* In order to protect the public health, safety and welfare, a residential use permit shall be required for and the provisions of this division shall apply to all structures proposed to be constructed on or after the date of adoption of Ordinance No. 356.

(b) *Exemptions.* A residential use permit shall not be required for mailbox structures that are sanctioned by the United States Postal Service and are not contained within the mailbox enclosure.

(c) *Review standards.* In addition to determining whether other standards, terms and conditions of this division will be satisfied, the city, in determining whether to grant or deny or grant with conditions an application for a residential use permit, shall consider the following factors in order to protect the public health, safety and welfare and insure the compatibility of the structure with the residence using or to be served by the structure and residences of other homes in the immediate neighborhood. For purposes of this section, structures shall include such items as entrance piers, gates, walls, and mailbox enclosures.

(1) Structures shall not exceed four (4) feet in height and must be of a proportionate width and be in harmonious conformance with permanent neighboring development, excluding mailbox enclosures that may extend no greater than five (5) feet in height.

(2) Materials shall be of durable quality.

(3) Exterior lighting shall not be permitted.

(4) Landscape elements consisting of all forms of planting and vegetation, ground forms, and rock groupings are encouraged. Boulders the size of a man's head or larger shall not be placed closer than three (3) feet from the edge of the traveled portion of the roadway.

(5) To the extent reasonably feasible, the structure design, the landscape and site treatment around the structure shall be consistent with the character of the area.

(6) Notwithstanding anything contained in this subsection (c), mailbox enclosures shall also comply with all requirements contained in section 24-242 of the zoning ordinance, including, but not limited to, section 24-242(b)(d) of the zoning ordinance, and to the extent that there is a conflict between any of the requirements for mailbox enclosures as contained in this subsection (c) and the requirements contained in section 24-242 of the zoning ordinance, the requirements of section 24-242 of the zoning ordinance shall govern and apply.

(Ord. No. 356, § 1, 12-12-06; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-128. - Residential use permit conditions.

Conditions to be satisfied prior to issuance of a residential use permit under section 18-160 and thereafter during the term of the permit as applicable:

(1) The applicant and all owners of the property to be served by or using the structure allowed by the permit shall separately agree in writing to the indemnification provisions in section 18-172.

(2) The city and its officials, officers, employees, agents, and representatives shall be named as added insured on a homeowner or other liability insurance policy acceptable to and in an amount to be determined by the city, as confirmed by a certificate of insurance and/or insurance policy as provided in and subject to the requirements in section 18-173(3), with said insurance to be maintained for so long as all or any part of the structure allowed by the residential use permit is in the right-of-way. Prior to the expiration date of insurance shown on a certificate of insurance, the permittee shall be responsible to provide the city with an updated certificate to confirm that said insurance continues in force and effect.

(3)

To the extent applicable to the structure allowed by the approved permit and assuring that it is constructed and used in conformity with the city's approval, any information and plans required by sections 18-153, 18-154, 18-155, 18-156 and 18-157 and not submitted as part of the residential use permit application, shall be provided, specifically including the construction plans, schedule and information required in those sections for disruption permits.

(Ord. No. 356, § 1, 12-12-06)

Secs. 18-129, 18-130. - Reserved.

DIVISION 4. - TELECOMMUNICATIONS PERMITS

Sec. 18-131. - Permit required.

(1) *Generally.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use city rights-of-way for its telecommunications facilities shall apply for and obtain a telecommunications permit, which is a form of use permit, pursuant to this division.

(2) *Previously issued permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the city under Section 251 of the Michigan Telecommunications Act, 1991 PA 118, MCL 484.2251 and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this article.

(Ord. No. 338, 1-13-04)

Sec. 18-132. - Permit applications.

(1) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act by filing three (3) copies with the city clerk. Upon receipt, the city clerk shall make and distribute copies of the application to other city staff and consultants as necessary. 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.

(2) *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, 1976 PA 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(3) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time nonrefundable application fee in the amount of five hundred dollars ($500.00).

(4) *Additional information.* The city may request an applicant to submit such additional information required for use permit applications under division 5, which the city 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. If the city and the applicant cannot agree on the requirement of additional information requested by the city, the city or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(5) *Existing providers.* A telecommunications provider with facilities located in a city right-of-way in the city that as of November 1, 2002, the effective date of the Act, has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, 1991 PA 118, MCL 484.2251, shall submit to the city an application for a permit in accordance with the requirements of this division and within the time required or extended under Sections 5(3) and 5(4) of the Act. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the five hundred dollars ($500.00) application fee required under subsection (3) above.

(Ord. No. 338, 1-13-04)

Sec. 18-133. - Issuance of permit.

(1) *Approval or denial.* The city shall have the authority to approve or deny an application for a permit. Pursuant to Section 15(3) of the Act, the city shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under section 18-32, for access to a city right-of-way within the city. Pursuant to Section 6(6) of the Act, the city shall notify the MPSC when the city 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 shall not unreasonably deny an application for a permit.

(2) *Form of permit.* If an application for permit is approved, the city shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.

(3) *Conditions.* Pursuant to Section 15(4) of the Act, the city may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the city right-of-way.

(4) *Bond requirement.* Pursuant to Section 15(3) of the Act, the city 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 city right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. No. 338, 1-13-04)

Sec. 18-134. - Disruption permit.

A telecommunications provider shall not commence construction in a city right-of-way without first obtaining a disruption permit as provided in divisions 2 and 5. Unless authorized by law, no otherwise applicable fees may be charged by the city for such a disruption permit.

(Ord. No. 338, 1-13-04)

Sec. 18-135. - Conduit or utility poles.

Pursuant to Section 4(3) of the Act, 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.

(Ord. No. 338, 1-13-04)

Sec. 18-136. - Route maps.

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within ninety (90) days after the substantial completion of construction of new telecommunications facilities in the city, submit route maps to the MPSC and city, showing the location of the telecommunications facilities. The route maps shall be in the format (electronic, paper or otherwise) as finally determined by the MPSC (or a court of competent jurisdiction) in accordance with Section 6(8) of the Act.

(Ord. No. 338, 1-13-04)

Sec. 18-137. - Repair of damage.

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a city right-of-way or temporarily obstructing a city 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 city right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. No. 338, 1-13-04)

Sec. 18-138. - Establishment and payment of maintenance fee.

In addition to the nonrefundable application fee paid to the city set forth in section 18-132, a telecommunications provider with telecommunications facilities in the city's rights-of-way shall pay an annual maintenance fee to the authority pursuant to Section 8 of the Act.

(Ord. No. 338, 1-13-04)

Sec. 18-139. - Modification of existing fees.

In compliance with the requirements of Section 13(1) of the Act, the city hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the city 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, the city also hereby approves modification of the fees of providers with telecommunications facilities in city rights-of-way within the city's boundaries, so that those providers pay only those fees required under Section 8 of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the city's policy and intent, and upon application by a provider or discovery by the city, shall be promptly refunded as having been charged in error.

(Ord. No. 338, 1-13-04)

Sec. 18-140. - Savings clause under the Act.

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under section 18-139, shall be void from the date the modification was made.

(Ord. No. 338, 1-13-04)

Sec. 18-141. - Use of funds.

Pursuant to Section 10(4) of the Act, all amounts received by the city from the authority shall be used by the city solely for right-of-way related purposes. in conformance with that requirement, all funds received by the city from the authority shall be deposited into the major street fund and/or local street fund maintained by the city under Act No. 51 of the Public Acts of 1951, as amended.

(Ord. No. 338, 1-13-04)

Sec. 18-142. - Annual report.

As required by Section 10(5) of the Act, the city shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Ord. No. 338, 1-13-04)

Sec. 18-143. - Cable television operators.

Pursuant to Section 13(6) of the Act, the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. No. 338, 1-13-04)

Sec. 18-144. - Existing rights and permits.

Pursuant to Section 4(2) of the Act, 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 city rights-of-way. Upon the written request of a telecommunications provider holding such a permit, the city shall issue a replacement permit in the form approved by the MPSC in accordance with Sections 6(1), 6(2) and 15 of the Act, with the effective date of the replacement permit to be the same date as the original permit.

(Ord. No. 338, 1-13-04)

Sec. 18-145. - Compliance.

The city hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The city shall comply in all respects with the requirements of the Act, including but not limited to the provisions referenced in this division.

(Ord. No. 338, 1-13-04)

Sec. 18-146. - Reservation of police powers.

Pursuant to Section 15(2) of the Act, this division 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.

(Ord. No. 338, 1-13-04)

Sec. 18-147. - Violations.

Failure to obtain or violation of a permit under this division shall be subject to the penalties and procedures provided for in the Act, and to the extent authorized by law, to the penalties and procedures in division 7.

(Ord. No. 338, 1-13-04)

Secs. 18-148—18-150. - Reserved.

DIVISION 5. - PERMIT APPLICATION REQUIREMENTS AND PROCESS

Sec. 18-151. - Filing of complete applications required.

At least three (3) copies of a permit application, and more if necessary to secure all city staff and consultant reviews, shall be filed with the city clerk and shall not be considered as complete for any purposes, including any time periods for city reviews and decisions, until the required application fee and information has been provided.

(Ord. No. 338, 1-13-04)

Sec. 18-152. - General application information requirements.

(1) Except for telecommunications use permits and as provided in this section, permit applications shall include all of the following information, as applicable, on a city application form or by attachment to the form of applicable documents and plans.
(2) With the city's approval, an applicant may rely on information submitted in connection with a specifically identified, previously issued permit, upon a written certification to the city that the information has not changed and remains accurate.

(3) Upon an applicant's written request and demonstration to the city's satisfaction that one (1) or more application requirements serve no useful purpose or have been adequately addressed in an alternative manner or form, and for minor disruptions, the city may waive or modify one (1) or more of the information requirements, with or without conditions.

(Ord. No. 338, 1-13-04)

Sec. 18-153. - Information required for all permits.

(1) The name, age if an individual, and address of the applicant, and if the applicant is not a natural person, the date, state and form of business organization.

(2) The character of the business the applicant engages in and the lengths of time and locations where that business has been conducted.

(3) Written documentation of the applicant's lawful existence, authorization and good standing to conduct its business in the State of Michigan.

(4) The names, phone numbers, fax numbers, addresses, E-mail addresses if applicable, and position, relationship or affiliation with applicant for the following persons:

(a) Applicant's contact person(s).

(b) The person(s) that is authorized to and will sign and agree to permits that are issued on behalf of applicant.

(c) Applicant's resident agent for service of process.

(d) The person(s) responsible for preparation and revisions of applicant's maps and plans.

(e) All contractors that will be performing any work in city right-of-way for the applicant under the permit(s) requested.

(f) The construction and engineering personnel that will be responsible for supervision of disruption, maintenance and repair work in city right-of-way and for communication with the city regarding such work.

(f) Identification of all other permits the applicant has been issued by the city and proof of full compliance with them.

(5) For proposed aboveground improvements, the application shall demonstrate that they cannot be placed underground or that the applicant is exempted by law from the requirement of this article that all new improvements be placed underground.

(Ord. No. 338, 1-13-04)

Sec. 18-154. - Required route and improvement information for use and disruption permits.

(a) Permit applications shall include a textual description and scaled drawing or map on 8½" × 11" paper or other size accepted by the city, along with an electronic submission with documents in .pdf form, which show or contain:

(1) A location map, with a minimum scale of 1" = 50' and north arrow.

(2) Proprietor information, parcel identification number and/or addresses of all affected and adjacent parcels, and street names.

(3) The general route and horizontal and vertical (above or below ground) location within the right-of-way of improvements to be installed and/or used.

(4) The relationship of the improvements to existing and proposed improvements in adjoining municipalities.

(5) The length, area or other applicable measurement of city right-of-way that will be used by applicant, expressed in lineal feet of aerial and underground portions of proposed and existing improvements, and for improvements that are not measurable in lineal feet, the number of square feet of right-of-way that will be used.

(6) Location of the proposed facility, including proposed invert elevations of all structures, piping or appurtenances.

(7) Any property lines within one hundred (100) feet of the proposed facility.

a. For the area one hundred (100) feet on either side of the proposed facility (including, but not limited to, all proposed structures, transmission lines, and underground routing), the following items must be provided: Two (2) foot contours or strip topography of elevations.

b. All structures, manholes, fire hydrants, trees or any other permanent physical objects.

c. Any and all watercourses.

(8) Length and size of each section of proposed pipe between structures.

(9) A minimum of two (2) benchmarks consistent with the datum utilized by local standards.

(10) A note whether the proposed facility will be located within five hundred (500) feet of a lake or stream and the associated approved permit application for soil erosion and sedimentation control or equivalent from all necessary public agencies.

(11) If the applicant is proposing to construct new aerial poles or new underground conduit or pipe improvements, a description of why it is not physically and financially feasible for applicant to utilize existing poles, pipes, conduits and improvements.

(12) A detailed description of the services to be provided by applicant's improvements, which shall include a description of the system those improvements will be a part of and the categories or classifications and locations of existing, intended and potential customers or persons that are or may be served by the improvements.

(13) Copy of a current financial statement for the applicant.

(b) For proposed facilities to be installed within road rights-of-ways or adjacent to private or public roadways, the following additional items must be shown:

(1) All existing facilities within the road right-of-way or within one hundred (100) feet on either side of the proposed facility.

(2) Pavement type and limits.

(3) Existing and proposed right-of-way lines.

(c) For proposed aboveground installation of facilities, the following additional items must be shown:

(1) Separate detail of each aboveground facility indicating all their dimensions.

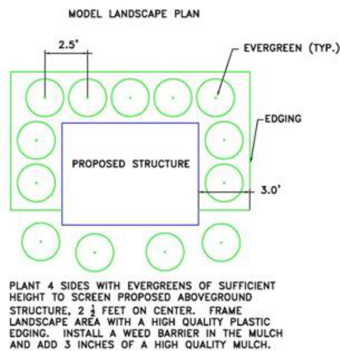
(2) If proposed within the sight triangle of the right-of-way, strip topography of elevations within one hundred (100) feet of the proposed facility to verify no sight obstructions.

(3) Dimensions of the facility from existing pavement, property lines, right-of way lines and other facilities.

(4) Indicate proposed parking location, dimensions and method, if any proposed to be provided, (i.e., gravel, grass, pavers, etc.) to limit disruption for maintenance vehicles. Parking on nonmotorized pathways is prohibited.

(5) Show compliance with AASHTO standards for aboveground facility placement.

(d) A landscaping plan indicating evergreen plant material of sufficient height and density to screen any aboveground proposed facility from the street and adjacent property shall be required. Said landscaping shall be maintained and replaced in kind as necessary by the permittee. The proposed landscaping shall not interfere with any other existing or proposed use of the right-of-way. A model landscaping plan is illustrated below:



(e) If the city determines it to be necessary to the proper and efficient administration of this article, it may also require an applicant for a disruption permit to provide plans on a larger scale, elevations, locations and topography at specified contours for existing and proposed improvements, landscaping and natural features, property lines and other relevant information for areas within one hundred (100) feet of the proposed improvement.

(Ord. No. 338, 1-13-04; Ord. No. 364, § 3, 11-13-07; Ord. No. 370, § 2, 9-9-08; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-155. - Construction plans required for disruption permits.

Detailed construction plans and a separate list or index of same, at a scale of no less than 1 inch = 100 feet for the improvements applicant proposed to construct and/or use, with each plan to clearly show or contain all of the following information:

(1) The name and address of the person that prepared the plan, the dates of preparation and revisions, a job/work title and/or number and a drawing/sheet number.

(2) Whether the improvements are existing or proposed.

(3) All city right-of-way lines and property lines if within the city right-of-way and the location of the improvements in relation thereto.

(4) The lineal feet or other area of city right-of-way occupied or proposed to be occupied by the improvements shown on the plan, expressed separately for aerial and underground portions.

(5) Match lines by which each plan can be related to the applicant's other plans.

(6) A description of the improvements shown on the plan that includes the size, components, capacity, ownership and existing, proposed and potential uses.

(7) For aerial improvements, all existing and new poles or structures to which the improvements are or will be attached shall be shown and designated as such together with the owner of each such pole or structure.

(8) For aerial improvements, elevations shall be depicted on a drawing that shows applicant's improvements in relation to all other existing improvements and the poles or structures to which they are or will be attached.

(9) For underground improvements, in addition to the applicant's, the plans shall show all other existing underground appliances, conduits and improvements, it being the applicant's responsibility to determine the existence and location of such other improvements. The plans shall show the applicant and other existing improvements by reference to the horizontal and vertical location and separation between improvements that exist or are proposed.

(10) The locations of rivers, streams, drains, bodies of water and state or city regulated wetlands crossed by applicant's improvements.

(11) The location of all city right-of-way that will or may be disrupted by the installation, use, maintenance or repair of applicant's improvements.

(12) The location of any aboveground structures or landscaping including but not limited to, trees, shrubs, signs, hydrants, mail boxes and driveways within or adjoining the city right-of-way, that will or may be disrupted or damaged by the installation, use, maintenance or repair of the applicant's improvements.

(Ord. No. 338, 1-13-04)

Sec. 18-156. - Construction and schedule information for disruption permits.

(1) A description of the manner in which the improvements will be installed, maintained and repaired by reference to the number and types of vehicles, equipment and personnel involved and the area of city right-of-way within which disruption activities will be occurring at any given time.

(2) A description of the time and manner in which applicant will restore city rights-of-way that may be disrupted or damaged by applicant's activities.

(3) If the applicant is proposing to construct new aerial poles or new underground conduit or pipe improvements, a description of why it is not physically and financially feasible for applicant to utilize existing poles, pipes, conduits and improvements.

(4) The cost of the improvements to be installed and such other information as may be required for the city to issue and establish individual terms and conditions for a permit.

(5) The length of time it will take applicant to complete the installation and required restoration under a proposed disruption permit, expressed in terms of the number of weeks from the date the permit is issued, and noting any changes to the schedule that may be needed based on the time of year the permit is issued or any other variable that is not within applicant's control.

(6) Copies of Michigan Department of Transportation, Road Commission of Oakland County, and other governmental permits or approvals that are required for applicant's improvements, or documentation that such permits have been applied for.

(7) If applicant proposes to locate its improvements on, within or as part of poles, conduits or improvements of another person, that person's written confirmation of applicant's rights to do so.

(8) Notes on the plans requiring traffic control devices in accordance with city ordinance, the most recent edition of the Michigan Manual of Uniform Traffic Control Devices Guide, and reasonable engineering specifications required by the city.

(Ord. No. 338, 1-13-04)

Sec. 18-157. - Standards and conditions for permits and installations.

(1) All installation of facilities under this article shall comply with the following standards.

(a) Generally, proposed facilities must run in straight lines and parallel to road rights-of-ways and/or existing facilities.

(b) Road crossings should be at a ninety (90) degree angle to an existing road.

(c) Unless otherwise approved by the city, the facilities shall not be located within the zone of influence of an existing or proposed sanitary sewer or water main. All underground facilities proposed to be located perpendicular to an existing utility line must maintain a minimum vertical clearance of eighteen (18) inches from any part of the existing utility line.

(d) If the facilities are proposed to be located in a public right-of-way, any aboveground facilities shall be placed at the extension of existing property lines that are perpendicular to the road right-of-way.

(e) Facilities proposed to be located aboveground must be installed in accordance with the AASHTO standards.

(f) Facilities proposed to be located aboveground are prohibited within any crash zone, and must be a minimum of two (2) feet off of any pedestrian pathways or sidewalks.

(g) Facilities proposed to be located underground must be installed at least four (4) feet below the center line of the road.

(h) Facilities shall be of a neutral color such that they are in harmony and blend into the immediate surrounding area. Under no circumstances will primary or neon colors be permitted, nor shall such facilities be permitted to be illuminated.

(i) Right-of-way approval from the Road Commission for Oakland County is required prior to the issuance of a disruption permit.

(2) If the facility is proposed to be located on private property, and unless the utility has previously obtained an easement on the property for installation of aboveground facilities, the utility must obtain the written consent of the property owner(s), which written consent or easement shall be submitted with the application for a permit, subject to compliance with section 18-154(4). The placement of facilities on private property shall not interfere with any prior existing utility easements.

(3) Any zoning variances that may be required for placement of facilities on private property shall be obtained prior to issuance of a permit under this article.

(4) If, in the opinion of the city, application of the provisions of this section results in a practical difficulty for the applicant, the city may grant a variance from the strict application of such provisions, so long as the spirit and intent of this article are met.

(Ord. No. 338, 1-13-04; Ord. No. 364, § 4, 11-13-07; Ord. No. 370, § 2, 9-9-08)

Sec. 18-158. - Application reviews and permit decisions.

(a) Except as otherwise provided in this division, the city shall approve, conditionally approve or deny a permit for issuance within forty-five (45) days from the date the applicant files a complete application. The time limit for the city to make a decision may be extended with the applicant's written agreement, and except for telecommunications permits under division 4, by the city for good cause. Approval of a permit for issuance does not authorize any disruption or use of city right-of-way.

(b) The city review and decision on an application shall be based on this article, which establishes the terms and conditions under which the city manager and/or building official consents to disruption in and use of the city rights-of-way. The city will not approve a permit for issuance to an applicant that is in violation of or has unsatisfied obligations to the city under a prior permit.

(c) Approval of a permit for issuance does not authorize any disruption or use of city right-of-way and may be subject to conditions that must be satisfied prior to permit issuance and the commencement of permitted activities.

(Ord. No. 338, 1-13-04; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-159. - Permit conditions and bonds.

The city may impose conditions on any permit it approves as it determines necessary to ensure and protect the public health, safety and welfare. Subject to any limitations for telecommunications permits under division 4, the city may require, as a condition of the permit, that a bond in the form of cash, letter of credit or other security acceptable to the city, be posted by the applicant, which bond shall not exceed the reasonable costs to ensure that the city's rights-of-way that are to be disrupted and/or used by the applicant are returned and restored to their original condition after the applicant's disruption and/or use of the rights-of-way, that all required fees are paid, that all permit conditions are satisfied and that acceptable as-built plans are provided to the city.

(Ord. No. 338, 1-13-04)

Sec. 18-160. - Permit issuance.

Upon approving a permit for issuance, the city shall provide the applicant with two (2) copies of a completed permit form and documents that contain or incorporate all terms and conditions under division 6 of this article and any individual permit conditions. To obtain permit issuance, the applicant shall accept and agree to the permit by signing both copies of the permit and applicable permit documents in the form and manner specified and delivering them to the city together with any required fees, bonds, insurance certificates and any other documents that were specified by the city as conditions for permit issuance. When all requirements for permit issuance have been satisfied, the city shall issue the permit by dating and signing each of the permit forms, keeping one (1) for city records and mailing or delivering the second to the permittee.

(Ord. No. 338, 1-13-04)

Sec. 18-161. - Permit display.

A disruption permit or copy thereof, together with the approved construction plans shall be in the possession of the permittee's employee or representative at each work location at all times.

(Ord. No. 338, 1-13-04)

Sec. 18-162. - Permit amendments.

Disruption permit amendments are in the discretion of the city, who for more than minor changes or alterations, may require that a new permit be applied for and obtained. Use permits may be amended by the city upon a written application of the permittee, to include the right to use additional right-of-way for the remainder of the original use permit term. All application, application review and processing and annual use permit fees shall be paid in connection with such an amendment.

(Ord. No. 338, 1-13-04)

Sec. 18-163. - Appeals.

Any person, firm or corporation whose permit application is denied or approved with conditions that the applicant wishes to challenge, or whose variance request under section 18-157 has been denied, may appeal to the city commission by filing a written appeal with the city not more than ten (10) days after the decision. The application for appeal shall fully and particularly set forth the nature and grounds upon which the appeal is based. The city commission, shall, within thirty (30) days after the filing of such notice of appeal, hold a hearing on the appeal. Upon hearing the appeal, city commission shall approve, conditionally approve or deny the permit for issuance, and in doing so, may in its sole discretion, on the applicant's request or its own motion, waive or modify ordinance requirements that were the basis for permit denial.

(Ord. No. 338, 1-13-04; Ord. No. 364, § 5, 11-13-07; Ord. No. 370, § 2, 9-9-08)

Sec. 18-164. - Reserved.

Editor's note— Section 4 of Ord. No. 370, adopted Sept. 9, 2008, repealed § 18-164, exemptions, which derived from Ord. No. 364, adopted Nov. 13, 2007.

Secs. 18-165—18-170. - Reserved.

DIVISION 6. - ORDINANCE AND PERMIT TERMS AND CONDITIONS

Sec. 18-171. - General ordinance regulations and permit terms and conditions.

Except for telecommunications permits issued under division 4, the following terms and conditions shall apply to all persons directing or performing disruption or use of city right-of-way, regardless of whether they have or are required to have a permit, and shall be considered a part of every disruption and use permit issued under this article.

(1) *Nonexclusive.* A permit shall be nonexclusive and does not restrict the city from at any time issuing additional permits to other persons to disrupt and/or use the same city right-of-way. The issuance of a permit does not establish any priority for the disruption and/or use of a city right-of-way and permittees shall coordinate their work to avoid conflicts with the city and all other persons lawfully working in the right-of-way.

(2) *Compliance with permits and laws.* All persons shall strictly comply with all of the terms and conditions of a permit and with all applicable laws, codes, restrictions and ordinances, including the public utility notification provisions of Act 53 of the Public Acts of 1974, as amended, and Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended, and no person shall disrupt and/or use any city right-of-way without first obtaining all other required city or other governmental permits and approvals and paying all other applicable fees. If eligible to join, and if it is not already a member, a utility shall subscribe to and be a member of "MISS DIG," or equivalent association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended.

(3) *Permit fees and taxes.* A permittee shall timely pay all annual use and other permit fees and all personal and real property taxes and any other obligations due and payable to the city.

(4) *Transfer/assignment.* A disruption permit is not assignable or transferable without the written consent of the city which it shall have no obligation to grant. Prior to completion of the construction of the improvements in the city public rights-of-way covered by a use permit, there shall not be any transfer, conveyance or assignment of the permit or the rights/privileges granted by it or any change in control of permittee, in whole or in part, voluntarily, involuntarily, or by operation of law, merger, consolidation, substantial change in the ownership or control or other means, without prior written consent of the city, which shall not be unreasonably withheld for reasons unrelated to the ability and/or willingness of the proposed transferee/assignee to comply with the permit and all of its terms and conditions. After the completion of such construction, such a conveyance, transfer, assignment or change in control may be done without city consent provided that permittee provides written notice to the city of same no later than thirty (30) days after such occurrence and:

a. Any transferee or assignee shall be qualified to perform under the permit terms and conditions and comply with applicable law, shall be subject to the obligations of the permit, including responsibility for any defaults which occurred prior to the transfer or assignment, shall supply the city with written notice of the same identification, address and contact information required of a permittee and shall comply with any updated insurance and performance bond requirements under the permit which the city reasonably deems necessary; and

b. A change in control shall not be to an entity lacking the qualifications to assure permittee's ability to perform under the terms and conditions of the permit and comply with applicable law and shall be subject to compliance with any updated insurance and performance bond requirements which the city reasonably deems necessary.

If a permit is assigned in whole or in part, its terms and conditions shall be binding upon the successors or assigns of the permittee. A security interest in a permit and the improvements covered by it may be granted at any time without notice to the city.

(5) *As-built plans.* A permittee shall deliver to the city, as-built plans in a form and at a scale acceptable to the city for the permitted improvements which are in the city right-of-way within sixty (60) days after completion of installation or commencement of use, whichever first occurs.

(6) *Additional and/or future use.* The issuance of a permit does not confer rights to any additional disruption and/or use of the city's right-of-way, except as specifically granted and described in the permit.

(7) *City modifications and future use.* The issuance of a permit does not prohibit the city from requiring modifications to permittee's construction activities or from using the city's right-of-way in a manner which may interfere with, disrupt or prevent the permittee's disruption and/or use of the same. Permittees acknowledge and accept this risk and shall not be entitled to receive any compensation from the city in the event that the city uses the city right-of-way in that manner. The expense of making any necessary modifications of its improvements in order to accommodate a conflict shall be borne by the permittee.

(8) *Plan, schedule and permit compliance; costs.* The installation of improvements in, and the permittee's disruption and/or use of the city's rights-of-way, shall be in compliance with the plans submitted to and approved and all permits issued by the city. All costs of the permittee's improvements in use of the right-of-way shall be the sole responsibility of the permittee. All construction and installation of improvements in the city's rights-of-way, shall be

performed by the permittee in compliance with the schedule submitted to and approved by the city, shall be done and maintained with all necessary precautions to prevent injury or damage to persons and property and in a good and workmanlike fashion in accordance with recognized construction industry and other applicable standards and shall be subject to inspection and final approval of the city.

(9) *Restoration of property.* Any portion of the city's right-of-way that is disrupted by the construction, installation, location, maintenance, use or operation of improvements shall be restored to its prior condition by the permittee, owner of the improvements and/or the persons that caused or directed the disruption with said restoration to be completed within _____ days from the last date the disruption has occurred. The disrupted right-of-way shall be restored and returned to a condition that is as good or better than that which existed at the time the disruption occurred and said restoration shall comply and be in accordance with the city engineer's standards as adopted by resolution of the city commission. The time period and the manner in which the restoration is to take place shall be established by the city, and, in the event the permittee does not complete the restoration in that time and/or does not undertake the restoration in the manner approved by the city, upon written notice the city may complete the repair and restoration and recover its costs from any bond posted by the permittee and/or by an action at law. If the bond does not cover all of the costs incurred by the city, the permittee shall immediately pay the outstanding balance of the costs to the city, and reinstate the required bond. No additional use, disruption and/or any other permits required by this chapter will be issued to a person, entity and/or existing permittee until the restoration required by this subsection has been completed on the property for which a permit has already been issued.

(10) *Maintenance and repair.* During the term of a permit, the permittee shall maintain and repair its improvements in a good and workmanlike condition. If permittee fails to do so, the city may send a written notice to the permittee to correct the defective condition within a specified time. If the defective condition is not corrected within the time allowed, the city shall be entitled, at its sole discretion, to perform said maintenance and repair, correct the defect and/or remove the improvement, and bill the cost of the same to the permittee. If such a bill is not paid in full within thirty (30) days of the date of billing, the city may recover its costs from any bond posted by permittee. In the event the bond does not cover all of the costs incurred by the city, the permittee shall immediately pay the outstanding balance of the costs to the city and reinstate the required bond.

(11) *Removal and/or relocation for or by city.* A permittee or owner of improvements shall remove, relocate and/or disconnect any portion of its improvements located in the city's rights-of-way when the permittee is advised in writing by the city that the same is necessary for the city to do any construction, excavation, maintenance, repair or other work in furtherance of the public health, safety and welfare. The city may remove, relocate, damage, disrupt and/or disconnect a permittee's or owner's improvements in the event of a public emergency, if the same is determined to be necessary to protect the public health, safety and welfare, with the city not being liable to the permittee, owner or any persons receiving services from the improvements, for any damages or injuries caused by the city's actions. If reasonable to do so under the circumstances, the city shall attempt to provide advance notice to the permittee. The permittee shall be responsible for repair at its sole cost and expense of any of its facilities damaged pursuant to any such action taken by the city.

(12) *Vacation/abandonment.* If a right-of-way is vacated, discontinued, abandoned, terminated and/or released, the permittee's right to use that area of land shall immediately terminate and the permittee shall remove its improvements therefrom at its sole cost and expense when ordered to do so by the city or a court of competent jurisdiction. The permittee shall relocate its facilities to such alternate route as the city and permittee mutually agree, applying reasonable engineering standards.

(13) *Removal upon expiration or termination of use permit.* Upon the expiration or termination of a permit, or if the permittee abandons or ceases operating or using its improvements in the city's rights-of-way, within three (3) months or a longer time period established by the city commission, permittee shall remove all of its improvements from the city's right-of-way and restore the area to a condition that is as good or better than that which existed prior to the installation and use of its improvements in the city right-of-way and said restoration shall comply and be in accordance with subsection (9) herein. If the permittee and city agree that it would not be in the best interest of the public health, safety and welfare for permittee to remove its improvements and the city agrees to accept ownership of same, at no cost to the city, permittee shall convey the improvements to the city, who may thereafter use the improvements. The decisions as to whether a permittee shall remove its improvements from the city's right-of-way and whether the city will accept ownership, and if so, any conditions, is in the sole discretion of the city commission.

(14) *Notice of commencement and completion of permitted activities.* At least forty-eight (48) hours prior to commencing or performing activities allowed by a permit, the permittee shall notify the city to arrange for inspection of the activities by the city. Within five (5) days of completing permitted activities, permittee shall notify the city so that final inspection may be made.

(15) *Prohibited work days.* Except for emergencies, no disruption activities shall be performed on Sundays or legal holidays without the written authorization of the city.

(16) *Private property.* A permit does not authorize entry upon private property or the use of private water supplies.

(17) Facilities shall be installed and maintained so as to not endanger or injure persons or property on or about the public right-of-way. If the city reasonably determines that any portion of the facilities constitutes an undue burden or interference, following an approved installation, a permittee, at its sole expense, shall modify the facilities or take such other actions as the city may determine is in the public interest to remove or alleviate the burden, and the permittee shall do so within a reasonable time period.

(18) The construction and installation of the facilities shall be performed in accordance with the plans approved by the city. The open cut of any public right-of-way shall be coordinated with the city. The permittee shall install and maintain the facilities in a reasonably safe condition. All utility lines are to be installed underground unless an existing pole is available for such use. If the owner of the pole relocates its facilities underground, all lines

attached must also be moved underground at the owner's expense, unless the city approves an alternate location. The permittee may perform maintenance on the facilities without prior approval of the city, provided that the permittee shall obtain any and all permits required by the city in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by the city.

(19) If the permittee has its facilities on poles of a utility and that utility relocates its system underground, then the permittee shall relocate its facilities underground in the same location at the permittee's sole cost and expense, unless the city approves an alternate location.

(Ord. No. 338, 1-13-04; Ord. No. 370, § 3, 9-9-08; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-172. - Indemnification.

(1) The city and its officials, officers, employees, agents, volunteers, representatives and contractors shall not be liable or responsible for any damages or injuries that occur to or are suffered by any person or property which are caused by or result from the permittee's or its contractor's construction, installation, location, use or maintenance of improvements in the city right-of-way.

(2) Permittees shall indemnify, defend and hold the city and its officials, officers, employees, agents, volunteers, representatives and contractors harmless from any claims or encumbrances which may be imposed as a result of any indebtedness by the permittee to any contractors, subcontractors or any other persons providing services, labor or materials to the permittee. If the city discovers that such a claim or encumbrance has been placed on or against a city right-of-way, the city shall notify the permittee in writing to remove the same within thirty (30) days from said notice, with failure to remove such a claim grounds for revocation of permit. If the permittee fails to remove the claim or encumbrance from the city's right-of-way within thirty (30) days from the city's written notice, the city may apply any bond posted by the permittee towards the city's cost of completely removing the claim or encumbrance. The permittee shall have the affirmative obligation to inform the city of any claims or encumbrances that the permittee is aware have been placed on or against the city's right-of-way.

(3) Permittees shall indemnify, defend and hold the city, its officers, agents, employees and officials harmless from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses, including attorney fees, of any nature ("claims") arising out of or resulting from the acts or omissions of permittee, its officers, agents, employees, contractors, successors, or assigns or the permittee's use or installation of improvements in the city right-of-way. City shall notify permittees of any such claims and shall cooperate and consult with permittees in the defense and resolution of them, including the selection and direction of legal counsel. City shall not settle any claim subject to indemnification under this section without the advance written consent of the permittee, which shall not be unreasonably withheld, with permittees, at their expense, having the right to defend or settle any claim against the city for which permittee is responsible.

(4) The indemnification obligations of a telecommunications provider that has obtained a telecommunications permit from the city as provided in the Act and this article shall be as described in that permit.

(Ord. No. 338, 1-13-04)

Sec. 18-173. - Insurance.

(a) The permittee shall, at its own cost, maintain in full force and effect during the term of each permit, the following kinds of insurance with the limits set forth, with the company providing same to be licensed and admitted to do business in the State of Michigan and acceptable to the city:

(1) Comprehensive commercial general liability insurance in the amount of one million dollars ($1,000,000.00) per occurrence and a total combined/aggregate amount of two million dollars ($2,000,000.00), which liability insurance coverage shall include coverage for operations, products and completed operations, contractual liability, independent contractors and for explosion, collapse and underground liabilities, commonly referred to as "XCU" coverage.

(2) Motor vehicle insurance covering all owned and nonowned vehicles used in the permitted activities, including Michigan no-fault coverage, with liability limits in amounts established by resolution of the city commission.

(3) Owner's and contractor's protective liability insurance with liability limits established by resolution of the city commission.

(4) Worker's compensation insurance, including employer's liability coverage, in accordance with applicable Michigan Statutes.

(b) The city and its officials, officers, employees, agents, contractors and representatives shall be named as additional insureds on the comprehensive commercial general liability insurance, owner's and contractor's protective liability insurance and the motor vehicle liability insurance to be obtained by permittee.

(c) The permittee shall furnish to the city clerk certificates of insurance and, upon request, certified copies of each insurance policy that the permittee is required by this section to obtain with said policies to be approved by the city attorney as to form and amounts. No insurance policy and coverage that the permittee is required to obtain and keep in full force and effect by this section shall be cancelled, changed or subject to cancellation or reduction without at least thirty (30) days prior written notice to the city. If any coverage will expire during the term of a permit, the permittee shall deliver renewal certificates to the city engineer at least ten (10) days prior to the expiration date.

(d) The insurance obligations of a telecommunications provider that has obtained a telecommunications permit from the city as provided in the Act and this article shall be as described in that permit.

(Ord. No. 338, 1-13-04; Ord. No. 420 , § 1, 4-14-15)

Sec. 18-174. - Stop work/use orders and permit revocations.

All permits shall be subject to the issuance of stop work or stop use orders by the city engineer and revocation as provided in division 7.

(Ord. No. 338, 1-13-04)

Secs. 18-175—18-180. - Reserved.

DIVISION 7. - STOP WORK OR USE ORDERS, REVOCATIONS AND PENALTIES

Sec. 18-181. - Stop work or use orders.

In addition to any other rights or remedies the city may have pursuant to this article or other applicable law, the city, upon finding the existence of an imminent threat to the public health, safety or welfare, may order a stoppage of work and/or use pending:

(1) Removal or elimination of the threat; and/or

(2) A hearing on the order before the city commission under section 18-183.

(Ord. No. 338, 1-13-04)

Sec. 18-182. - Revocation of permits.

The city commission may revoke a permit for any of the following reasons, subject to undertaking the procedure in section 18-183:

(1) Permittee's violation of and/or noncompliance with this article or a stop work or stop use order of the city.

(2) Permittee's failure to comply with any of the terms, conditions and/or requirements of its permit.

(3) Permittee's failure to obtain permits and other approvals and to timely pay any fees required by this article and/or any other applicable ordinances, codes, statutes or laws.

(4) Violation of any ordinance, code, state or federal law or any other applicable law or legal requirement.

(5) A change to or cancellation of an insurance policy or coverage required by this article without the prior written approval of the city.

(6) The cessation of operation, termination, dissolution or disbanding of the permittee.

(7) Causing, allowing and/or maintaining a nuisance as determined by the city in the city's right-of-way.

(8) Failure to timely pay to the city any real property taxes, personal property taxes, assessments and/or other obligations.

(9) Failure to remove any liens or encumbrances from the city's right-of-way.

(10) A material change of circumstance relating to the right-of-way which results in a material adverse condition in which to permit a continuation of permittee's use.

(Ord. No. 338, 1-13-04)

Sec. 18-183. - Hearing procedure.

In the event a stop work or use order is issued or the city determines that a permit is subject to revocation under this division, the city shall do the following:

(1) Mail or deliver a written notice of hearing to the permittee at the last address furnished to the city by permittee, at least ten (10) days prior to the hearing and containing the following information:

  (a) Notice of the city's proposed action and stop work or use order, if applicable.

  (b) Reasons for the city's proposed action and stop work or use order, if applicable.

  (c) Date, time and location of hearing.

  (d) A statement that at the hearing the permittee may present witnesses, evidence, information and arguments on its behalf, and that the permittee has the right to be represented by counsel.

(2) At the hearing the permittee shall be given an opportunity to be represented by counsel and to present witnesses, evidence, information and arguments. Other interested persons shall also be permitted to attend the hearing and may present evidence, information and comments on the matters addressed at the hearing.

(3) Following the hearing, the city commission shall make a decision to continue, modify or dissolve a stop work or use order and/or revoke a permit, as applicable. In the event the city commission decides to revoke a permit or to continue or modify a stop work or use order, the city commission shall state the reasons for its decision on the record and shall mail or deliver written notice of its decision and reasons to the permittee.

(Ord. No. 338, 1-13-04)

Sec. 18-184. - Violations/penalties.

(1) Any person determined to be in violation of this article or a permit issued under it shall be responsible for a municipal civil infraction, and shall pay a fine in the following amount:

(a) First offense: One thousand dollars ($1,000.00).

(b) Second or subsequent offense: Five thousand dollars ($5,000.00).

(2) Any person in violation of this article or a permit issued under it shall be responsible for restoration of the right-of-way to the condition that existed prior to the violation. If such person fails or refuses to restore the right-of-way after thirty (30) days' notice from the city, and if the city determines that the civil infraction remedy is inadequate under the circumstances, the city may initiate proceedings in the appropriate court to recover the cost estimated to accomplish the restoration, or recover such costs as have been actually expended by the city in achieving the restoration, as the case may be. Such costs shall include finance and reasonable administrative costs estimated or incurred.

(3) Each occurrence of a violation, and each day a violation exists, shall constitute a separate violation of this article.

(4) Violations of this article, are considered to be a nuisance per se with such violations and correction of any conditions resulting from violations subject to abatement by injunctive or other appropriate order by a court of competent jurisdiction.

(Ord. No. 338, 1-13-04)

Sec. 18-185. - Election of remedies.

Violations of this article and permits or orders issued under it subject the violator to city enforcement through one (1) or more of the remedies provided in this division, and the election by the city to pursue one (1) form of remedy does not waive or restrict the city's option to pursue other remedies at the same or later time.

(Ord. No. 338, 1-13-04)

Secs. 18-186—18-190. - Reserved.

DIVISION 8. - MISCELLANEOUS

Sec. 18-191. - No waiver.

Nothing in this article shall be construed as a waiver of any of the rights, remedies and/or authority of the city pursuant to any laws, ordinances, codes or regulations of the city, and the city reserves the right to exercise all authority and take any and all action granted to it by any constitution, law, city ordinance, code and/or regulation. nothing in this division shall be construed to limit and/or preclude the city from exercising its right of eminent domain.

(Ord. No. 338, 1-13-04)

Sec. 18-192. - Notices.

Any notices required to be sent to the permittee by this article may be delivered, or may be sent by first-class mail to the permittee at the address listed in the permittee's disruption and/or use permit application.

Sec. 18-193. - Severability.

If any section, clause or provision of this article shall be declared to be unconstitutional, void, illegal or ineffective by any court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this article, but the remainder of this article shall stand and be in full force and effect.

(Ord. No. 338, 1-13-04)

Sec. 18-194. - Repealer.

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this article full force and effect.

(Ord. No. 338, 1-13-04)

Sec. 18-195. - Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this article takes effect are saved and may be consummated according to the law when they were commenced. As hereby amended, the City of Bloomfield Hills Right-of-Way Management Ordinance, shall continue in full force and effect, with all rights and liabilities that existed under permits and sections of the ordinance being amended, hereby saved and preserved for all purposes related to the terms and conditions of those permits and the city's permit authority. Should any portion of the Right-of-Way Management Ordinance, as hereby amended, be declared invalid, that portion shall cease to be a part of the ordinance, the remainder of which shall be unaffected.

(Ord. No. 338, 1-13-04)

Secs. 18-196—18-199. - Reserved.

DIVISION 9. - SMALL CELL WIRELESS COMMUNICATIONS FACILITIES

Sec. 18-200. - Definitions.

In addition to the definitions provided in section 18-103, the following definitions apply to this division. To the extent there are any inconsistencies, the more specific definitions provided in this division control over the definitions provided in section 18-103.

Act means the Small Wireless Communications Facilities Deployment Act, Act 365 of 2018.

Authorization means permission from the city to do work in the public rights-of-way, maintain facilities in the public rights-of-way, or deploy a small cell wireless facility in the city, and includes but is not limited to a license, a permit, a letter, or construction drawing approval. Multiple authorizations may be required for certain activities.

Collocate means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. Collocate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

Contractor means and includes any of the following licensed entities performing work on an owner's behalf: contractor; subcontractor; or any employee or agent of a contractor, subcontractor, or owner.

Department means the building department.

Emergency means a condition that poses a clear and immediate danger to life or health, or a significant loss of property, or requires immediate repair to restore service to a group of users of a utility service.

Emergency work means the replacement or repair of damage to active facilities, including main lines and services, where all 811 dig requirements are met.

Excavate means without limitation any cutting, digging, grading, tunneling, boring, or other alteration of the surface or subsurface material or earth in the public way.

Facilities means poles, pipes, culverts, conduits, ducts, cables, wires, fiber, amplifiers, pedestals, antennas, transmission or receiving equipment, other electronic equipment, electrical conductors, manholes, appliances, signs, pavement structures, irrigation systems, landscaping, monument signs, monument mailboxes and any other similar equipment, for public or private use.

Owner means any property owner, company owner, or any entity by which work within the public rights-of-way has been ordered, or any entity on behalf of which any work within the public right-of-way is caused to be performed, or any agent thereof.

Person means an individual, association, firm, partnership, limited liability company, joint venture, corporation, government, utility, or other organized entity able to contract for the activities described in this ordinance, whether for profit or not for profit. The term does not include the city.

Public rights-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. The term "public rights-of-way" does not include a federal, state, or private right-of-way.

Small cell wireless facility means a wireless facility that meets both of the following requirements:

(1) Each antenna is located inside an enclosure of not more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than six (6) cubic feet.

(2) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Utility pole means a pole or similar structure that is or may be used in whole or in part for cable or wireline communications service, electric distribution, lighting, traffic control, signage, or a similar function, or a pole or similar structure that meets the height requirements in section 13(5) of the Act and is designed to support small cell wireless facilities. Utility pole does not include a sign pole less than fifteen (15) feet in height above ground.

Wireless facility means equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a small cell wireless facility. Wireless facility does not include (i) the structure or improvements on, under, or within which the equipment is collocated, (ii) a wireline backhaul facility, or (iii) coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider: Any person, including a person authorized to provide telecommunications services in this state but not including a wireless services provider, that builds or installs wireless communication transmission equipment, wireless facilities, or small cell wireless support structures and who, when filing an application with the City under the Small Wireless Facilities Deployment Act, Act 365 of 2018, provides written authorization to perform the work on behalf of a wireless services provider.

Wireless provider means a wireless infrastructure provider or a wireless services provider. Wireless provider does not include an investor-owned utility whose rates are regulated by the Michigan Public Service Commission ("MPSC").

Wireless services means any services, provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile location.

Wireless services provider means a person that provides wireless services.

Wireless support structure means a freestanding structure designed to support, or capable of supporting, small cell wireless facilities. Wireless support structure does not include a utility pole.

(Ord. No. 445 , § 1, 6-9-20)

Sec. 18-201. - General requirements.

(a) No wireless providers shall occupy, wholly or in part, the streets, alleys, or public rights-of-way within the City without first receiving a permit for that purpose. No wireless provider shall install, collocate, or construct a facility outside the streets, alleys or public right-of-way within the city without receiving permit for that purpose.

(b) No wireless providers shall attach, alter, or modify a City-owned pole or wireless support structure without entering into a Permit with the city.

(c) The city may establish appropriate requirements for new permits, licenses, and ordinance requirements consistent with state and federal law, and may modify the requirements of this division from time to time to reflect changes in the industry. The city further retains the right to make any modifications based on court rules, injunctions, or statutory amendments addressing the federal and state law mandates requiring the city to provide this process under its current regulations. The city further reserves any constitutional or statutory challenges it may have under federal and state law to the process mandated by the Act and federal law, despite its efforts to comply with the law. If any changes to state or federal law allows the City to take a more restrictive approach, the city reserves the right to alter current franchises, consent, permits and licenses.

(d) Notwithstanding any other provisions of this division to the contrary, a wireless provider shall at all times comply with all laws and regulations of the state and federal government or any administrative agencies thereof. Provided, however, if any such state or federal law or regulation shall require a wireless provider to perform any service, or shall permit a provider to perform any service, or shall prohibit a wireless provider from performing any service, in conflict with the terms of this division or of any law or regulation of the city, then as soon as possible following knowledge thereof, a wireless provider shall notify the city of the point of conflict believed to exist between such regulation or law and the laws or regulations of the city. If such conflict is discovered upon review by the city or upon notice by the provider of such conflict, then the city commission may waive the requirements of this division for any permit or license during review and approval of an application for a permit.

(e) Subject to this division, wireless providers may occupy and use the public rights-of-way to collocate small cell wireless facilities to provide wireless services upon, along, over and under the public rights-of-way in the city such that such collocations do not inhibit other utility installations within the public rights-of-way.

(f) The city retains its right to impose fees and compensation consistent with federal and state law.

(g) Wireless providers shall pay taxes for telecommunications services that are subject to taxation.

(h) Use of the public rights-of-way is allowed only to the extent the City itself possesses such rights.

(i) Wireless providers shall obtain approvals legally necessary to use the public rights-of-way from owners, other than the City, of property interests in the public rights-of-way or adjacent to the roadway system located within the city. To the extent any wireless provider obtains approval through a statutory authorization, as opposed to review and approval by the city, the wireless provider's placement or location of any small cell wireless facility, wireless facility, and utility pole within the city's public rights-of-way shall comply with the general and specific design and location requirements of this article, or any relevant zoning requirements.

(j) No wireless provider shall have the exclusive right or privilege to occupy or use the public rights-of-way for delivery of wireless services or any other purpose.

(k) The city reserves all rights to use the public rights-of-way for any purpose not prohibited by law, including the provision of wireless services, and all rights to grant authorizations to any other person(s), including any wireless provider, to use the public rights-of-way.

(l) Wireless providers shall have no right, title, or interest in the public rights-of-way, and any permit or license provided by the city provides no right, title or interest to occupy any space outside of the public rights-of-way or any private property not owned by the city.

(m) Wireless providers use of the public rights-of-way shall not divest the city of any interest in the public rights-of-way.

(n) The city does not warrant its legal interest in the public rights-of-way.

(o) Nothing in this section shall be deemed or construed to stop or limit the city from exercising any regulatory, police, governmental, or legislative function pursuant to applicable law, which powers include, but are not limited to, the authority to enact regulations, ordinances, rules, and orders not prohibited by state or federal law that affect the public rights-of-way or a wireless provider's use of the public rights-of-way.

(p) The terms of this section do not permit the wireless provider to operate a cable system or to provide cable service, as those terms are defined by Section 602 of the Cable Communications Policy Act of 1984, as amended (47 U.S.C. Section 522), or install any wires or facilities that are required to be permitted under the METRO Act, Public Act 48 of 2002, MCL 484.310, without satisfying any additional legal requirements.

(q) This division only permits the wireless provider, upon obtaining required approvals and permits, to place its small cell wireless facilities in those portions of the public right-of-way, or in other locations outside the public right-of-way, approved by the city.

(r) Under no circumstances shall any wireless provider be permitted to place small cell wireless facilities on any building that is on the National Register of Historic Places, pursuant to 47 C.F.R. § 1.1307(a)(4).

(s) Collocation of small cell wireless facilities shall commence within six months of permit issuance and shall be activated for use no later than one (1) year from the permit issuance date. Failure to commence collocation within six (6) months of permit issuance shall void said permit. A small cell wireless facility located in the public right-of-way that is not activated within one (1) year of permit issuance shall be considered abandoned and shall be removed from the public right-of-way at the wireless provider's sole expense.

(t) A wireless provider shall notify the City in writing of the location and date that any wireless facility located in the City whose use will be discontinued. If the use of the facility is discontinued for one hundred eighty (180) days without notice from the owner/operator or the owner of the property or other information indicates that the facility is not in use, the city may declare the facility abandoned. The city will provide notice and provide the wireless provider an opportunity to show cause before the city commission as to why the wireless facility should not be removed. Following determination of the city commission, the city may take the necessary steps to remove the facilities from the city's public right-of-way.

(Ord. No. 445 , § 1, 6-9-20)

Sec. 18-202. - Permit required.

(a) *Permit requirement.* Except as otherwise provided in the Act, a wireless provider seeking to use public rights-of-way in the city for its small cell wireless facilities (including colocation, or installing or replace a utility pole), to collocate small cell wireless facilities outside the public rights-of-way, or to install new wireless support structures or modify existing wireless support structures shall apply for and obtain a permit pursuant to this article.

(b) *Limitations on facilities in application.* No more than twenty (20) small cell wireless facilities may be included in a single permit application.

(c) *Application.* A wireless provider shall apply for a permit on an application form made available by the city clerk. A wireless provider shall file four (4) copies of the application with the city clerk, who shall distribute one (1) copy to the city manager, one (1) copy to the department, and one (1) copy to the city attorney. Applications shall be complete and include all required information. An application is not considered complete until all required materials have been submitted and accepted by the city. At a minimum, the applications shall require submission of the following:

(1) Applicant contact information, including an address, phone contact, twenty-four-hour emergency contact information, e-mail address (which shall be used to receive application updates from the city), and any applicable license numbers;

(2) Applicant's contractor and subcontractor information, including the names, addresses, phone contact, e-mail addresses, emergency CONTACT numbers, and name of the supervisor(s) assigned to any facility project of all contractors or subcontractors that will work within the City's public rights-of-way under a permit;

(3) Number of wireless facilities that will be deployed;

(4) The scope of the deployment, including whether the deployment is modification of a current facility or utility pole, collocation on an existing utility pole or wireless support structure, or installation of a new or replacement wireless support structure or utility pole;

(5) GIS maps and coordinates detailing locations for each proposed small cell wireless facility and related facilities associated with each facility;

(6) Site plan at a scale not smaller than one-inch equals twenty feet with dimensions showing the following:

a. Proposed location, including nearest cross street intersection;

b. Height of the proposed facility;

c. The distance of the proposed facilities and the nearest property line, roadways, rights-of-way, and utilities within the rights-of-way; and

d. Any other proposed improvements that are part of the deployment;

(7) An application fee as established by the City Commission;

(8) Executed permit and consent agreement for access to and use of the City's public rights-of-way, if applicable;

(9) Specification sheets for all attachments and equipment that will be located within the City, including the dimensional size of the small cell wireless facility and all other wireless equipment;

(10) Attachment drawings and demonstrations of each type of installation, including photograph simulations showing collocations, new or replacement utility poles, wireless support structures and concealment and design characteristics satisfying this article;

(11) Pole loading analysis if being collocated on a City utility pole or wireless support structure;

(12) Attestation that the small cell wireless facilities will be operational for use by a wireless services provider within one (1) year after the permit issuance date;

(13) Work plan describing the location of the proposed work, the work to be performed, the limits of disturbance to the public right-of-way and the method and materials to be used;

(14) Landscape plans for ground-mounted facilities, if applicable;

(15) Site/structure remediation plans for restoring any public property after removal of the wireless facilities, if applicable;

(16) Certificate of compliance with FCC radio frequency emission regulations;

(17) For all new utility poles, replacement utility poles, and wireless support structures, demonstration of compliance with ANSI/TIA 222-G-2 standards;

(18) For all new utility poles, replacement utility poles, and wireless support structures owned by Applicant, the Applicant shall cooperate with a collocator request for structural data to determine if attachment is feasible;

(19) When the city receives an application to place a new utility pole, the City may propose an alternate location within the Right-of-Way or on property or structures owned or controlled by the city within seventy-five (75) feet of the proposed location to either place the new utility pole or collocate on an existing structure. The applicant shall use the alternate location if, as determined by the applicant, the applicant has the right to do so on reasonable terms and conditions and the alternate location does not impose unreasonable technical limits or significant additional costs. If the applicant and the city manager/staff are not in agreement regarding the proposed alternative location for the placement of the new utility pole, the applicant shall submit the proposed alternative pole location to the planning commission, which shall review the proposed alternative location and determine if the alternative location is appropriate;

(20) To the extent available, identify other known permits related to the deployment, including any applicable METRO Act application and permit, related to the small cell wireless facility;

(21) For deployments in downtown or residential districts, documentation of compliance with design and location requirements. To the extent allowed by MCL 460.1317, any application requiring zoning review shall comply with the city's Special Land Use procedure. The timeline for such review and approval shall comply with this ordinance and MCL 460.1317;

(22) For deployments in the public right-of-way, documentation showing adequate insurance, including the City listed as an additional insured;

(23) A performance bond meeting the requirements of this division; and

(24) Any additional information requested by the city.

(d) *Confidential information.* If a wireless provider claims that any portion of the information submitted by it as part of its application contains trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act (MCL 15.231, *et seq.*), the wireless provider shall prominently so indicate on the application.

(e) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time nonrefundable application fee in the amount as established by city commission.

(f) *Permit approval process.* Permit applications shall comply with the following process.

(1) *Pre-meeting.* Prior to submission of an application, the City strongly prefers a wireless provider meet with the City to discuss the application process, a wireless provider's intended deployment, and the requirements of this article.

(2) *Submission.* After the pre-meeting is conducted, the wireless provider may file the application, including all required documents, fees and information.

(3) *Initial review for completeness.* Submitted applications will first be reviewed for completeness to ensure that all required information is included. If an application is deemed incomplete, the city will provide written notice to the wireless provider which clearly delineates all missing documents or information. Any applicable statutory review times will be tolled from the time the wireless provider receives notice from the city that the application is incomplete until the city receives a supplemental submission.

(4) *Review by city staff.* Once an application is deemed complete, it will be reviewed by the city engineer, department of public works, the city building official, the city attorney and any other designees of the city manager.

(5) *Post-application meeting.* If review by the city raises any issues or concerns, meetings with the wireless provider and relevant members of the city staff may be requested.

(6) *Final approval.* Upon the conclusion of the city's review, the building official will review the application and any recommendations from city staff. If the building official is satisfied that all the requirements of this article are satisfied, it will approve the application. The wireless provider is requested to attend this meeting.

(7) *Issuance of permit.* Once an application is approved by the building official, the building department, shall issue a permit granting the wireless provider authority to deploy the small cell wireless facility, utility pole, or relocated wireless support structures within the city, including use of the public rights-of-way, if applicable.

(8) *Notice of completion.* Wireless provider will notify the city within forty-eight (48) hours after completing the work allowed by the permit.

(9) *Final inspection.* Within 30 days after receiving notice that the wireless provider has completed the work under the permit, the city will inspect the wireless provider's facilities and make a written report as to the satisfaction of the permit, the city Code, any applicable agreements and state and federal law.

(g) *Timeline for review.* Applications will be processed consistent with the following timelines:

(1) *Collocation requests.* Applications requesting to collocate small cell wireless facilities on utility poles or wireless support structures located within the public right-of-way will be approved or denied within sixty (60) days after the date the application is submitted, subject to the following:

a. The city will determine whether the application is complete within twenty-five (25) days after the application is submitted. The city will provide written notice to the wireless provider if the application is deemed incomplete and a supplemental response is required.

b.

If a supplemental response is required, the city's deadline for approving or denying the application will be tolled by however many days it takes for the wireless provider to submit a supplemental response to the city after receiving notice that the wireless provider's application was incomplete. The city will notify the wireless provider whether the application remains incomplete within ten (10) days of receiving a supplemental response. If more than one (1) supplemental response is required, the deadline for approving or denying the application will continue to be tolled by the number of days from when the wireless provider receives notice of incompleteness from the city to when the city receives a supplemental submission from the wireless provider.

c. The city may add fifteen (15) days to the deadline for approving or denying the application if another wireless provider also submitted an application within seven (7) days of the date of the submission of the application in question.

d. The city may extend the deadline for approving or denying the application by an additional fifteen (15) days if the city notifies the wireless provider in writing that an extension is needed and the reasons for the extension.

e. If the city denies a completed application, it will provide written notice explaining the reason for denial. The wireless provider may cure the identified deficiencies and resubmit its application within thirty (30) days after the denial without paying an additional fee. The city will approve or deny the revised application within thirty (30) days after receiving the revised application.

f. The deadline for approving or denying the application may be extended by mutual agreement between the city and the wireless provider.

(2) *Requests to install a new or replacement utility pole:* Applications requesting to install a new or replacement utility pole and associated small cell wireless facility within the public right-of-way will be approved or denied within ninety (90) days after the date the application is submitted. The city will determine whether the application is complete, deny the application, and review and consider a revised application as provided for collocation requests.

(3) *Requests to install facilities outside the ROW or to modify wireless support structures.* Applications to install or modify small cell wireless facilities outside of the public right-of-way and applications to modify wireless support structures to be used for small cell wireless facilities outside of the right-of-way will be approved or denied within ninety (90) days after the date the application is submitted, subject to the following:

a. The city will determine whether the application is complete within thirty (30) days after the application is submitted. The city will provide written notice to the wireless provider if the application is deemed incomplete and a supplemental response is required.

b. If a supplemental response is required, the city's deadline for approving or denying the application will be tolled by however many days it takes for the wireless provider to submit a supplemental response to the city after receiving notice that the wireless provider's application was incomplete. The city will notify the wireless provider whether the application remains incomplete within ten (10) days of receiving a supplemental response. If more than one (1) supplemental response is required, the deadline for approving or denying the application will continue to be tolled by the number of days from when the wireless provider receives notice of incompleteness from the city to when the city receives a supplemental submission from the wireless provider.

c. The deadline for approving or denying the application may be extended by mutual agreement between the city and the wireless provider.

(4) *Requests to install new wireless support structures.* Applications to install or construct new wireless support structures to be used for small cell wireless facilities which require zoning review pursuant to this ordinance and MCL 460.1317 will be approved or denied within one hundred fifty (150) days after the date the application is submitted, subject to the following:

a. The city will determine whether the application is complete within thirty (30) days after the application is submitted. The city will provide written notice to the wireless provider if the application is deemed incomplete and a supplemental response is required.

b. If a supplemental response is required, the city's deadline for approving or denying the application will be tolled by however many days it takes for the wireless provider to submit a supplemental response to the city after receiving notice that the wireless provider's application was incomplete. The city will notify the wireless provider whether the application remains incomplete within ten (10) days of receiving a supplemental response. If more than one (1) supplemental response is required, the deadline for approving or denying the application will continue to be tolled by the number of days from when the wireless provider receives notice of incompleteness from the city to when the city receives a supplemental submission from the wireless provider.

c. The deadline for approving or denying the application may be extended by mutual agreement between the city and the wireless provider.

(5) The city shall not require a permit or any other approval or required fees or rates for any of the following:

a. The replacement of a small cell wireless facility with a small cell wireless facility that is not larger or heavier, in compliance with applicable codes.

b. Routine maintenance of a small cell wireless facility, utility pole, or wireless support structure.

c. The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes

(h) *Standards for review for deployments within the public rights-of-way.* The city may grant or deny the location and installation of any small cell wireless facility, utility pole, or wireless support structure to be installed within the public rights-of-way, if installation would:

(1) Materially interfere with the safe operation of traffic control equipment.

(2) Materially interfere with sight lines or clear zones for transportation or pedestrians.

(3) Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.

(4) Materially interfere with or endanger the use of city bike paths, walkways, parks, or recreational areas used by city residents.

(5) Materially interfere with maintenance or full unobstructed use of the city's public utility infrastructure.

(6) Materially interfere with maintenance or full unobstructed use of the city's drainage infrastructure as it was originally designed, or not be located a reasonable distance from the drainage infrastructure to ensure maintenance.

(7) Fail to comply with spacing requirements as set forth in this article.

(8) Fail to comply with applicable codes.

(9) Fail to comply with design and concealment requirements as set forth in this article.

(i) *Standards of review for collocations outside the public rights-of-way.* The city may grant or deny the collocation of any small cell wireless facility outside the public rights-of-way, if installation would:

(1) Be conducted without the consent of the legal owner of the property upon which the small cell wireless facility is to be collocated.

(2) Materially interfere with or endanger the use of city bike paths, walkways, parks, or recreational areas used by City residents.

(3) Fail to comply with spacing requirements as set forth in this division.

(4) Fail to comply with applicable codes.

(5) Fail to comply with design and concealment requirements as set forth in this division.

(6) Fail to meet zoning requirements.

(Ord. No. 445 , § 1, 6-9-20)

Sec. 18-203. - General design and location requirements.

Small cell wireless facilities, related equipment and accessories, utility poles and wireless support structures shall comply with the following design and concealment standards:

(a) *Compatible design.* All small cell wireless facilities and related equipment must use materials, colors, textures, and screening so as to be aesthetically and architecturally compatible with the surrounding environment (i.e., existing street lights, traffic control devices, and utility poles.

(b) *Lighting.* Facilities, utility poles or wireless support structures shall not be artificially lighted. If lighting is required, the lighting fixtures and installation must cause the least disturbance to surrounding properties.

(c) *Collocation.* Any wireless provider must openly allow another provider to collocate upon its wireless facility, unless physically or technically infeasible, under rates and conditions that are acceptable within the industry to promote collocation. Collocation of small cell wireless facilities is strongly encouraged.

(d) *Ancillary facility equipment.* All other wireless equipment with the facility shall be designed and painted to satisfy this section. The equipment will be required by the city to be located underground in any locations where the equipment will be visible from adjacent roadways and lots and public electrical utility lines are already placed underground. Where underground placement of equipment is not required or would impair service, aboveground placement is permitted upon the city's approval. Ground-mounted equipment shall comply with the following requirements:

(1) All equipment shall be completely concealed from view within an enclosed cabinet. Cabinets must be compatible in color and design to match existing infrastructure and architecture.

(2) So as not to impede or impair public safety or the legal use of the public right-of-way by the traveling public, in no case shall ground-mounted equipment be located closer than two (2) feet from the public right-of-way, edge line, face of curb, sidewalk, bike lane or shared-use path.

(3) Ground-mounted equipment shall be reviewed by the engineering department so as to not impede sight lines, interfere with any ADA requirements or raise additional public health safety and/or welfare concerns.

(4) Ground-mounted equipment must be secured to a concrete foundation or slab with a breakaway design in the event of collisions.

(5) Ground-mounted equipment must either be screened with plant material that is consistent with the characteristics of the surrounding area, be integrated into the base of an existing utility pole, wireless support structure or other infrastructure, or be otherwise camouflaged so as to be aesthetically and architecturally compatible with surrounding environment, without detracting from the streetscape. The city and the wireless provider shall agree on mutually acceptable design criteria prior to any aboveground deployment.

(e) *Separation Distances.* New utility poles, wireless support structures and ground-mounted equipment shall be installed at least 300 feet from any existing or proposed utility pole, wireless support structures or ground-mounted equipment. Any wireless provider desiring to install utility poles less than three hundred (300) feet apart shall demonstrate to the city's satisfaction that the wireless provider could not serve a location without the desired placement.

(f) *Marking and Signage.* No small cell wireless facility, utility pole, wireless support structure or any portion thereof shall have any signage except as expressly permitted by this division or as required by state or federal law. Aerial portions of small cell wireless facilities shall be marked with a marker which shall state wireless provider's name and provide a toll-free number to call for assistance. Underground portions of small cell wireless facilities shall have a stake or other appropriate above ground markers with wireless provider's name and a toll-free number indicating that there is buried equipment below. Any marking required by this section shall not be used for advertising purposes and shall not exceed one (1) square foot in area unless approved by the city.

(Ord. No. 445 , § 1, 6-9-20)

Sec. 18-204. - Design and location requirements for deployments on existing poles.

Small cell wireless facilities installed on existing utility, street light, traffic signal poles, or wireless support structures located in residential and downtown districts shall comply with the following design and concealment standards:

(a) The maximum pole height shall be forty (40) feet.

(b) They shall be similar in design to existing infrastructure and architecture, consistent with the local character of the area and shall not detract from the streetscape.

(c) To the extent practicable, all accessory cables shall be installed inside of the pole.

(d) If any antenna, equipment or cable cannot be installed within the utility pole and made not visible, then it shall extend vertically from the utility pole or be flush-mounted to the side of the utility pole and shall be designed to be an architecturally compatible extension of the utility pole. The antenna shall not extend more than ten (10) feet above the top of the utility pole.

(Ord. No. 445 , § 1, 6-9-20)

Sec. 18-205. - Design and location requirements for deployments requiring new utility poles or wireless support structures.

Small cell wireless facilities requiring the installation of a new utility pole or wireless support structure in residential, historic, and downtown districts shall comply with the following design and concealment standards:

(a) If possible, utility poles and wireless support structures shall be designed to accommodate small cell wireless facilities for multiple wireless services providers.

(b) Utility poles shall be located a minimum of fifteen (15) feet from any tree, measured to the tree-trunk center. Additionally, eighty (80) percent of the root protection zone shall remain undisturbed. The root protection zone shall either be a six (6) foot radius around the tree or a one (1) foot radius for every inch of tree diameter at breast height, whichever is greater. This minimum separation shall not apply for a new utility pole that replaces an existing utility pole, where the new utility pole is installed in the same place as, or immediate vicinity of, the existing utility pole.

(c) Utility poles shall be designed pursuant to city standards or the applicable utility's standard, and function as street light poles, utility poles, or traffic signal poles in consultation with the city or the applicable utility and shall be incorporated into the applicable utility or signaling system.

(d) Utility poles or wireless support structures shall comply with the following height regulations:

(1) In residential districts, the height shall not exceed forty (40) feet in height from ground level.

(2) In downtown districts, the height shall not exceed ten (10) percent of an adjacent building or exceed forty (40) feet in height from ground level, whichever is less except in instances where compliance with this requirement results in technical feasibility issues for the provider. In such instances, the city and the provider shall work cooperatively to resolve the technical feasibility issues while remaining in substantial compliance with pole height requirements.

(3) In all other districts, the height shall not exceed forty (40) feet in height from ground level.

(e) Utility poles shall be designed and installed with materials and appearance consistent with existing utility poles in the adjacent public way, unless materials and appearance are prescribed by other ordinance, law, or city requirements. Utility poles shall be consistent with the local character of the area and shall not detract from the streetscape.

(f) If any antenna, equipment or cable cannot be installed within the utility pole and made not visible, then it shall extend vertically from the utility pole or be flush-mounted to the side of the utility pole and shall be designed to be an architecturally compatible extension of the utility pole. The antenna shall not extend more than ten (10) feet above the top of the utility pole.

(g) To the extent practicable, all accessory cables shall be installed within the pole. See subsection 37-115(c).

(Ord. No. 445 , § 1, 6-9-20)

Sec. 18-206. - Insurance and bonding requirements for deployments in the public right-of-way.

(a) *Insurance.* For deployments in the public rights-of-way, the wireless provider shall furnish proof of insurance in an amount and form satisfactory to the city, listing the city as an additional insured. Such insurance shall cover a period of not less than the term of this permit and shall provide that it cannot be cancelled without thirty (30) days advance written notice to the city.

(b) *Bonding.* Before any work in the public right-of-way under a permit issued pursuant to this Article may commence, a wireless provider shall furnish to the city a performance bond in the form of an irrevocable bank letter of credit form or surety bond form approved by city, in the maximum amount allowed by law per small cell wireless facility included in the application for a permit, to provide for the reasonable costs of removal of abandoned or improperly maintained small cell wireless facilities, to repair the ROW or to recoup unpaid rates or fees.

(Ord. No. 445 , § 1, 6-9-20)

Sec. 18-207. - Assignment; speculation.

(a) *Assignment; transfer.* No permit may be transferred or assigned by a wireless provider without the City's express written permission until the construction and installation of all permitted small cell wireless facilities is completed. After completion of such construction, a wireless provider must provide notice to the city no later than thirty (30) days after any assignment or transfer, provided that the transferee or assignee:

(1) Is qualified to perform under the terms of this division, the permit issued by the City and any applicable agreement with the city, and shall be subject to the obligations set forth in the same;

(2) Supplies the city with all relevant information required by this division, the permit issued by the city and ally applicable agreement with the city; and

(3) Complies with any updated insurance and bond requirements deemed reasonably necessary by the city.

(b) *Speculation.* Any permit obtained pursuant to this division shall not be held for speculative purposes.

(Ord. No. 445 , § 1, 6-9-20)

Sec. 18-208. - Revocation of permit; removal.

(a) *Revocation of permit.* A permit to install small cell wireless facilities issued pursuant to this division shall be revoked upon the occurrence of any of the following events:

(1) The permitted small cell wireless facilities are not operational within one (1) year after the date of issuance;

(2) The wireless provider or the permitted small cell wireless facilities violate the terms or conditions of this division, any applicable agreement with the city, any permit issued by the city, applicable codes or any relevant provision of state or federal law, and such violations are not corrected within thirty (30) days after receiving written notice from the city;

(3) After the permitted small cell wireless facilities become operational, the wireless provider discontinues the use of the small cell wireless facilities for a period of one hundred and eighty (180) consecutive days;

(4) The wireless provider fails to renew the permit, or the permit otherwise expires by its own terms; or

(5) The wireless provider voluntarily requests that a permit be terminated.

These deadlines may be extended only with express written permission from the city. If small cell wireless facilities, utility poles or wireless support structures are installed prior to the revocation of a permit, the wireless provider shall comply with the procedures for removal in the following section.

(b) *Removal of facilities; restoration.*

(1) A wireless provider shall remove all small cell wireless facilities, utility poles and wireless support structures, and shall restore the site to its pre-installation condition within forty-five (45) days after receiving written notice from the city that a permit issued pursuant to this division has been revoked.

(2) If the wireless provider does not complete removal and restoration within forty-five (45) days after receiving such notice, the City shall have the right, but not the obligation, to complete the removal and restoration and assess the costs and expenses against the wireless provider, including, without limitation, any administrative costs.

(3) If the city exercises its right to effectuate removal and restoration, the wireless provider shall pay to the city the costs and expenses incurred by the city in performing any removal work and any storage of the wireless provider's property after removal (including any portion of the small cell wireless facilities) within fifteen (15) business days of the date of a written demand for this payment from the city. The City may, in its discretion, obtain reimbursement for the above by making a claim under the wireless provider's performance bond. After the City receives the reimbursement payment from the wireless provider for the removal work performed by the city, the wireless provider may obtain the property belonging to the wireless provider and removed by the city pursuant to this section at no liability to the City within ten (10) business days at the city hall. If the city does not receive the reimbursement payment from the wireless provider within such fifteen (15) business days, or if city does not elect to remove such items at the city's cost after the wireless provider's failure to so remove prior to forty-five (45) days subsequent to the issuance of notice pursuant to this section, any items of the wireless provider's property, including without limitation the small cell wireless facilities, remaining on or about the public right-of-way or stored by the City after the city's removal thereof may, at the city's option, be deemed abandoned and the city may dispose of such property in any manner allowed by law, and in accordance with any legal rights of persons other than the city who own utility poles located in the public right-of-way and used by the wireless provider. Alternatively, the city may elect to take title to such abandoned property, regardless of whether the city is provided an instrument satisfactory to the city transferring to the city the ownership of such property.

(4) The deadline for removal and restoration may be extended only with express written permission from the city.

(Ord. No. 445 , § 1, 6-9-20)

Chapter 19 - SUBDIVISION OF LAND

Footnotes:

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Editor's note— *Ordinance No. 224, § 1, adopted August 15, 1989, amended Chapter 19 in its entirety, re read as herein set out. Former Ch. 19, §§ 19-1—19-6, pertaining to similar subject matter, was derived from Code 1971, §§ 5-251—5-256.*

Cross reference— *Any ordinance dedicating or accepting any plat or subdivision of the city saved from repeal, § 1-4(8); buildings and building regulations, Ch. 4; planning, Ch. 13; signs, Ch. 16; soil removal, Ch. 17; streets, sidewalks and other public places, Ch. 18; utilities, Ch. 21.*

State Law reference— *Subdivision control act, MCL 560.101 et seq.*

ARTICLE I. - IN GENERAL

Sec. 19-1. - Title.

This chapter shall be knows as the "Subdivision of Land Ordinance of the City."

(Ord. No. 224, § 1, 8-15-89)

ARTICLE II. - DIVISION OR PARTITION OF LAND

Sec. 19-2. - Planning commission approval required in certain cases.

Where the partition or division of a lot, outlot or other parcel of land in the city is not a subdivision thereof, within the meaning of Act 288 of the Public Acts of 1967 (MCL 560.101 et seq.), as amended, it shall be unlawful for any person, firm, corporation, association, partnership or copartnership to make such partition or division without prior approval of the planning commission.

(Ord. No. 224, § 1, 8-15-89)

State Law reference— Further partition or division of property, MCL 560.263.

Sec. 19-3. - Definitions.

For the purposes of this chapter, the terms used herein are defined as follows:

Association means a group of property owners whether incorporated or unincorporated and made up of residents residing in single family homes in a subdivision or group of subdivisions.

Buildable site means a parcel, lot or outlot upon which there may be built a principal structure permitted in the zoning district where the parcel, lot or outlot in located, as governed by the city zoning ordinance. In determining whether a buildable site will result from proposed lot divisions or partitions, the planning commission shall also consider development constraints such as floodplains, wetlands, and easements.

City means the City of Bloomfield Hills, Michigan.

Divide, division or *partition* means to separate land into small parcels or parts by virtue of a change of ownership, separation on the tax rolls, or by other means where such division or partition does not constitute a subdivision as defined in Act 288 of the Public Acts of Michigan, 1967, as amended. The transfer or exchange of land between two (2) or more existing adjacent parcels, where the resulting number of parcels does not exceed the number of previously existing parcels and where none of the resulting parcels become nonconforming parcels is not considered to constitute a "division" or "partition" for purposes of this article.

Lot or outlot means a measured portion of a parcel or tract of land which is described and fixed in a recorded plat.

Owner or owners means any person who holds the legal title or the equitable title (the equitable title being evidenced by a duly executed land contract signed by the holders of legal title). Wherever the word "owner" appears herein, all persons holding any legal or equitable interest shall be deemed referred to, and in the event signatures are required, all of such persons shall be deemed as required to sign.

Parcel means any portion, area or unit of land, except platted land, under the ownership of the same person or entity.

Planning commission means the City of Bloomfield Hills Planning Commission.

(Ord. No. 224, § 1, 8-15-89; Ord. No. 332, § 1, 11-18-03; Ord. No. 410, § 1, 8-13-13)

Sec. 19-4. - Application for planning commission approval.

(a) Applications for a land division, partition or lot line reconfiguration shall be signed under oath by all owners of the subject land and delivered to the city clerk. Applications shall be in a form approved by the city clerk and the following information shall be submitted with the application:

   (1) The name of all owners of any legal or equitable interest and their signatures.

   (2) The legal description of the parcel, including its lot area in square feet or acres, and all buildings thereon.

   (3) A plan or drawing of the parcel as it exists and showing the proposed lot division or partition as well as the information required by note (aa) of section 24-196, Schedule of regulations, of the Bloomfield Hills Zoning Ordinance. Such plan shall be drawn to scale by a licensed engineer, surveyor or architect, and shall show adjoining property and existing buildings within five hundred (500) feet from the subject property. Such plan shall include information confirming compliance with all dimensional requirements of section 24-196 of the City Zoning Code, including existing and proposed setback dimensions for any buildings and calculations for the minimum open space ratio. The plan or drawing shall also show topographic features, floodplains, wetlands or other development constraints known to the applicant.

(4) A copy of all restrictions which apply to or run with the land, including without limitation, easement and deed restrictions. Easements located on a specific portion of a parcel or lot to be split shall be shown on the plan or drawing referenced above. The application shall contain a certification by the applicant that the proposed division or partition of land is not in violation of existing deed restrictions.

(5) A description of the use to which the owner intends to place each of the resulting parcels.

(6) Records from Oakland County for the previous ten (10) years providing a detailed deed history sufficient to determine whether the proposed land division complies with the State Land Division Act (Act 288 of 1967, as amended), including the date and disposition of any previous applications for lot divisions or partitions on all or a portion of the subject parcel.

(7) Any restrictions or covenants which the owner intends to place on the resulting parcels should the proposed land division, partition or lot lie reconfiguration be approved.

(8) The person to whom all correspondence and notices concerning the proposed land division or partition should be sent.

(9) A written instrument in a form legally sufficient for recording which contains the legal description of the partition or division of each parcel for which partition or division is sought executed by all owners of the property, and a policy of title insurance issued by a company doing title work in Oakland County disclosing that the persons or entities executing the written instrument are the owners of the property proposed to be divided or partitioned. In the case of an owner which is not an individual, the representative capacity of the signatory, proof that the signatory possesses legal authority to execute said instrument and bind the entity, shall also be provided.

(10) An indication of existing and proposed access locations and existing access drives across the street or within one hundred (100) feet of the property edge on the same side of the street. The applicant must also provide an indication that sight distances meet the requirements of the Road Commission for Oakland County.

(b) No division or partitions shall be granted if the division or partition will result in one (1) or more parcels, lots or outlots having an area, width, or depth less than the minimum required by the Bloomfield Hills Zoning Ordinance, or will otherwise create a parcel or lot which is not a buildable site, unless there shall also be delivered an affidavit in form legally sufficient for recording to be approved by the city attorney and executed by all owners of the parcel sought to be divided or partitioned to the effect that said resultant parcels which are not buildable sites are to be joined with adjoining parcels or lots and may not be used or developed except in conjunction with said adjoining parcel. Such affidavit shall be recorded as a covenant running with the land and it shall be unlawful to use or develop such parcel except in conjunction with such adjoining parcel in common ownership therewith.

(Ord. No. 224, § 1, 8-15-89; Ord. No. 332, § 2, 11-18-03; Ord. No. 410, § 1, 8-13-13)

Sec. 19-5. - Planning commission review and approval standards.

The review by the planning commission shall be such that the public health, safety and welfare will be served by such partition or division. The planning commission's review shall be in accordance with the following standards:

(a) Any partition or division shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is situated.

(b) The planning commission shall give consideration to the following:

(1) Exceptional topographic or physical conditions with respect to the parcel and compatibility with topographic and physical conditions of surrounding lands.

(2) The existence of and effect upon floodplain areas, wetlands and other natural features and the ability of the proponent to develop buildable sites on each resultant parcel without unreasonable disturbance of such natural features, and without unreasonable disturbance to development in the surrounding area.

(3) The location of proposed buildings or structures, the location and nature of vehicular ingress and egress so that such will not hinder or discourage appropriate development and use of adjacent land and buildings or unreasonably impair the value thereof.

(4) Each resulting parcel shall have a depth of not more than four (4) times the width, provided, however, the planning commission may allow a greater depth to width ratio based upon standards which shall include exceptional topographical or physical conditions with respect to the parcel and compatibility with surrounding lands. The depth to width ratio requirements of this section do not apply to a parcel larger than ten (10) acres.

(5) Each resulting parcel, including cemeteries, is accessible for vehicular traffic.

(6) Each resulting parcel shall have a width not less than that required by note (aa) of section 24-196, Schedule of Regulations, of the Bloomfield Hills Zoning Ordinance.

(7) Each resulting parcel shall have an area not less than that required by note (aa) of section 24-196, Schedule of regulations, of the Bloomfield Hills Zoning Ordinance.

(8) Each resulting parcel that is a development site shall have adequate easements for public utilities from the parcel to existing public utility facilities.

(c) Recorded deed restrictions or covenants which affect the use of the subject property may be taken into consideration by the planning commission, particularly as such restrictions or covenants prohibit the partitioning or dividing of the subject property so that not more than one (1) dwelling can be built upon each lot or parcel.

(d) Access easements to the water and sewer systems and other utilities must be provided for each resultant parcel which is otherwise a buildable site. Such sewer and water line will be constructed when needed solely at the owner's expense.

(Ord. No. 224, § 1, 8-15-89; Ord. No. 332, § 3, 11-18-03; Ord. No. 410, § 1, 8-13-13)

Editor's note— Subsections 19-5(e) and (f) as designated by Ordinance No. 224 have been redesignated as subsections (c) and (d) by the editor.

Sec. 19-6. - Notice to adjacent property owners.

The planning commission shall fix a reasonable time for hearing the lot partition or division request and give due notice not less than five (5) nor more than fifteen (15) days prior to the date of the hearing on such petition to the persons to whom real property within three hundred (300) feet of the property in question is assessed, and to the occupants of dwellings within said three hundred (300) feet and in the case of a platted subdivision of land or assessor's plat as defined in Act 288 of the Public Acts of 1967, as amended, MCL 560.101, all owners of real property within said subdivision, whose property is assessed, and in the case of a site condominium as defined in Act 59 of the Public Acts of 1978, as amended, MCL 559.101, and zoning ordinance section 24-245, all owners of real property within said condominium, whose property is assessed, and in the case of an association of landowners, as defined in this ordinance all owners of real property within said association whose property is assessed, the notice to be delivered personally or by mail addressed to the respective owners and tenants at the address give in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used.

(Ord. No. 224, § 1, 8-15-89; Ord. No. 332, § 4, 11-18-03)

Sec. 19-7. - Fees.

There shall be submitted with the application for approval a nonrefundable fee of one thousand dollars ($1,000.00) or such fees as required by resolutions of the city commission from time to time as well as the cost of recording such instruments as are required to be recorded in compliance herewith.

(Ord. No. 224, § 1, 8-15-89)

Sec. 19-8. - Appeal.

The decision of the planning commission may be appealed to the city commission by application in writing seven (7) days in advance of the regular city commission meeting, next following the planning commission decision by at least eight (8) days.

(Ord. No. 224, § 1, 8-15-89)

Sec. 19-9. - Building permit, certificate of occupancy not to be issued for land divided in violation of chapter.

No building permit or certificate of occupancy shall be issued for any parcel of land resulting from a partition or division of land in violation of this chapter.

(Ord. No. 224, § 1, 8-15-89)

Cross reference— Building permits, certificate of occupancy, §§ 24-258—24-260.

ARTICLE III. - SUBDIVISION CONTROL

DIVISION 1. - GENERALLY

Sec. 19-10. - Purposes.

This article has been enacted for the purpose of protecting the public health, safety and general welfare of the residents of the city and of insuring the orderly growth and harmonious development of the city by requiring:

(1) Proper arrangement of streets in relation to existing or planned streets or to the master plan;

(2) Adequate and convenient open spaces for traffic, utilities, access of fire fighting equipment, recreation, light, air, privacy and safety from fire hazards;

(3) Establishment of standards for the construction of any and all improvements as herein required.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-11. - Authority.

This article is made, interpreted and enforced by the city commission and planning commission under authority of the state, Act 288, Public Acts of 1967 (MCL 560.101 et seq.) and Act 285, Public Acts of 1931 (MCL 125.31 et seq.), as amended, or any future amendments thereof.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-12. - Interpretation.

The provisions of this article shall be construed to be the minimum requirements necessary for the preservation of public health, safety and welfare within the city. This article is not intended to repeal, abrogate or supersede any existing regulations of the city, or to conflict with any statutes, laws or regulations of the state or county, except that these regulations shall prevail in cases where these regulations impose a lawful restriction or requirement more severe than existing statutes, laws or regulations. If any section or provision of this article shall be held invalid by a court of competent jurisdiction, this shall not affect the validity of other sections or provisions hereof.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-13. - Scope.

No plat within the city shall be approved by either/or the planning commission or city commission unless it conforms to this article.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-14. - Definitions.

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

Alley means a public right-of-way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Block means an area of land within a subdivision that is entirely bounded by streets, highways or ways, except alleys, and the exterior boundary of the subdivision.

Building line means a line established in a plat or by recorded restrictive covenants for the purpose of prohibiting construction of any portion of a building or structure between such line and any easement, right-of-way or other public area.

Cul-de-sac means a short minor street with only one (1) end open to vehicular traffic and being permanently terminated at the other end by a vehicle turnaround.

Dead end street means a street with only one (1) end open to vehicular traffic and not provided with a vehicle turnaround at the other end.

Easement means an irrevocable grant by the property owner of the use of a parcel of land by the public or public utility, a corporation, or private person for a specific purpose.

Final plat means a map of all or part of a subdivision prepared and certified as to its accuracy by a land surveyor. Such maps must meet the requirements of this article and Act 288, Public Acts 1967 (MCL 560.101 et seq).

Half-street means one-half (½) of the total right-of-way planned for a street located on the periphery of a subdivision and adjacent to unplatted land.

Improvements means any additions to the natural state of the land which increase its value, utility or habitability. Improvements include street pavements, with or without curbs and gutters, sidewalks, grading, water mains, storm and sanitary sewers, street trees and other appropriate and similar items.

Local or *minor street* means a street intended primarily to provide access to abutting property.

Lot means a portion of a subdivision or other parcel of land intended to be a unit for transfer of ownership or for development.

Major thoroughfare means a main traffic artery designed on the city's master plan as a major thoroughfare.

Master development plan means a sketch plan showing the lot, street, open space and utility arrangements for the overall development of a tract of land, with part of the development not proposed in the present subdivision application.

Master plan means the master plan for the city as adopted by the planning commission in accordance with Act 285 of Public Acts of 1931 (MCL 125.31 et seq.), as amended, and to the extent applicable, this article.

Outlot means a parcel of land lying within the boundaries of a platted subdivision but not included as a numbered lot.

Parcel means a unit of land under one (1) ownership.

Performance guarantee means any security, including performance bonds, escrow agreements and other similar collateral or surety agreements, which may be accepted by the city commission as a guarantee that required subdivision improvements will be made by the developer.

Preliminary plat means a map indicating the proposed layout of the subdivision in sufficient detail to provide adequate basis for review and to meet the requirements and procedures set forth in this article.

Pre-preliminary plat means a sketch map of a proposed subdivision of sufficient accuracy and scale to serve the purposes of this article.

Proprietor: See definition of "subdivider."

Public reservation means a portion of a subdivision which is set aside for public use or made available for public use or made available for public acquisition.

Public utility means a firm, corporation or municipal authority providing gas, electricity, telephone, sewer, water or other services of a similar nature.

Public walkway means a public right-of-way dedicated for the purpose of a pedestrian access, and located so as to connect to two (2) or more streets, or a street and a public land parcel.

Reserve strip means a strip of land in a subdivision which extends across the end of a street proposed to be extended by future platting or a strip which extends along the length of a partial width street proposed to be widened by the future platting, to the minimum permissible width.

Street means a right-of-way dedicated and deeded for public use, other than an alley, which provides for public travel.

Subdivider means any person which divides or proposes to divide land so as to constitute a subdivision. This definition shall be construed to include any agent of the subdivider.

Subdivision means the division of a lot, tract or parcel of land into five (5) or more lots, tracts or parcels of land for the purpose, whether immediate or future, of sale or of building development. The meaning of the term "subdivision" shall include any tract where the plat or plan provides for the creation or extension of any part of one (1) or more streets, easements or other rights-of-way whether public or private, for access to or from such tract; and shall include the resubdivision of any previously platted tract. The meaning of the term "subdivision" shall not, however, apply to the partitioning or dividing of land into tracts or parcels of land, each of which contains more than ten (10) acres in area.

Zoning ordinance means the Bloomfield Hills' Zoning Ordinance, Chapter 24 of the Bloomfield Hills' City Code, Ordinance No. 188, as amended, as adopted in accordance with the provisions of Act 207 of the Public Acts of 1921 (MCL 125.581 et seq.), as amended.

(Ord. No. 244, § 1, 12-11-90)

DIVISION 2. - PLAT SUBMITTAL PROCEDURES

Sec. 19-15. - Review and approval.

The review and approval of subdivision development plats shall follow the steps as listed below:

(1) Tentative plat review;

(2) Preliminary approval;

(3) Final plat approval of preliminary plat;

(4) Procedures after approval of final plat.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-16. - Tentative plat review.

Whenever a proprietor desires any tentative plat review by city officials, he may obtain same by complying with the following:

(1) *Proprietor's responsibility.* The subdivider shall provide sketch plans for lot and street arrangement. He shall also indicate his intentions as to water supply, sewage disposal, surface drainage and other proposals as appropriate. A master development plan shall be prepared and submitted by the developer prior to the preparation and submittal of his pre-preliminary plat whenever:

(a) The tract proposed is only a portion of a larger landholding of the subdivider; or

(b) The tract is part of a larger land area which would pose complicated development due to unusual topographic conditions, land use, landowners or other conditions.

(2) *City's responsibility.* It is then the task of the city, through its appropriate officials and agents, to inspect the site, noting the following:

(a) Major thoroughfares in the area;

(b) Utility systems available to service the platted area;

(c) Adjacent land uses;

(d) Unusual development problems;

(e) Topography;

(f) Drainage;

(g) Existing zoning;

(h) Adequacy of existing schools of public open space;

(i) Availability and feasibility of providing services;

(j) Determine need for a master development plan if one hasn't been requested or supplied;

(k) At the time that a proprietor requests a pre-preliminary review, he shall deposit with the city treasurer the fee as provided for in this article.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-17. - Preliminary plat application; review and approval.

(a) *Plat preparation*. The preliminary plat shall be designed and drawn by a surveyor as defined in Section 102, Public Act 288 of 1987 (MCL 560.102), as amended.

(b) *Pre-application meeting*. Upon written request of the proprietor submitted to the county plat board, with copies of the request and a concept plan submitted to the city clerk, a pre-application review meeting shall take place not later than thirty (30) days following receipt of the written request. If a pre-application review meeting is requested, the meeting shall be attended by the city manager on behalf of the city.

(c) *Submittal of data*. At least three (3) weeks prior to the regular meeting of the planning commission, the proprietor shall submit ten (10) copies of a letter of intent and preliminary plat which shall contain and clearly indicate the following information:

(1) Key map showing integration of proposed subdivision with surrounding area.

(2) Owners of adjacent parcels.

(3) Adjacent development names.

(4) Tract boundary.

(5) Title of subdivision.

(6) North arrow and date of preparation.

(7) Site data:

a. Total acreage:

1. Gross;

2. Net (residential use only);

3. Any other uses i.e., golf courses, open space, common areas, etc.

b. Number of lots and outlots, indicating type of use in each outlot.

c. Typical building arrangement, setbacks, etc.

1. Setback lines must be shown on all corner lots, cul-de-sac lots and other lots having unusual shape or configuration;

2. Proposed location of houses must be shown on all waterfront lots and on all lots where the lot width is to be measured at a point which is different from that which would result from a measurement at the front setback line.

(8) Streets:

a. Right-of-way (widths);

b. Pavement lines where necessary to illustrate design (e.g. intersections, cul-de-sacs, etc.);

c. Names;

d. Preliminary street grading showing extent of grading within and beyond rights-of-way.

(9) Lot lines and numbers.

(10) Easement lines, use of easement.

(11) Prominent natural and manmade features including an inventory by type, size and location of all existing trees with a diameter of either eight (8) inches or more four and one-half (4½) feet above the ground. The preliminary grading plan shall be super-imposed on the tree inventory map to indicate the relationship between site grading and tree protection.

(12) Notation of reserved and dedicated parcels, specifying intended use and deed conveyances, if any.

(13) Development drawn over a two-foot contour interval map using United States Geological Survey datum.

(14) Letter of intent, containing:

a. Type of street and lot grading;

b. Preservation of existing trees and natural features;

c. Intentions on provision of potable water;

d. Intentions on provision of sanitary and storm sewers;

e. Pumping stations;

f. Sewage treatments plants;

g. FHA or VA approval, if any;

h. Restrictive covenants and other proposals referred to in Section 258 of Act 288, Public Acts of 1967 (MCL 560.258);

i. The proposed development stages of the entire project, including the stages in which final plat approval shall be sought.

(15) Preliminary plat shall be drawn to a scale of one (1) inch equals one hundred (100) feet (or less) or one (1) inch equals two hundred (200) feet if parcel included exceeds eighty (80) acres in area.

(16) The city clerk shall make copies of the proposed plat and letter of intent available to the city planner and the city engineer and request their comments on the plat be returned within three (3) weeks in order to provide the planning commission the opportunity to benefit by these reviews during their examination of the plat.

(d) *Deposit of fees*. The proprietor shall deposit with the city treasurer all fees as provided for in this article.

(e) *Planning commission action.* Upon completion of their review and within thirty (30) days of submittal to the city clerk by the proprietor, the planning commission shall:

(1) Recommend complete denial by the city commission for specific reasons;

(2) Recommend approval by the city commission of the preliminary plat as submitted;

(3) Recommend approval by the city commission subject to enumerated conditions so noted on the plat and contained in the record of the planning commission action.

(f) *City commission review.* Upon notification by the planning commission, the city clerk shall then place the review of the preliminary plat on the agenda of the city commission for action within ninety (90) days from date of the initial submittal to the city clerk by the proprietor if no pre-application meeting is held, or within sixty (60) days if a pre-application meeting is held under subsection 19-17(b).

(g) *City commission action*. Upon review of the planning commission's recommendation, the city commission shall grant tentative approval or reject the preliminary plat and if rejected, the city commission shall set forth specific reasons for the rejection.

(h) *Approval period*. Tentative approval of a preliminary play shall become void after the expiration of one (1) year from the date of such approval unless the proprietor shall have submitted a preliminary plat for final approval or a final plat for approval or unless the city commission, in its discretion, grants an extension to the one-year period upon the written application of the proprietor. The tentative approval shall confer only the rights afforded to the proprietor under the provisions of Section 112(4) of Act 288, Public Acts of 1967 (MCL 560.112), as amended.

(Ord. No. 244, § 1, 12-11-90; Ord. No. 344, § 1, 5-10-05)

Sec. 19-18. - Final approval of preliminary plat.

(a) *Submission to all authorities*. After the proprietor has obtained the tentative approval of the city commission for the preliminary plat, the proprietor shall submit his preliminary plat to each officer or agency entitled to receive those copies under Sections 113 to 118 of Act 288, Public Acts of 1967 (MCL 560.113-560.118), as amended.

(b) *Final approval.* A proprietor desiring final approval of a preliminary plat shall submit the following items to the city clerk:

(1) A list of all authorities required by law to check the preliminary plat, certifying that the list shows all authorities as required by Sections 113 to 119 of Act 288, Public Acts of 1967 (MCL 560.113—560.118), as amended;

(2) Copies of the preliminary plat as approved by all authorities as required in Sections 113 through 119, inclusive of Act 288, Public Acts of 1967 (MCL 560.113—560.119), as amended;

(3) All written approvals;

(4) Copy of receipts from the city treasurer that all fees as provided for in this article have been paid.

(c) *Approval or rejection*. Within twenty (20) days of the submission of the foregoing to the city clerk, the city commission shall grant final approval of the preliminary plat if the proprietor has met all conditions laid down for approval of the plat or reject the plat and advise the proprietor of the reasons for the rejection. All proceedings shall be recorded in the minutes of the city commission.

(d) *Approval period.* Final approval of the preliminary plat confers upon the proprietor for a period of two (2) years the conditional right that the general terms and conditions under which the preliminary plat was granted final approval will not change. The two-year period may be extended if applied for and granted by the city commission in writing. Written notice of the extension shall be sent by the city clerk to the other approving authorities.

(Ord. No. 244, § 1, 12-11-90; Ord. No. 344, § 1, 5-10-05)

Sec. 19-19. - Final plat approval.

(a) *Contents*. The final plat shall conform to the approved preliminary plat, shall constitute only that portion of the approved preliminary plat which the proprietor proposes to record and develop at that time, and shall conform in all respects to the requirements of the State of Michigan Act 288, Public Acts of 1967 (MCL 560.101 et seq.), as amended.

(b) *Submittal*. The developer shall submit one (1) true copy of the final plat, along with ten (10) copies of construction plans for improvements in the subdivision and all restrictive covenants for the subdivision, together with copies of the design engineer's detailed estimate of construction costs, to the city clerk. The proprietor shall pay all fees for final plat approval at the time of submission to the city clerk, in accordance with the fee schedule in this article.

(c) *City commission action on final plat*. The city commission, within twenty (20) days after submission of the final plat to the city clerk, shall take action on the final plat. If the city commission finds that the final plat conforms to all provisions of the Act 288 of the Public Acts of 1967 (MCL 560.101 et seq.) and this Ordinance, then the city commission shall approve the final plat and instruct the clerk to notify the proprietor of the approval. The clerk shall also be directed to certify the approval of the city commission, showing the date of such approval, the approval of the health department, where required, and the date of such certification. If the city commission rejects the final plat, the clerk shall give the reasons for such rejection in writing to the proprietor and return the plat to the proprietor. All proceedings shall be recorded in the minutes of the meeting, and the clerk shall send a copy of the minutes to the county plat board.

(Ord. No. 244, § 1, 12-11-90; Ord. No. 344, § 1, 5-10-05)

Secs. 19-20—19-25. - Reserved.

DIVISION 3. - DESIGN STANDARDS

Sec. 19-26. - Minimum lot size and shape for residential property.

(a) Whenever a proprietor proposes to plat a subdivision for residential use, the area of each residential lot in such plat shall not be less than the minimum lot size required by the schedule of regulations of the zoning ordinance and each residential lot shall have a width of not less than the minimum width required by the schedule of regulations.

(b) Parcels should resemble rectangles or "typical" lots but may be irregularly shaped as conditions dictate. However, unusual shapes proposed only for the purpose of meeting parcel area or width requirements shall not be permitted.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-27. - Design principles and standards.

(a) *General.* Every subdivision plat shall conform to the requirements and objectives of these design principles and standards, and to the master plan or any parts thereof as may be adopted by the planning commission; to the zoning ordinance and other municipal ordinances; and to the public acts of the state.

(b) *Roadways on master plan.* Whenever a parcel to be subdivided embraces any part of a street designated on the master plan, with the exception of routes under study, as may be adopted, such street shall be platted in the location and width indicated on such plan.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-28. - Street location and arrangement.

(a) *Layout.* Street layout shall provide for the continuation of existing major or collector streets in surrounding areas, or conform to a plan for neighborhood development approved by the planning commission.

(b) *Future connections.* Certain proposed streets, as designated by the planning commission, shall be extended to the boundary line of the parcel to provide future connection with adjoining unplatted land.

(c) *Abutting rights-of-way* or *districts.* Where a subdivision abuts any of the following rights-of-way or zone districts, the planning commission shall normally require location of a street approximately parallel to, and one (1) lot depth distant from, such rights-of-way or zones:

    (1) Any street the planning commission may designate as a major or secondary thoroughfare;

    (2) Railroads and major overhead utility transmission lines;

    (3) Commercial or office districts.

(d) *Grades.* Proposed streets shall be so arranged in relation to existing topography as to produce desirable lots and streets of reasonable gradient.

(e) *Alleys.* Except where justified in unique conditions, alleys will not be approved in those parts of the plan proposed for single-family residential use.

(f) *Jogs.* Streets jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

(g) *Half streets.* Half streets are prohibited, except where absolutely essential to the reasonable development of the parcel in conformity to principles herein stated. Whenever a half street has previously been platted abutting the parcel boundary line, the remaining half shall be platted within the parcel.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-29. - Street design.

(a) *Minimum right-of-way widths:*

    (1) *Major and secondary thoroughfares:* As indicated on the city's master plan and as required by the county road commission for county roads.

    (2) *Minor streets:* Sixty (60) feet for single-family residential subdivisions and multiple-family developments.

    (3) *Boulevard streets:* One hundred (100) feet.

    (4) *"U" streets:* One hundred twenty (120) feet, terminating in a circle one hundred twenty (120) feet in diameter.

    (5) *Cul-de-sac streets:* Sixty (60) feet terminating in a circle one hundred ten (110) feet in diameter in residential subdivisions.

    (6) *Marginal access streets:* Thirty-four (34) feet, abutting thoroughfare right-of-way.

    (7) *Alleys:* Twenty (20) feet.

(b) *Grades:*

    (1) *Maximum:* All streets, six (6) percent, provided that where essential to reasonable development, seven (7) percent may be permitted with special exceptions by the county road commission.

    (2) *Minimum:* 0.40 percent.

(c) *Vertical alignment:*

(1) *Major and secondary thoroughfares:* Minimum sight distance, six hundred (600) feet, measured on and four (4) feet above street centerline.

(2) *All other streets:* Minimum sight distance, three hundred (300) feet, measure on and four (4) feet above street center line.

(d) *Horizontal alignment:*

(1) When tangent centerlines deflect from each other more than ten (10) degrees and less than ninety (90) degrees, they shall be connected by a curve with a minimum centerline radius of:

a. Minor streets: Two hundred thirty (230) feet.

(2) Between reverse curves there shall be a minimum tangent distance of one hundred (100) feet.

(3) Streets intersecting a major or secondary thoroughfare shall do so at ninety (90) degree angle.

(4) Minor or secondary streets intersecting a collector street or major thoroughfare shall have a tangent section of centerline at least fifty (50) feet in length measured from the right-of-way of the major street, provided that no such tangent is required when the centerline of the minor street has a curve radius greater than three hundred (300) feet with curve center located on the right-of-way line of the major street.

(e) *Block design:*

(1) Maximum length of blocks, measured between intersections of centerlines: One thousand eight hundred (1,800) feet. This maximum may be exceeded by not more than five hundred (500) feet in developments with lot sizes averaging over one and one-half (1 ½) acres, or where extreme topographic conditions warrant or where no connection is possible.

(2) Maximum length of cul-de-sac and "U" streets, measured from the intersection of right-of-way lines to the extreme depth of turning circle along centerline of street: six hundred (600) feet. Exceptions may be made for extreme topographic conditions or where no connection is possible. Exceptions shall not be made for the purpose of avoiding the extension of streets to connect with adjoining unplatted or platted parcels.

(f) *County road commission standards.* In any event, all roadways shall meet the above standards, or the county road commission standards, whichever are the greater.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-30. - Lot planning.

(a) *General.* Minimum lot width, depth and area shall be in accordance with the zoning ordinance and appropriate for the location and character of development and for the extent of street and utility improvements proposed, but in no event shall the width and area be less than that prescribed in section 19-26 and in the schedule of regulation, sections 24-196, of the zoning ordinance.

(b) *Side lot lines.* Side lot lines shall generally be at right angles or radial to street lines except where, in the opinion of the planning commission, other treatments may be justified.

(c) *Access.* Every lot shall abut upon a public street which shall provide satisfactory connection to an existing public street.

(d) *Double access.* Lots extending through the block and having frontage on two (2) streets shall be prohibited.

(e) *Open space credit.* In cases of cluster subdivision, golf course subdivisions, multiple-townhouse subdivisions or other such subdivisions or arts thereof designated with the intent of consolidating open land areas for park and recreation purposes, the planning commission may modify lotting standards in keeping with the objectives and intent of these regulations, provided that the overall density of dwelling unit per acre or usable land, designated primarily for use of subdivision residents, is no greater than would otherwise be allowed.

(f) *Labeling of out-lots and open space.* All out-lots, open space and other land within the proposed plat, other than numbered lots, shall be labeled with its intended use or reservation; for example, if the proprietor intends reserving an out-lot for his use, the out-lot shall contain, in addition to the out-lot designation, the language "reserved for proprietor."

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-31. - Easement planning.

(a) *Utilities easement.* Except where alleys are provided for the purpose, a private utility easement, not less than twelve (12) feet in total width, shall be provided along rear or side lot lines or in such other location as may be recommended by the utility companies.

(b) *Fencing easements.* Private fencing shall not be permitted within public drainage easements.

(Ord. No. 244, § 1, 12-11-90)

Secs. 19-32—19-37. - Reserved.

DIVISION 4. - WATER SYSTEMS

Sec. 19-38. - Required.

All subdivisions with lot sizes of an average of less than one (1) acre shall have a central water system or systems. In determining the average, the developer shall be permitted to count the area contained in numbered lots only, and no land or area contained in park lands, out-lots or any uses other than numbered lots, shall be used in determining the average.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-39. - Source.

Water for the central water system shall be from the public water supply only. In those cases where the developer ties into available or existing public water supply capacity, the developer shall reimburse the city, or the owner of the capacity, the pro rata cost of such capacity as such use relates to the cost of the system being connected to. Further, the developer shall be responsible for that pro rata share of other costs as reflected under this article.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-40. - Service.

The central water system shall service each and every residence or unit created in the subdivision, according to plans and specifications provided by the developer and as approved by the city consulting engineers, the state department of public health and all other cognizant municipal authorities. The system shall include all necessary water mains, gate valves, fire hydrants, fittings and appurtenances thereto, all in accordance with city ordinances and specifications and requirements as set forth by the city consulting engineers. Further, the system shall be constructed in such a manner as to permit its eventual tie-in to a city-wide central water system.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-41. - Inspection.

The city's consulting engineers are hereby authorized to inspect all construction and installation during the period of construction and installation. The developer shall pay to the city prior to start of construction the necessary fees in accordance with the fee schedule which is a part hereof, to defray the city's expense in connection with such inspections and with review of plans and specifications, and to cover any first-year unreimbursed costs or expenses. If this amount is not sufficient to cover engineering fees and anticipated first-year unreimbursed costs and expenses, the developer shall deposit an additional amount to cover same. Any unused balance shall be refunded to the developer eighteen (18) months after acceptance of the system by the city.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-42. - Title to the system.

At such time as the water system is complete, the developer shall convey by warranty deed an unencumbered fee simple interest to those portions of the real property in the system owned by developer, including any easement for public utility purposes for all water mains in accordance with the prevailing requirements of the city, present an appropriate bill of sale to the city to all items of material, fittings and appurtenances of the water system, a title insurance policy in the amount of one thousand ($1,000.00) dollars showing clear marketable unencumbered fee title to the aforesaid real property, an affidavit that all labor, material, contractors, engineers and subcontractors have been paid in connection with the aforesaid water system together with waivers of lien and a maintenance bond issued by a corporate surety company approved by the city guaranteeing satisfactory workmanship and material within said water system for a period of one (1) year from and after date of acceptance of the system. The word "complete" as used in this section shall mean that the system has been installed in its entirety, passed all inspections required hereunder or otherwise, and all hookups contemplated by the developer in his original or amended plat have been made. After the conveyance as set forth above, the city shall refund to the developer any and all sums remaining in the operating fund described above, and the water system shall be operated as part of the city system under the applicable ordinances.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-43. - Liens.

Any and all water user charges billed shall be liens on the property billed and may be collected or foreclosed as such.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-44. - Damages during construction.

The developer shall pay all damages sustained by any person or property or recovered or adjudged against the city or the city engineers by reason of the negligence of the developer or of constructing, operating or repairing the waterworks, or in the exercise of the rights and privileges hereby granted. All contractors working on the project shall furnish to the city such policies of insurance as are necessary to provide proof of the coverages necessary to assure payment hereunder.

(Ord. No. 244, § 1, 12-11-90)

Secs. 19-45—19-50. - Reserved.

DIVISION 5. - GUARANTEE OF COMPLETION

Sec. 19-51. - Form of financial guarantee.

In lieu of actual installation of required public improvements, the subdivider may elect to provide a financial guarantee of performance in one (1) or a combination of the following arrangements:

(1) *Performance of surety bond:*

a. *Value of bond:* An amount satisfactory to the city commission.

b. *Length of term:* A period specified by the city commission, provided that such a period shall not exceed twelve (12) months, and further provided that under extraordinary circumstances this period may be extended by the city commission action for not more than twelve (12) months.

c. *Approval of bonding company:* Surety company authorized to do business in the state.

(2) *Cash deposit, certified check or negotiable bonds.* Deposit shall be made with the city treasurer or a responsible escrow agent or trust company, subject to the approval of the city commission, of money or negotiable bonds in the same amount and kind approved by law for securing deposits of public money in banks. If a cash deposit is made, the agreement shall provide that progress payments shall be made to the contractor or the subdivider out of the deposits as work progresses.

(3) *Special assessment.* In cases where all properties abutting on a public right-of-way are not under the control of the subdivider, the subdivider may petition the city through the city commission to provide the necessary improvements and to assess the costs thereof against the abutting property in accordance with statutory requirements regarding special assessments; provided, however, that the subdivider shall be responsible for any differences between the cost of the improvements and the amount that can be legally assessed by the city against the property to be subdivided and shall furnish the necessary waivers to permit the assessment of the entire cost of the improvements.

(Ord. No. 244, § 1, 12-11-90)

Sec. 19-52. - Penalty for failure to complete installation.

If the subdivider does in any case fail to complete such work within such period as required by the conditions of the guarantee, the city commission shall have such work completed. The city, in order to reimburse itself for the cost and expense thereof, may appropriate the deposit of cash money or negotiable bonds which the subdivider may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding company.

(Ord. No. 244, § 1, 12-11-90)

Secs. 19-53—19-58. - Reserved.

ARTICLE IV. - PERMITS AND FEES

> *Footnotes:*
> *--- (**2**) ---*
> ***Editor's note—*** *Ord. No. 288, § 1, adopted July 10, 1990, amended the Code by adding a new Ch. 27, §§ 27-27-3; for purposes of classification, however, the editor has redesignated said provisions as Art. IV, §§ 19-59—19-61.*

Sec. 19-59. - Review fee.

At the time an applicant furnishes to the city the plans for subdivisions, subdivision projects and/or nonresidential project improvements for review by the city engineer, the applicant shall pay to the city a deposit of one and one-half (1½) percent of the cost of the improvements contained in the plan as estimated by the city engineer, said deposit to be applied to the actual fee for reviewing said plans by the city engineer. The actual fee for the review of the plans by the city engineer shall be borne by the owner and shall be determined by computing the actual amount of time spent by the city engineer reviewing said plans at the city engineer's rate of compensation as said rate of compensation is established by resolution of the city commission.

(Ord. No. 238, § 1, 7-10-90)

Sec. 19-60. - Permit to construct and inspection fee.

Prior to the construction of subdivisions, subdivision projects and nonresidential project improvements under the ultimate jurisdiction of the city, the owner or contractor desiring to install said improvements shall furnish to the city an application for a *permit to construct.* No such permit shall be issued by the city until all of the applicable requirements of this article and other ordinances, laws and statutes have been complied with and the contractor or owner shall have deposited with

the city at least twenty-four (24) hours prior to the start of construction a percentage of the total contract price for inspection in accordance with the following schedule:

Contract Amount	Percentage on Deposit
$0—$10,000.00	$1,000.00
$10,000.00—$50,000.00	11%
$50,000.00—$100,000.00	9%, not less than $5,500.00
$100,000.00—$200,000.00	8%, not less than $9,000.00
Over $200,000.00	7%, not less than $16,000.00

The actual fee for the full-time and complete inspection of the construction shall be borne by the owner and shall be determined by computing the amount of time spent by the city engineer inspecting the construction at the city engineer's rate of compensation as said rate of compensation is established by resolution of the city commission.

(Ord. No. 238, § 1, 7-10-90)

Sec. 19-61. - Bond.

Prior to the issuance of a permit to construct, the owner or contractor shall furnish to the city a maintenance and guarantee bond in a form and with sureties satisfactory to the city in the amount equal to one hundred (100) percent of the contract price for said improvement; provided, however, that said bond will not be required when the construction is for platted lands where a plat bond or monies in escrow have been furnished to cover the cost of construction. As a further condition of the permit to construct, the contractor shall place with the city a cash deposit in an amount to be set by the city engineer but not less than five hundred dollars ($500.00) nor more than five thousand dollars ($5,000.00). The purpose of this deposit is for the protection and restoration of public and/or private property.

The contractor shall restore at his expense any public and/or private property damages as result of any act or omission on his part or on the part of his employees or agents to a condition equal to that existing before such damage or injury was done. If the contractor neglects to repair or make restoration, the city may, after forty-eight hours and written notice to the contractor, proceed to make such repairs and restoration and will deduct the cost thereof from the above cash deposit.

The cash deposit or any unused portion thereof will be returned to the contractor upon the final acceptance of the project or subdivision improvements.

(Ord. No. 238, § 1, 7-10-90)

Chapter 20 - TRAFFIC AND MOTOR VEHICLES

> *Footnotes:*
> *--- (**1**) ---*
> ***Charter reference—*** *Powers to control traffic, Ch. II, § 6.*
> ***Cross reference—*** *Any ordinance prescribing traffic and parking restrictions pertaining to specific streets saved from repeal, § 1-4(11); offenses, Ch. 11; signs, Ch. 16; streets, sidewalks and other public places, Ch. 18; vehicles for hire, Ch. 23.*
> ***State Law reference—*** *Michigan Vehicle Code, MCL 257.1 et seq.; regulations by local authorities, MCL 257.605, 257.606, 257.610.*

ARTICLE I. - IN GENERAL

Sec. 20-1. - Safety belts.

(a) This section shall not apply to a driver or passenger of:

(1) A motor vehicle manufactured before January 1, 1965;

(2) A bus;

(3) A motorcycle;

(4) A moped;

(5) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons;

(6) A motor vehicle which is not required to be equipped with safety belts under federal law;

(7) A commercial or United States Postal Service vehicle which makes frequent stops for the purpose of pick up or delivery of goods or services; or

(8) A motor vehicle operated by a rural carrier of the United States Postal Service while serving his or her rural postal route.

(b) This section shall not apply to a passenger of a school bus.

(c) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than four (4) years of age shall be protected as required in Section 5.81a of the Uniform Traffic Code.

(d) Each driver of a motor vehicle transporting a child four (4) years of age or more, but less than sixteen (16) years of age, in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt.

(e) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this act.

(f) A person who violates this section is responsible for a civil infraction. Points shall not be assessed for a violation of this section.

(g) This section does not apply if the motor vehicle is transporting more children than there are safety belts available for use and if all safety belts available in the motor vehicle are being utilized in compliance with this section.

(Ord. No. 257, § 1, 3-10-92)

Editor's note— Ordinance No. 257, adopted March 10, 1992, did not specifically amend the Code; hence, inclusion of § 1 as § 20-1 was at the discretion of the editor.

Secs. 20-2—20-15. - Reserved.

ARTICLE II. - TRAFFIC REGULATION

> *Footnotes:*
> *--- (**2**) ---*
> ***Editor's note—** Ord. No. 333 and Ord. No. 333.1, adopted May 13, 2003, amended Art. II in its entirety to read as herein set out. Former Art II, §§ 20-16—20-18, pertained to similar subject matter and derived from Ord. No. 177, adopted Dec. 8, 1981, and amendatory ordinances, the history for which can be found in the Code Comparative Table at the back of this volume.*

DIVISION 1. - MICHIGAN VEHICLE CODE

Sec. 20-16. - Adopted.

The Michigan Vehicle Code, being Act 300 of the Public Acts of 1949, MCL 257.1 to 257.923, as amended, now and in the future is hereby adopted by reference as an ordinance of the City of Bloomfield Hills.

Pursuant to Public Act No. 7 of 2012, section 625(1)(c) of the Michigan Vehicle Code, Public Act No. 300 of 1949, MCL 257.625, is hereby adopted by reference as an ordinance of the City of Bloomfield Hills, violation of said ordinance shall be a misdemeanor, punishable by one (1) or more of the following:

(a) Community service for not more than three hundred sixty (360) hours.

(b) Imprisonment of not more than one hundred eighty (180) days.

(c) A fine of not less than two hundred dollars ($200.00) or more than seven hundred dollars ($700.00).

(Ord. No. 333, § 1, 5-13-03; Ord. No. 396, § 1, 3-13-12)

Sec. 20-17. - References in the vehicle code.

Where necessary to the enforcement of the Michigan Vehicle Code or the collection of fines, costs and penalties for violations as a city ordinance, references in the Michigan Vehicle Code to "local authorities", "local authority", or "local authority having jurisdiction" shall mean the city council of the City of Bloomfield Hills; references to "municipality" shall mean the City of Bloomfield Hills; references to "municipal charter" shall mean the Charter of the City of Bloomfield Hills; references to "local ordinances" shall mean the Code of Ordinances of the City of Bloomfield Hills; and references to the "city" shall mean the City of Bloomfield Hills.

(Ord. No. 333, § 1, 5-13-03)

Sec. 20-18. - Copies.

Printed copies of the Michigan Vehicle Code shall be kept on file in the office of the city clerk and made available to the public at all times the office is open.

(Ord. No. 333, § 1, 5-13-03)

Sec. 20-19. - Limitations.

Except as provided in section 20-16, violations of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than ninety-three (93) days shall not be enforced by the City of Bloomfield Hills as an ordinance violation.

(Ord. No. 333, § 1, 5-13-03; Ord. No. 396, § 2, 3-13-12)

Sec. 20-20. - Penalties.

The penalties provided in the Michigan Vehicle Code are adopted by reference subject to the limitations stated in section 20-19.

(Ord. No. 333, § 1, 5-13-03)

DIVISION 2. - UNIFORM TRAFFIC CODE

Sec. 20-21. - Adoption.

The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and made effective October 30, 2002, and all future amendments and revisions of the Uniform Traffic Code when they are promulgated and effective in this state are incorporated by reference.

(Ord. No. 333.1, § 1, 5-13-03)

Sec. 20-22. - References in the uniform traffic code.

References in the Uniform Traffic Code for Cities, Townships, and Villages shall mean the City of Bloomfield Hills.

(Ord. No. 333.1, § 1, 5-13-03)

Sec. 20-23. - Copies.

Printed complete copies of the October 2002 edition of the Uniform Traffic Code for Cities, Townships, and Villages shall be kept on file in the office of the city clerk and made available to the public at all times the office is open.

(Ord. No. 333.1, § 1, 5-13-03)

Sec. 20-24. - Penalties.

The penalties provided in the Uniform Traffic Code for Cities, Townships, and Villages are adopted by reference.

(Ord. No. 333.1, § 1, 5-13-03)

Secs. 20-25—20-40. - Reserved.

ARTICLE III. - VEHICLE SIZE, WEIGHT AND LOAD

Footnotes:
*--- (**3**) ---*
State Law reference— *Size, weight and load, MCL 257.716.*

Sec. 20-41. - Applicability.

This article shall be operative upon all public streets and alleys within the city.

(Code 1971, § 10.23)

Sec. 20-42. - Exempt vehicles.

The provisions of this article shall not apply to fire apparatus, or to any vehicle owned or operated by the city, or to a vehicle operated under the terms of a special permit issued as provided in this article.

(Code 1971, § 10.30)

Sec. 20-43. - Enforcement.

The city manager shall be charged with the enforcement of the provisions of this article, and regulations properly adopted by him under this article. For purposes of enforcement of this article, the city manager and his agents are designated as public safety officers of the city and it shall be their duty to enforce provisions of this article within the corporate limits of the city, and shall have the same powers as are possessed by regularly employed public safety officers of the city. When

engaged in the enforcement of this article, city manager or his agent shall bear some outward, visible insignia of their office, which shall be readily discernible to all persons with whom they might come in contact.

(Code 1971, § 10.24)

Sec. 20-44. - Temporary permits.

Upon proper showing, the city manager is authorized to temporarily permit the maximum weight limits provided in this article to be exceeded. Such exceeding of weight shall be authorized only in cases of emergency, or upon the showing of good cause, and only when the condition of the streets over which such loads are to be carried is such that the same will not be damaged thereby.

(Code 1971, § 10.28)

Sec. 20-45. - Violations, penalties.

(a) Any driver or owner of a vehicle as defined in this article who shall knowingly fail to stop at any weighing station, or who shall knowingly fail to submit to a weighing of his vehicle, upon conviction thereof, shall be guilty of a misdemeanor.

(b) Any driver or owner of such a vehicle who shall operate any vehicle or carry any load of a width, height or length greater than that permitted under section 20-48, upon conviction thereof, shall be guilty of a civil infraction.

(c) Any driver or owner of a vehicle as defined in this article who shall violate the provisions of this article pertaining to the weight of any load, or the weight of such vehicle, upon conviction thereof, shall be assessed a civil fine in an amount equal to two cents ($0.02) per pound for each pound of excess load over one thousand (1,000) pounds when the excess is two thousand (2,000) pounds or less; four cents ($0.04) per pound for each pound of excess load when the excess is over two thousand (2,000) pounds but not over three thousand (3,000) pounds; six cents ($0.06) per pound for each pound of excess load when the excess is over four thousand (4,000) pounds but not over five thousand (5,000); ten cents ($0.10) per pound for each pound of excess load when the excess is over five thousand (5,000) pounds. However, the court shall have discretionary power as to the amount of the civil fine within the schedule provided by this subsection and may impose the civil fine provided for a civil infraction where at the time of the violation either the motor vehicle, motor vehicle and semitrailer, or trailer did not exceed the total weight which would be lawful for each unit by a proper distribution of the load upon the various axles supporting each unit. Enforcement of payment of such fine may be by methods provided in Section 724 of the Motor Vehicle Code (MCL 257.724), or by any other method authorized by law.

(Code 1971, § 10.31)

Sec. 20-46. - Weigh stations.

The city manager shall be authorized to establish weigh stations, which stations may be located at such places as may, from time to time, be designated by the city manager, and which, when so designated, are declared to be public weighing stations for the city.

(Code 1971, § 10.25)

Sec. 20-47. - Special restrictions.

The city manager is authorized, at any time when conditions of streets in the city are, because of rain, floods, thaws, snow, mud, excessive use, or other cause, unsafe or unfit for travel, to temporarily close any such street, or any portion of such street to any or all vehicular traffic. The city manager is further authorized, at such times, and under such conditions, to impose for any such street more restrictive limits as to weight or load of vehicles than are specified under provisions of the state law. If the city manager shall reduce load limits on any such street, his order shall be effective only when he shall post at both ends of such street, and at all intersection entrances thereto, suitable placards of such size and type as will adequately advise all persons using such street of the existence of load limits thereon.

When any street shall be so posted, it shall be unlawful for any person to drive or operate any vehicle thereon which shall exceed the load limits so established. If the orders of the city manager closing any street, or imposing load limits thereon, are to be in effect for more than thirty (30) days, the same shall be approved by resolution of the city commission.

(Code 1971, § 10.29)

Sec. 20-48. - Width, height, length.

It shall be unlawful for any such person, firm, or corporation to operate any such vehicle, trailer or semitrailer, or any combination thereof, or to permit the operation of any such vehicle, trailer or semitrailer, or combination thereof when the maximum width, height or length of such vehicle or combination thereof, or unit of a combination of vehicles, and of the load thereon or therein shall exceed the limits fixed by provisions of sections 717 and 719 of the Michigan Vehicle Code (MCL 257.717, 257.719), unless a special permit be issued as provided in section 725 of the code (MCL 257.725).

(Code 1971, § 10.22)

Sec. 20-49. - Maximum loads.

It shall be unlawful for any person, firm or corporation, to operate any vehicle, trailer or semitrailer, or any combination thereof, or to permit the operation of any such vehicle, trailer or semitrailer, or combination thereof, when the wheel and axle load of any such vehicle or unit of a combination of vehicles, with or without a load, exceeds the schedule of weights allowed by the laws of the state, as set forth in section 722 of the Michigan Vehicle Code (MCL 257.722).

(Code 1971, § 10.21)

Sec. 20-50. - Stopping vehicles.

The city manager or his agents, when engaged in the enforcement of this article, or any public safety officer of the city may at any time require a vehicle to stop, and submit to a weighing of the same, by means of either portable or stationary scales either at the location of such stopping, or at a regularly designated weigh station of the city for purposes of permitting such officer to ascertain whether such vehicle or part thereof is loaded in conformity with the provisions of the laws of the state and provisions of this article.

(Code 1971, § 10.26)

Sec. 20-51. - Unloading excess.

If it shall be determined upon such weighing as required by section 20-50 that any vehicle, or unit of a combination of vehicles is loaded in violation of terms of this article, it shall be the duty of the driver thereof to forthwith remove so much of the load as will be necessary to reduce the gross weight of such vehicle to limits permitted under this article.

Any material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator. If it shall be necessary to store such materials within any portion of a public highway, the same shall be stored for not to exceed eight (8) hours, and shall within such period be completely removed from such location by such owner or operator.

If the same are not so removed, the same shall be removed at the expense of the city, and any charges of such removal shall be assessed against the owner or operator of such vehicle or against the owner of such materials, and the city shall have a lien upon such materials in its possession until such charges are fully paid.

(Code 1971, § 10.27)

Secs. 20-52—20-60. - Reserved.

ARTICLE IV. - MOTOR CARRIER SAFETY ACT

Sec. 20-61. - Motor Carrier Safety Act adopted.

The Motor Carrier Safety Act, being Act 81 of the Public Acts of 1963, MCL 480.11 to 480.25, as amended now and in the future (the "Act") is hereby adopted by reference as an ordinance of the City of Bloomfield Hills.

(Ord. No. 436 , § 1, 6-11-19)

Sec. 20-62. - References in the Motor Carrier Safety Act adopted.

Where necessary to the enforcement of the Act or the collection and distribution of fines, cost and penalties for violations as a City Ordinance, references in the Act to "local authorities", "local authority" or "authority having jurisdiction" shall mean the City of Bloomfield Hills City Commission; references to "municipality" shall mean the City of Bloomfield Hills; references to "municipal charter" shall mean the Charter of the City of Bloomfield Hills; references to "local ordinances" shall mean the Code of Bloomfield Hills; and references to the "City" shall mean the City of Bloomfield Hills.

(Ord. No. 436 , § 1, 6-11-19)

Sec. 20-63. - Penalty.

Any driver or operator who violates the Act or a rule or regulation adopted or created by the Act, or any owner or user of any truck, truck tractor, or trailer, or any officer or agent of any individual, partnership, company, corporation or association who requests or permits the driver or operator to operate or drive any truck, truck tractor or trailer in violation of the Act, or a rule or regulation adopted or created by the Act, is liable for the violation and corresponding penalty as set forth in the Act.

(Ord. No. 436 , § 1, 6-11-19)

Sec. 20-64 - Enforcement limitation.

Violation of those portions of the Act for which the maximum period of imprisonment is greater than ninety-three (93) days shall not be enforced by the city as an ordinance violation, but may be enforced by the city as a violation of state law.

(Ord. No. 436 , § 1, 6-11-19)

Sec. 20-65. - Distribution of fines.

The fines collected under this article shall be distributed as provided by law and in accordance with the Act.

(Ord. No. 436 , § 1, 6-11-19)

Sec. 20-66. - Copies of the Motor Carrier Safety Act.

Printed copies of the Act shall be kept on file in the office of the city clerk and made available to the public at all times that office is open.

(Ord. No. 436 , § 1, 6-11-19)

Sec. 20-67. - Prohibition of trucks, truck tractors or buses on Hickory Grove Road.

(a) A truck for purposes of this section shall be every motor vehicle designed, used or maintained primarily for the transportation of property.

(b) A truck tractor for purposes of this section 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 truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on the part of the power unit.

(c) A bus for purposes of this section means a motor vehicle designed for carrying sixteen (16) or more passengers, including the driver. Bus does not include a school bus.

(d) No truck, truck tractor, or bus shall be driven, moved, or caused or permitted to be driven or moved upon Hickory Grove Road between Opdyke Road and Lahser Road in the City of Bloomfield Hills.

(e) The prohibitions of this section shall not apply to trucks that are being used to deliver goods or to transport equipment used to provide services to a residence or business and the only method of gaining access to the residence or business is from Hickory Grove Road.

(Ord. No. 438 , § 1, 9-10-19)

Chapter 21 - UTILITIES

> *Footnotes:*
> *--- (**1**) ---*
> ***Charter reference—*** *Sewers and drains, Ch. XII; water supply, Ch. XIII.*
> ***Cross reference—*** *Administration, Ch. 2; buildings and building regulations, Ch. 4; cable communications, Ch. 5; nuisances, Ch. 10; planning, Ch. 13; soil removal, Ch. 17; streets, sidewalks and other public places, Ch. 18; subdivision of land, Ch. 19.*

ARTICLE I. - IN GENERAL

Secs. 21-1—21-15. - Reserved.

ARTICLE II. - WATER SERVICE

> *Footnotes:*
> *--- (**2**) ---*
> ***Charter reference—*** *Water supply, Ch. XIII.*
> ***Cross reference—*** *Plumbing code, § 4-111 et seq.*

DIVISION 1. - GENERALLY

Sec. 21-16. - Definitions.

In the interpretation of this article the following definitions shall apply unless the context clearly indicates otherwise:

Department shall mean the city department of public works, division of water supply.

Water connection shall mean that part of the water distribution system connecting the water main with the premises served.

Water main shall mean that part of the water distribution system located within the easement lines of the streets designed to supply more than one (1) water connection.

(Code 1971, § 2.1)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 21-17. - Control of system.

The operation, maintenance and management of the system, which is a county system, shall be under the immediate supervision and control of the commission or of the county, acting through its board of public works as the agent thereof, if it shall be so designated.

(Code 1971, § 2.88)

Sec. 21-18. - Additional regulations.

The city manager may make and issue additional rules and regulations concerning the water distribution system, connection thereto, meter installations and maintenance, connection and meter installation fees, hydrants and water mains and the appurtenances thereto, not inconsistent with this article. Such rules and regulations shall be effective upon approval by the city commission. The rules and regulations now in effect shall continue until changed in accordance with this section.

(Code 1971, § 2.13)

Sec. 21-19. - Injury to facilities.

No person, except an employee of the city in the performance of his duties, shall wilfully or carelessly break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the city water distribution system.

(Code 1971, § 2.14)

Sec. 21-19.5. - Connection requirement.

(a) All premises within the city used or occupied for residential, commercial or industrial purposes shall be connected to the city water system, and the owners and occupants of all such premises are required to maintain such connections in accordance with the provisions of this article.

(b) If a premises is not connected to the city water system, than the property shall connect to the system upon the occurrence of one (1) of the following events:

  (1) The sale of the premises;

  (2) New construction on the premises;

  (3) The failure of their private well, as determined by the Oakland County Health Department;

  (4) The modification of an existing structure of more than one (1) room on the at-grade floor;

  (5) Any building addition greater than six hundred (600) square feet on the at-grade floor; or

  (6) Any development or site construction requiring site plan approval from the city planning commission or as directed by the city manager, building official or engineer.

(c) This section shall not apply to the following:

  (1) To any premises where the nearest part of the parcel is more than one hundred (100) feet from a city water main.

  (2) To any premises that is connected to a well solely for irrigation purposes.

(Ord. No. 408, § 1, 7-9-13)

Sec. 21-20. - Service connections.

Application for water connections shall be made to the department on forms prescribed and furnished by it. Water connections and water meters shall be installed in accordance with rules and regulations of the department and upon payment of the required connection fee and meter installation fee. All meters and water connections shall be the property of the city. Connection fees shall not be less than the cost of materials, installation and overhead attributable to such installations.

(Code 1971, § 2.2)

Sec. 21-21. - Turning on water service.

No person, other than an authorized employee of the department, shall turn on or off any water service, except that a licensed plumber may turn on water service for testing his work (when it must be immediately turned off) or upon receiving written order from the department; provided, that upon written permit from the department, water may be turned on for construction purposes only, prior to the granting of a certificate of occupancy for the premises, and upon payment of the charges applicable thereto.

(Code 1971, § 2.3)

Sec. 21-22. - Meters—Required.

All premises using water shall be metered, except for premises using water solely from a functioning well that is permitted by this Code.

For those premises currently using water from the city water system without being metered as a result of an agreement with the city and/or the Oakland County Water Resources Commissioner and/or its predecessor, said premises shall become metered within one hundred eight (180) days from the date this section is adopted and shall pay the city meter fee and other fees required by this Code and resolution of the city commission, unless the city commission determines that circumstances exist to allow a waiver of the city meter fee.

(Code 1971, § 2.4; Ord. No. 428 , § 1, 2-13-18)

Sec. 21-23. - Same—Unauthorized tampering.

No person except a department employee shall break or injure the seal or change the location of, alter or interfere in any way [with] any water meter.

(Code 1971, § 2.4)

Sec. 21-24. - Same—Damage.

Any damage which a meter may sustain resulting from carelessness of the owner, agent, or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water, or steam backing from a boiler, shall be paid by the owner of the property to the city on presentation of a bill therefor; and in cases where the bill is not paid the water shall be shut off and shall not be turned on until all charges have been paid to the city.

(Code 1971, § 2.6)

Sec. 21-25. - Same—Access.

The department shall have the right to shut off the supply of water to any premises where the department is not able to obtain access to the meter. Any qualified employee of the department shall at all reasonable hours, have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing, or inspecting same and no person shall hinder, obstruct, or interfere with such employee in the lawful discharge of his duties in relation to the care and maintenance of such water meter.

(Code 1971, § 2.5)

Sec. 21-26. - Same—Failure to register.

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

(Code 1971, § 2.7)

Sec. 21-27. - Same—Testing.

A consumer may require that the meter be tested. If the meter is found accurate, a charge as determined by commission resolution will be made. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge shall be made.

(Code 1971, § 2.8)

Sec. 21-28. - Same—Accuracy.

A meter shall be considered accurate if, when tested it registers not to exceed two (2) percent more or two (2) percent less than the actual quantity of water passing through it. If a meter registers in excess of two (2) percent more than the actual quantity of water passing through it, it shall be considered fast to that extent. If a meter registers in excess of two (2) percent less than the actual quantity of water passing through it, it shall be considered slow to that extent.

(Code 1971, § 2.9)

Sec. 21-29. - Same—Bill adjustment.

If a meter has been tested at the request of a consumer and shall have been determined to register fast the city shall credit the consumer with a sum equal to the percent fast multiplied by the amount of all bills incurred by the consumer within the three (3) months prior to the test, and if a meter so tested is determined to register slow, the department may collect from the consumer a sum equal to the percent slow multiplied by the amount of all bills incurred by the consumer for the prior three (3) months. When the department on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than his paying the amount due the city for water used by him as provided above, if the meter is found to be slow.

(Code 1971, § 2.10)

Sec. 21-30. - Fire hydrants.

No person except members of the public safety department or of the water department shall use any fire hydrant except in case of emergency without first securing permission from the water department for such use; and paying or agreeing to pay for the water to be used. In no case shall any wrench or tool be used on any fire hydrant other than a regulation public safety department hydrant wrench.

(Code 1971, § 9.123)

Cross reference— Fire prevention and protection, Ch. 6.

Sec. 21-31. - Emergency water restrictions.

(a) The city manager, subject to approval by the city commission, may regulate, limit or prohibit the use of water for any purpose. Such regulations shall restrict less essential uses to the extent deemed necessary to ensure an adequate supply for essential domestic and commercial needs and for fire fighting. Such regulations do not pertain to private irrigation systems.

(b) Whenever the city manager receives notification from the Detroit Water and Sewerage Department in conjunction with the water and radiological protection division of the Michigan Department of Environmental Quality that the supply or pressure demand for water cannot be accommodated and general welfare is likely to be endangered, or conditions within the water system of the city are likely to endanger the general welfare of the city, the city manager may determine that a state of emergency exists and prescribe that the sprinkling of lawns and landscaping and all outdoor water use shall only be allowed for properties with even-numbered addresses on even-numbered dates within a month and for properties with odd-numbered addresses on odd-numbered dates within a month. These regulations shall apply in the city for all properties connected to the city water system and shall not pertain to private irrigation systems.

(c) Whenever the city manager receives notification from the Detroit Water and Sewerage Department in conjunction with the water and radiological protection division of the Michigan Department of Environmental Quality that the provisions in subsection (a) are not sufficient, or conditions within the water system of the city are likely to endanger the general welfare of the city, the sprinkling of lawns and landscaping and all outdoor water use may be disallowed for all properties connected to the city water system.

(d) The city and the Detroit Water and Sewerage Department shall, within twenty-four (24) hours of notification, cause these regulations to be posted at the city office and publicly announced by means of broadcast or telecast by the stations with a normal operating range covering the city, and may cause such announcement to be further declared in newspapers of general circulation when feasible. The regulations shall become effective immediately after notice of enforcement of the ordinance as posted at the city offices. Upon notification from the Detroit Water and Sewerage Department in conjunction with the water and radiological protection division of the Michigan Department of Environmental Quality that the emergency regulations are no longer necessary, the city and the Detroit Water and Sewerage Department, shall cause a public announcement lifting the water restrictions.

(e) Any person violating any rule or regulation provided under this section shall, upon conviction thereof, be punished as prescribed in section 1-11.

(Code 1971, § 2.12; Ord. No. 288, § 1, 7-16-96)

Sec. 21-32. - Reserved.

Editor's note— Section 2 of Ord. No. 286, adopted May 14, 1996, repealed § 21-32 in its entirety. Former § 21-32 pertained to cross connections and was derived from § 2.15 of the 1971 Code.

Sec. 21-33. - Violations.

In addition to the penalty for a violation of this Code the provisions of this article shall be enforceable through the bringing of appropriate action for injunction, mandamus, or otherwise, in any court having jurisdiction. Any violation of this article is deemed to be a nuisance per se.

(Code 1971, § 2.89)

Sec. 21-34. - Definitions and abbreviations.

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

City shall mean the City of Bloomfield Hills.

Department shall mean the Oakland County Department of Public Works. Created pursuant to Act No. 185 of the Public Acts of Michigan of 1957 (MCL 123.731 et seq.), as amended.

City commission shall mean the city commission of the City of Bloomfield Hills.

Charge or *charges* means the amount charged at the time and in the amount hereinafter provided to each premises in the city for connecting hereinafter provided to each premises in the city for connecting directly or indirectly to the system for water use and availability, for debt service and for permits and installation.

Main or *mains* shall mean any pipes, other than water service leads, used for conveying or distributing water.

Lateral, laterals or *leads* shall mean any pipes, other than water service mains, used for conveying or distributing water to an individual user, property or premise.

Premises means the lands included within the boundaries of a single description as set forth from time-to-time on the city tax roll as a single taxable item in the name of a taxpayer or taxpayers at one (1) address, but in the case of platted lots shall be limited to a single platted lot unless an existing building or structure is so located on more than one (1) lot as to make the same a single description for purposes of assessment of conveyance now or hereafter.

Residential equivalent unit (REU) when used herein shall mean any property which uses that quantity of water ordinarily arising from the occupancy of a residence building by a single family of ordinary size as set forth in the current Schedule of Factors of the Oakland County Department of Public Works, which Schedule and its provisions are hereby incorporated herein by reference and as amended from time to time. The total unit assignment for any particular usage shall be to the nearest tenth of a unit assignment, and any fractional portion thereof shall be considered the next higher tenth of a unit count.

User shall mean any person, firm, association or corporation actually owning or leasing any premises supplied, or to be supplied, with city water or their authorized agent.

Water supply system means the city water supply system in the city established and maintained by the county or other agent of the city under agreement with the city and all extensions, enlargements and improvements thereto, and shall also include the city water supply system. Water supply system shall also be construed to mean the complete water system, including all water mains and laterals, all pumping stations and all other facilities now owned, leased or hereinafter acquired by the city, used or useful in connection with the furnishing of water, except those parts of the water service leads located upon private property.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-35. - Use of system.

The system shall be used for the transportation and delivery of City of Detroit potable water only. Connections to the system, directly or indirectly, and the use of water therefrom for all purposes shall be only in compliance with this ordinance and with the standards and regulations of the City of Detroit, Oakland County and the City of Bloomfield Hills applicable thereto.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-36. - Use measured by meters; rates for city use; payment of connection costs.

(a) Except for premises using water solely from a functioning well that is permitted by this Code, water to be furnished by the system to each premises shall be measured by a meter installed and controlled by the city. For those premises currently using water from the city water system without being metered as a result of an agreement with the city and/or the Oakland County Water Resources Commissioner and/or its predecessor, said premises shall become metered within one hundred eighty (180) days from the date this section is adopted and shall pay the city meter fee and other fees required by this Code and resolution of the city commission, unless the city commission determines that circumstances exist to allow a waiver of the city meter fee. Water usage charges shall be made to the respective premises as provided by resolution of the city commission.

(b) The city shall establish appropriate standards for determining the number of units to be assigned to premises of different character or occupancy.

(c) The cost of water service connections from the water mains of the system to private premises shall not be paid by the city or from the revenues of the system.

(Ord. No. 335, § 1, 6-10-03; Ord. No. 428 , § 1, 2-13-18)

Sec. 21-37. - Assignment of units.

The number of units to be assigned to any particular premises used for any purpose shall be determined by the city in accordance with schedule and materials prepared, assembled and used by the city for water supply systems under its jurisdiction and its decision shall be final. The City, if the circumstances justify, may assign more than one (1) unit to a single-family dwelling. No less than one (1) unit shall be assigned to each premises, but units in excess of one (1) may be computed and assigned to the nearest tenth. If subsequent changes in use of premises increase or decrease the unit classification of any premises, the city may increase or decrease the number of units assigned to such premises. No change in subsequent use of any premises shall result in a decrease of unit assignment to less than one (1). Capital charges and/or debt service charges which have been collected are not returnable.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-38. - Water service connection.

Before any connection shall be made to any water main or lateral, application for same shall be made in writing to the city by the owner of the premises to be served, or by his or her authorized agent. Such application shall be made on forms provided by the city. The owner, user and/or applicant for a water connection permit by such application implicitly agrees to abide by all of the rules and regulations of the city, and more specifically, with those respecting the responsibility for the payment for water, and this paragraph is expressly made a part of such application.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-39. - Payment of charges.

Connection shall be made until the applicant has been authorized to do so by the city and county and has paid the necessary city or county connection charges and/or fees together with the necessary deposit or fee for same in accordance with the provisions of this ordinance.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-40. - Nonresident connection.

Property owners not within the city may connect into the city water system only on the prior approval of the city commission. All connections shall comply with this ordinance.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-41. - Water consumption charge.

A quarterly charge for water service shall be made to each premises connected to the system in an amount to be determined by the city commission based upon recommendations of the county and adopted by resolution of the city commission, with a charge to also be made for sewer service on all such premises. For those premises that have a separate water meter for irrigation purposes, the quarterly sewer charge shall also be charged along with the quarterly water service charge on said separate meters for irrigation purposes. For those premises that currently have separate water meters for irrigation purposes and which are only paying the charge for water services on said separate meters for irrigation purposes, said premises shall within one hundred eighty (180) days from the adoption of this section, begin paying the sewer charge along with the quarterly water charge on the separate meters for irrigation purposes.

(Ord. No. 335, § 1, 6-10-03; Ord. No. 428 , § 1, 2-13-18)

Sec. 21-42. - Meter service charge.

A quarterly meter service charge shall be made to each premises connected to the system in an amount to be determined by the city commission based upon recommendations of the county and adopted by resolution of the city commission.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-43. - Presently connected premises.

Premises presently connected to existing city water mains shall not be required to pay a capital or direct connection charge, but will pay a debt service charge if applicable as hereinafter provided in addition to the water consumption and meter charges provided herein.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-44. - Direct connection charge.

There shall be a connection charge of five thousand dollars ($5,000.00) per residential equivalent unit (REU) in Category I, as hereinafter defined, and twenty-five hundred dollars ($2,500.00) per residential equivalent unit (REU) in Category II, as hereinafter defined.

Category I: Connections to the water system by a premises which has water service available and the costs of said available water service was financed by the city at large or not paid for by the means of special assessment against the premises. This shall include development of a vacant lot by land division where the premises was not created as part of a project which installed the water system to serve said premises. This shall also include the total reconstruction of a home or commercial structure that requires disconnection from the water system and reconnection during the subsequent reconstruction. (Examples: Lot splits or house demolition and reconstruction.)

Category II: Connection to the water system by a premises that was created through a project that included the construction of the water system by the developer or owner of the project or that required a water system extension to serve the premises and where upon approval of the system by the city, the system is dedicated to the city. (Examples: House construction in a new platted subdivision or site condominium or a commercial site that extends the public water main to serve their site.)

The direct connection charge shall be payable at the time the application is approved for the direct connection of any premises to the water supply system.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-45. - Special charges.

Additional charges, such as plan review, county charges, meter installation or inspection charges for any premises, shall be set from time-to-time by resolution of the city commission.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-46. - Debt service charge.

In addition to the capital, direct connection, water consumption and meter charges provided herein, there shall be a quarterly debt service charge per REU to be established from time to time by resolution of the city commission for each premises connected to the water supply system, which charge shall continue until all indebtedness incurred by the city pursuant to applicable contracts with the County of Oakland are retired.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-47. - Effective date of charges.

The capital and direct connection charges shall become effective on the effective date of this ordinance. The water consumption charges shall be effective immediately upon the adoption of a resolution from time-to-time by the city commission.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-48. - Billings.

Charges for services furnished by the system shall be billed and collected quarterly by the department. Such charges shall become due when billed, which shall not exceed thirty (30) days after reading of the water meter, and if such charges are not paid within twenty (20) days from the billing date, then a penalty of ten (10) percent shall be added thereto. In the event that the charges for any such services furnished to any premises shall not be paid within thirty (30) days after the due date thereof, then all services furnished by the system to such premises shall be discontinued. Services so discontinued shall not be restored until all sums then due and owning, including penalties, shall be paid, plus a turn-on charges.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-49. - Collection.

Charges for services furnished by the system to any premises shall be a lien thereon, and on September 1 of each year, the person charged with the management of said system shall certify any such charges which have been delinquent six (6) months or more to the city treasurer, who shall enter same upon the next tax roll against the premises to which said service shall have been rendered, and such charges shall be collected and said lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll. Prior to occupancy, if notice is given to the department in writing that a tenant is responsible for any such charges with a copy of the lease, if any, the charges shall not become a lien on the property, and in such case, a cash deposit equal to three (3) times the average quarterly charge will be required as security for payment before any service is furnished.

(Ord. No. 335, § 1, 6-10-03)

Sec. 21-50. - Fixing of charges; deposits.

The charges hereby fixed are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for the maintenance of the system as are necessary to preserve same in good repair and working order; to provide for the payment of the water charges required to be paid to the City of Detroit; to provide for the payment of the annual payments required to be made to the County of Oakland; and to provide for such other expenditures and funds for said system as may be required. Such rates shall be fixed and revised from time-to-time by resolution of the city commission as may be necessary to provide these amounts.

The city treasurer shall establish an infrastructure fund in financing future water and/or sewer projects. Unless the city commission by resolution determines otherwise, the funds in said account shall be used only for the purpose for which said account has been created.

(Ord. No. 335, § 1, 6-10-03)

DIVISION 2. - RATES AND CHARGES

Sec. 21-51. - Definitions.

Whenever used in this division, except when otherwise indicated by the context:

Charges for water supply services or *charges* shall mean the amount charged to each premises in the city connected to the system for water supply services which may include an amount for debt service and shall also include the sewer charges provided for in section 21-41 of this Code.

Premises shall means the lands included within boundaries of a single description as set forth from time to time on the general tax rolls of the city as a single taxable item in the name of a taxpayer or taxpayers at one (1) address but in the case of platted lots shall be limited to a single platted lot unless an existing building or structure is so located on more than one (1) lot as to make the same a single description for purposes of assessment or conveyance, now or hereafter, and in the case of nontaxable institutions, shall include all lands used by an institution at one (1) address.

System shall means the water supply system as now or hereafter acquired and constructed by the county and leased to the city to serve the residents of the city.

Water supply district or district shall be construed to mean Bloomfield Hills Water Supply District, as described in Miscellaneous Resolution No. 4920 of the County Board of Supervisors, adopted August 27, 1968, or any amendments thereto.

Water supply services shall mean the transportation and distribution and sale of water to the premises now or hereafter connected, directly or indirectly, to the water supply system.

Water supply system shall mean the city water supply system acquired and constructed by the county under contract with the city, dated October 1, 1968, as amended May 1, 1969, and leased to the city, and all extensions, enlargements and improvements thereto.

(Code 1971, § 2.81; Ord. No. 428 , § 1, 2-13-18)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 21-52. - Fiscal year.

The system shall be operated upon the basis of a fiscal year beginning on July 1st of each year and ending on June 30th of the following year.

(Code 1971, § 2.87)

Sec. 21-53. - Establishing.

Charges for water supply services to each premises within the city connected with the water supply system shall be determined by the commission, as provided in the agreement with the county, and shall be fixed by ordinance or resolution adopted and amended from time to time by the commission and subject to any obligations and limitations set forth in such agreement pertaining to the system between the city and the county, or any amendments thereto.

(Code 1971, § 2.83; Ord. No. 145, 3-9-76; Ord. No. 167, 12-1-80)

Sec. 21-54. - Meters to measure water.

Water to be furnished by the system to each premises shall be measured by a meter installed and controlled by the city.

(Code 1971, § 2.83; Ord. No. 145, 3-9-76; Ord. No. 167, 12-1-80)

Sec. 21-55. - Billing.

No free service shall be furnished by the system to the city or to any person, firm or corporation, public or private, or to any public agency or instrumentality. Charges for services furnished by the system shall be billed and collected quarterly, the first such charges for each premises to be due and payable on the first day of the calendar quarter following by at least one (1) month the date such premises are connected to the system and successive charges to be due and payable on the first day of each quarter annual period thereafter. Charges shall be billed at least one (1) month before their due date.

(Code 1971, § 2.84)

Sec. 21-56. - Late payment.

If any charges for water supply services are not paid on or before the due date then a penalty of ten (10) percent shall be added thereto.

(Code 1971, § 2.85)

Sec. 21-57. - Discontinuance of service for nonpayment.

If the charges for water supply services furnished to any premises are not paid within thirty (30) days after the due date thereof, then all services furnished by the water supply system may be discontinued. Service so discontinued shall not be restored until all sums then due and owing, including penalties, shall be paid. There shall be charged a shut-off charge and a turn-on charge as determined by commission resolution, for each occasion of shut-off and turn-on for any reason.

(Code 1971, § 2.85)

Sec. 21-58. - Lien on premises.

Charges for water supply services furnished by the system to any premises shall be a lien thereon as of the due date thereof, and on May 1 of each year the city clerk shall certify any such charges which have been delinquent ninety (90) days or more, plus penalties accrued thereon, to the commission who shall cause the same to be entered upon the next city tax roll against the premises to which such services shall have been rendered and the unpaid charges, with penalties accrued thereon, shall be collected and the lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll.

(Code 1971, § 2.86)

Sec. 21-59. - New subdivisions.

Plats for premises subdivided into three (3) or more lots or parcels and permits to improve platted or unplatted premises shall not be approved or issued on behalf of the city and none of the premises shall be improved by the erection of a building or structure for human use of occupancy thereon unless water mains and connections to serve all of the premises, as subdivided or to be occupied, and to connect same to the system are available as part of the system or shall be installed at private cost or by special assessment (or a bond furnished or the estimated cost thereof deposited with the city as otherwise provided by law) unless the commission and the board of public works of the county shall both determine by specific resolution that compliance with this section will work an unreasonable hardship on the owner of the premises involved.

(Code 1971, § 2.82)

DIVISION 3. - CROSS CONNECTIONS

Sec. 21-60. - Title.

The City of Bloomfield Hills adopts by reference the Water Supply Cross Connection Control Rules of the Michigan Department of Environmental Quality, Public Act 399, 1967, R 325.11401 through R 325.11407 of the Administrative Code. This Ordinance shall be known and may be cited as the "City of Bloomfield Hills Cross Connection Control Ordinance", as may be amended from time-to-time.

(Ord. No. 286, § 1, 5-14-96; Ord. No. 328, § 1, 12-10-02)

Sec. 21-61. - Purpose.

The purpose of this division is to promote and protect the public health, safety and welfare by the prevention and elimination of cross connections which have been recognized as the cause of public health problems due to the hazard caused to drinking water quality.

(Ord. No. 286, § 1, 5-14-96)

Sec. 21-62. - Authority.

The Oakland County Drain Commissioner Operations and Maintenance Division shall be the designated authority and administrator of the cross connection control program.

(Ord. No. 286, § 1, 5-14-96)

Sec. 21-63. - Plan.

(a) Pursuant to Michigan Public Act 399, 1976 R 325.11404 of the Administrative Code, a comprehensive cross connection control plan shall be developed and submitted to the Michigan Department of the Public Health, Division of Water Supply for review and approval.

(b) The plan shall outline the conduct of the city cross connection control program, including the method for performing initial inspections, determining inspection/reinspection frequencies, backflow prevention assembly tracking and testing schedules, annual reporting, generation of compliance, noncompliance, pertinent piping information requests, and water service shut-off notices.

(c) Upon approval by the Michigan Department of Environmental Quality, Drinking Water and Radiological Protection Division, the plan will become an instrument of this ordinance for providing program conduct and policies.

(d) Any changes to the approved plan will be submitted to the Michigan Department of Environmental Quality, Drinking Water and Radiological Protection Division, for review and approval before final approval by the authority agent.

(e) The cross connection control plan will be made available to the public for review.

(Ord. No. 286, § 1, 5-14-96; Ord. No. 328, § 1, 12-10-02)

Sec. 21-64. - Designated agent.

The authority has the right to appoint a designated agent to administer the cross connection control program and perform inspections in accordance with the approved cross connection control program plan.

(Ord. No. 286, § 1, 5-14-96)

Sec. 21-65. - Water discontinuance.

(a) The authority agent shall have the right to enter any facility for the sole purpose of inspecting for cross connections. Failure on the facility's part to allow the authority agent entry shall be deemed of having a cross connection that is an immediate hazard to the public, and, as such, the authority agent will follow the steps as outlined in the approved cross connection control plan.

(b)

If a facility fails to comply in correcting any deficiencies identified during the cross connection inspection and subsequent reinspection, followup, inspection, and the steps as outlined in the approved cross connection control plan, the water service to the facility will be discontinued until such time that the deficiencies are corrected and approved by the authority agent.

(Ord. No. 286, § 1, 5-14-96)

Sec. 21-66. - Penalties.

(a) Any person who shall violate any of the provisions of this ordinance shall, upon conviction, be punished by a fine not to exceed five hundred dollars ($500.00) for each violation for each day of violation, and/or by imprisonment not to exceed ninety (90) days, or by both fine and imprisonment in the discretion of the court.

(b) In addition to the penalty in subsection (1), at the request of the authority agent, the corporation council may bring an action for injunctive relief or other appropriate action in the name of the people of the city to enforce this division, or an order issued pursuant to this division.

(Ord. No. 286, § 1, 5-14-96; Ord. No. 328, § 1, 12-10-02)

Sec. 21-67. - Headings.

The section headings used in this division are for convenience only and shall not be considered part of the division.

(Ord. No. 286, § 1, 5-14-96)

Sec. 21-68. - Terms not defined.

Where terms are not defined under the provisions of this division, they have ascribed to them their ordinarily accepted meanings or such as the context therein may imply.

(Ord. No. 286, § 1, 5-14-96)

Sec. 21-69. - Inter-changeability.

Words used in the present tense include the future; words in the masculine include the feminine and neuter; the singular number includes the plural and the plural the singular.

(Ord. No. 286, § 1, 5-14-96)

Sec. 21-70. - Conflicting laws.

Nothing herein contained shall be deemed to nullify any provision of any Bloomfield Hills Ordinance pertaining to "minimum standards of plumbing" or any other statute or legally adopted ordinance or code of the City of Bloomfield Hills.

(Ord. No. 286, § 1, 5-14-96; Ord. No. 328, § 1, 12-10-02)

Secs. 21-71—21-75. - Reserved.

ARTICLE III. - SEWER SERVICE

> *Footnotes:*
> *--- (**3**) ---*
> ***Charter reference—*** *Sewers and drains, Ch. XII.*
> ***Cross reference—*** *Plumbing code, § 4-111 et seq.*

DIVISION 1. - GENERALLY

Secs. 21-76, 21-77. - Reserved.

Editor's note— Ordinance No. 227, § 1, adopted Sept. 12, 1989, repealed §§ 21-76 and 21-77, pertaining to definitions and abbreviations.

Sec. 21-78. - Waste deposits.

It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

(Code 1971, § 2.42)

Sec. 21-79. - Water pollution.

It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any unsanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(Code 1971, § 2.43)

Sec. 21-80. - Privies and septic tanks.

Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(Code 1971, § 2.44)

Sec. 21-81. - Sewer connection required.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article and regulations supplementary hereto, within ninety (90) days after date of official notice to do so, provided that the public sewer is within one hundred (100) feet of the property line.

(Code 1971, § 2.45)

Sec. 21-82. - Private sewer systems.

Where a public sanitary or combined sewer is not available under the provisions of section 21-81, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

(Code 1971, § 2.46)

Sec. 21-83. - Standards.

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the state department of public health and shall be constructed and connected in accordance with the plumbing regulations of the city. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(Code 1971, § 2.47)

Sec. 21-84. - Discontinuance of system.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 21-81, a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(Code 1971, § 2.48)

Sec. 21-85. - Maintenance of system.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(Code 1971, § 2.49)

Sec. 21-86. - Additional requirements.

Nothing contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer, or otherwise limit his powers.

(Code 1971, § 2.50)

Sec. 21-87. - Reserved.

Editor's note— Ordinance No. 227, § 1, adopted Sept. 12, 1989, repealed § 21-87, pertaining to requirements for systems connected to the county system.

DIVISION 2. - COLLECTION OF FEES FOR CONNECTION TO THE EVERGREEN-FARMINGTON SEWAGE DISPOSAL SYSTEM

Sec. 21-88. - Definitions and abbreviations.

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

City shall be construed to mean the City of Bloomfield Hills.

Evergreen sanitary sewer shall be construed to mean the Evergreen-Farmington Sewage Disposal System acquired and constructed by the County of Oakland pursuant to certain contracts between the County of Oakland and the City of Bloomfield Hills and certain other municipalities, as amended.

Premises shall mean any property from which emanates that quantity of sewage ordinarily arising from an occupancy of a residential building by a single family of ordinary size.

Residential equivalent unit (REU) when used herein shall mean any property which uses that quantity of water ordinarily arising from the occupancy of a residence building by a single family of ordinary size as set forth in the Schedule of Factors of the Oakland County Department of Public Works, which schedule and its provisions are hereby incorporated herein by reference and as amended from time to time. The total unit assignment for any particular usage shall be to the nearest tenth unit assignment, and any fractional portion thereof shall be considered the next higher tenth of a unit count.

Sewer shall be construed to mean all sanitary sewers within the City of Bloomfield Hills which are or shall be constructed or connected as to flow directly or indirectly into the Evergreen sanitary sewer except those parts of the sanitary sewer leads located upon private property.

(Ord. No. 336, § 1, 6-10-03)

Sec. 21-89. - Computation of connection charges.

No premises shall be connected to any city sanitary sewer until a permit therefor has been obtained. No such permit shall be issued until a connection charge computed as hereinafter prescribed shall have been paid to the city. The connection charges shall be divided into two (2) categories as hereinafter set forth:

Category I: Connections to the sanitary sewer system by a premises which has sewer service available and the costs of said available sewer service was financed by the city at large or not paid for by the means of special assessment against the premises. This shall include development of a vacant lot by land division where the premises was not created as part of a project which installed the sanitary sewer system to serve said premises. This shall also include the total reconstruction of a home or commercial structure that requires disconnection from the sewer system and reconnection during the subsequent reconstruction. (Examples: Lot splits or house demolition and reconstruction.)

Category II: Connection to the sanitary sewer system by a premises that was created through a project that included the construction of the sewer system by the developer or owner of the project or that required a sanitary sewer system extension to serve the premises and where upon approval of the system by the city, the system is dedicated to the city. (Examples: House construction in a new platted subdivision or site condo or a commercial site that extends the public sanitary sewer to their site.)

(Ord. No. 336, § 1, 6-10-03)

Sec. 21-90. - Capital connection charge.

(a) Each premises connecting directly or indirectly to the Evergreen sanitary sewer as set forth in Category I shall pay at the time connection is made to any sewer a service charge of six thousand dollars ($6,000.00) per residential equivalent unit (REU).

(b) Each premises connecting directly or indirectly to the Evergreen sanitary sewer as set forth in Category II shall pay at the time connection is made a service charge three thousand dollars ($3,000.00) per residential equivalent unit (REU).

(Ord. No. 336, § 1, 6-10-03)

Sec. 21-91. - Presently connected premises.

Premises presently connected to the city sewer system shall not be required to pay a capital connection charge.

(Ord. No. 336, § 1, 6-10-03)

Sec. 21-92. - Non-single-family use.

Each parcel of property used for other than a single-family purpose, connecting directly or indirectly to the Evergreen sanitary sewer shall pay a capital service charge fixed by resolution of the city commission taking into consideration the amount of sanitary sewage which will be discharged from such building or buildings and in accordance with the unit factors adopted from time to time by the Oakland County Department of Public Works. Said charge shall be paid for each parcel of property at the time connection is made to any sewer.

(Ord. No. 336, § 1, 6-10-03)

Sec. 21-93. - Change of rates.

The rates hereby fixed are established to be sufficient to provide for the payment of the annual payments required to be made to Oakland County in connection with the Evergreen sanitary sewer and to fund future maintenance, rehabilitation, improvements and replacement projects in the city. Such rates shall be revised from time-to-time as may be necessary to produce the required amount.

(Ord. No. 336, § 1, 6-10-03)

Sec. 21-94. - Required connection.

No property within that portion of the city served by the Evergreen sanitary sewer shall be connected directly or indirectly with any sewer until the owner thereof shall have first complied with the provisions of this division or any other applicable Ordinance or resolution of the City of Bloomfield Hills. Any property or properties from which sanitary sewer emanates shall be connected to an available public sanitary sewage collection facility in accordance with applicable Michigan law, the provisions of this division and any other applicable ordinances and resolutions of the City of Bloomfield Hills.

(Ord. No. 336, § 1, 6-10-03)

Sec. 21-95. - Special charges.

Additional charges, such as plan review, county charges, installation, inspection charges and/or quarterly debt service charges per REU for any premises, shall be set from time-to-time by resolution of the city commission.

(Ord. No. 336, § 1, 6-10-03)

Sec. 21-96. - Deposits.

The city treasurer shall establish an infrastructure fund in financing future water and/or sewer projects. Unless the city commission by resolution determines otherwise, the funds in said account shall be used only for the purpose for which said account has been created.

(Ord. No. 336, § 1, 6-10-03)

Sec. 21-97. - Penalty.

Any person convicted of disposing of sewage in a manner contrary to the provisions of this division or in any other way violating the provisions of this division shall be subject to a fine not exceeding five hundred dollars ($500.00) and imprisonment in the county jail for a period not exceeding ninety (90) days, or both such fine and imprisonment in the discretion of the court, together with costs of said prosecution. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. The violation of this division shall be deemed a nuisance per se. The provisions of this division shall be enforceable through the bringing of appropriate action for injunction, mandamus in any Court of applicable jurisdiction.

(Ord. No. 336, § 1, 6-10-03)

Secs. 21-98—21-100. - Reserved.

DIVISION 3. - RESERVED

> *Footnotes:*
> *--- (**4**) ---*
> ***Editor's note—*** *Ordinance No. 227, § 1, adopted Sept. 12, 1989, repealed §§ 21-117—21-120 of division 3, use of public sewer generally. Section 21-116, pertaining to the purpose of division 3, has been deleted at the editor's discretion.*

Secs. 21-101—21-135. - Reserved.

DIVISION 4. - COUNTY WASTEWATER TREATMENT REQUIREMENTS AND INDUSTRIAL WASTEWATER STANDARDS

> *Footnotes:*
> *--- (**5**) ---*
> ***Editor's note—*** *Ordinance No. 227, § 1, adopted Sept. 12, 1989, repealed division 4, §§ 21-136—21-146, concerning industrial or commercial wastes, and enacted a new Div. 4 to read as herein set out.*

Sec. 21-136. - Purpose.

It is the purpose of this article to protect the environment, and the public health and safety by abating and preventing pollution through the regulation and control of the quantity and quality of wastes admitted to or discharged into the wastewater collection and treatment system under the jurisdiction of the City of Bloomfield Hills and the Oakland County Department of Public Works, and enabling the City and County to comply with all applicable state and federal laws required by the Federal Water Pollution Control Act, being 33 U.S.C. § 1251, et seq., and the General Pretreatment Regulations, being 40 C.F.R. part 403.

The objectives of this article are:

(1) To prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system or contaminate the resulting sludge, or will pose a hazard to the health or welfare of the people or of employees of the City of Detroit Water and Sewerage Department;

(2) To prevent the introduction of pollutants into the wastewater system which will pass inadequately treated through the system into receiving waters, the atmosphere or the environment, or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle or reclaim wastewater or sludge from the system in an economical and advantageous manner; and

(4) To provide for the recovery of the costs from users of the wastewater collection and treatment system sufficient to administer regulatory activities and meet the costs of the operation, maintenance, improvement or replacement of the system.

It is the further purpose of this article to enable the City of Bloomfield Hills and the governmental authorities with which it has contracted to provide a public sewage disposal system for the properties within the City of Bloomfield Hills, the County of Oakland, and the City of Detroit, to comply with the requirements of applicable state and federal laws, including the Federal Water Pollution Control Act of 1972, as amended; the State of Michigan Act No. 245 of 1929, as amended; the Federal District Court Consent Judgment and Settlement Agreement, United States District Court, Eastern District of Michigan, Southern Division, C.A. No. 77-1100; and the applicable rules and regulations pertaining to said Acts; and the requirements of applicable National Pollutant Discharge Elimination System Permits. Further, this article is intended to enable the City of Bloomfield Hills to comply with State of Michigan Act No. 185 of Public Acts of 1957, as amended, and/or State of Michigan Act No. 342 of Public Acts of 1939, as amended.

Further, this article shall govern the design, construction and use of wastewater facilities under the jurisdiction of the County of Oakland, enumerating the permit requirements for tapping into county wastewater facilities, for altering existing county wastewater facilities, for pumping stations and for industrial connections to public sewers; and the authority of the county's inspectors or authorized agents in the County of Oakland, State of Michigan; and to provide a uniform policy for rates for wastewater disposal service.

This article also provides for the regulation of contributors to the Detroit and city wastewater collection and treatment system through the issuance of wastewater discharge permits to certain users and through the enforcement of general requirements for all users, authorizes monitoring and enforcement, and authorizes fees and penalties.

(Ord. No. 227, § 1, 9-12-89; Ord. No. 369, § 1, 5-13-08)

Sec. 21-137. - Authority.

By virtue of the obligations and authority placed upon the city and the County of Oakland and the City of Detroit by the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 U.S.C. § 1251, et seq.; the Constitution of the State of Michigan; Public Act No. 245 of 1929, as amended being MCL 323.1 et seq.; the Charter of the City of Bloomfield Hills, the National Pollutant Discharge Elimination System Permit for the City of Detroit Publicly Owned Treatment Works (POTW); the Federal District Court Consent Judgment in U.S. EPA v City of Detroit, et al, C.A. No. 77-1100, as amended; the Urban Cooperation Act of 1967, as amended; Public Act No. 35 of 1951, as amended; and existing or future contracts between the City of Bloomfield Hills, County of Oakland, the Oakland County Department of Public Works, the Oakland County Drain Commissioner, and the Board of Water Commissioners of the City of Detroit, or by virtue of common law usage of the system, this article [Ordinance Number 89-28.22] shall apply to every user contributing or causing to be contributed, or discharging pollutants or wastewater to the City of Bloomfield Hills Sewage Disposal System, Evergreen-Farmington Sewage Disposal System, and/or the Clinton-Oakland Sewage Disposal System, and/or the Huron-Rouge Sewage Disposal System, and/or the Southeastern Oakland County Sewage Disposal System, and/or the City of Detroit Publicly Owned Treatment Works.

(Ord. No. 227, § 1, 9-12-89; Ord. No. 369, § 2, 5-13-08)

Sec. 21-138. - Definitions.

(1) When used in this article, the following terms shall have the meanings described in this section unless the context specifically indicates a different meaning:

Act or *the Act* shall mean the Federal Water Pollution Control Act, P.L. 92-500, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

Approval authority shall mean the Michigan Department of Natural Resources or the Environmental Protection Agency.

As-built plans shall mean engineering drawings prepared after installations of wastewater facilities which shall show a statement by a registered engineer or surveyor certifying this to be "as-built plans" and shall include, but not be limited to, length of sewer, invert elevation, locations with respect to property lines, wye and riser locations and depths, sewer material and joints used, and mechanical, electrical, and structural details for pump stations, wastewater treatment facilities, and other appurtenances.

Authorized representative of industrial user shall refer to:

(1) Responsible corporate officer, where the industrial user submitting reports required by this article is a corporation, who is either:

(a) The president, vice-president, secretary, or treasurer of a corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one (1) or more manufacturing, production or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000.00) in second quarter 1980 dollars, when authority to execute documents has been assigned or delegated to said manager in accordance with corporate procedures; or

(2) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively [see section 21-142(O)].

Available cyanide means the quantity of cyanide that consists of cyanide ion (CÑ) hydrogen cyanide in water (HCNaq), and the cyano-complexes of zinc, copper, cadmium, mercury nickel and silver, determined by EPA method OIA-1677, or other method designated as a Standard Method or approved under 40 CFR 136.1.

Best management practices (BMP) means programs, practices, procedures or other directed efforts initiated and implemented by the user which can or do lead to the reduction, conservation or minimization of pollutants being introduced into the ecosystem, including but are not limited to the Detroit sewer system. BMPs include, but are not limited to, equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control and may include technical and economic considerations.

Biochemical oxygen demand (BOD) shall mean the quantity of dissolved oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five (5) days at 20° centigrade expressed in terms of mass and concentration (milligrams per liter (mg/l)) as measured by standard methods.

Board shall mean the Board of Water Commissioners of the City of Detroit.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building's sewer (sewer house). The latter begins five (5) feet outside the inner face of the building wall.

Building sewer shall mean the extension from the building drain that connects the building in which the sanitary sewage originates to the public sewer or other place of disposal and conveys the sewage of but one (1) building.

Bypass means the intentional diversion of a wastestream from any portion of an industrial user's treatment facility. [See 40 C.F.R. § 403.17.]

Categorical standards shall mean the National Categorical Pretreatment Standards or a pretreatment standard as promulgated under authority of the Act, 40 CFR 403.

Centralized waste treatment (CWT) facility means any facility that treats any hazardous or nonhazardous industrial waste received from off-site by tanker truck, trailer roll-off bins, drums, barges, or any other forms of shipment including:

(1) A facility that treats industrial waste received exclusively from off-site; and

(2) A facility that treats industrial waste generated on-site as well as industrial waste received from off-site.

Chemical oxygen demand (COD) shall mean a measure of the 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 OC and DOC, oxygen consumed and dichromate oxygen consumed, respectively.

Chlorine demand shall mean the difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter.

City shall mean the City of Bloomfield Hills, Michigan, its agents and employees.

Combined sewer shall mean a sewer receiving both surface runoff and sewage.

Compatible industrial wastewater means wastewater that is produced by an industrial user which has a pollutant strength or characteristics similar to those found in domestic wastewater, and which can be efficiently and effectively transported and treated with domestic wastewater.

Compatible pollutant means pollutants which can be effectively removed by the POTW treatment system to within the acceptable levels for the POTW residuals and the receiving stream.

Composite sample means a collection of individual samples which are obtained at regular intervals and collected on a time-proportional or flow-proportional basis over a specified period and which provides a representative sample of the average stream during the sampling period. A minimum of four (4) aliquot per twenty-four (24) hours shall be used where the sample is manually collected. [See 40 C.F.R. § 403, Appendix E.]

Confidential information means the information which would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user. [See section 21-142(V).]

Consent judgment shall mean the judgment issued by Federal District Court on September 14, 1977, U.S. EPA v City of Detroit, et al, C.A. No. 77-1100, as amended.

Control authority shall mean the Detroit Water and Sewerage Department (DWSD) which has been officially designated as such by the state under the provisions of 40 CFR 403.12 or authorized representatives or employees of the DWSD.

Control manhole shall mean a suitable manhole, together with such necessary meters, including where appropriate, adequate power source, and other appurtenances, to facilitate observation, sampling and measurement of wastewater to be constructed in accordance with plans approved by the county's engineering personnel.

County shall mean the County of Oakland, State of Michigan, or its authorized representative, the Detroit Water and Sewerage Department.

County agency shall mean the Oakland County Drain Commissioner or the Oakland County Department of Public Works.

Cooling water shall mean the noncontact water discharged from any use such as air conditioning, cooling, or refrigeration to which the only pollutant added is heat.

Critical materials shall mean the organic and inorganic substances, elements or compounds, listed in the register compiled by the Michigan Department of Environmental Quality.

Days shall mean, for purposes of computing a period of time prescribed or allowed by this article, consecutive calendar days.

Debt service charge shall mean charges levied to customers of the wastewater system which are used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the wastewater system. The debt service charge is separate and distinct and may be in addition to the "user charge" specified below.

Department means the City of Detroit Water and Sewerage Department, and authorized employees of the department.

Direct discharge shall mean the discharge of treated or untreated wastewater directly into the waters of the State of Michigan.

Director shall mean the director of the Detroit Department of Water and Sewerage or the director's designee.

Discharger means a person who, directly or indirectly, contributes, causes, or permits wastewater to be discharged into the POTW.

Domestic sewage means waste and wastewater from humans or household operations which is discharged to, or otherwise enters, a treatment works.

Domestic user shall mean a person who contributes, causes or permits wastewater to be discharged into the publicly owned treatment works from a place of domicile for one (1) or more persons, including, but not limited to, single-family houses, apartment buildings, condominiums, townhouses and mobile homes. It shall also mean churches, schools and government buildings.

Dwelling shall mean any structure designed for year-round habitation including, but not limited to houses, mobile homes, apartment buildings, condominiums and townhouses.

Environmental Protection Agency or *administrator* shall mean the United States Environmental Protection Agency or, where appropriate, the authorized representatives or employees of the EPA.

Facility means a location, which contributes causes or permits wastewater to be discharged into the POTW including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable.

Fats, oil or grease (FOG) shall mean any hydrocarbons, fatty acids, soaps, fats, waxes, oils, and other nonvolatile material of animal, vegetable, or mineral origin that is extractable by solvent in accordance with standard methods.

Flow proportional sample shall mean a composite sample taken with regard to the flow rate of the wastestream.

Footing drain shall mean a pipe or conduit which is placed around the perimeter of a building foundation and which intentionally admits groundwater.

Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods. It is composed of putrescible organic matter and its natural moisture content.

Properly shredded garbage shall mean the waste from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch (1.27 centimeters) in any dimension.

General specifications shall mean the current edition of standard material and construction requirements of the Oakland County Drain Commissioner.

Grab sample shall mean an individual sample collected over a period of time not exceeding fifteen (15) minutes which reasonably reflects the characteristics of the wastestream at the time of sampling.

Groundwater shall mean subsurface water occupying the saturation zone, from which wells and springs are fed.

Holding tank waste shall mean any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Incompatible pollutants shall mean any pollutant which is not a compatible pollutant.

Indirect discharge or *discharge* shall mean the discharge or the introduction of pollutants into the POTW from any nondomestic source, regulated under 33 U.S.C. § 1317(b), (c), or (d).

Industrial user shall mean a person who contributes, causes, or permits wastewater to be discharged into the publicly owned treatment works including, but not limited to, a place of business, endeavor, arts, trade, or commerce, whether public or private, commercial or charitable but excludes single-family and multifamily residential dwellings with discharges consistent with domestic waste characteristics.

Industrial waste shall mean any liquid, solid, or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business, trade, or research, including the development, recovery, or processing of natural resources.

Infiltration shall mean any waters entering the system 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.

Infiltration/inflow shall mean the total quantity of water from both infiltration and inflow.

Inflow shall mean any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, damaged sewer structures, cooling water discharges, seepage lines from springs and swampy areas, and storm drain cross connections.

Interference shall mean a discharge by a user which, alone or in conjunction with discharges by other sources, both, inhibits or disrupts the publicly owned treatment works, its treatment processes or operations, or its sludge processes, use or disposal; and therefore is a cause of a violation of any requirement of the publicly owned treatment works' NPDES permit (including an increase in the magnitude or duration of a violation) or the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, as amended being 33 U.S.C. § 1345, the Solid Waste Disposal Act (SWDA), as amended, (including the Resource Conservation and Recovery Act (RCRA), and state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.

Laboratory determination shall mean the measurements, tests, and analyses of the characteristics of waters and wastes in accordance with the methods contained in the latest edition at the time of any such measurement, test, or analysis of "Standard Methods for Examination of Water and Wastewater," a joint publication of the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation or in accordance with any other method prescribed by the rules and regulations promulgated pursuant to federal or state law.

Lateral line shall mean that portion of the sewer system located under the street or within the street right-of-way from the property line to the trunk line or interceptor and which collects sewage from a particular property for transfer to the trunk line or interceptor.

Local shall mean a prefix denoting jurisdiction by a sub-county governmental subdivision.

Manager shall mean the chief administrative officer of the City of Bloomfield Hills, or his authorized representatives or agents.

May means permissive.

Municipality shall mean any municipal corporation or political subdivision or any governmental agency which contracts with the County of Oakland for the transportation or treatment of wastewater.

National Categorical Pretreatment Standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 33 U.S.C. § 1317(b) and (c) which applies to a specific class or category of industrial users.

National Pollution Discharge Elimination System (NPDES) permit shall mean a permit issued pursuant to 33 U.S.C. § 1342.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

New source shall mean:

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under 33 U.S.C. § 1317(c) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided, that:

  (a) The building, structure, facility or installation is constructed at a site where no other source is located; 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; or

(2) Construction on a site where an existing source is located resulting in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (1)(b) or (1)(c) of this definition but otherwise alters, replaces, or adds to existing process or production equipment; or

(3) Construction of a new source has commenced where the owner or operator has:

  (a) Begun, or caused to begin as part of a continuous on-site construction program:

    (i) Any placement, assembly, or installation of facilities or equipment; or

(ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that are necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this section.

Normal domestic strength sewage or *normal domestic strength wastewater* shall mean a sewage or other wastewater effluent which shall be a compatible pollutant with BOD of two hundred seventy-five (275) milligrams per liter or less, suspended solids of three hundred fifty (350) milligrams per liter or less, total phosphorus of twelve (12) milligrams per liter or less, and fats, oil, and greases of one hundred (100) milligrams per liter or less.

Obstruction shall mean any object of whatever nature which substantially impedes the flow of sewage from the point of origination to the trunk line or interceptor. This shall include, but not be limited to, objects, sewage, tree roots, rocks and debris of any type.

Operation and maintenance (O&M) shall mean all work, materials, equipment, utilities and other effort required to operate and maintain the wastewater transportation and treatment system consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with NPDES permit and other applicable state and federal regulations, and includes the cost of replacement.

Owner shall mean the owners of record of the freehold of the premises or lesser estate therein, a mortgagor or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other firm or corporation in control of a building.

Pass through shall mean the discharge which exits the publicly owned treatment works into waters of the United States in quantities or concentrations which, alone or in conjunction with discharges from other sources, is a cause of violation of any requirement of the publicly owned treatment works' NPDES permit including an increase in the magnitude or duration of a violation.

Person shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, unit of government, school district or any other legal entity, legal representative, agent or assigns, or any combination thereof. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

pH means the intensity of the acid or base condition of a solution, calculated by taking the negative base ten (10) logarithm of the hydrogen ion activity. Activity is deemed to be equal to concentration in moles per liter.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, or industrial, municipal and agricultural waste which is discharged into water.

Pollution shall mean the introduction of any pollutant that alone, or in combination with any other substance can or does result in the degradation or impairment of the chemical, physical, biological or radiological integrity of water.

Pretreatment shall mean the reduction of the amount of pollutants, the removal of pollutants, the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the publicly owned treatment works. The reduction, removal or alteration may be attained by physical, chemical or logical processes, or process changes by other means, except as prohibited by federal, state or local law, rules and regulations.

Pretreatment requirements shall mean any substantive or procedural requirements related to pretreatment other than a national categorical pretreatment standard imposed on an industrial user. [See 40 C.F.R. § 403.3(r).]

Pretreatment standards means all National Categorical Pretreatment Standards, the general prohibitions specified in 40 C.F.R. § 403.5(a), the specific prohibitions delineated in 40 C.F.R. § 403.5(b), and the local or specific limits developed pursuant to 40 C.F.R. § 403.5(c), including the discharge prohibitions specified in section 21-142.

Private shall mean a prefix denoting jurisdiction by a nongovernmental entity.

Public shall mean a prefix denoting jurisdiction by any governmental subdivision or agency.

Public sewer shall mean a sewer of any type controlled by a governmental entity.

Publicly owned treatment works (POTW) means a treatment works as defined by 33 U.S.C. § 1292(2)(A) which is owned by a state or municipality, as defined in 33 U.S.C. § 1362, including:

(1) Any devices and systems used in the storage, treatment, recycling, or reclamation of municipal sewage or industrial waste of a liquid nature;

(2) Sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant; or

(3) The municipality, as defined in 33 U.S.C. § 1362, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Publicly owned treatment plant or *POTW treatment plant* shall mean that portion of the publicly owned treatment works designed to provide treatment to wastewater, including recycling and reclamation of wastewater.

Quantification level shall mean the measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring of the contaminant.

Record drawings shall mean engineering drawings prepared after installations of wastewater facilities which shall show a statement by a registered engineer or surveyor certifying this to be "record drawings" and shall include, but not be limited to, length of sewer, invert elevation, locations with respect to property lines, wye and riser locations and depths, sewer material and joints used, and mechanical, electrical, and structural details for pump stations, wastewater treatment facilities, and other appurtenances.

Replacement shall mean the replacement in whole or in part of any equipment, appurtenances and accessories in the wastewater transportation or treatment systems to insure continuous treatment of wastewater in accordance with the NPDES permit and other applicable state and federal regulations.

Representative sample shall mean any sample of wastewater, which accurately and precisely represents the actual quality, character, and condition of one (1) or more pollutants in the wastestream being sampled. Representative samples shall be collected and analyzed in accordance with 40 C.F.R. Part 136.

Sanitary sewer shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

Sanitary wastewater means the portion of wastewater that is not attributable to industrial activities and is similar to discharge from domestic sources including, but not limited to, discharges from sanitary facilities and discharges incident to the preparation of food for on-site noncommercial consumption.

Separate shall mean a prefix denoting a wastewater transmission facility or sewer which is intended to transport sanitary wastewater only.

Service area shall mean any area whose wastewater is received by a municipality or the County of Oakland for treatment by DWSD.

Sewage or *wastewater* shall mean spent water which may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions, or other land uses, including drainage water and groundwater inadvertently present in said waste.

Sewage treatment plant or *wastewater treatment plant* shall mean any arrangement of devices and structures used for treating sewage.

Sewer shall mean a pipe or conduit that carries wastewater or draining water. See the following definitions modifying sewer:

(1) *Building sewer.* In plumbing, the extension from the building drain to the public sewer or other place of disposal. Also called "house connection".

(2) *Combined sewer.* A sewer intending to receive both wastewater and storm or surface or drainage water.

(3) *Common sewer.* A sewer in which all owners of abutting properties have equal rights.

(4) *County sewer.* A public sewer controlled by the county agency.

(5) *Intercepting sewer.* A sewer that received dry-weather flow from a number of transverse sewers or outlets in frequently additional predetermined quantities of stormwater (if from a combined system) and conducts such waters to a point for treatment or disposal.

(6) *Lateral sewer.* A sewer which is designed to receive a building sewer.

(7) *Municipal sewer.* A public sewer exclusive of a county sewer or City of Detroit sewer.

(8) *Public sewer.* A common sewer controlled by a governmental agency or public utility.

(9) *Sanitary sewer.* A sewer that carries liquid and water-carried waste from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm, and surface waters and drainage water and are not admitted intentionally.

(10) *Storm sewer.* A sewer that carries stormwater and surface water, street wash and other wash waters, or drainage, but excludes domestic wastewater and industrial wastewater. Also called a "storm drain".

(11) *Trunk sewer* or *trunk line.* A sewer which connects the lateral sewer to the intercepting sewer and to which building sewers may be connected.

Sewer service charge shall mean the sum of the applicable user charge, surcharges and debt service charges.

Shall is mandatory.

Significant noncompliance means any violation which meets one (1) or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed by any magnitude the daily maximum limit or the average limit for the same parameter;

(2) Technical review criteria (TRC) violations, defined as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, Fats, Oil and Grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the department determines has caused, alone or in combination with other discharges, interference or pass through including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to human health or welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority;

(5) Failure to meet a compliance schedule milestone contained in a local control mechanism, or enforcement order for starting construction, completing construction, or attaining final compliance within ninety (90) days after the scheduled date;

(6) Failure to provide required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within thirty (30) days after the due date;

(7) Failure to accurately report noncompliance; or

(8)

Any other violation or group of violations which the department determines will adversely affect the operation or implementation of the local pretreatment program.

Significant industrial users shall mean:

(1) Any industrial user of the POTW who has a discharge flow of twenty-five thousand (25,000) gallons per day or more of process wastewater excluding sanitary, boiler blowdown, and noncontact cooling water; or

(2) Has discharges subject to the National Categorical Pretreatment Standards; or

(3) Requires pretreatment to comply with the specific pollutant limitations of this article; or

(4) Has, in its discharge, toxic pollutants as defined pursuant to 33 U.S.C. § 1317, or other applicable federal and state laws and regulations which are in concentrations and volumes that are subject to regulation under this article, as determined by the department; or

(5) Is required to obtain a permit for the treatment, storage, or disposal of hazardous waste pursuant to regulations adopted by this state or adopted under the Federal Solid Waste Disposal Act, as amended, by the Federal Resource Conservation and Recovery Act and any amendments thereto and who may or does contribute or allow waste or wastewater into the POTW including, but not limited to, leachate or runoff; or

(6) Is found by the City of Detroit or the city to have a reasonable potential for adverse effect, either singly or in combination with other contributing industries, on the POTW operation, the quality of sludge, the POTW's effluent quality, or air emissions generated by the POTW.

Slug means any discharge of a nonroutine episodic nature including, but not limited to, an accidental spill or a noncustomary batch discharge.

Standard Industrial Classification (SIC) shall refer to a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended.

Standard methods means methods set forth in 40 C.F.R. Part 136, "Guidelines for Establishing Test Procedures for Analysis of Pollutants" or the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation, or methods set forth in 40 C.F.R. 136, "Guidelines for Establishing Test Procedures for Analysis of Pollutants." Where these two (2) references are in disagreement regarding procedures for the analysis of a specific pollutant, the methods given in 40 C.F.R. Part 136 shall be followed.

State shall mean the State of Michigan.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Surface water shall mean:

(1) All water on the surface as distinguished from groundwater or subterranean water.

(2) Water appearing on the surface in a diffused state, with no permanent source of supply or regular course for any considerable time, as distinguished from water appearing in watercourses, lakes, or ponds.

Surcharge shall mean an additional charge which may be imposed to cover the cost of treatment of excess strength wastewater discharged by any customer.

Suspended solids (total) shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtration or as measured by standard methods.

Total equivalent master metered water consumption shall mean the equivalent to the total amount of potable water used by a municipality as recorded by a master water meter for sewered premises, and shall include, but not be limited to, fire protection water, gardening and lawn water.

Total PCB means the sum of the individual analytical results for each of the PCB aroclors 1016, 1221, 1232, 1242, 1248, 1254, and 1260 during any single sampling event with any aroclor result less than the quantification level being treated as zero.

Total phenolic compounds means the sum of the individual analytical results for each of the phenolic compounds of 2-chlorophenol, 4-chlorophenol, 4-chloro-3-methylphenol, 2,4-dichlorophenol, 2,4-dinitrophenol, 4-methylphenol, 4-nitrophenol, and phenol during any single sampling event expressed in mg/1.

Toxic pollutant shall mean any pollutant or combination of pollutants designated as toxic in regulations promulgated by the Administrator of the United States Environmental Protection Agency under the Clean Water Act, 33 U.S.C. § 1317, or included in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or other federal or state laws, rules or regulations.

Trade secret means the whole, or any portion or phase, of any proprietary manufacturing process or method, not patented, which is secret, is useful in compounding an article of trade having a commercial value, and whose secrecy the owner has taken reasonable measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes but excludes any information regarding the quantum or character of waste products or their constituents discharged or sought to be discharged into the Detroit wastewater treatment plant, or into the wastewater system tributary thereto.

Uncontaminated industrial waste or *unpolluted industrial process water* shall mean industrial process water or cooling water which has not come into contact with any substance used in or incidental to industrial processing operations and to which no chemical or other substance has been added and which is completely compatible with applicable stream standards, excepting thermal limitations.

Upset shall mean an exceptional incident in which there is an unintentional and temporary noncompliance with limits imposed under this article or with national categorical pretreatment standards due to factors beyond the reasonable control of the industrial user, but excludes noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

User shall mean any person who, directly or indirectly, contributes, causes or permits the discharge of wastewater into the publicly owned treatment works as defined herein.

User charge shall mean a charge levied on users of a treatment works for the cost of operation and maintenance of sewerage works pursuant to Section 204(b) of P.L. 92-500 and includes the cost of replacement.

Wastewater or *wastestream* shall mean the liquid and water-carried industrial or domestic wastes of dwellings, commercial buildings, industrial facilities and institutions, whether treated or untreated, which are contributed to or permitted to enter the publicly owned treatment works including infiltration and inflow waters, stormwater, and cooling water.

Wastewater facilities shall mean the structures, equipment and processes required to collect, carry away, and treat domestic and industrial waste, and dispose of the effluent.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Waters of the state means groundwater, lakes, rivers, streams, all other watercourses and waters within the confines of this state as well as bordering this state in the form of the Great Lakes.

Wastewater discharge permits shall mean permits issued by the department in accordance with section 21-142 of this article.

(Ord. No. 227, § 1, 9-12-89; Ord. No. 369, § 3, 5-13-08)

Sec. 21-139. - Abbreviations.

For purposes of this article, the following acronyms shall have the meanings designated by this section:

(1) BMR—Baseline monitoring report
(2) BOD—Biochemical Oxygen Demand
(3) CFR—Code of Federal Regulations
(4) COD—Chemical Oxygen Demand
(5) DWSD—Detroit Water and Sewerage Department
(6) EPA—Environmental Protection Agency
(7) FOG—Fats, Oil or Grease
(8) l—Liter
(9) MDEQ—Michigan Department of Environmental Quality
(10) mg—Milligrams
(11) mg/l—Milligrams per Liter
(12) NPDES—National Pollutant Discharge Elimination System
(13) P—Phosphorus
(14) POTW—Publicly Owned Treatment Works
(15) RCRA—Resource Conservation and Recovery Act
(16) SIC—Standard Industrial Classification
(17) SWDA—Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq.
(18) O&M—Operation and Maintenance
(19) TSS—Total Suspended Solid
(20) USC—United States Code
(21) CWA—Clean Water Act.

(Ord. No. 227, § 1, 9-12-89; Ord. No. 369, § 4, 5-13-08)

Sec. 21-140. - General regulations of Oakland County department of public works, county of Oakland, sewage disposal systems.

(a) *[Compliance required.]* All sanitary sewer systems connected directly or indirectly into the intercepting sewer or sewers of the Oakland County department of public works shall meet the requirements set forth in this section.

(b) *Plans, permits and bonds.*

(1) Prior to connection and prior to start of construction, all sanitary sewer systems shall have engineering plans and specifications prepared by a professional engineer and shall be approved by the Oakland County department of public works.

(2) A connection permit shall be obtained by the owner or contractor from the Oakland County department of public works. Said connection permit shall show the location of the work, the extent of the work, information regarding the contractor, the owner and the engineer, and any other pertinent information as shall be determined necessary by the department of public works. A fee shall be charged for said permit to cover the cost of inspection of each connection, and to verify the result of the acceptance test. The permit fee shall be one hundred fifty dollars ($150.00) for each connection plus fifteen dollars ($15.00) for each new manhole constructed.

Inspections requested during other than normal working hours shall be performed only if deemed necessary by the Oakland County department of public works. The fee for such inspection shall be two hundred fifty dollars ($250.00) per day minimum, in addition to the normal connection permit fee.

(3) Individual building sewers which are directly connected into the county sanitary sewer system shall conform to all applicable requirements of this article. A connection permit, for which a charge of fifty dollars ($50.00) will be made by the Oakland County department of public works, shall be obtained from the department of public works before such connection is made. Prior to the issuance of such connection permit, the person obtaining such permit shall have obtained the written approval of the local unit of government. Connection shall be made in a workmanlike manner and in accordance with methods and procedures established by the department of public works.

The party to whom such a permit is issued shall be responsible for notifying the department of public works twenty-four (24) hours in advance of the date and time when such a connection is made so that proper inspection of same can be made by the department.

(4) Prior to the adjustment, reconstruction, relocation or any other altering of the sewers of the County of Oakland, including manhole structures, the contractor or the person responsible for the work shall first obtain a permit to do such work from the Oakland County department of public works. The permit fee shall be determined by the department of public works.

(5) Prior to construction and during the life of permits obtained in accordance with paragraphs (b)(2), (b)(3) and (b)(4) of this section, all owners or contractors shall: (1) yearly furnish to the Oakland County department of public works a satisfactory surety bond in the amount of five thousand dollars ($5,000.00) as security for the faithful performance of the work in accordance with the plans and specifications and departmental standards, and (2) yearly furnish to the Oakland County department of public works a cash deposit in the amount of five hundred dollars ($500.00). Such deposit shall provide funds for emergency work and/or such other work as may be deemed necessary by the Oakland County department of public works, arising as a result of construction by the owner or contractor. Such bonds shall not be cancelled by the owner, the contractor or the surety without first having given ten (10) days' written notice to the Oakland County department of public works. Cash deposits may be returned to the owner or contractor within ten (10) days of receipt of written request therefor, except that no deposits will be returned until such time as all outstanding permits have received final inspection and approval. In the event that it becomes necessary for the Oakland County department of public works to expend funds for work arising as a result of construction by the owner or the contractor, then the cost of such work shall be deducted from the aforementioned cash deposit.

The owner or contractor shall have the right and opportunity to correct any deficiencies promptly before any deposit funds will be spent by the Oakland County department of public works. The owner or contractor shall, within thirty (30) days of the mailing of written notice thereof, pay to the Oakland County department of public works the entire amount of such cost. Failure to comply with these rules and regulations and the standards of the Oakland County department of public works may result in the immediate termination of the surety and cash bonds.

(6) Removal of stormwater and groundwater from sanitary sewers connected directly or indirectly to the county system.

a. No discharge of stormwater into sewers. All buildings and lands located in the city shall not be permitted to discharge stormwater and groundwater into any sanitary sewer connected directly or indirectly to the county system except as provided under this section.

b. Area classifications. For purposes of enforcement of this section, all property located in the city shall be assigned to one (1) of three (3) stormwater service area classifications based on the discharge outlet of the sanitary sewers located within three (3) defined areas of the city: Storm Water Service Area A (hereinafter SW-A), also known as the Bloomfield Hills CSO service area (consisting of approximately eighty-six (86) acres); Storm Water Service Area B (hereinafter SW-B), also known as the Bloomfield Village CSO service area (consisting of approximately one hundred twenty-three (123) acres); and Storm Water Service Area C (hereinafter SW-C) consisting of all other property within the city (approximately two thousand nine hundred ninety-one (2,991) acres) not located within the Bloomfield Hills CSO service area (SW-A) and the Bloomfield Village CSO service area (SW-B). A map defining the geographic boundaries of these three (3) stormwater service areas is incorporated as a part of this section and will remain on file in the office of the city clerk.

c. Service Area A (SW-A). All buildings and lands located within Service Area A (SW-A) shall not be permitted to discharge stormwater and groundwater from yard drains, patio drains, catchbasins, downspouts from roof areas, or any other excessive surface or groundwater flows into any sanitary sewer connected directly or indirectly to the county system after December 31, 1996. Perimeter and footing drains that serve buildings located within the Service Area A (SW-A) that were existing on or before December 16, 1968, and that were legally permitted and connected to a combined sewer system prior to December 16, 1968, shall not be required to disconnect such existing perimeter and footing drains from the sanitary sewer system. The removal of the designated storm and groundwater discharges from sanitary sewers connected to the county system within Service Area A (SW-A) is required by NPDES Permit No. MI 0052461, which was issued to the city by the Michigan Water Resources Commission in compliance with the provisions of the Federal Water Pollution Control Act. The above described disconnection of the existing storm and groundwater discharges from buildings and lands within Service Area A (SW-A) shall be performed in compliance with the provisions of subsection (6)f., below.

d. Service Area B (SW-B). All buildings and lands located within Service Area B (SW-B) shall not be permitted to discharge excessive surface or groundwater flows into any sanitary sewer connected directly or indirectly to the county system after December 31, 2000. Perimeter and footing drains that serve buildings located within Service Area B (SW-B) that were existing on or before December 16, 1968, and that were legally permitted and connected to a combined sewer system prior to December 16, 1968, shall not be required to disconnect from the sanitary sewer system. The removal of excessive surface or groundwater flows from sanitary sewers connected to the county system within this service area is required by the provisions of NPDES Permit No. MI 0048046, which was issued to the city by the Michigan Water Resources Commission in compliance with the provisions of the Federal Water Pollution Control Act. The disconnection of any excessive surface or groundwater flows from buildings and lands within Service Area B (SW-B) shall be performed in compliance with the provisions of subsection (6)g., below.

e. Service Area C (SW-C). All buildings and lands located within Service Area C (SW-C) shall not be permitted to discharge excessive surface or groundwater flows into any sanitary sewer connected directly or indirectly to the county system after December 31, 2000. Perimeter and footing drains that serve buildings located within Service Area C (SW-C) that were existing on or before December 16, 1968, and that were legally permitted and connected to a sanitary sewer system prior to December 16, 1968, shall not be required to disconnect from the sanitary sewer system. The disconnection of any excessive surface or groundwater flows from buildings and lands within Service Area C (SW-C) shall be performed in compliance with the provisions of subsection (6)g., below.

f. Area A disconnection. The disconnection of any excessive surface or groundwater flows into any sanitary sewer connected directly or indirectly to the county system from buildings and lands within Service Area A (SW-A) shall be performed in the following manner:

1. *Notice to property owner.* The city clerk shall notify by certified mail, on or before January 1, 1996, each property owner of buildings or land within Service Area A (SW-A) of the adoption of this ordinance. The city clerk shall also provide to each property owner, as a part of the notification, a survey form which shall describe the information necessary for the city to comply with the requirements of the NPDES permit. A copy of the survey form is incorporated as a part of this section and on file in the office of the city clerk.
2. *Information to be provided.* Each property owner of buildings or land within Service Area A (SW-A) shall provide all the information requested by the survey form and return it to the city clerk on or before thirty (30) days from the date of mailing of the notification.
3. *City determination of changes.* The city after receipt of the completed survey form, shall determine the nature and extent of the physical changes or modifications that need to be performed on any buildings or land of each property owner in order to comply with the requirements of the NPDES permit.
4. *Requirement to obtain permit.* Each owner of buildings or land shall, after notification of the city determination of the changes necessary to be made has been provided in writing to the property owner, be required to obtain a building permit to construct the physical changes or modifications necessary to bring the property into compliance with the requirements of the NPDES permit.
5. *Requirement to construct.* After issuance of a building permit or permits by the city, each owner of buildings or land shall modify or construct the necessary structures to remove all excessive surface or groundwater flows into any sanitary sewer connected directly or indirectly to the county system.
6. *Required completion date.* All work to accomplish the removal of all excessive surface or groundwater flows into any sanitary sewer shall be completed on or before December 31, 1996.
7. *Responsibility for cost.* The cost of modification, construction and removal of all necessary structures to remove all excessive surface or groundwater flows shall be paid by the owner of the buildings or land where the work is required.

g. Areas B and C disconnection. The disconnection of any excessive surface or groundwater flows into any sanitary sewer connected directly or indirectly to the county system from buildings and lands within Service Areas B (SW-B) and C (SW-C) shall be performed in the following manner:

1. *City to monitor flows.* The city shall monitor the sanitary flows delivered to the county system to identify the existence of any excessive surface or groundwater flows from the sanitary sewers within Service Areas B (SW-B) and C (SW-C).
2. *Notice to property owner.* If the presence of any excessive surface or groundwater flows is discovered, the city shall identify the owners of buildings or lands which are the source of such excessive flows. Within sixty (60) days thereafter the city clerk shall notify by certified mail, each such property owner of buildings or land of the existence of such excessive surface or groundwater flows. In the notice the city shall advise each property owner in writing of any necessary work which must be performed on any buildings or land in order to comply with the requirements of this section.
3. *Requirement to obtain permit.* Each owner of buildings or land shall, after notification of the city determination of the changes necessary to be made has been provided in writing to the property owner, be required to obtain a building permit to construct the physical changes or modifications necessary to bring the property into compliance with the requirements of this section.
4. *Requirement to construct.* Each owner of buildings or land, after issuance of a permit by the city, shall modify or construct the necessary structures to remove all excessive surface or groundwater flows into any sanitary sewer connected directly or indirectly to the county system.
5. *Required completion date.* All work to accomplish the removal of all excessive surface or groundwater flows into any sanitary sewer shall be completed on or before one hundred eighty (180) days from the issuance of a permit for the structures or modifications to existing structures necessary in order to comply with the requirements of this section.
6. *Responsibility for cost.* The cost of modification, construction and removal of all necessary structures to remove all excessive surface or groundwater flows shall be paid by the owner of the buildings or land where the work is required.

(c) *Bulkhead.* The contractor shall install a suitable bulkhead to prevent construction water, sand, silt, etc., from entering the existing sewer system. Such bulkhead shall be left in place until such time as removal is authorized by the Oakland County department of public works.

(d) *Acceptance test.* All sanitary sewers shall be subject to infiltration, air, or exfiltration tests or a combination thereof in accordance with the following requirements prior to acceptance of the system by the Oakland County department of public works and prior to removal of the bulkhead as required in paragraph (c). All final acceptance tests shall be witnessed by the Oakland County department of public works.

(1) *Infiltration test.* All sewers over twenty-four (24) inch diameter shall be subject to infiltration tests. All sewers of twenty-four (24) inch diameter or smaller where the groundwater level above the top of the sewer is over seven (7) feet shall be subjected to an infiltration test.

Maximum allowable infiltration shall not exceed two hundred fifty (250) gallons per inch of diameter per mile of pipe per twenty-four (24) hours for the overall project. Maximum allowable infiltration shall not exceed five hundred (500) gallons per inch of diameter per mile of pipe per twenty-four (24) hours for any individual run between manholes.

(2) *Air test* or *exfiltration test.* All sewers of twenty-four (24) inch diameter or less, where the groundwater level above the top of the sewer is seven (7) feet or less, shall be subjected to air tests or exfiltration tests.

For exfiltration tests, the internal water level shall be equal to the external water level plus seven (7) feet as measured from the top of pipe. The allowable exfiltration rate shall be the same as that permitted from infiltration.

The procedure for air testing of sewers shall be as follows: The sewer line shall be tested in increments between manholes. The line shall be cleaned and plugged at each manhole. Such plugs shall be designed to hold against the test pressure and shall provide an airtight seal. One (1) of the plugs shall have an orifice through which air can be introduced into the sewer. An air supply line shall be connected to the orifice. The air supply line shall be fitted with suitable control valves and a pressure gauge for continually measuring the air pressure in the sewer. The pressure gauge shall have a minimum diameter of three and one-half (3½) inches and a range of 0—10 PSIG. The gauge shall have minimum divisions of 0.10 PSIG and an accuracy of 0.04 PSIG.

The sewer shall be pressurized to 4 PSIG greater than the greatest back pressure caused by groundwater over the top of the sewer pipe. At least two (2) minutes shall be allowed for the air pressure to stabilize between 3.5 and 4 PSIG. If necessary, air shall be added to the sewer to maintain a pressure of 3.5 PSIG or greater.

After the stabilization period, the sir supply control valve shall be closed so that no more air will enter the sewer. The sewer air pressure shall be noted and timing for the test begun. The test shall not begin if the air pressure is less than 3.5 PSIG, or such other pressure as is necessary to compensate for groundwater level.

The time required for the air pressure to decrease 1.0 PSIG during the test shall not be less than the time shown in the "Oakland County Department of Public Works Air Test Tables."

Manholes on sewers to be subjected to air tests shall be equipped with a one-half (½) inch diameter galvanized capped pipe nipple extending through the manhole, three (3) inches into the manhole wall and at an elevation equal to the top of the sewer pipe. Prior to the air test, the groundwater elevation shall be determined by blowing air through the pipe nipple to clear it and then connecting a clear plastic tube to the pipe nipple. The tube shall be suspended vertically in the manhole and the groundwater elevation determined by observing the water level in the tube. The air test pressure shall be adjusted to compensate for the maximum groundwater level above the top of the sewer pipe to be tested. After all tests are performed and the sewer is ready for final acceptance, the pipe nipple shall be plugged in an acceptable manner.

If a sewer fails to pass any of the previously described tests, the contractor shall determine the location of the leaks, repair them and retest the sewer. The tests shall be repeated until satisfactory results are obtained. All visible leaks and cracks shall be repaired regardless of test results.

(e) *Storm and groundwater control.*

(1) Yard drains, patio drains, catchbasins, downspouts from roof areas, weep tile, perimeter and footing drains or any other structure used for the collection and conveyance of stormwater and/or groundwater shall not be permitted to discharge into any sanitary sewer connected directly or indirectly to the county system, except as provided under subsection 21-40(b)(1) through (5) inclusive.

(2) Perimeter and footing drains from buildings existing on or before December 16, 1968, that were legally permitted and connected to a sanitary sewer system prior to December 16, 1968, shall not be required to disconnect from a sanitary sewer system, except as provided under subsection 21-40(b)(1) through (5) inclusive.

(3) The crock to iron joint shall be sealed by approved flexible adaptor fittings such as those manufactured by Fernco Joint Sealer Company, or as provided by the Oakland County department of public works. The iron pipe inside the building shall be plugged and leaded and remain plugged and watertight until such time as the plumbing is carried on to the first floor, the basement backfilled and the roof is on the building, thereby providing that no water from the excavated basement will enter the sanitary sewer.

(f) *Building sewers.* House connection sewer from lateral sewer in street or easement to within five (5) feet from house shall be:

(1) Six (6) inch diameter extra strength vitrified sewer pipe, manufactured in accordance with current NCPI designation ER 4-67 standards, or equal, with DPW approved premium joint, or

(2) Six (6) inch diameter Class 2400 asbestos cement pipe with ring-tite, fluid-tite or DPW approved joint, or

(3) Six (6) inch diameter, service strength, cast iron soil pipe with hot poured lead joint, or DPW approved equal, or

(4) Six (6) inch diameter extra strength (ES) solid wall pipe extruded from acrylonitrile-butadiene-styrene (ABS) plastic meeting the minimum cell classification 2-2-3 as defined in ASTM specification D1788-68, [or]

(5) Other pipe and joints as may be approved by the Oakland County department of public works.

Copies of the Oakland County department of public works approved joint shall be on file at the offices of each community in the systems.

House connection sewers shall be six (6) inch minimum diameter, except that four (4) inch pipe of comparable strength and joint material may be used if permitted by the local unit of government. All joints shall be tight and when tested for infiltration, or exfiltration, shall not exceed the requirements of paragraph (d) of this section.

(g) *Septic tank abandonment and waste disposal.*

(1) Prior to connecting an individual building sewer to the sewers of the County of Oakland, either directly or indirectly, all existing wastewater treatment facilities, including septic tanks, tile fields, and sump pumps shall be physically and permanently disconnected from the building sewer.

(2) Septic tank sludge shall be discharged into the sewers of the county, directly or indirectly, only at locations specified by the Oakland County department of public works, and only after obtaining proper septic tank dumping tickets.

(3) The liquid and solids from an abandoned septic tank shall not be drained, dewatered, pumped or in any other manner discharged to the sewers of the county, except as provided for above.

(h) *Ownership, operations and maintenance responsibility.* All new sanitary sewer systems, except individual sewers, connected directly or indirectly into the intercepting sewer or sewers of the County of Oakland shall be owned, operated and maintained by the governing community. This includes, but is not necessarily limited to, on-site sewer systems serving condominiums, apartment projects, shopping centers and mobile home parks.

(i) *Manholes.*

(1) All manholes constructed on sanitary sewer systems shall be provided with lid frames bolted to the cone section of the manhole with rubber O-ring gaskets compressed between the frame and the top of the cone in accordance with the current "Standard Manhole Detail" of the Oakland County department of public works.

Adjustments to manhole tops shall be accomplished by using precast concrete adjustment rings bolted to the cone section of the manhole with rubber O-ring gaskets compressed between each adjacent ring.

Mortar and brickwork adjustment at the top of manholes will not be allowed. All manhole riser and cone sections shall have modified groove tongue joint with rubber gasket.

The bolted frame, bolts, adjustment rings and O-ring gaskets shall be in accordance with the standards of the Oakland County department of public works.

Although not recommended, and only under certain circumstances, consideration will be given to the burying of manholes in lieu of providing bolted covers and only upon written request to the Oakland County department of public works.

(j) *As-built plans.* Prior to acceptance of any sewer system and prior to the removal of the bulkhead as required in paragraph (c) (except under extenuating circumstances as may be approved by the director), as-built plans shall show a statement by a registered engineer or surveyor certifying this to be "as-built plans" and shall include, but not be limited to, length of sewer, invert elevation, locations with respect to property lines, wye and riser locations and depths, and sewer material and joints used.

(k) All combined sewer systems connected directly or indirectly to the intercepting sewer or sewers of the County of Oakland shall meet the following requirements:

(1) Paragraphs (b), (c), (f), (g), (h), (i) and (j) of this section are required for sanitary sewer system connecting to the interceptor sewers of the County of Oakland as hereinabove mentioned.

(2) Prior to acceptance of the system and prior to removal of the bulkhead as required under paragraph (c) of this section, all combined sewer systems shall be subjected to an infiltration test in accordance with the infiltration requirements of the Oakland County department of public works as outlined in paragraph (d) of this section. Said test shall be witnessed by the Oakland County department of public works.

(3) Downspouts and footing drain tile may be connected to a combined sewer if permitted by the local unit of government.

(4) No requirements of the Oakland County department of public works, or permits issued hereunder by said department, shall relieve the property owner of complying with all the rules and regulations of the local unit of government wherein such property is located, when such rules and regulations are not in conflict with the requirements of the department of public works.

(5) All sewer construction shall comply with the "General Specifications" of the Oakland County department of public works. Copies of said specifications may be obtained from the office of the department of public works.

(6) Construction of new combined sewer systems shall be prohibited except when no prudent or feasible alternative exists.

(Ord. No. 227, § 1, 9-12-89; Ord. No. 289, §§ 1, 2, 8-13-96)

Sec. 21-141. - General regulations of Oakland County drain commissioner sewage disposal system.

(a) *[Applicability.]* This section sets forth the procedures and regulations governing the granting of permits to connect into the Twelve Towns relief drains directly and to all other county drains that are tributary directly or indirectly to the facilities under the jurisdiction of the Southeastern Oakland County sewage disposal system.

(b) *General.*

(1) Each municipality is requested to furnish an up-to-date plan of its sewerage system. Plan should include the location, size and direction of flow in all existing sewers. Sewers should be identified as separated or combined. Pumping stations, flow regulation and diversion structure should be shown.

(2) Plans for laterals shall be submitted in the name of the municipality by the municipal officials or a firm of consulting engineers officially authorized to do so. Generally, this authority will be vested in the city engineer or a single firm of consulting engineers retained as the city engineer. All plans submitted to this office shall bear the signature of the above designated official.

(3) A letter requesting the approval of plans by the Oakland County drain commissioner's office and the Water Quality Division of the Michigan Department of Natural Resources (formerly known as the Michigan Health Department) shall be addressed to the Oakland County drain commission and be accompanied by a minimum of five (5) sets of plans. Upon approval of the plans, the drain commissioner's office will retain one (1) set and forward the remaining sets to the Michigan Department of Natural Resources along with a letter requesting their approval. Copies of this letter will be sent to the applicant municipality and the consulting engineer. The Michigan Department of Natural Resources, upon their approval of the plans, will return at least three (3) sets of approved plans bearing the construction permit number to the applicant municipality. The applicant municipality will keep one (1) set, send one (1) set to the Oakland County drain commissioner and send one (1) set to the consulting engineer. In the event that the applicant municipality or consulting engineer requires an extra set of approved plans, additional sets shall be included with the initial request for approval.

(4) Plan detail: Plans submitted to this office for review must meet the following requirements:

a. General location plan which shows the relationship to existing sewerage facilities, including outlet sewer interceptors, pumping stations, etc.

b. Detail plan and profile drawings along with criteria of hydraulic design (storm frequency, line capacity, line velocities, tributary areas, etc.)

c. Material and construction standards, regular and special.

d. Desirable scale and size for plan and profile drawings are:

1. Horizontal scale: 1" = 100′, 1" = 50′
2. Vertical scale: 1" = 10′, 1" = 5′
3. Plan size: 24" × 36"

(c) *Regulations governing connections in combined sewer areas (including Twelve Towns relief drains and county combined drains tributary thereto).*

(1) A connection permit must be obtained prior to connection from the Oakland County Drain Commissioner's Office, One Public Works Drive, Pontiac, Michigan 48054 (858-0958). A legal description of the property to be served by the connection is required.

(2) The fee as determined by the drain commissioner for connection permits shall be one hundred fifty dollars ($150.00) which is to cover the cost of the inspection of the tap.

(3) The connection to the county drain will be made under the supervision of an inspector from the drain commissioner's office in accordance with the approved plans of said inspection.

(4) A minimum of twenty-four (24) hours' notice (excluding Saturday, Sunday, and holidays) must be given prior to tap to enable this office to arrange for inspection.

(5) Requests for inspection shall be directed to the technician charged with the responsibility of permit issuance (858-0978).

(6) All lines connected to county drains shall be clean (free from silt, dirt, debris, etc.).

(7) Yard drains, catchbasins, downspouts, weep tile, perimeter drains or other structures used for the collection and conveyance of stormwater will be permitted to outlet into the county combined drains, provided said properties lie within said combined drainage district.

(8) The contractor, during the construction of a lateral, shall install a suitable bulkhead to prevent sand, silt, dirt or other debris from entering the county drain. Upon work completion and removal of any debris that may have collected, the contractor shall contact the inspection office for permission to remove the bulkhead.

(9) A connection from any industrial plant or facility using chemical processes shall be provided with a readily available sampling point (manhole or equivalent).

(10) All wastes discharged into county drains shall meet the standards as specified in the current Detroit ordinance governing domestic and industrial wastes.

(d) *Regulations to prevent the discharge of storm and groundwater into the southeastern system from those areas lying outside the designated combined sewer area.*

(1) All sanitary sewer systems [6] (lying in these areas of the S.O.C.S.D.S. district, designated as separated) to be connected directly or indirectly into the intercepting sewer or sewers of the S.O.C.S.D.S. prior to connection shall meet the following requirements:

a.

A connection permit shall be obtained by the owner or contractor from the Oakland County drain commissioner's office. Said connection permit shall show the location of the work, the extent of the work, information regarding the contractor, the owner and the engineer, the scheduled date of infiltration test and any other pertinent information as shall be determined necessary by the Oakland County drain commissioner. A fee shall be charged for said permit to cover the cost of inspection of the connection and system connected.

b. All sewer systems shall be subjected to infiltration, air or exfiltration tests or a combination thereof in accordance with the following requirements prior to acceptance of the system by the Oakland County drain commissioner's office.

Infiltration test. All sewers over twenty-four (24) inch diameter shall be subjected to infiltration tests. All sewers of twenty-four (24) inch diameter or smaller where the groundwater level above the top of the sewer is over seven (7) feet shall be subjected to an infiltration test.

Maximum allowable infiltration shall not exceed two hundred fifty (250) gallons per inch of diameter per mile of pipe per twenty-four (24) hours for the overall project. Maximum allowable infiltration shall not exceed five hundred (500) gallons per inch of diameter per mile of pipe per twenty-four (24) hours for any individual run between manholes.

Air test or exfiltration test. All sewers of twenty-four (24) inch diameter or less, where the groundwater level above the top of the sewer is seven (7) feet or less, shall be subjected to air tests or exfiltration tests.

For exfiltration tests the internal water level shall be equal to the external water level plus seven (7) feet as measured from the top of pipe. The allowable exfiltration rate shall be the same as that permitted from infiltration.

The procedure for air testing of sewers shall be as follows: The sewer line shall be tested in increments between manholes. The line shall be cleaned and plugged at each manhole. Such plugs shall be designed to hold against the test pressure and shall provide an airtight seal. One (1) of the plugs shall have an orifice through which air can be introduced into the sewer. An air supply line shall be connected to the orifice. The air supply line shall be fitted with suitable control valves and a pressure gauge for continually measuring the air pressure in the sewer. The pressure gauge shall have a minimum diameter of three and one-half (3½) inches and a range of 0—10 PSIG. The gauge shall have minimum divisions of 0.10 PSIG and an accuracy of 0.04 PSIG.

The sewer shall be pressurized to 4 PSIG greater than the greatest back pressure caused by groundwater over the top of the sewer pipe. At least two (2) minutes shall be allowed for the air pressure to stabilize between 3.5 and 4 PSIG. If necessary, air shall be added to the sewer to maintain a pressure of 3.5 PSIG or greater.

After the stabilization period, the air supply control valve shall be closed so that no more air will enter the sewer. The sewer air pressure shall be noted and timing for the test begun. The test shall not begin if the air pressure is less than 3.5 PSIG, or such other pressure as is necessary to compensate for groundwater level.

The time required for the air pressure to decrease 1.0 PSIG during the test shall not be less than the time shown in the "Oakland County Drain Commissioner's Air Test Tables."

Manholes on sewers to be subjected to air tests shall be equipped with a one-half (½) inch diameter galvanized capped pipe nipple extending through the manhole, three (3) inches into the manhole wall and at an elevation equal to the top of the sewer pipe. Prior to the air test, the groundwater elevation shall be determined by blowing air through the pipe nipple to clear it and then connecting a clear plastic tube to the pipe nipple. The tube shall be suspended vertically in the manhole and the groundwater elevation determined by observing the water level in the tube. The air test pressure shall be adjusted to compensate for the maximum groundwater level above the top of the sewer pipe to be tested. After all tests are performed and the sewer is ready for final acceptance, the pipe nipple shall be plugged in an acceptable manner.

If a sewer fails to pass any of the previously described tests, the contractor shall determine the location of the leaks, repair them and retest the sewer. The tests shall be repeated until satisfactory results are obtained.

All visible leaks and cracks shall be repaired regardless of test results.

(2) Storm and groundwater control:

a. Yard drains, patio drains, catchbasins, downspouts, weep tile, perimeter and footing drains or any other structure used for the collection and conveyance of stormwater and/or groundwater shall not be permitted to discharge into any sanitary sewer connected directly or indirectly to the county system, except as provided below.

b. Perimeter and footing drains from buildings existing before July 23, 1981, shall not be required to disconnect from the sanitary sewer system, provided that federal, state or local law or regulation does not require, or may not require subsequent to the adoption of these standards and regulations, the disconnection of such perimeter and footing drains.

c. The crock to iron joint shall be sealed by approved flexible adaptor fittings such as those manufactured by Fernco Joint Sealer Company, or as approved by the Oakland County drain commissioner's office. The iron pipe inside the building shall be plugged and leaded and remain plugged and watertight until such time as the plumbing is carried on to the first floor, the basement backfilled and the roof is on the building, thereby providing that no water from the excavated basement will enter the sanitary sewer.

(3) Building sewers. House connection sewer from lateral sewer in the street or easement five (5) feet from house shall be:

a. Six (6) inch diameter extra strength vitrified sewer pipe, manufactured in accordance with current NCPI designation ER 4-67 standards, or equal, with drain commissioner approved premium joint, or

b. Six (6) inch diameter ABS plastic solid wall sewer pipe conforming to ASTM designation D-2751 SDR 35 or 23.5, or

c. Six (6) inch diameter PVC plastic solid wall sewer pipe conforming to ASTM designation ASTM D-3034 SDR 35 or ASTM D-2665 schedule 40.

d. Other pipes and joints as may be approved by the Oakland County drain commissioner.

House connection sewers should be six (6) inch minimum diameter; however, four (4) inch pipe of comparable strength and joint material may be used if permitted by the local unit of government. All joints shall be tight and when tested for infiltration, shall not exceed five hundred (500) U.S. gallons per inch of diameter, per mile, per twenty-four (24) hours.

The crock to iron joint shall be sealed by an approved bituminous filler, enclosed in concrete to provide a watertight seal. The iron pipe inside the building shall be plugged and leaded and remained plugged and watertight until such time as the plumbing is carried on to the first floor, thereby providing that no water from the excavated basement will enter the sanitary sewer.

The municipality shall issue tap permits for each structure that is connected into the S.O.C.S.D.S. and be responsible to see that the above specifications pertinent to materials and installations are followed.

(4) The S.O.C.S.D.S., through their agent, the drain commissioner, shall, at his option, be permitted to set up and operate flow metering equipment to gauge sanitary flow, either on a temporary or permanent basis, in any sanitary sewer lying within the said "separated areas."

(5) Plans and specifications covering the construction of all new sewers, both combined and sanitary (separate), lying within the S.O.C.S.D.S. service area shall be submitted to the office of the Oakland County drain commissioner for review and approval prior to construction.

(6) The quality of domestic and industrial waste outleted into the S.O.C.S.D.S. facilities shall conform to the current City of Detroit ordinance pertinent to domestic and industrial wastes. It is the contractual obligation of the municipality, reference Section 16 of contract with county, to use S.O.C.S.D.S. facilities to enforce these standards.

(7) No requirements of the S.O.C.S.D.S. or permits issued hereunder by said system through their agent, the Oakland County drain commissioner, shall relieve the property owner of complying with all the rules and regulations of the local unit of government, wherein such property is located, where such are not in conflict with requirements of the S.O.C.S.D.S.

(8) All sewer construction shall comply with the general specifications of the Oakland County drain commissioner; copies of said specifications may be obtained from the office of the drain commissioner.

(Ord. No. 227, § 1, 9-12-89)

Footnotes:

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System defined as a lateral having two (2) or more connections. A construction permit from the Michigan State Department of Natural Resources is required for a sewer system.

Sec. 21-142. - General wastewater disposal regulations.

(A) *Delegation of authority.* The City of Detroit, through the Detroit Water and Sewerage Department, as the state approved control authority, is authorized to administer and enforce the provisions of this article on behalf of the city. The city has executed and hereby ratifies its delegation agreement with the City of Detroit through the Detroit Water and Sewerage Department, which sets forth the terms and conditions of such delegated authority, consistent with this article, and shall allow the Detroit Water and Sewerage Department to perform the specific responsibilities of control authority pursuant to state and federal law.

(B) *General pollutant prohibitions.* No user shall discharge or cause to be discharged into the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general discharge prohibitions shall apply to all users of the POTW whether or not the user is subject to National Categorical Pretreatment Standards or to any other federal, state, or local pretreatment standards or requirements. In addition, it shall be unlawful for a user to discharge into the POTW:

(1) Any liquid, solid or gas which, by reason of its nature or quantity, is sufficient, either alone or by interaction with other substances, to cause fire or explosion hazard or be injurious in any other way to persons, the POTW, or the operation of the POTW. Pollutants, which create a fire or explosion hazard in a POTW, include, but are not limited to, wastestreams with a closed-cup flash point of less than 140°F or 60°C using the test methods specified in 40 C.F.R. § 261.21; or

(2) Any solid or viscous substance, in concentrations or quantities which are sufficient to cause obstruction to the flow in a sewer or other encumbrance to the operation of the POTW, such as, but not limited to, grease, animal guts or tissues, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, residues from refining or refining of or processing fuel or lubricating oil, mud or glass grinding or polishing wastes, or tumbling and deburring stones; or

(3) Any wastewater having a pH less than 5.0 units or greater than 11.5 units; or

(4) Any wastewater containing petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, or toxic pollutants in sufficient concentration or quantity either singly or by interaction with other pollutants to cause interference, or pass through, or constitute a hazard to humans or animals; or

(5) Any liquid, gas or solid or form of energy which either singly or by interaction with other waste is sufficient to create toxic gas, vapor or fume within the POTW in quantities that may cause acute worker health and safety problems, or may cause a public nuisance or hazard to life or is sufficient to permit entry into the sewers for their maintenance and repair; or

(6) Any substance which is sufficient to cause the POTW's effluent or any other product of the POTW such as residue, sludge, or scum, to be unsuitable for reclamation processing where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria guidelines or regulations developed under 33 U.S.C. § 1345 with any criteria, guidelines, or developed and promulgated regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Toxic Substances Control Act or state criteria applicable to the sludge management method being used; or

(7) Any substance which will cause the POTW to violate the Consent Judgment in U.S. EPA v City of Detroit, et al, CA No. 77-1100, or the City of Detroit's National Pollutant Discharge Elimination System Permit; or

(8) Any discharge having a color uncharacteristic of the wastewater being discharged; or

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW pretreatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into a public sewer which exceeds 150°F (66°C) or which will cause the effluent at the wastewater treatment plant to rise above 140°F (40°C); or

(10) Any pollutant which constitutes a slug; or

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable state or federal regulations; or

(12) Any floating fats, oil, or grease which are sufficient to cause interference with or pass through the POTW; or

(13) Any solid materials having a specific gravity greater than 1.2 or a cross section dimension of one-half (½) inch or greater which are sufficient to cause interference with the POTW.

(C) *Specific pollutant prohibitions*. No industrial user shall discharge wastewater containing an excess of the following limitations:

(1) *Compatible pollutants.* See Appendix C.

(2) *Noncompatible pollutants.* No industrial user shall discharge wastewater containing an excess of:

Pollutant	mg/l
Arsenic (AS)	1.0
Cadmium (Cd)	See Appendix C
Copper (Cu)	2.5
Cyanide (CN) (Available)	1.0
Iron (Fe)	1000.0
Lead (Pb)	1.0
Nickel (Ni)	5.0
Silver (Ag)	1.0
Chromium (Cr)	25.0
Zinc (Zn)	7.3
Total Phenolic Compounds or see Appendix B	1.0

All limitations are based on samples collected over an operating period representative of an industrial user's discharge in accordance with 40 C.F.R. Part 136.

a. The limitation for Total PCB is Nondetect. Total PCB shall not be discharged at detectable levels, based upon U.S. EPA Method 608, and the quantification level shall not exceed 0.2 ugm/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one (1) or more samples indicate detectable levels of Total PCB, the user shall be required to demonstrate compliance. For purposes of this

section, this demonstration may be made using analytical data showing that the Total PCB concentration is below the detection level, or submission of a BMP in accordance with 21-142(X)(4).

b. The limitation of Mercury (Hg) is Nondetect. Mercury (Hg) shall not be discharged at detectable levels, based upon U.S. EPA Method 245.1, and the quantification level shall not exceed 0.2 ugm/1, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one (1) or more samples indicate detectable levels of Mercury, the user shall be required to demonstrate compliance. For the purposes of this section, this demonstration may be made using analytical data showing that the mercury concentration is below the detection level, or submission of a BMP in accordance with section 21-142(X)(4). All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance 40 C.F.R. Part 136.

(3) *Compliance period.* Within thirty (30) days of the effective date of this ordinance, the department shall notify all industrial users operating under an effective wastewater discharge permit of the requirement to submit a compliance report within one hundred eighty (180) days after the effective date of this article. The compliance report shall demonstrate the user's compliance or noncompliance with these limitations, and, in the event of noncompliance, include the submission of a plan and schedule for achieving compliance with the stated limitation. In no event shall a compliance schedule exceed eighteen (18) months from the effective date of this article. An industrial user who does not demonstrate compliance may petition the department for a second extension as part of an administrative consent order. The department shall include appropriate monitoring, reporting, and penalties into an administrative consent order that relates to a second extension, and shall enter into such an agreement only upon a good-faith showing by the industrial user of the actions taken to achieve compliance with this provision.

(D) *National Categorical Pretreatment Standards.* All users shall comply with the applicable National Categorical Pretreatment Standards and requirements promulgated pursuant to the act as set forth in 40 C.F.R. Subchapter N, Effluent Guidelines and Standards, which are hereby incorporated by reference and with all other applicable standards and requirements, provided, that where a more stringent standard or requirement is applicable pursuant to state law or regulation, or to this article, then the more stringent standard or requirement shall be controlling. Affected dischargers shall comply with applicable reporting requirements under 40 C.F.R. Part 403 and as established by the department. The National Categorical Pretreatment Standards which have been promulgated as of the effective date of this section are delineated in Appendix A.

(1) *Intake water adjustment.* Industrial users seeking adjustment of the National Categorical Pretreatment Standards to reflect the presence of pollutants in their intake water must comply with the requirements of 40 C.F.R. 403.15. Upon notification of the approval by the department the adjustment shall be applied by modifying the permit accordingly. Intake water adjustments are not effective until incorporated into an industrial user's permit.

(2) *Modification of National Categorical Pretreatment Standards.* The department may apply to the U.S. Environmental Protection Agency, or to the Michigan Department of Environmental Quality whichever is appropriate, for authorization to grant removal credits in accordance with the requirements and procedures of 40 C.F.R. § 403.7. Such authorization may only be granted when the POTW treatment plant can achieve consistent removal for each pollutant for which a removal credit is being sought provided that any limitation on such pollutant(s) in the NPDES permit are neither being exceeded nor pose the prospect of being exceeded as a result of the removal credit being granted. Where such authorization is given to the department, any industrial user desiring to obtain such credit shall make an application to the department, consistent with the provisions of 40 C.F.R. § 403.7 and this article. Any credits which may be granted under this provision may be subject to modification or revocation as specified in 40 C.F.R. § 403.7 or as determined by the department. A requisite to the granting of any removal credit may be that the industrial user pay a surcharge based on the amounts of such pollutants removed by the POTW, such surcharge being based on fees or rates which the board may establish and, when appropriate, revise from time to time. Permits shall reflect or be modified to reflect any credit granted pursuant to this section.

(3) *New sources.* Industrial users who meet the new sources criteria shall install, maintain in operating condition, and "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time and not to exceed ninety (90) days, new sources must meet all applicable pretreatment standards.

(4) *Concentration and mass limits.* When limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Department may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users. Equivalent limitations shall be calculated in accordance with 40 C.F.R. § 403.6(c)(3) and/or 40 C.F.R. § 403.6(c)(4) and shall be deemed pretreatment standards for the purposes of 33 U.S.C. § 1317(d) and of this article. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(5) *Reporting requirements for industrial users upon effective date of categorical pretreatment standards-baseline report.* Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision made upon a category determination submission under 40 C.F.R. § 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging into or scheduled to discharge into the Detroit POTW shall submit to the department a report containing the information listed in 40 C.F.R. § 403.12(b)(17). Where reports containing this information have already been submitted to the director or regional administrator in compliance with the requirement of 40 C.F.R § 128.140(b), the industrial user will not be required to resubmit this information. At least ninety (90) days before commencement of any discharge, each new source and any existing sources that become industrial users after the promulgation of an applicable categorical pretreatment standard shall submit to the department a report which contains the information listed in 40 C.F.R. § 403.12(b)(15). In such report, new sources shall include information concerning the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall provide estimates of the information requested in 40 C.F.R. § 403.12(b,)(4) and (5).

(E)

Dilution prohibited. Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall increase the use of process water or, in any way, dilute or attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or in any other pollutant-specific limitation or requirement imposed by the city, the City of Detroit, or by the State of Michigan.

(F) *Hauled-in wastewater.* Any waste material or wastewater which is hauled into or within the service region for discharge to the POTW is subject to the requirements of this article including, but not limited to, permits, inspection, monitoring and enforcement. Unloading liquid or solid waste from hauling vehicles, directly or indirectly, into the POTW, with or without the benefit of pretreatment, is prohibited unless the person proposing to unload such waste has applied for and received a permit from the department for unloading such waste in accordance with the board's rules pertaining thereto. The discharger shall be subject to applicable terms and conditions, surcharges, fees or rates as established by the board. Hauled-in wastewater shall only be discharged at points designated by the POTW after authorization or approval issued pursuant to the general permit requirements specified in section 21-142(X) of this Code. The department may establish specific limitations for sludge from municipally owned or operated POTW treatment plants which are different than the specific limitations in this article.

(G) *Centralized waste treatment.* It is unlawful for a centralized waste treatment (CWT) facility to discharge any industrial waste or wastewater into the POTW without a wastewater discharge permit from the department. Any authorization granted, or permit issued, by the department to a centralized waste treatment (CWT) facility shall specify the type of wastewater for which treatment is provided, and discharge approval is sought, from the POTW. Unless such industrial waste or wastewater is determined by the department to require further authorization, a centralized waste treatment (CWT) facility that has submitted an application to, and received previous approval from, the department to discharge wastewater is not required to obtain further authorization from the department before discharging such wastewater. An industrial user, that provides centralized waste treatment services and files an application for the treatment and discharge of such types of wastewater to the POTW, shall provide the following minimum information in support thereof:

(1) The general nature, source and process(es) generating the type of wastewater. Any wastewater, which is generated from those processes and is subject to National Categorical Pretreatment Standards as delineated in Appendix A, shall be so designated;

(2) The identity of the toxic pollutants known or suspected to be present in the wastewater;

(3) At least one (1) sample report showing the results of an analysis for the EPA priority pollutants for each type of wastewater for which application is made in subsection (G)(1) of this section;

(4) A statement, that is certified by a professional engineer, which addresses the treatability and compatibility of the wastewater, received or collected by the facility's treatment process(es);

(5) The identity of the materials and/or pollutants whose transport or treatment are regulated by the EPA, by the state, or by any other governmental agency. Upon request, the centralized waste treatment (CWT) facility shall provide a copy of its permit and/or license to the department; and

(6) Other information requested by the department including, but not limited to, information required by section 21-142(X)(3), or by rules adopted by the board.

The discharge from a centralized waste treatment (CWT) facility will be deemed approved for those specific types of wastewater delineated in a permit and, upon issuance of such permit in accordance with the procedures contained in section 21-142(Y), will be deemed approved for discharge into the POTW. The centralized waste treatment (CWT) facility shall comply with all applicable provisions contained in section 21-142(X) regarding permits. In furtherance of its obligations as control authority, the department may include in the permit a requirement to report at selected intervals the information mandated in subsections (1) through (6) of this section. All users granted a permit under this section shall maintain records which, at a minimum, identify the source, volume, character, and constituents of the wastewater accepted for treatment and disposal. These records may be reviewed at any time by the department.

(H) *Groundwater discharges.* Unless authorization has been granted by the department, the discharge of any groundwater into the POTW is prohibited.

The department may authorize the discharge of groundwater resulting from maintenance and related activities of gas, steam, or electrical utilities through the use of general permits. Subject to appropriate reporting requirements, the general permit shall authorize discharge in accordance with the terms of the permit. Utilities shall comply with this provision within one hundred eighty (180) days after its enactment. If a person, who proposes to discharge groundwater resulting from purge, response activity, or UST projects, has applied for and received a permit from the department, the department may authorize the discharge of such wastewater. Permits shall be issued in accordance with the procedures contained in section 21-142(X), or in accordance with any rules adopted by the board.

(I) *City right of revision.* The City of Detroit and the City of Bloomfield Hills reserve the right to establish rules or regulations adopted by the board, additional or more stringent limitations or requirements on discharges to the POTW. These rules and regulations shall be adopted in accordance with the rule-making procedures section 2-111 of the 1997 Detroit City Charter and the Charter of the City of Bloomfield Hills. Ninety (90) days after adoption by the board, industrial users shall comply with such rules and regulations.

(J) *Accidental discharges.*

(1) Each industrial user, which does not currently have an approved spill prevention plan or slug control plan, shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article, and all significant industrial users shall submit to the department detailed plans which show facilities and operating procedures to be implemented to provide protection against such accidental discharges. Facilities and measures to prevent and abate accidental discharges shall be implemented, provided, and maintained at the owner's or industrial user's cost or expense. Unless the significant industrial user has an approved spill prevention or slug control plan, all existing significant industrial users shall complete and submit such a plan within sixty (60) days of the effective date of this article [November 19, 1986]. New significant industrial users shall

submit such a plan prior to the time they commence discharging. For purposes of this section, the information provided shall include the approximate average and maximum quantities of such prohibited materials or substances kept on the premises in the form of raw materials, chemicals and/or waste therefrom and the containment capacity for each. Only substances that are in a form which could readily be carried into the POTW and constitute a concentration of five (5) percent or greater in the raw material, chemical solution or waste material, are required to be reported. Volumes of less than fifty-five (55) gallons, or the equivalent thereof, need not be reported unless lesser quantities could cause pass through or cause interference with the POTW. The industrial user shall promptly notify the department of any significant changes or modifications to the plan including, but not limited to, a change in the contact person, or substance inventory.

(2) At least once every two (2) years, the department shall evaluate whether a significant industrial user needs a plan to control slug discharges, as defined by 40 C.F.R. § 403.8(f)(2)(v). Unless otherwise provided, all significant users shall complete, implement, and submit such a plan within thirty (30) days of notification by the department.

(K) *Notification requirements.* Unless a different notice is provided by this article or applicable law, within one (1) hour of becoming aware of a discharge into the POTW which exceeds or does not conform with federal, state, or city laws, rules, regulations, or permit requirements, or which could cause problems to the POTW, or which has the potential to cause an industrial user to implement its plan prepared in accordance with subsection (1) of this section, the industrial user shall telephone the department at its control center and notify the department of the discharge. The notification shall include the name of the caller, location and time of discharge, type of wastewater, estimated concentration of excessive or prohibited pollutants and estimated volume and the measures taken, or being taken, to abate the discharge into the POTW. Within five (5) calendar days after the discharge, the industrial user shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences, and when required by the department, the industrial user's wastewater discharge permit shall be modified to include additional measures to prevent such future occurrences. Such notifications shall not relieve the industrial user of any expense, cost of treatment, loss, damages or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other environmental impairment or any other damage to person or property.

(L) *Notice to employees.* A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees of whom to contact in the department in the event of an actual or excessive or prohibitive discharge.

(M) *Recovery of costs.* Any user discharging in violation of any of the provisions of this article which produces a deposit or obstruction, or causes damage to or impairs the department's POTW, or causes the department to violate its NPDES permit, shall be liable to the department for any expense, loss, damage, penalty or fine incurred by the department because of said violation or discharge. Prior to assessing such costs, the department shall notify the user of its determination that the user's discharge was the proximate cause of such damage, obstruction, impairment or violation of the city's NPDES permit and the department's intent to assess such costs to the user. Any such notice shall include written documentation which substantiates the determination of proximate cause and a breakdown of cost estimates. Failure to pay the assessed costs shall constitute a violation of this article. Such charge shall be in addition to, not in lieu of, any penalties or remedies provided under this article, other ordinances, statutes, regulations, or at law or in equity.

(N) *Hazardous waste notification.* All industrial users, who discharge into the city collection system, shall notify the department in writing of any discharge of a substance which, if otherwise disposed of, would be a hazardous waste as set forth in 40 C.F.R. Part 261. Such notification must comply with the requirements of 40 C.F.R. § 403.12(p).

(O) *Authorized representative.* The authorized representative, as defined in section 21-138(1), may designate a duly authorized representative of the individual designated in that section where:

(1) The authorization is made in writing by the individual defined in section 21-138(1);

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility where the industrial discharge originates, such as the position of plant manager, operator of a well or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(3) The written authorization is submitted to the department.

(P) *Pollution prevention.* The department shall encourage and support industrial users to develop and implement pollution prevention programs that are designed to eliminate or reduce pollutant contributions beyond the levels required by this article. The department may require an industrial user to implement pollution prevention initiatives or BMP, as part of an enforcement response, or as necessary to comply with its NPDES permit.

(Q) *Fees.*

(1) It is the purpose of this section to provide for the recovery of costs from industrial users of the POTW. The applicable charges and fees shall be sufficient to meet the cost of the operation, maintenance, improvement or replacement of the system or as provided by law, contractual agreement, or board action.

(2) The board shall adopt charges and fees which shall include, but not be limited to:

a. Fees for reimbursement of costs of establishing, operating, maintaining, or improving the department's industrial waste control and pretreatment programs; and

b. User fees based on volume of waste and concentration or quantity of specific pollutants in the discharge, and treatment costs including sludge handling and disposal; and

c. Reasonable fees for reimbursement of costs for hearings including, but not limited to, expenses regarding hearings officers, court reporters, and transcriptions; and

d. Other fees, which the board may deem necessary to carry out the requirements contained herein or as may be required by law.

(R) *Wastewater discharge permits.*

(1) *Required.* It shall be unlawful for users to discharge into the POTW any wastewater which will cause interference, or pass through, or otherwise not comply with the discharge prohibitions of this section 21-142. It shall be unlawful for a significant industrial user to discharge into the POTW without a wastewater discharge permit from the Detroit Water and Sewerage Department. Unless otherwise expressly authorized by the department through permit, order, rule or regulation, any discharge must be in accordance with the provisions of this article.

a. All significant industrial users, which are in existence on the effective date of this article, shall apply for a wastewater discharge permit within thirty (30) days of the effective date of this article. Significant industrial users who are currently operating with a valid wastewater discharge permit are not subject to this provision. These applications are to include all information specified in section 21-142(R)(3) and, where applicable, any additional information which may be needed to satisfy the federal baseline monitoring report requirements of 40 C.F.R. § 403.12(b).

b. All new significant users shall apply for a wastewater discharge permit at least ninety (90) days prior to commencement of discharge. The application must include all information specified in section 21-142(R)(3) and, where applicable, any additional information that may be needed to satisfy the federal BMR requirements of 40 C.F.R. § 403.12(b). Until a permit is issued and finalized by the department, no discharge shall be made into the POTW.

c. Any user, who proposes to discharge any wastewater other than sanitary or noncontact cooling water into the POTW, shall request approval from the department for the discharge(s) at least thirty (30) days prior to the commencement of the discharge.

(2) *Permit application or reapplication.* The department may require any user to complete a questionnaire and/or a permit application and to submit the same to the department for determining whether the industrial user is a significant user, or to determine changes in the wastewater discharges from a user's facility. Within thirty (30) days of being so notified, a user shall comply with the department's request in the manner and form prescribed by the department. Failure of the department to so notify a user shall not relieve the user of the duty to obtain a permit as required by this article.

a. A user, which becomes subject to a new or revised National Categorical Pretreatment Standard, shall apply for a wastewater discharge permit within ninety (90) days after the promulgation of the applicable National Categorical Pretreatment Standard, unless an earlier date is specified or required by 40 C.F.R. § 403.12(b). The existing user shall provide a permit application which includes all the information specified in section 21-142(R)(3) and (6).

b. A separate permit application shall be required for each separate facility.

c. Existing permittees shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of existing permits on a form prescribed by the department.

(3) *Application or reapplication information.* In support of an application or reapplication for a wastewater discharge permit, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

a. Corporate or individual name, any assumed name(s), federal employer identification number, address, and location of the discharging facility;

b. Name and title of the authorized representative of the industrial user who shall have the authority to bind the industrial user financially and legally;

c. All SIC numbers of all processes at this location according to the Standard Industrial Classification Manual, issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended;

d. Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application form. Such parameters shall include those applicable pollutants having numeric limitations as enumerated in sections section 21-142(B) and (C) of this article, and those pollutants limited by a National Categorical Pretreatment Standard or regulations for applicable industries and any toxic pollutants known or suspected to be present in the discharge, regulated in the previous permit, or specifically requested by the Detroit Water and Sewerage Department. For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided. For industries subject to National Categorical Pretreatment Standards or requirements, the data requested herein shall be separately shown for each categorical process wastestream. Combined wastestreams proposed to be regulated by the combined waste stream formula shall also be identified. Sampling and analysis shall be performed in accordance with the procedures established by the EPA 33 U.S.C. § 1314(g) and contained in 40 C.F.R. Part 136, as amended. Where 40 C.F.R. Part 136 does not include a sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed shall be performed using validated analytical methods approved by the administrator.

e. A listing and description of activities, facilities and plant processes on the premises. Those processes which are subject to National Categorical Pretreatment Standards or requirements shall be so designated. As pertains to section 21-142(R)(3)d., identify which pollutants are associated with each process;

f. Restricted to only those pollutants referred to in section 21-142(R)(3)d., a listing of raw materials and chemicals that are either used in the manufacturing process or could yield the pollutants referred to in section 21-142(R)(3)d. Any user claiming immunity from having to provide such information for reasons of national security shall furnish acceptable proof of such immunity;

g. A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the seven (7) days of the week;

h. Denote:

1. The average and maximum twenty-four-hour wastewater flow rates, including daily, monthly and seasonal variations;

2.

Each national categorical process wastestream flow rates and the cooling water, sanitary water and stormwater flow rates separately for each connection to the POTW; and

3. Each combined waste stream;

i. A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points and places of discharges into the POTW; also a flow schematic showing which connections receive each national categorical process wastestream and which connections receive stormwater, sanitary water or cooling water; also show which lines handle each combined waste stream. This schematic shall be cross referenced to the information furnished in section 21-142(R)(3)h. of this section.

j. Each product produced by type, amount, process or processes and rate of production as it pertains to processes subject to production based limits under the National Categorical Standards or requirements only;

k. A statement regarding whether or not the requirements of this article and the National Categorical Pretreatment Standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance work and/or additional construction is required for the industrial user to meet the applicable standards and requirements; This statement shall be reviewed and signed by the authorized representative and, as appropriate, certified by a qualified professional;

l. Basic information on the program for the prevention of accidental discharges in accordance with the requirements of section 21-142(J);

m. Proposed or actual hours of operation for each pretreatment system for each production process;

n. A schematic and description of each pretreatment facility. Identify whether each pretreatment facility is of the batch type or the process type;

o. If other than DWSD potable water, the industrial user's source of intake water together with the types of usage and disposal method of each water source and the estimated wastewater volumes from each source;

p. If additional construction and/or operation of maintenance procedures will be required to meet the requirements of this article and the National Categorical Standards, the shortest schedule by which the user will provide such additional construction and/or implement the required operation and maintenance procedures;

q. Identify whether the user has conducted a waste minimization assessment or audit of its operations in order to identify all feasible source reduction and recycling practices that may be employed to reduce or eliminate the generation of pollutants and other waste at the facility; and

r. Any other information that may reasonably be required to prepare and process a wastewater discharge permit.

(4) *Permit issuance.* Upon receipt of an application, the department shall review the application, determine and so notify the industrial user and the City of Bloomfield Hills, and the County of Oakland of any of the following:

a. The industrial user does not meet the definition of significant industrial user and is not required to have a wastewater discharge permit;

b. The industrial user does meet the definition of a significant industrial user but is found by the department to have no reasonable potential for adversely affecting the POTW operation or for violating any pretreatment standard or requirement, and is not required to have a wastewater discharge permit. The department shall make such determination in accordance with the requirements of 40 C.F.R. § 403.8(f)(6);

c. The application is incomplete or the information only partially satisfies the information and data required by 40 C.F.R. § 403.12 or by the department and that additional information and data are required which shall be promptly furnished; where appropriate, the industrial user is notified regarding specific information that is missing, or that the application is unacceptable;

d. The industrial user is required to have a wastewater discharge permit. The department shall notify the industrial user of its determination and the basis of the determination. The department may withhold issuance of a permit to a significant user which has not submitted an adequate or timely report or permit application, to the department, as the control authority, in accordance with the baseline reporting requirements of 40 C.F.R. § 403.12, or whose discharge is in violation of this article. If the department determines an industrial user is required to have a wastewater discharge permit and has evaluated and accepted the data furnished, the industrial user will be notified accordingly by certified mail, and the City of Bloomfield Hills, County of Oakland, shall be notified by first class mail. Notification shall contain a copy of the draft permit, so marked for the industrial user's review. An industrial user has thirty (30) days from the date of mailing to file a response to the draft permit and, in accordance with the procedures contained in section 21-142(Y), twenty (20) days from the date of mailing to file an appeal regarding a permit issued as final. Upon disposition by the department of any contested terms or conditions, a permit shall be issued as final. Only one (1) facility location shall be included in each permit.

(5) *Permit conditions.* Wastewater discharge permits shall contain all requirements of 40 C.F.R. § 403.8(f)(1)(iii) and shall be deemed to contain all the provisions of this article, other applicable laws, rules, regulations, user charges and fees established by the City of Detroit or the city without repetition therein. In addition, permits may also contain the following:

a. Limits on the average and maximum wastewater constituents or characteristics if more restricted than or supplemental to the numerical limits enumerated in this section 21-142 of this article or the applicable National Categorical Pretreatment Standards;

b. Limits on average and maximum rate in time of discharge or requirements for flow regulation and equalization;

c. Requirements for installation, operation and maintenance of discharge sampling manholes and monitoring facilities by the industrial user;

d. Restrictions on which of the user's discharge waste streams are to be allowed to be discharged at each point of connection to the POTW;

e. Specifications for industrial user monitoring programs which may include sampling locations, frequency and type of sampling, number, types and standards for tests and reporting schedules;

f. Requirements for the prevention of accidental discharges in the containment of spills or slug discharges;

g. Restrictions based on the information furnished in the application;

h. Additional reporting requirements:

1. All permittees shall submit a report on a form prescribed by the department or on an alternative form approved by the department, indicating the status of compliance with all conditions enumerated or referred to in the wastewater discharge permit or made applicable to the permit by this article. Unless required more frequently, the reports shall be submitted in six-month intervals, on a schedule to be established by the department. Analytical data generated by the department may not be submitted in lieu of the facility's own monitoring data as required by the wastewater discharge permit.

2. Permittees not subject to National Categorical Pretreatment Standards or requirements shall submit a report in accordance with the requirements of section 21-142(R)(5)h.4. and 5. The report shall show the concentration of each substance for which there is a specific limitation in the permit, or which may be identified by the Department in accordance with section 21-142(R)(5)i. and k.

3. Permittees subject to National Categorical Pretreatment Standards or requirements shall submit compliance reports at the times and intervals specified by the federal regulations and by the department. A compliance report shall be submitted to the department no later than ninety (90) days following the final compliance date for a standard, or in the case of a new source, no later than ninety (90) days following the commencement of the introduction of wastewater into the POTW, and in accordance with 40 C.F.R. § 403.12(d). A report on continued compliance shall be submitted at six-month intervals thereafter on the schedule established by the department and incorporated into the industrial users discharge permit and in accordance with section 21-142 (R)(5)h.4. and 5. The report shall be on a form prescribed by the department or on an alternate form approved by the department, and shall indicate the nature and concentration of all pollutants in the discharge from each regulated process which are limited by National Categorical Pretreatment Standards or which there is a specific limitation in the permit, or which may be identified by the department in accordance with section 21-142(R)(5)i. and k. The report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharges regulated by permit. The combined waste treatment formula may be used for reporting purposes after the initial information has been furnished to the department, provided there have been no changes to the elements composing the combined waste stream.

4. Reports shall contain the results of representative sampling performed during the period covered by the report and of the discharge and analysis of pollutants contained therein, and, for significant industrial users subject to production-based standards, shall be cross-referenced to the related flow or production in mass as required to determine compliance with the applicable pretreatment standards. The frequency of monitoring shall be as prescribed in the applicable General Pretreatment Regulations, being 40 C.F.R. Part 403, or by the department, but no less than is necessary to assess and assure compliance by the industrial user with the most stringent applicable pretreatment standards and requirements. All sampling and analysis shall be performed in accordance with applicable regulations contained in 40 C.F.R. Part 136 and amendments thereto. Where 40 C.F.R. Part 136 does not include a sampling or analytical technique for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator. The report shall state whether the applicable pretreatment standards are being met on a consistent basis, and, if not, what additional operation and maintenance practices and/or pretreatment system improvements or changes are necessary to bring the industrial user into compliance with the applicable pretreatment standards.

5. This report, and those required under sections 21-142(D)(5) and 21-142(R)(5)h.2. and i., shall include the following certification statement:

   "I certify under penalty of law that this document and all attachments were prepared under my direction, or supervision, in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and/or imprisonment for knowing violations."

   Said certification shall be signed by the facility's authorized representative, as defined in section 21-138. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of the authorized representative definition must be submitted to the department prior to, or together with, any reports to be signed by an authorized representative.

6. If sampling performed by a permittee indicates a violation, the user shall notify the department within twenty-four (24) hours of the time said user becomes, or should have become, aware of the violation. In addition, the user shall repeat the sampling and analysis, and submit the results of the repeat analysis to the department within thirty (30) days after said user becomes, or should have become, aware of the violation.

i. In the event the director determines that an industrial user is discharging substances in quality, quantity or at locations which may cause problems to the POTW, or the receiving stream, the department has the authority to develop and enforce effluent limits applicable to the user. To the extent the department seeks to impose restrictions in a permit which are more restrictive than established in this article, the department shall provide written documentation to explain the greater restriction for protection against pass through, interference, or violation of the NPDES permit;

j. Requirement for pollution prevention initiatives; and

k. Other requirements reasonably necessary to ensure compliance with this article;

(6) *Permit duration.* Permits shall be issued for a specified time period. Except as deemed necessary by the department, or as otherwise provided for under this article, permits shall be issued for a specified period of not more than five (5) years nor less than one (1) year. The existing permit for significant industrial users, who timely submit an application for permit reissuance to the department, shall be automatically extended until a permit is issued as final.

(7) *Permit modification.* The terms and conditions of the permit may be subject to modification by the department during the term of the permit as limitations or pretreatment standards and requirements as identified in section 21-142 are amended or other just cause exists. Just cause for a permit modification includes, but shall not be limited to, the following:

a. Material or substantial changes to an industrial user's facility or operation or changes in the characteristics of the industrial user's effluent. It shall be the industrial user's duty to request an application form and apply for a modification of the permit within thirty (30) calendar days of the change.

b. Change(s) in the department's NPDES permit;

c. Embodiment of the provisions of a legal settlement or court order;

d. Any changes necessary to fulfill the department's role as control authority;

e. An industrial user's noncompliance with the portions of an existing permit;

f. A change of conditions within the POTW;

g. A finding of interference or pass through attributable to the industrial user;

h. Amendments to, or promulgation of, National Categorical Pretreatment Standards or requirements 40 C.F.R. Part 403 and those delineated in Appendix A of this article. Permittees shall request an application form and apply to the department for a modified permit within ninety (90) days after the promulgation of a new or revised National Categorical Pretreatment Standard to which the industrial user shall be subject. Information submitted pursuant to this paragraph shall be confined to that information related to the newly promulgated or amended National Categorical Pretreatment Standard or requirement. However, information previously submitted need not be duplicated, insofar as previously submitted information continues to be current and applicable. In addition, the department may initiate this action;

i. Changes in the monitoring location [see section 21-142(S)];

j. Typographical errors or omissions in permits;

k. The department may modify the permit on its own initiative based on its findings or reasonable belief of the above; or

l. The user may request a modification of the permit.

When initiated by the department, the industrial user shall be informed of any proposed change in its permit. The department will issue a draft permit and an industrial user has thirty (30) days to file a response to the draft modified permit. Thereafter, the department will issue a final permit and, unless appealed in accordance with the procedures contained in section 21-142, the permit will become effective twenty (20) days after issuance.

(8) *Permit custody and transfer.* Wastewater discharge permits are issued to a specific person as defined herein for a specific discharge. A wastewater discharge permit shall not be reassigned or transferred or sold to a different person, new owner, new industrial user, different premises, or a new or changed operation without notice to and written approval of the department and providing a copy of the existing permit to the new owner or operator. It shall be the permit holder's duty to notify the department of any such change at least thirty (30) days before the date of the change. Wastewater discharge permits, which do not receive the written approval of the department prior to the change, shall be null and void regardless of reassignment, or transfer, or sale. If it has occurred, the department may revoke a permit. If a change takes place, the department may require the application for a new or modified permit. Any succeeding person shall comply with the terms and conditions of any existing permit which the department allows to be retained.

(9) *Permit notification requirements.* All industrial users shall promptly notify the department in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous waste for which initial notification under 40 C.F.R. § 403.12(p) has been made, request a permit application form, and apply for a modification of the permit at least thirty (30) calendar days prior to the change. Failure of the industrial user to so apply shall be considered a violation of this article.

(S) *Monitoring facilities.* Significant industrial users shall provide, operate, and maintain at their own expense a sampling manhole or special structure to facilitate monitoring, inspection, sampling, and flow measurement of their discharge by the department and the industrial user and to enable the department to conduct such other monitoring and sampling as required for determining compliance with discharge requirements, limits, and standards as provided for in this article. In the event the department determines that the monitoring facility identified in the permit application is inadequate, a new monitoring facility must be identified, or provided, which shall allow for collection of a representative sample of the wastewater discharged from the facility. Unless otherwise determined at the discretion of the department, said facility shall be provided within ninety (90) days of receipt of notification by the department. The industrial user shall provide the department with:

(1) A drawing showing all sewer connections and sampling manholes by the size, location, elevation, and points or places of discharges into the POTW;

(2) A flow schematic showing: (a) which connections receive each national categorical process wastestream, (b) which connections receive stormwater, sanitary water or cooling water, and (c) which lines handle each combined wastestream. This report shall be certified by a professional engineer. If a significant industrial user fails to install the monitoring facilities within the prescribed time limits, then the department may install such structure or device and the significant user shall reimburse the department for any costs incurred therein.

(T) *[Sampling manholes.]* The sampling manholes should be situated on the industrial user's premises in a location readily accessible to the department. When such a location would be impractical or cause undue hardship to the industrial user, the department may allow the facility to be constructed in the public street or sidewalk area when there is room and the location will not be obstructed by landscaping or parked vehicles. It shall be the responsibility of the industrial user to obtain any necessary approvals which may be required from other government agencies for the location and construction of monitoring facilities. There shall be ample room in or near such sampling or monitoring manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and any permanently installed sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user. Whether constructed upon public or private property, the sampling and monitoring facilities shall be provided in accordance with the department's requirements and all applicable local construction standards and specifications. [See section 21-142(R)(7).]

(U) *Inspection sampling and record keeping.* For purposes of administering and enforcing this article, any other applicable provisions of this [code] or applicable state or federal laws and regulations, the department may inspect the establishment, facility or other premises of the industrial user. The department's employees or authorized representative shall have access to the industrial user's premises for purposes of inspection, sampling, compliance monitoring and/or metering activities. Each such inspection activity shall be commenced and completed at reasonable times, within reasonable limits and in a reasonable manner. Upon arrival at the industrial user's premises, the department shall inform the industrial user or the industrial user's employees that sampling and/or inspection is commencing and that the facilities' authorized representative has the right to observe the inspection and/or sampling. While performing work on private properties, employees or authorized representatives of the department shall observe all reasonable safety, security and other reasonable rules applicable to the premises established by the industrial user. Duly authorized employees or representatives of the department shall bear proper credentials and identification and at the industrial user's option, may be accompanied by a duly authorized representative of the industrial user. Duly authorized department employees or representatives shall not be restricted from viewing any of the facility site. Department employees or representatives may take photographs of facilities subject to this article, which shall be maintained by the department as confidential in accordance with section 21-142(V).

Where an industrial user has security measures in force, the industrial user shall make prompt and necessary arrangements with the security personnel so that upon a presentation of appropriate credentials, personnel from the department will be permitted to enter immediately for the purposes of performing their specific responsibilities. Significant industrial users shall sample and analyze their discharges in accordance with the provisions of their permit. The department may require such samples to be split with the department for the department's independent analysis.

Industrial users shall maintain records of all information from monitoring activities required by this article or by 40 C.F.R. § 403-12(n). Industrial users shall maintain the records for no less than three (3) years. This period of record retention shall be extended during the course of any unresolved litigation regarding discharge of pollutants by the industrial user or the operation of the City of Detroit's Industrial Waste Program or when requested by the department, by the state, or by the EPA.

Upon the request of the department, industrial users shall furnish information and records relating to discharges to the POTW. Industrial users shall make such records readily accessible to the department at all reasonable times, and allow the department to copy such records.

In the event the control authority obtains samples, and analyses are made of such samples, a copy of the results of such analyses shall be promptly furnished upon written request by the industrial user's authorized representative. When requested by the industrial user, the department employee or representative shall leave with the user, a portion of any sample of the user's discharge taken from any sampling point on or adjacent to the premises for the user's independent analysis. In cases of disputes arising over shared samples, the portion taken and analyzed by the department shall be controlling unless proven invalid.

In addition to any other violation caused by the discharge described herein, in the event a single grab sample of the industrial user's discharge is obtained by the department, and then analyzed in accordance with 40 C.F.R. Part 136, and found to contain concentrations of pollutants which are two (2) or more times greater than the numeric limitations as listed in section 21-142(C), or as contained in the facility's wastewater discharge permit, the industrial user shall implement its slug control plan, and shall provide a written report to the department within fourteen (14) days, which describes the cause of greater concentration and provides a description of the means by which future discharge concentrations will be held to values of less than two (2) times the limitation in the future.

(V) *Confidential information.*

(1) Information and data on an industrial user obtained from written reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the department that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of industrial user. When submitted to the department, all information claimed to be confidential information must be clearly marked "confidential." When requested by the person furnishing the report, the portions of a report which disclose trade secrets or secret processes, and which are clearly labeled "confidential", shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this article, the National Pollutant Discharge Elimination System (NPDES) permit, and to the state disposal system permit and/or pretreatment programs, provided, however, that that information shall be treated as confidential by the governmental agency, until such time as the information has been determined to be nonconfidential by the governmental agency. Confidential information on industrial users, which the department releases pursuant to a request of another governmental agency, should be handled by the other governmental agency pursuant to its own confidentiality procedures. The department cannot control how another governmental agency handles such confidential information, and assumes no responsibility for the disposition of the information released to the governmental agency. The department will use sufficient care to inform the other governmental agency of the existence of the industrial user's confidentiality claim.

The department shall determine whether the information requested to be treated as confidential, in fact, satisfies the requirements of confidential information as defined herein. The decision of the department shall be made in writing. Wastewater constituents and characteristics will not be recognized as confidential information.

(2) Except as otherwise determined by the department or provided for by applicable law, all information with respect to an industrial user on file with the control authority shall be made available upon request by that user or the user's authorized representative during normal business hours.

(W) *Statutes, laws and regulations.* The National Categorical Pretreatment Standards defined in 40 C.F.R. Chapter I, Subchapter N, Parts 405—471, shall be and are incorporated by reference herein and made a part hereof. Unless otherwise provided, any reference in this article to a code, standard, rule, regulation or law enacted, adopted, established, or promulgated by any private organization, or any element or organization of government other than the City of Bloomfield Hills shall be construed to apply to such code, standard, rule, regulation or law in effect or existence on the date of enactment of this article.

(X) *Enforcement.*

(1) *Violations.* It shall be a violation of this article for any user to:

a. Fail to completely and/or accurately report the wastewater constituents and/or characteristics of the industrial user's discharge;

b. Fail to report significant changes in the industrial user's operations or wastewater constituents and/or characteristics within the time frames provided in section 21-142(R)(7)a.;

c. Refuse reasonable access to the industrial user's premises, waste discharge, or sample location for the purpose of inspection or monitoring;

d. Restrict, lockout or prevent, directly or indirectly, access to any monitoring facilities constructed on public or private property. The locking or securing of the monitoring facility shall not constitute a violation pursuant to this subsection, provided, that upon request reasonable access to the facility is promptly provided to the department;

e. Restrict, interfere, tamper with, or render inaccurate any of the department's monitoring devices including, but not limited to, samplers;

f. Fail to comply with any condition or requirement of the industrial user's wastewater discharge permit;

g. Fail to comply with any limitation, prohibition, or requirement of this article, including any rule, regulation, or order issued hereunder. Industrial users acting in full compliance with wastewater discharge permits issued prior to the effective date of this article shall be deemed to be in compliance with the requirements of this article, and such permits shall remain in effect and be enforceable under this article until a superseding permit is issued. Industrial users shall comply with National Categorical Pretreatment Standards and requirements on the date specified in the federal regulations, regardless of compliance schedules.

(2) *Upsets.* An upset shall constitute an affirmative defense to an action brought for noncompliance with article National Categorical Pretreatment Standards if the requirements of paragraph a. of this subsection are met.

a. An industrial user who wishes to establish the affirmative defense shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

1. An upset occurred and the industrial user can identify the cause(s) of the upset;

2. At the time, the facility was being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;

3. The industrial user has submitted the following information to the department, orally or in writing, within twenty-four (24) hours of becoming aware of the upset and where this information is provided orally, a written submission must be provided within five (5) days):

(i) A description of the discharge and cause of noncompliance;

(ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

b. In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof;

c. The industrial user shall control production of all discharges to the extent necessary to maintain compliance with this article upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternate 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.

(3) *Bypass.* Bypasses are prohibited unless the bypass does not cause a violation of pretreatment standards or requirements, but only if it is for essential maintenance to ensure efficient operation of the treatment system. These bypasses are not subject to the provisions of subsections a. and b. of this subsection (3).

a. *Notice of anticipated bypass.* Industrial users anticipating a bypass shall submit notice to the department at least ten (10) days in advance.

b. *Notice of unanticipated bypass.* An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time the industrial user becomes or should have become aware of the bypass. A written submission shall be provided within five (5) days of the time the industrial user becomes or should have become aware of the bypass. The written submission shall contain a description of the bypass including exact dates and times, and if the bypass has not been corrected, the [steps being taken to] prevent reoccurrence of the bypass.

c.

Prohibition of bypass and enforcement. Bypass is prohibited, and the department may take enforcement action against a user for a bypass, unless:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
3. The industrial user properly notified the department as described in subsection (3)b. of this section.

d. *Bypass approval.* Where it meets all conditions in subsection (3)c. of this section, the department may approve an anticipated bypass.

(4) Where one (1) or more of the measurements taken for any pollutant defined in section 21-142(C) of this Code during a six-month period exceeds by any magnitude the daily maximum nondetect limit for the same parameter, the industrial user may develop and implement pollution prevention initiatives, or a BMP, as part of its response. The department may, as part of an administrative order, also require development of a BMP as a part of the department's enforcement response. Upon approval of the department, these pollution prevention initiatives, or BMPs shall be made an enforceable part of the wastewater discharge permit. Industrial users shall provide, at six-month intervals, analytical results and certifications in support of its implementation of an approved pollution prevention initiative or BMPs. Upon demonstration of compliance, the industrial user may request to be relieved of this implementation requirement.

(5) *Emergency suspension and orders.* The control authority may order suspension of the sewer or wastewater treatment service and/or a wastewater discharge permit where, in the opinion of the department, such suspension is necessary to stop actual or threatened discharge which presents or may present an imminent or significant hazard to the health or welfare of persons or to the environment, interferes or may interfere with the POTW, or causes or may cause the City of Detroit to violate any condition of its NPDES permit. Any person notified of a suspension of the sewer or wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event the department provides informal notification under this section, written confirmation and an order shall be provided within twenty-four (24) hours. In the event of a failure of the person to comply voluntarily with a suspension or revocation order, the department shall take such steps as deemed necessary, including immediate severance of the sewer connection or services, to prevent or minimize damage to the POTW system or danger to any individual or the environment. In the event such steps are taken, the director shall immediately notify the industrial user within twenty-four (24) hours in writing of such action and order, and the specific recourse available. In any event, the department shall provide the industrial user with an opportunity for a hearing before the director or his designated representative within ten (10) days of such action. The control authority shall notify the City of Bloomfield Hills whenever notification is made to an industrial user pursuant to this paragraph, in writing, within seventy-two (72) hours of such action. The industrial user shall submit a detailed written statement to the department within fifteen (15) days of the occurrence describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Upon proof of elimination of the noncomplying discharge, the department shall reinstate the wastewater discharge permit and/or the sewer or wastewater treatment service.

(6) *Notice of violation.* Except in the case of any actual or threatened discharge as specified in paragraph (5) of this section, whenever the department has reason to believe that any industrial user has violated or is violating this article, the department shall serve a written notice stating the nature of the violation upon such industrial user. Where applicable, the department shall pursue appropriate escalating enforcement action as defined within its approved enforcement response plan. The failure of the department to issue a notice of violation shall not preclude the department from escalating its enforcement response.

(7) *Notice of control authority action.* The City of Bloomfield Hills or designated department thereof shall be notified by the control authority of any enforcement activity taken within its boundaries.

(8) *Administrative actions.* Whenever the department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, or a pretreatment standard or requirement or any prohibition of this article, the department, may initiate appropriate administrative enforcement action, except in the case of emergency or flagrant violation, in order to compel the industrial user to eliminate or to remedy such violation as soon as possible.

a. *Conferences.* The department may order any person who violates this article to attend a conference wherein the department may endeavor to cause the user to eliminate or remedy the violation by establishing an enforceable compliance schedule. The notice of violations shall be served at least ten (10) days before the scheduled conference and shall set forth the date, time, and place thereof. The City of Bloomfield Hills shall be notified in accordance with the terms and conditions of the delegation agreement which it shall enter into with the department. The conference shall be conducted by a representative of the department. The industrial user shall present a plan and schedule for achieving compliance with this article. Nothing contained herein shall require the department to accept or agree to any proposed plan or schedule or prevent the department from proceeding with the show cause hearing as set forth in subsection d. below. If the attendees agree upon a compliance schedule, the user and the department's duly authorized representative may enter, by consent, into a compliance agreement or an administrative order setting forth the terms of such agreement. An industrial user must exhibit good faith and expeditious efforts to comply with this article and any procedures, requirements and agreements hereunder.

b. *Compliance schedules.* The user and the department may agree upon a schedule which sets forth the terms and conditions, and time periods or schedules for completion of actions to remedy or to eliminate the causes of violation. These schedules may be developed as part of a compliance agreement, administrative consent order. Schedules developed under this subsection shall adhere to the following conditions:

1.

The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of upgraded or additional pretreatment facilities, or to the implementation of additional operation and maintenance procedures required for the industrial user to meet the applicable pretreatment requirements and standards including, but not limited to, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, and completing construction;

2. No single increment referred to in subsection 1. of this section shall exceed nine (9) months;
3. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the department including, at a minimum, whether it complied with the increment of progress to be met on such date and, if not, the date which it expects to comply with this increment of progress, the reason(s) for delay, and the steps being taken by the industrial user to return to the established schedule; and
4. Any deviations from the compliance schedule may result in the industrial user being found in violation of this article.

c. *Administrative orders.* The department may order any industrial user, who violates or continues to violate this article or a duly issued permit, to install and to properly operate devices, treatment facilities, or other related appurtenances. In addition, orders may contain such other requirements as might reasonably be necessary and appropriate to address the violation including the installation of pretreatment technology, additional self-monitoring and management practices, implementation of a waste minimization assessment to identify and implement feasible source reduction, and recycling practices to reduce the generation or release of pollutants at the facility. An order may be either an administrative consent order, which is the result of an agreement, or a unilateral administrative order.

d. *Show cause hearing.* The department may order any industrial user who violates this article, or allows such violation to occur, to show cause before the department why a proposed enforcement action should not be taken. A notice shall be served on the industrial user specifying the time and place of the hearing before the department regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the industrial user to show cause before the department why a proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten (10) days before the hearing with copies to be provided to the City of Bloomfield Hills as provided in the delegation agreement. Service may be on any agent or officer of a corporation or authorized representative.

e. *Hearing proceeding.* The hearing shall be conducted in accordance with the procedures adopted by the board. A hearings officer shall conduct the show cause hearing and take the evidence, and may:

1. In the name of the board, issue notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
2. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the director for action thereon.

f. *Transcript.* At any show cause hearing held pursuant to this article, testimony shall be recorded by a court reporter.

g. *Actions.* After a show cause hearing has been conducted, the hearing officer shall issue an order to the industrial directing any of the following actions:

1. Immediate compliance with the industrial user's wastewater discharge permit or with any applicable limitation, condition, restriction or requirement of this article or applicable local, state or federal law or regulation;
2. Pretreatment of waste by installation of adequate treatment equipment or proper operation and maintenance of existing treatment equipment be accomplished within a specified time period;
3. Submission of compliance reports on effluent quantity and quality as determined by self-monitoring and analysis during a specified time period;
4. Submission of period reports and effluent quality and quantity determined by self-monitoring analysis throughout the final period set by a compliance date;
5. Control of discharge quantities;
6. Payment of costs for reasonable and necessary inspection, monitoring, and administration of the industrial user's activities by the department during compliance efforts; and/or
7. Any such other orders are appropriate including, but not limited to, immediate termination of sewer or wastewater treatment services or revocation of a wastewater discharge permit or orders directing that, following a specified time period, sewer or wastewater treatment service will be discontinued unless adequate treatment facilities, devices, or operation and maintenance practices have been employed.
8. A finding the user has demonstrated by a preponderance of the evidence that a violation either of this division or of a duly issued permit did not occur.

h. *Public notification of significant noncompliance.* The department shall publish in the largest daily newspaper published in the City of Detroit list of all industrial users which were in significant noncompliance with applicable pretreatment requirements at any time during the previous twelve (12) months. All industrial users identified in a proposed publication shall be provided with a copy of the proposed notice at least thirty (30) days before publication and allowed an opportunity to comment as to its accuracy.

(9) *Legal actions.*

a. Criminal action. Any user who violates any provision of this article, including the failure to pay any fees, charges or surcharges imposed hereby, or any condition or limitation of a permit issued pursuant thereto or who knowingly makes any false statements, representations, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article or wastewater discharge permit or who tampers with, or knowingly renders inaccurate any monitoring device required under this article is guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed five hundred dollars ($500.00) for each violation per day or by imprisonment for not more than ninety (90) days or by both. The department is hereby authorized, through its counsel to seek prosecution of criminal charges against any person violating any provision of this article.

b. Civil action. Whenever the department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, a pretreatment standard or requirement or any requirement of this article, the director may commence a civil action to compel compliance in a court of competent jurisdiction to enjoin the user from discharging, and/or to obtain appropriate relief to remedy the violations. The department or board may also seek additional legal and/or equitable relief. The commencement of suit neither constitutes an exclusive election of remedies nor prohibits the department, director, board, or City of Detroit from commencing action in federal court for discharges believed to be in violation of this article, state and federal requirements contained in the Clean Water Act, the City of Detroit's NPDES permit, or other applicable laws or requirements. In addition, the City of Detroit may recover the reasonable attorney fees, court costs, court reporters' fees, and other unusual expenses related to enforcement activities or litigation against the person found to have violated this article, or the orders, rules, regulations and permits issued hereunder.

c. All fines, costs, and penalties which are imposed by any court of competent jurisdiction shall be payable to the City of Detroit Water and Sewerage Department.

(Y) *Reconsideration and appeal.* Through the procedures of reconsideration and appeal, a user may contest actions, determinations, or decisions of the department which result from its construction, application and enforcement of this article. The procedures contained within this section govern reconsideration and appeal with respect to construction, application, and enforcement of this article.

(1) *Selection of reconsideration or of appeal.*

a. Except for those actions, determinations, or decisions which are expressly identified as subject only to appeal, reconsideration may be requested by any permit applicant, permittee, authorized industrial wastewater discharger or other discharger, who is adversely affected by any action, determination, or decision that is made by, or on behalf of, the department by the director, or an authorized representative, and that interprets, implements or enforces the provisions of this article.

b. An appeal may be requested by any permit applicant, permittee, authorized industrial wastewater discharge or other discharger, who is adversely affected (i) by a permit issued as final by the department, or (ii) by an administrative order entered after a show cause order and hearing, or after a hearing for reconsideration.

c. Unless otherwise expressly provided for by this article, a request for reconsideration or appeal must be signed by an authorized representative, and received at the department's general offices within twenty (20) days from the date of the occurrence of the action, determination, or decision in dispute. A request for reconsideration shall contain the requester's name and address, a brief statement of the reason(s), and the factual basis underlying the request.

d. A request for reconsideration shall be filed in triplicate either by hand delivery or by certified mail to the general offices of the department. Where a request for reconsideration or appeal either is not filed within the time period provided for in this subsection or is improperly made, the action, determination or decision of the director, or the department's authorized representative, is final and any right to reconsideration appeal may be deemed waived.

(2) *Reconsideration.* Within fifteen (15) days after receipt of a timely and proper request for reconsideration, the department shall notify the applicant of the time and place for a hearing.

a. A hearing for reconsideration shall be conducted by a hearings officer who is designated by the director and may be an employee of the department. The decision of the hearings officer shall be in the form of a recommendation to the director and embodied in an administrative order. Except for an administrative consent order that was negotiated and agreed to by both parties, an administrative order is appealable in accordance with subsection c. of this section.

b. Where improperly or untimely submitted, the department may reject a request for reconsideration. The department shall notify the requester in writing that the request has been rejected.

c. Unless the date is mutually extended by both parties, the hearing shall be conducted neither less than ten (10) days nor more than thirty (30) days after mailing of the notice. For cause and at the discretion of the hearings officer, the hearing may be continued for a reasonable time.

d. The hearing for reconsideration shall be an informal consultation and conference where the requester in person, or by counsel, shall present their argument, evidence, data, and proof in connection with the issue(s) being reconsidered. The parties shall not be bound by the Michigan Rules of Evidence. The hearing shall be transcribed and the requester may obtain a copy of the hearing transcript, as appropriate, from the department or from the court reporter.

e. Within thirty (30) days after the close of the hearing, the hearings officer shall issue a final decision, which shall contain a recommendation to the director. The hearings officer shall send such decision to the requester by certified mail.

f.

Unless such action is necessary to prevent pass through, interference or other harm to the POTW, to the public or to the waters of this state, the filing of a request for reconsideration in accordance with this section shall stay the action by the department that is the subject of the hearing for reconsideration.

(3) *Appeal.* Within thirty (30) days after receipt of a timely and proper request for an appeal, the department shall notify the applicant in writing regarding the time and place for a hearing. The hearing shall be conducted in accordance with procedures set by the board until rules are promulgated pursuant to Section 2111 of the 1997 Detroit City Charter. In addition:

a. Any request for an appeal must be made within twenty (20) days of the department's action, determination or decision regarding the request for reconsideration or any permit issued in accordance with this article.

b. Where a request either is not filed within the time period contained in this subsection or is improperly made, the action, determination or decision of the director, or the department's authorized representative, is final and any right to appeal may be deemed waived. Where untimely or improperly submitted, the department may reject the request for an appeal, and shall notify the requester in writing that such request has been rejected.

c. The department shall appoint a hearings officer. The hearings officer shall review the evidence, and within fifteen (15) days after the close of the hearing shall issue a written recommendation to uphold, modify or reverse the action, determination, or decision of the department.

d. The written recommendation of the hearings officer shall be submitted to the board which shall render a final decision within thirty (30) days of its next regularly scheduled meeting.

e. In accordance with applicable law, the user or the department may appeal any final decision of the board to a court of competent jurisdiction.

f. Unless such action is necessary to prevent pass through, interference, or other harm to the POTW, to the public or to the waters of this state, the filing of a request for appeal in accordance with this section shall stay the action by the department that is the subject of the appeal.

Appendix A

Aluminum Forming	40 C.F.R. Part 467
Asbestos Manufacturing	40 C.F.R. Part 427
Battery Manufacturing	40 C.F.R. Part 461
Builder's Paper and Board Mills	40 C.F.R. Part 431
Canned and Preserved Fruits/Vegetables	40 C.F.R. Part 407
Canned and Preserved Seafood Processing	40 C.F.R. Part 408
Carbon Black Manufacturing	40 C.F.R. Part 458
Cement Manufacturing	40 C.F.R. Part 411
Centralized Waste Treatment	40 C.F.R. Part 437
Coal Mining	40 C.F.R. Part 434
Coil Coating	40 C.F.R. Part 465
Copper Forming	40 C.F.R. Part 465
Dairy Products Processing	40 C.F.R. Part 405
Electrical and Electronic Components I & II	40 C.F.R. Part 469
Electroplating	40 C.F.R. Part 413
Explosives Manufacturing	40 C.F.R. Part 457
Feed Lots	40 C.F.R. Part 412
Ferroalloy Manufacturing	40 C.F.R. Part 424

Fertilizer Manufacturing	40 C.F.R. Part 418
Glass Manufacturing	40 C.F.R. Part 426
Grain Mills	40 C.F.R. Part 406
Gum and Wood Chemicals Manufacturing	40 C.F.R. Part 454
Hospital	40 C.F.R. Part 460
Ink Formulating	40 C.F.R. Part 447
Inorganic Chemicals Manufacture I & III	40 C.F.R. Part 415
Iron and Steel	40 C.F.R. Part 420
Landfills	40 C.F.R. Part 445
Leather Tanning and Finishing	40 C.F.R. Part 425
Meat Products	40 C.F.R. Part 432
Metal Finishing	40 C.F.R. Part 433
Metal Molding and Casting	40 C.F.R. Part 464
Metal Products and Machinery	40 C.F.R. Part 438
Mineral Mining and Processing	40 C.F.R. Part 436
Nonferrous Metals Forming	40 C.F.R. Part 471
Nonferrous Metals Manufacturing I & II	40 C.F.R. Part 421
Ore Mining and Dressing	40 C.F.R. Part 440
Organic Chemicals, Plastics, and Synthetic Fibers	40 C.F.R. Part 414
Paint Formulating	40 C.F.R. Part 446
Paving and Roofing Material	40 C.F.R. Part 443
Pesticide Chemicals	40 C.F.R. Part 455
Petroleum Refining	40 C.F.R. Part 419
Pharmaceutical	40 C.F.R. Part 439
Phosphate Manufacturing	40 C.F.R. Part 422
Photographic	40 C.F.R. Part 459
Plastics Molding and Forming	40 C.F.R. Part 463
Porcelain Enameling	40 C.F.R. Part 466
Pulp, Paper, and Paperboard	40 C.F.R. Parts 430, 431

Rubber Manufacturing	40 C.F.R. Part 428
Soap and Detergent Manufacturing	40 C.F.R. Part 417
Steam Electric	40 C.F.R. Part 423
Sugar Processing	40 C.F.R. Part 409
Textile Mills	40 C.F.R. Part 410
Timber Products	40 C.F.R. Part 429
Transportation Equipment Cleaning	40 C.F.R. Part 442
Waste Combusters	40 C.F.R. Part 444

Appendix B

An industrial user may elect, in lieu of the total phenols limitation specified in section 21-142(C)(2), to substitute specific limitations for each of the eight (8) individual phenolic compounds identified under the total phenols limitation. The following specific limitations, expressed in mg/l, shall be applied in lieu of the total phenols limitation, upon election;

2-Chlorophenol	2.0 mg/l
4-Chlorophenol	2.0 mg/1
4-Chloro-3-methylphenol	1.0 mg/l
2,4-Dichlorophenol	5.5 mg/l
2,4-Dinitrophenol	2.0 mg/l
4-Methylphenol	5.0 mg/l
4-Nitrophenol	15.0 mg/l
Phenol	14.0 mg/l

Following election, the wastewater discharge permit shall be modified to incorporate these substituted parameters and an industrial user shall be responsible for monitoring and reporting compliance with these parameters.

Appendix C. Interim Discharge Limitations

No user shall discharge wastewater containing any of the following pollutants in excess of the following interim pollutant discharge limitations:

(1) *Compatible Pollutants:*

a. Any Fats, Oil or Grease (FOG) in concentrations greater than 1,500 mg/l based on an average of all samples collected within a twenty-four (24) hour period.

b. Any Total Suspended Solids (TSS) in concentrations greater than 7,500 mg/l.

c. Any Biochemical Oxygen Demand (BOD) in concentrations greater than 7,500 mg/l.

d. Any Phosphorus (P) in concentrations greater than 250 mg/l.

Unless otherwise stated, all limitations are based upon samples collected over an operating period representative of a user's discharge, and in accordance with 40 CFR Part 136.

(2) *Noncompatible Pollutants:*

Cadmium (Cd): 1.0 mg/l

(Ord. No. 227, § 1, 9-12-89; Ord. No. 369, § 6, 5-13-08)

Secs. 21-143—21-160. - Reserved.

DIVISION 5. - RESERVED

> *Footnotes:*
> --- (***7***) ---
> ***Editor's note—*** *Ordinance No. 227, § 1, adopted Sept. 12, 1989, repealed §§ 21-161—21-164, comprising division 5, relative to implementation of surcharges.*

Secs. 21-161—21-175. - Reserved.

DIVISION 6. - SEWAGE METERING

Sec. 21-176. - Determining sewage flow for billing purposes.

The basic means of determining sewage flow for billing purposes will remain the water meter or unit assignment.

Sec. 21-177. - Conditions applied to use of sewage meters.

Sewage meters may be allowed for determining sewage flow for billing purposes in lieu of the water meter or unit assignment upon written application of the customer to the municipality and upon written application of the municipality to the county subject to the following conditions:

(1) The meter must be of a make and model approved by the municipality and the county and the entire installation must also be approved by the municipality and the county.

a. Magnetic meters generally are acceptable;

b. Sonic meters generally are acceptable;

c. Flumes and weirs generally are not acceptable except in cases where they are proven to be the most practical method of measuring wastewater flow;

d. The installation must include a totalizer and a chart recorder.

(2) All costs associated with furnishing and installing the meter, including design, all necessary permits, the meter, construction, installation and inspection shall be borne by the customer. The municipality and the county shall review plans submitted prior to installation and shall have the rights to inspect the overall construction and installation. However, separate permits and separate inspections for certain parts of the work, such as plumbing and electrical, may be necessary from other municipal agencies, and it will be the customer's responsibility to obtain these as necessary and to satisfy the county that these requirements have been complied with. The meter as installed shall remain the property of the customer.

(3) All costs associated with the operation of the meter, including power, light and recorder, and meter pit and site maintenance, shall be borne by the customer. The municipality and the county shall have access to the meter.

(4) The municipality shall maintain all meters in service, making such periodic tests and repairs as are necessary to ensure correct registration. The cost of meter reading and billing meter maintenance, meter repair and meter replacement, when necessary as determined by the municipality and/or the county, shall be borne by the customer.

(Ord. No. 428 , § 1, 2-13-18)

Sec. 21-178. - Unacceptable meters.

Subject to the provisions of section 21-179, deduct water meters, special internal meters, calculations, estimates, etc., will not be acceptable as adjustments to metered water as a basis for billing for sewage disposal.

Sec. 21-179. - Malfunctions.

In cases where there is a malfunction in the metering system used for the determination of the sewage flow for billing purposes for a particular customer, the wastewater flow for the period of malfunction shall be computed by using prior historical sewage flow records of the customer acceptable to the municipality, and the county.

Sec. 21-180. - Determination of rate.

If a sewage meter is allowed for determining sewage flow for billing purposes the county and/or the municipality may establish a sewage disposal rate that considers the cost of disposing of inflow/infiltration into the system. The sewage disposal rate based on a sewage meter shall be one hundred ten (110) percent of

the rate established from time to time for sewage disposal charges based on metered water.

Sec. 21-181. - User charge system for sewer service.

(a) Rates and charges for the use of the wastewater system of the City are hereby established and made against each lot, parcel of land or premises which may have direct or indirect connections to the system or which may otherwise discharge wastewater either directly or indirectly into the system.

(b) The rates and charges hereby established shall be based upon a methodology which complies with applicable federal and state statutes and regulations. The amount of the rates and charges shall be sufficient to provide for debt service and for the expenses of operation, maintenance and replacement of the system as necessary to preserve the same in good repair and working order. The amount of the rates and charges shall be reviewed annually and revised when necessary to insure system expenses are met and that all users pay their proportionate share of operation, maintenance and equipment replacement expenses. For those premises that have a separate water meter for irrigation purposes, the user charge for sewer service shall also be charged along with the water service charge on said separate meters for irrigation purposes. For those premises that currently have separate water meters for irrigation purposes and which are only paying the charge for water service on said separate meter for irrigation purposes, said premises shall within one hundred eighty (180) days from the adoption of this section, begin paying the user charge for sewer services, along with the water charges on the separate water meters for irrigation purposes, which user charge for sewer service on the separate water meters for irrigation purposes shall be in addition to the user charge for sewer service on the premises' main water/sewer meter.

(c) The amount of such rates and charges and the intervals at which users of the wastewater system are billed shall be determined by resolution of the city commission.

(d) The rates and charges for operation, maintenance and replacement hereby established shall be uniform within the area serviced by the city. No free service shall be allowed for any user of the wastewater system.

(e) All customers of the City wastewater system shall receive an annual notification, either printed on the bill or enclosed in a separate letter, which shall show the breakdown of the wastewater disposal bill into its components for:

(1) Operation, maintenance and replacement; and

(2) Debt service.

(Ord. No. 253, § 1, 1-14-92; Ord. No. 428 , § 1, 2-13-18)

Secs. 21-182—21-199. - Reserved.

ARTICLE IV. - STORMWATER MANAGEMENT

DIVISION 1. - PURPOSES AND INTERPRETATION

Sec. 21-200. - Purposes.

The purposes of this article shall be:

(a) To protect the public health, safety, and welfare by protecting existing man-made or natural stormwater management facilities.

(b) To protect public health, safety, and welfare by requiring stormwater management i.e. quantity and quality enhancements, whenever new, expanded, or modified developments are proposed or existing stormwater features are proposed to be expanded, modified, or altered.

(c) To promote the minimization of degradation of water resources by reducing and/or avoiding impacts on the hydrology of stormwater runoff.

(d) To establish regulations to prevent harmful effects of changes in the quantity and quality of surface water discharge into water bodies that are in the City of Bloomfield Hills or in downstream areas.

(e) To assure that stormwater runoff from development is controlled so that the water quality in watercourses, groundwater recharged by stormwater, and the habitat situated in areas impacted by stormwater are protected, and that siltation and pollution are minimized to the extent possible.

(f) To provide for cost-effective and functionally-effective stormwater management, and to reduce the need for future remedial projects.

(g) To minimize soil erosion and sedimentation.

(h) To ensure that all stormwater management facilities will be properly maintained.

(i) To eliminate stormwater connections to the separated sanitary sewer.

(j) To recognize private responsibility to incorporate stormwater management systems into the early stages of site planning and design.

(k) To assure compliance with state and federal law and regulations relating to water quality.

(l) As a requirement of the NPDES Stormwater Discharge Permit and the City's Municipal Separate Storm Sewer System Permit, the city accepts the following Oakland County Standards for Post-Construction Storm Water Runoff:

(1) The Oakland County "Post-Construction Storm Water Runoff Program" as amended from time to time, is hereby adopted by the City of Bloomfield Hills in this article for the control and treatment of stormwater runoff.

(2) All permanent and temporary stormwater management BMPs, constructed as part of the requirements of this section, are subject to this article.

(3) This article also applies to any activities which may affect the quantity or quality of a private or stormwater conveyance system or any waterway within the city. Any person(s) engaged in activities that may result in excessive quantities or pollutants entering any stormwater conveyance systems or waterways may be subject to the remedies for violation of this section. Examples of such pollutants may include, but is not limited to, debris, concrete washings, de-icing materials, fertilizers, heavy metals, automobile fluids, topsoil, yard wastes, and commercial or light industrial wastes.

(4) Natural swales and channels should be preserved, whenever possible. If channel modification must occur, the physical characteristics of the modified channel will meet the existing channel in length, cross-section, slope, sinuosity, and carrying capacity. Streams and channels will be expected to withstand all events up to the two-year storm without increased erosion.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-201. - Construction of language.

The following rules of construction apply to the text of this article:

(a) Particulars provided by way of illustration or enumeration shall not control general language.

(b) Ambiguities, if any, shall be construed liberally in favor of protecting natural land and water resources.

(c) Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(d) Terms not specifically defined in this article shall have the meaning customarily assigned to them.

(e) Considering that stormwater management in many cases requires sophisticated engineering design and improvements, some of the terms of this article are complex in nature. Effort has been made to simplify terms to the extent the subject matter permits. In addition, assistance and examples will be provided by or on behalf of the city as needed for the interpretation and understanding of this article.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-202. - Abrogation and conflict of authority.

Nothing in this article shall be interpreted to conflict with present or future state statutes in the same subject matter. Conflicting provisions of this article shall be abrogated to the extent of the conflict. The provisions of this article shall be construed, if possible, to be consistent with and in addition to relevant state regulations and statutes.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of achieving the objectives of this article, and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

This article is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. If there is another ordinance that is inconsistent, the terms of the ordinance that promotes the objectives of this article to the greatest extent shall apply.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Secs. 21-203—21-209. - Reserved.

DIVISION 2. - DEFINITIONS

Sec. 21-210. - Definition of terms.

The following terms, phrases, words and derivatives shall have the meaning defined below:

Accelerated soil erosion. The increased movement of soils that occurs as a result of the impact of development upon the flow of stormwater.

BMP or *best management practice.* BMPs are any structural, vegetative or managerial practice used to treat, prevent or reduce water pollution. Such practices include temporary seeding on exposed soils, detention and retention basins for stormwater control, and scheduling the implementation of all BMPs to ensure their effectiveness.

City. City of Bloomfield Hills.

City commission. Bloomfield Hills City Commission.

Conveyance facility. A storm drain, as defined in this article.

Detention basin. A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a controlled rate. A detention basin may drain completely after a storm event, or it may be a pond with a fixed minimum water elevation between runoff events.

Development. Any change in land and/or vegetative cover that tends to alter stormwater impacts. This term shall not include customary lawn maintenance or gardening.

Discharge. Any addition or introduction of any pollutant, stormwater, or any other substance into the stormwater system or into the groundwater table.

Disturbed area. An area of land subjected to development.

Ditch. Defined depression of land that transports and directs the flow of stormwater usually along the side of a road.

Drainage system. All facilities, measures, areas, and structures which serve to convey, catch, hold, filter, store, and/or receive stormwater, either on a temporary or permanent basis.

Earth change. A human-made change in the natural cover or topography of land, including but not limited to cut and fill activities, which may result in or contribute to soil erosion or sedimentation of watercourses or wetlands.

Flood. A temporary rise in the level of any water body, watercourse or wetland which inundates areas not ordinarily covered by water.

Floodplain. For a given flood event, that area of land adjacent to a continuous watercourse that has been covered temporarily by water.

French drain. A below-ground drain consisting of a trench filled with gravel to permit movement of water through the gravel and into the ground. Perforated pipe may be used to enhance the efficiency of the system.

Grading plan. A sealed drawing or plan and accompanying text prepared by a registered engineer, surveyor or landscape architect which shows alterations of topography, alterations of watercourses, flow directions of stormwater runoff, and proposed stormwater management and measures, having as its purpose to ensure that the objectives of this article and the city's grading ordinance (chapter 7.5 of the City Code) are met.

Infiltration. The percolation of water into the ground, expressed in inches per hour.

Infiltration facility. A structure or designated area which allows runoff to seep gradually into the ground, e.g., French drains, seepage pits, infiltration trenches, dry well, or perforated pipe.

Maintenance agreement. A binding agreement that sets forth the terms, measures and conditions for the maintenance of stormwater management systems and facilities.

Nonerosive velocity. Stormwater flow rate/speed that does not cause accelerated soil erosion.

Offsite facility. All or part of a drainage system that is located partially or completely off the development site for which it serves.

Peak rate of discharge. The maximum rate of stormwater flow at a particular location following a storm event, as measured at a given point and time in cubic feet per second (cfs).

Person. Any individual, firm, partnership, association, corporation, company, or organization of any kind including school districts and government agencies conducting operations within the city.

Planning commission. Bloomfield Hills Planning Commission.

Public storm sewer. A drainage system serving a platted subdivision or other development which has been designed and constructed and accepted to be operated and maintained by a homeowners association or the City of Bloomfield Hills.

Receiving body of water. Any watercourse or wetland into which stormwaters are directed, either naturally or artificially.

Retention basin. A holding area for stormwater, either natural or manmade, which does not have an outlet to adjoining watercourses or wetlands. Water is removed from retention basins through infiltration and/or evaporation processes, and retention basins may or may not have a permanent pool of water.

Runoff. That part of precipitation which flows over the land.

Sediment. Mineral or organic particulate matter that has been removed from its site of origin by the processes of soil erosion, is in suspension in water, or is being transported.

Soil erosion. The wearing away of land by the action of wind, water, gravity or a combination thereof.

Soil erosion control measures. A structure, facility, barrier, berm, process, vegetative cover, basin, and/or other installations designed to control accelerated soil erosion. Temporary measures are installed to control soil erosion during construction or until soils in the contributing drainage area are stabilized. Permanent measures remain after the project is completed.

Storage facility. A basin, structure, or area, either natural or human made, which is capable of holding stormwater for the purpose of controlling or eliminating discharge from the site.

Stormwater discharge. The volume of water passing a given point at a given time expressed in cubic feet per second. Also referred to as "peak rate of discharge".

Storm drain. A conduit, pipe, ditch, swale, natural channel or manmade structure which serves to transport stormwater runoff. Storm drains may be either enclosed or open.

Stormwater management measure and facility. Any facility, structure, channel, area, process or measure which serves to control stormwater runoff in accordance with the purposes and standards of this article.

Stormwater management plan. Drawings and/or written information prepared by a registered engineer, registered landscape architect or registered surveyor which describe the way in which accelerated soil erosion and/or stormwater flows are proposed to be controlled, both during and after construction, having as its purpose to ensure that the objectives of this article are met.

Stormwater management system. Entire existing or proposed stormwater conveyance and storage facilities and all appurtenances thereto.

Swale. Defined contour of land with gradual slopes that transports and directs the flow of stormwater. Also known as a shallow ditch. Generally, a swale is located between homes or through rear yards and is not within a public easement.

Watercourse. Any natural or manmade waterway or other body of water having reasonably well-defined banks. Rivers, streams, creeks and brooks and channels, whether continually or intermittently flowing, as well as lakes and ponds are watercourses for purposes of stormwater management.

Watershed. An area in which there is a common receiving body of water into which stormwater ultimately flows, otherwise known as a drainage area.

Wetlands. Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life and is commonly referred to as a bog, swamp or marsh, as defined by state law.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Secs. 21-211—21-219. - Reserved.

DIVISION 3. - GENERAL PROVISIONS

Sec. 21-220. - Applicability.

Except for those activities expressly exempted by section 21-221, every new development (as defined in this article), or redevelopment in the City of Bloomfield Hills shall have a grading plan as required in chapter 7.5 of the City Code which shall also include a stormwater management plan when required for the listed activities below. No development or preparation for development on a site shall occur unless and until an application has been submitted and approved for a stormwater management plan. This provisions does not alleviate the requirements of the city's grading ordinance. The following types of developments and earth changes require a stormwater management plan:

(a) Land development proposals subject to site plan review requirements in the City of Bloomfield Hills Zoning Ordinance.

(b) Subdivision plat proposals.

(c) Site condominium developments pursuant to the Condominium Act, P.A. 59 of 1978 as amended; MCLA 559.101 et seq.

(d) Any development on property divided by land division in connection with which one (1) or more public or private roads are created or extended.

(e) Any proposal to mine, excavate, or clear and grade or otherwise develop one (1) acre or more of land for purposes other than routine single-family residential landscaping and gardening, or any proposal within five hundred (500) feet of the top of the bank of an inland lake or stream.

(f) Development projects of federal, state and local agencies and school districts. Filling, grading, enclosing or otherwise modifying or improving an existing ditch, channel, swale or other overland drainage course.

(g) Modifying or connecting to an existing public or private separated storm sewer system.

(h) As directed by the city or their appointed agents or representatives.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-221. - Exempt activities.

(a) Notwithstanding the requirements of section 21-220, a stormwater management plan shall not be required for activities commonly associated with farming, horticulture and silviculture including plowing, irrigation, irrigation ditching, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, provided, however, such activities must be bona fide commercial enterprises, being undertaken without the expectation of being converted to some other use within the foreseeable future.

(b) Routine single-family residential landscaping and/or gardening that does not alter the existing stormwater management facilities or require a grading plan as determined by the city.

(c) In the event a development has received final site plan approval prior to the effective date of this article, then this article shall not apply unless such approval expires prior to the commencement of construction. In the event a development has received preliminary site plan approval prior to the effective date of this article, then the review required under this article shall proceed, and there shall be compliance with the terms of this article to the extent feasible without redesigning the development so as to reduce the number, size and density of buildings. In the case of a phased development in which one (1) or more phases have been constructed prior to the effective date of this article, then this article shall apply to those phases for which stormwater facilities have not been constructed and approved.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Secs. 21-222—21-229. - Reserved.

DIVISION 4. - STORMWATER MANAGEMENT PLAN REOUIREMENTS

Sec. 21-230. - Preapplication conference.

If required by the city, a preapplication conference shall be held with the city engineer prior to the submittal of a stormwater management plan. The purpose of the preapplication conference is to provide information about plan submittal requirements, and city and county regulations. All stormwater drainage and erosion control plans shall meet the standards adopted by the City and Oakland County for design and construction.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-231. - Contents of stormwater management plan.

(a) *Plan presentation.*

(1) Through plans, illustrations, reports, and calculations, the stormwater management plan shall display the required information specified in the grading ordinance or as otherwise specified herein.

(2) The stormwater management plan must be sufficiently detailed to specify the type, location, and size of stormwater management facilities, using preliminary calculations. Detailed construction drawings are not required at the stormwater management plan review stage.

(3) If it is proposed to develop a project in two (2) or more phases, the stormwater management plan shall be prepared and submitted for the total project unless a variance has been approved by the zoning board of appeals. Moreover, it shall be demonstrated that a sufficient "stand alone" plan shall exist upon the completion of each phase, i.e., assuming that future phases shall never be developed.

(b) *Plan preparation.* The stormwater management plan shall be prepared by a registered civil engineer, land surveyor, or landscape architect, and shall meet the requirements specified herein. Other persons and professionals may assist in the preparation of the plan.

(c) *Scale for mapping.* The stormwater management plan shall be drawn to a scale as specified in the grading ordinance.

(d) *Required information.*

(1) An application will be required to be completed and submitted to the city.

(2) The following information is required for all stormwater management plans for city or planning commission review and approval:

a. All information as required within the grading ordinance.

b. Zoning classification of petitioner's parcel and all abutting parcels.

c. Existing conditions for all existing or proposed site features including stormwater management facilities consistent with the requirements of these procedures and standards.

d. Soil borings may be required at various locations including the sites of proposed retention/detention/infiltration facilities, and as needed in areas where high groundwater tables exist.

e. All calculations used in designing all components of stormwater management systems must be submitted along with plans and shall include a drainage district map if the drainage area extends past the boundaries of the subject project.

f. Easement information will be shown, consistent with the requirements of these procedures and standards.

g. A description of the mechanism to be established to provide for long-term maintenance of the development's stormwater management system, and the government agency responsible for maintenance oversight if maintenance is to be performed by a private entity. A drainage district may be required to be established for future maintenance.

(3) The following information shall be required prior to final administrative approval and authorization to start construction:

a. Development layout of lots, roads and utility and drainage easements.

b. Plans, profiles and details of all roads and storm sewers. The storm sewer details will include type and class of pipe, length of run, percent of slope, invert elevations, rim elevations, and profile of the hydraulic gradient, as specified herein.

c. A storm sewer computation sheet indicating the number of acres, calculated to the nearest tenth of an acre, contributing to each specific inlet/outlet, the calculated hydraulic gradient elevation, maximum flow in cfs and the flow velocities for enclosed systems.

d. Plans, profiles and details of all open ditch drains, drainage swales and drainage structures.

e. Plans and details of the proposed soil erosion and sedimentation control measures, both temporary (during construction) and permanent.

f. Plans and details of detention/retention facilities.

g. A drainage area map, overlaid onto a copy of the site grading plan, which clearly shows the areas tributary to each inlet and/or storage basin.

h.

Topographic maps, at contour intervals specified in the grading ordinance or less on U.S.G.S. datum, showing existing and proposed grades of the entire area to be subdivided, as well as off-site topography over at least one hundred (100) feet of the surrounding properties. Maps will also show all existing water courses, lakes and wetlands, and the extent of all off-site drainage areas contributing flow to the development.

i. The number of acres proposed to be developed and, for phased developments, the number of acres in each phase.

j. Locations of all existing drain fields for on-site sanitary sewage disposal systems, as approved by the Oakland County Environmental Services Division, and of all expansion areas. Drain fields shall not be located within drainage easements.

k. Design data and criteria used for sizing all drainage structures, channels, and stormwater basins including weighted runoff coefficient calculations.

l. A stormwater facility maintenance plan, schedule, and budget estimating the costs that will be associated with system maintenance

m. In addition to the foregoing, a single sheet including the entire site plan along with all proposed storm drainage facilities and drainage easements shall be submitted.

n. A soil erosion permit under the Michigan Soil Erosion and Sedimentation Control Act, P.A. 451, Part 91 Public Acts of 1994 as amended, will be obtained from the appropriate agency prior to any construction.

o. The applicant will make arrangements acceptable to the city for inspection during construction and for final verification of the construction by a registered professional engineer or surveyor prior to the approval of the final construction plans.

p. Review of construction plans by the city will not proceed until plan approval has been granted. The Land Division Act of 1996 gives no time limit in which final construction plans must be reviewed. The city will attempt to review these plans in the shortest possible time.

q. Approval of construction plans by the city is valid for one (1) calendar year. If an extension beyond this period is needed, the applicant will submit a written request to the city for an extension. The city may grant one-year extensions of the approval, and may require updated or additional information if needed.

r. For site condominiums, complete master deed documents (including "exhibits" drawings) must be submitted for the city's review and approval prior to recording.

(e) *As-built plans and maps.*

(1) Reproducible mylars of the as-built stormwater management system(s) will be submitted by the applicant or his/her engineer to the commissioner along with the final plan, or upon completion of system construction. The mylars are to be of quality material and three (3) mils in thickness.

(2) As-built plans shall include all plan information as required herein properly shown "as constructed" including all grades, inverts, contours, elevations, etc.

(3) All as-built information shall be properly labeled as such on the plans.

(4) If requested by the city, the as-built plans shall be submitted in electronic form compatible to the city's CADD or GIS software. This shall include all plan sheets and a general plan of the development showing lots, rights-of-way, roads, water and sewer systems, detention/retention basins, swales, ditches, and storm sewers.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-232. - Plan submission.

(a) Four (4) copies of the stormwater management plan, required under section 21-220(a), shall be submitted to the building department along with the required application.

(b) For developments subject to site plan review, the proprietor shall submit a stormwater management plan to the city clerk at the time that the preliminary site plan is submitted.

(c) For developments subject to subdivision plat review, the proprietor shall submit a stormwater management plan to the city clerk at the time that the tentative preliminary plat is submitted.

(d) For other earth changes or activities subject to stormwater management plan requirements, the plan shall be submitted to the city clerk (as applicable) before construction drawings are submitted.

(e) Compliance with the requirements of this article does not eliminate the need for the proprietor to obtain required permits and approvals from county and state agencies. Such permits and approvals include, but are not limited to, soil erosion permits from the city building inspector, drainage approvals from the county drain commissioner, road drainage approvals from the county road commission, wetlands permits from the city and state department of environmental quality, and dam construction permits from the state department of natural resources.

(f) Compliance with the requirements of this article does not eliminate the need for the proprietor to comply with other applicable city ordinances and regulations.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-233. - Revision of plan.

If it becomes necessary to alter a development or earth change proposal after the stormwater management plan has been approved, a revised stormwater management plan must be submitted. All requirements and standards for stormwater management plans (division 4) shall apply.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-234. - Review procedures.

(a) *Planning commission review.*

(1) The planning commission shall, following review and recommendation by the city engineer, review appropriate stormwater management plans to assure compliance with the approval standards listed in section 21-236 of this article.

(2) Grading plans may or may not require planning commission review.

(3) When the stormwater management plan appears on the planning commission's agenda for the first time, it will be distributed to city staff as applicable.

(4) If the planning commission determines that all of the required information has not been received, the proprietor may request that the matter be tabled to allow for the submittal of the required information.

(5) If the planning commission is the approving body for the proposed development or activity for which the plan has been submitted, the planning commission shall either approve, approve with conditions, or deny approval of the plan. If the planning commission is the recommending body to the city commission for the proposed development or activity for which the plan has been submitted, the planning commission shall make a recommendation to the city commission to approve, approve with conditions, or deny approval.

(b) *City commission review.* If the city commission is the final approving body for the proposed development or activity for which the plan has been submitted, the following shall apply:

(1) The stormwater management plan approval request shall be placed on the city commission agenda after recommendation by the planning commission.

(2) Following completion of its review of the stormwater management plan, the city commission shall approve or deny the proposed stormwater management plan, with or without modifications and/or conditions.

(c) *Administrative review and final development approval.*

(1) Once the planning commission and/or city commission have approved the stormwater management plans, complete construction plans showing all pertinent information for the design, layout, and construction shall be submitted to the city for review and final approval.

(2) Final plan review will be completed by the city within a reasonable time following submission by the applicant. If the plan is not acceptable, written notice of rejection and the reasons therefore will be given to the applicant. If the city approves the plan, it will issue a letter to that effect and the plan will be executed.

(3) As a condition of final plan approval, the city will require the following:

a. Before approval of the final plan, it must be demonstrated that all necessary wetland, floodplain, inland lakes and streams, erosion control or other needed state, federal or local permits are in place.

b. If the stormwater management system is constructed before the applicant seeks final plan approval, written verification of the stormwater system will be submitted by a registered professional engineer. This verification will state that the stormwater facilities were installed in an acceptable manner and according to construction plans approved by the city. Inspection fees will be deposited in advance with the city.

c. A satisfactory agreement that assures long-term maintenance of all drainage improvements will be in place before submission of the final plan. Documentation of maintenance agreement will be supplied to the city.

d. Complete development agreements (including deed restrictions) must be submitted for the city's review and approval prior to recording.

(d) *Drains under the jurisdiction of the drain commissioner.*

(1) Drainage districts will not be altered when designing development drainage, except as provided under Section 433 of Act 40, Public Act 1956 as amended.

(2) Existing county or city drain easements will be indicated on the plans as well as the final plan and will be designated as "Oakland County Drain" or "City of Bloomfield Hills Drain", as applicable. County drain easements prior to 1956 were not required by statute to be recorded immediately; therefore, it may be necessary to check the permanent records of the drain commissioner's office to see if a drain easement is in existence on the subject property.

(3) A permit will be obtained from the drain commissioner's office prior to tapping or crossing any county drain. The permit must be obtained prior to final plan approval.

(4) Proposed relocations of county drains will be processed through the office of the drain commissioner.

(5) If a development is proposed in an area where special drainage problems are anticipated at the site, on surrounding properties or downstream, more stringent design requirements than are contained within these procedures and standards may be required.

(e) *Orphan drains.* Orphan drains are defined as drainage courses that are not under the jurisdiction of any governmental agency (i.e. the city or county, etc.). Typically, these are located in rear yards and are small streams. The maintenance of these drains is the responsibility of the adjacent property owner(s). However, the provisions herein regulate improvements to these drains.

(f)

Appeal procedure. If the applicant believes a decision made by the city administration is improper, an appeal before the zoning board of appeals may be filed in writing within fourteen (14) calendar days of that decision. If an appeal is filed with the city, a hearing will be scheduled before the zoning board of appeals within a reasonable time.

The hearing will allow the applicant an opportunity to appeal adverse decisions based upon the administrative record made. The zoning board of appeals will review the information and make a final decision, and forward this final decision to the applicant by first class mail. The decision being appealed shall be affirmed unless the applicant demonstrates that, based upon the record, the decision amounted to an abuse of discretion, or that the decision is otherwise unlawful.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-235. - Review fees.

The city commission shall establish application fees and escrow requirements by resolution. Fees and escrow account payments shall be sufficient to cover administrative and technical review costs anticipated to be incurred by the city including the costs of on-site inspections.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-236. - Standards for stormwater management plan approval.

All developments requiring a stormwater management plan shall be designed, constructed, and maintained to prevent flooding and protect water quality. The particular facilities and measures required on-site shall take into consideration the natural features, wetlands, and watercourses on the site; the potential for on-site and off-site adverse stormwater impacts, water pollution, and erosion; and the size of the site. All stormwater drainage and erosion control plans shall meet the standards adopted by the city and county for design and construction.

(a) *Site design considerations.* A well devised stormwater management plan starts with the development's planning and layout. As such the following considerations shall be made:

 (1) Developments shall be planned and designed to minimize impervious surfaces.

 (2) Open space and natural feature preservation shall be paramount.

 (3) Infiltration versus off-site conveyance means are preferred.

 (4) Open drainage systems such as vegetative swales are preferred to enclosed storm sewers.

 (5) Structural BMPs are encouraged where feasible.

 (6) Facilities are to be provided for separated sanitary sewage collection and conveyance to a waste water treatment plant.

(b) *General standards for on-site and off-site stormwater management systems.*

 (1) Stormwater management conveyance, storage and infiltration measures, and facilities shall be designed to prevent flood hazards and water pollution related to stormwater runoff, to prevent accelerated soil erosion from the proposed development, and shall conform with the requirements as specified herein

 (2) Natural topography and site drainage shall be preserved and site grading shall be minimized to the maximum extent reasonably achievable considering the nature of the development per the grading ordinance.

 (3) Proposed drainage for the development shall conform to any established county drainage districts, the natural drainage course, and the watershed in which it is located.

 (4) Unless otherwise approved, stormwater runoff shall be conveyed through ditches, swales and vegetated buffer strips so as to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants. Enclosed drainage systems shall only be permitted if the above stormwater management facilities can not be properly constructed or maintained.

 (5) Storage volumes and runoff rates from detention/retention basins shall conform with the requirements specified in the grading ordinance.

 (6) Watercourses shall not be deepened, widened, dredged, cleared of vegetation, straightened, stabilized or otherwise altered without applicable permits or approvals from the city, relevant county agencies, and the state department of environmental quality.

 (7) Drainage systems shall be designed to protect public health and safety and to facilitate efficient and effective maintenance.

 (8) Upstream and downstream riparian owner's rights and privileges shall not be impacted.

 (9) At no time shall stormwater management facilities be connected to the separated sanitary sewer. This shall include swales, ditches, storm sewers, downspouts, sump pumps, detention basin outlets or any other similar stormwater system. The city may require the disconnection of any such facility found to be connected to the separated sanitary sewer. Costs to do so shall be the responsibility of the property owner found not to be in compliance. In the small combined sewer area in the city, these facilities will be required to be separated to the furthest downstream point within the project limits to enable full separation in the future.

(c) *Protecting existing stormwater management systems.*

 (1) Natural drainage courses such as ditches, swales, streams, creeks, lakes, etc. shall be protected from:

  a. Increased discharge of pollutants or sedimentation;

  b. Adverse impacts from increased water quantity or velocity;

c. Encroachments that could be otherwise avoided;

d. Improvements, such as enclosures, for purely aesthetic reasons.

(2) Existing stormwater management systems shall not be obstructed, blocked or their route otherwise altered without the submittal of a stormwater management plan in accordance with this article and the approval granted by the city.

(3) Depositing soil, leaf, lawn, plant or other yard waste materials within an existing drainage facility shall be strictly prohibited.

(4) All stormwater management plans shall first take into account existing drainage and stormwater facilities and preserve and protect these features.

(d) *Improving existing stormwater management systems.*

(1) It is identified that most existing stormwater management facilities are located on private property, except in the case of existing county drainage districts or within the city's public road rights-of-way. Therefore, the responsibility for routine maintenance (i.e., mowing, removing obstructions and debris, etc.) or for improving the facilities lies with the adjacent property owner(s).

(2) Under the provisions herein, property owners adjacent to the stormwater facility may individually or in concert with other such property owners petition the city to establish a special assessment district (SAD) to evaluate, design, construct, administer, and finance an improvement to a stormwater management facility. The SAD will be facilitated in accordance with the provisions herein and the City Charter. The benefiting property owners will be assessed their portion of the project costs based on benefit. Typically, drainage area, percent impervious, capacity, or other means as determined by the city are used to determine benefit. The city may elect to contribute to the project costs based on a review of the petition and benefit to the city at large.

(3) Improvements to existing stormwater management systems can also be petitioned through the county drain commissioners office in accordance with Public Act 40 of 1956, the Drain Code of 1956, as set forth in MCL 280.1 et seq.

(4) Design and construction provisions for improving existing stormwater management systems shall be as indicated herein.

(e) *Ditches and driveway culverts.*

(1) It is recognized that existing roadside ditches and driveway culverts are an integral part of the city's overall stormwater management system and are important to local drainage patterns.

(2) Typically, maintenance of roadside ditches and driveway culverts are the responsibility of the adjacent property owner. As such the property owner is responsible for maintaining the drainage pattern through these facilities, removing obstructions, mowing in the case of a grassed ditch, and replacing or repairing these facilities if deteriorated or damaged.

(3) Should a property owner wish to modify or replace a driveway culvert, a plan meeting the requirements of this article shall be prepared, submitted, and include the following specific items:

a. Size and material of the culvert to be replaced and at least the next two (2) culverts upstream and downstream from the subject property.

b. The existing and proposed inverts of the culvert to be replaced and at least the inverts of the nearest two (2) upstream and downstream culverts and any other piping near the proposed replacement.

c. Provisions for the replacement of the driveway including materials, cross sections, construction requirements, etc.

d. The existing and proposed width of the driveway and culvert.

e. Details of any culvert end treatments such as headwalls, end sections, bar grates, etc.

(4) Should a property owner wish to enclose an existing ditch and/or swale, a plan meeting the requirements of this article shall be prepared and submitted and include the following specific items:

a. Size and material of the culvert to be installed and at least the next two (2) culverts upstream and downstream from the subject property.

b. The proposed inverts of the culvert to be installed and at least the inverts of the nearest two (2) upstream and downstream culverts and any other piping near the proposed replacement.

c. A cross section of the ditch enclosure showing the existing ditch bottom, pipe invert, bedding, backfill and at least six (6) inches of fall from the existing edge of the road to a swale over the top of the culvert.

d. Drainage calculations showing the proposed culvert is sized adequately to convey the upstream drainage area.

e. Drainage calculations showing the downstream culverts are sized adequately to convey the upstream drainage area.

f. Location and details of at least two (2) inlets, catch basins or structures per property, to receive surface drainage and inlet said drainage into piping.

(5) Requests for enclosing ditches shall not be granted unless it can be demonstrated that:

a. The proposed enclosure is sized accordingly and can be extended for a future storm sewer;

b. The enclosure will not affect the subsurface drainage for the adjacent roadways; and

c. Surrounding properties will not be affected.

(6) All design, construction and maintenance costs for driveway culverts and ditch enclosures will be the responsibility of the adjacent property owner. The city may request a surety bond or escrow deposit be placed with the city to guarantee the completion of the project.

(7)

If a city initiated roadway or drainage project requires the cleaning or repairing of a driveway culvert or ditch enclosure the city shall cause said cleaning, repair or enclosure to be done at the project's cost. All other cleaning or repairing to maintain flow shall be done by the property owner or at the city's request in accordance with the provisions herein. Failure to comply with the city's request may result in the city's addressing the situation and billing the adjacent property owner.

(f) *Soil erosion control.*

(1) Cutting, filling and grading shall conform with the requirements of the grading ordinance and the soil erosion control permit issued by the county drain commissioner's office.

(2) All development and other earth changes shall be designed, constructed, and completed in such a manner that the exposed area of any disturbed land is limited to the shortest practical period of time. Proposed erosion control measures shall be submitted to the city for determination that such measures comply with the city grading ordinance.

(3) Approved soil erosion control measures shall be installed and maintained between the disturbed area and any down gradient watercourses (including rivers, streams, creeks, lakes, ponds, and other watercourses), wetlands, roadways, and property lines.

(4) Sediment resulting from accelerated soil erosion shall be removed from runoff water before it leaves the site of the development.

(5) Temporary and permanent soil measures designed and constructed for the conveyance of water around, through, or away from the development or earth change area shall be designed to limit the water flow to a nonerosive velocity.

(6) Temporary soil measures shall be removed after permanent soil measures have been implemented and stabilized. All developments and earth change areas shall be stabilized with permanent soil measures.

(7) If inland lakes, ponds, rivers, creeks, wetlands, streams or other watercourses are located on or near the site, measures which trap sediment shall be provided. Straw bale berms may be used as temporary stormwater diversion structures but will not be considered sufficient by themselves for trapping sediment on-site. The use of temporary sediment basins, sediment traps, filter fabric, and rock filters in lieu of straw bale berms shall be employed as required as part of a permit. Other measures may be required if reasonably determined to be necessary to protect a watercourse or wetland.

(8) When it is not possible to permanently stabilize a disturbed area after an earth change has been completed or where significant earth change activity ceases, temporary soil erosion control measures shall be implemented within two (2) calendar days.

(9) Permanent soil measures for all slopes, channels, ditches, or any disturbed land area shall be completed within fifteen (15) calendar days after final grading or the final earth change has been completed. All temporary soil measures shall be maintained until permanent soil measures are implemented and stabilized.

(10) Vegetated filter strips, twenty-five (25) feet in width, shall be created or retained along the edges of all lakes, creeks, streams, and other watercourses. As part of permit approval, the width of a particular filter strip may be reduced to the extent it is demonstrated that a portion of the width will serve no useful function, e.g., to the extent the grade is such that water flow will be away from the watercourse and the filter strip does not serve to protect wildlife habitat or other useful function.

(11) The city shall have the authority to issue stop-work orders for failure to comply with the requirements of this section, provided a proprietor shall be entitled to a hearing before the chief building inspector or his designee within three (3) business days to determine whether the stop-work order shall continue.

(g) *Stormwater retention or detention.* Stormwater retention or detention required pursuant to this article shall comply with the requirements specified in the grading ordinance and/or as otherwise specified herein.

(1) In general, wet ponds and stormwater marsh systems will be preferred to dry ponds. Dry ponds providing extended storage will be accepted when the development site's physical characteristics or other local circumstances make the use of a wet pond infeasible.

(2) When discharge is within a watershed where thermal impacts are a primary concern, dry ponds will be preferred to wet ponds, and extended detention (first flush and bankfull) requirements may be reduced to twelve (12) hours. Shade plantings on the west and south sides of facilities are encouraged.

This applies to special river/stream locations and has very limited applicability within the city.

(3) Public safety will be a paramount consideration in stormwater system and pond design. Providing safe retention is the applicant's responsibility. Pond designs will incorporate gradual side slopes, vegetative and barrier plantings, and safety shelves. Where further safety measures are required, the applicant is expected to include them within the proposed development plans.

(4) Stormwater management systems incorporating pumps are not permitted, absent a variance, which shall require a showing that there is no feasible and prudent alternative, and that it is in the public interest.

(5) A sediment forebay will be provided at the inlet of all stormwater management facilities, to provide energy dissipation and to trap and localize incoming sediments.

a. The forebay will be a separate cell, which can be formed by rip rap and fencing gabions or an earthen berm.

b. Direct maintenance access to the forebay for heavy equipment will be provided.

c. An adequate disposal area shall be provided for accumulated sediment.

(6) Basin inlet/outlet design.

a. Velocity dissipation measures will be incorporated into basin designs to minimize erosion at inlets and outlets, and to minimize the resuspension of pollutants.

b. To the extent feasible, the distance between inlets and outlets will be maximized.

c. The use of V-notched wiers, dual outlets, or other designs to assure an appropriate detention time for all storm events is required.

d. The outlet will be well protected from clogging.

e. Where a pipe outlet or orifice plate is to be used to control discharge, it will have a minimum diameter of three (3) inches. If this minimum orifice size permits release rates greater than those specified in these procedures and standards, alternative outlet designs will be utilized that incorporate self-cleaning flow restrictors, such as perforated risers and V-notch orifice plates that provide the required release rate. Calculations verifying this rate are to be submitted to the city for approval.

f. Backwater on the outlet structure from the downstream drainage system will be evaluated when designing the outlet.

(7) Vegetative plantings associated with retention/detention facilities.

a. Stormwater management facility designs will be accompanied by a landscaping plan that uses native plant species.

b. Vegetative cover and landscaping should be done immediately upon completion of the grading operations specifically on the side slopes, inlet, and outlet.

c. A permanent buffer strip of natural vegetation at least twenty-five (25) feet in width will be maintained or restored around the perimeter of all detention/retention basins. No lawn care chemical applications shall be applied to the buffer area.

d. Viability of plantings will be monitored for two (2) years after establishment by the applicant, and reinforcement and replacement plantings provided as needed.

e. For safety purposes and to minimize erosion, basin side slopes will generally not be flatter than 20:1 nor steeper than 5:1. Steeper slopes may be allowed if fencing at least five (5) feet in height is provided and approved by the planning commission. The fencing must meet all other applicable city ordinances or codes.

(8) Anti-seep collars should be installed on any piping passing through the sides or bottom of the basin to prevent leakage through the embankment.

(9) A minimum of one (1) foot of freeboard will be required above the proposed high water elevation on all detention/retention facilities.

(10) All basins will have provisions for a defined emergency spillway, routed such that it can be picked up by the main outflow channel.

(11) Adequate maintenance access from public or private right-of-way to the basin will be reserved. The access will be on a slope of 5:1 or less, stabilized to withstand the passage of heavy equipment, and will provide direct access to both the forebay and the riser/outlet.

(12) For sites where chemicals may be stored and used (e.g. certain commercial and industrial developments) a spill response plan will be developed that clearly defines the emergency steps to be taken in the event of an accidental release of harmful substances that may migrate to the stormwater system. As a result of this plan, design elements such as shut-off valves or gates may be needed.

(13) The placement of retention/detention basins within a floodplain is discouraged. Where retention/detention basins are proposed within a floodplain, information will be provided to verify that the facility will operate as designed during flood events.

(h) *Stormwater conveyance.* All stormwater conveyance structures will be constructed in accordance with the appropriate governing specifications (state department of transportation, county road commission, county drain commissioner or city). In the event of no other governing specifications, the latest edition of the OCDC standards will be observed.

Stormwater conveyance systems incorporating pumps are not permitted, absent a variance, which shall require a showing that there is no feasible and prudent alternative, and that it is in the public interest.

(1) *Natural streams and channels.*

a. Natural streams are to be preserved. Natural swales and channels should be preserved, whenever possible.

b. If channel modification must occur, the physical characteristics of the modified channel will meet the existing channel in length, cross-section, slope, sinuosity, and carrying capacity.

c. Streams and channels will be expected to withstand all events up to the 100-year storm without increased erosion. Armoring banks with riprap and other manufactured materials will be accepted only where erosion cannot be prevented in any other way, such as by the use of vegetation.

(2) *Vegetated swales/open ditches.*

a. Open swale/ditch drainage systems will be preferred to enclosed storm sewers where applicable governmental standards and site conditions permit, provided, that appropriate safety measures shall be observed.

b. Swales should follow natural, predevelopment drainage paths insofar as possible, and be well vegetated, wide and shallow.

c. Open ditch flow velocities will be neither siltative nor erosive. In general, the minimum acceptable velocity will be two (2) feet per second, and the maximum acceptable velocity will be six (6) feet per second.

d. Open ditch running slopes will depend on existing soils and vegetation and, whenever possible, will be greater than one and one-half (l.5) percent. For slopes less than one and one-half (l.5) percent, additional inspection will be necessary to ensure proper, positive drainage. In no case shall slopes be less than one (1.0) percent, unless other techniques such as infiltration devices are implemented. Maintenance for such

devices must be detailed in the overall maintenance plan.

e. Side slopes of ditches should be no steeper than 3:1. Soil conditions, vegetative cover and maintenance ability will be the governing factors for determining slope requirements.

f. Slopes and bottoms of open ditches and swales will be stabilized to prevent erosion.

g. In general, a five-foot minimum clearance will be provided between open swale/ditch inverts and underground utilities unless special provisions are employed. Special provisions, for example, could be the encasement of utility lines in concrete when crossing under the channel. In no case will less than two (2) feet of clearance be allowed.

h. Permanent metal or plastic markers will be placed on each side of the drain to show the location of underground utilities.

i. All bridges will be designed to provide a two-foot minimum flood stage freeboard to the underside of the bridge. Footings will be at least one (1) foot below the invert grade of the channel. Depending on soils, additional footing depth may be required.

j. A series of check dams or drop structures across swales should be provided to enhance water quality performance and reduce velocities.

k. Designers should consider integrating additional redundant pollutant removal enhancement features such as stilling basins and stone infiltration trenches.

(3) *Enclosed drainage structures.*

a. Enclosed storm drain systems will be sized to accommodate the ten-year storm, with the hydraulic gradient generally kept below the top of the pipe.

b. Restricted conveyance systems designed to create backflow into stormwater storage facilities are not permitted.

c. Drainage structures will be located as follows:

i. To assure complete positive drainage of all areas of the development.

ii. At all low points of streets and rear yards.

iii. Such that there is no flow across a street intersection.

iv. For smaller enclosed pipes (twelve (12) to twenty-four (24) inches), manholes will not be spaced more than four hundred (400) feet apart. Longer runs may be allowed for larger sized pipe but in all cases maintenance access must be deemed adequate by the city.

d. The catch basin or inlet covers should be designed to accept the ten-year design storm. No ponding of water should occur during this storm event.

e. Discharge from enclosures will be as follows:

i. All outlets will be designed so that velocities will be appropriate to, and will not damage, receiving waterways.

ii. Outlet protection using riprap or other approved materials will be provided as necessary to prevent erosion.

iii. The soils above and around the outlet will be compacted and stabilized to prevent piping around the structure. Riprap extending three (3) feet above the ordinary high water mark is recommended for all outlets.

iv. When the outlet empties into a detention/retention facility, channel, or other watercourse, it will be designed such that there is no overfall from the end of the apron to the receiving waterway.

f. Pipe will conform to the following criteria:

i. In order to avoid accumulation of sediment in the drain, pipe will be designed to have minimum velocity flowing full of three (3) feet per second, with the exception of sediment chambers. In isolated circumstances, two (2) feet per second will be allowed. The allowable maximum velocity flowing full will be ten (10) feet per second. Special cases where topography is steep may be granted exception.

ii. Pipe joints will be such as to prevent excessive infiltration or exfiltration.

iii. All materials will be of such quality as to guarantee a maintenance-free expectancy of at least fifty (50) years and will meet all appropriate A.S.T.M. standards.

iv. If sump pump leads are required to be connected into an enclosed storm sewer system, these taps shall be made directly into storm sewer structures.

(4) *Determination of channel size.*

a. The "Mannings" formula will be used to size the open channel or pipe unless otherwise approved by the city.

b. A minimum "n" of 0.035 will be used for the roughness coefficient unless special treatment is given to the bottom and side slopes, such as sodding, riprap or paving.

(5) *Determination of road culvert size.*

a. Under Michigan State Law (Act 451, PA. Part 301 of 1994 and Act 451, P.A. Part X of 1994), crossroad culverts draining two (2) square miles or more must be reviewed and approved by the state department of environmental quality.

b. Crossroad culverts draining less than two (2) square miles of upstream watershed will be sized by the applicants engineer and approved by the MDOT, county road commission, county drain commissioner's office or the city as appropriate.

c.

In general, culverts will pass the 100-year storm flow with the velocity not exceeding eight (8) feet per second, and with no increase in adverse water conditions occurring from the development property or flooding of structures within the development. A minimum of one (1) foot of freeboard is required.

d. Acceptable methods of determining the quantity of water needed to pass through the culvert are listed below. The applicants engineer may use any of the methods listed or another if approved by the city:

i. Rational method.

ii. U.S.D.A. soil conservation service method.

iii. The state department of natural resources method.

iv. Continuous flow modeling.

e. The discharge velocity from culverts should consider the effect of high velocities, eddies, or other turbulence on the natural channel, downstream property and roadway embankment. The culvert exit velocity should not cause downstream channel erosion or scour.

f. Sizing of culvert crossings will consider entrance and exit losses as well as tailwater conditions on the culvert. Once the design flow is determined, the required size of the culvert will be determined by one (1) of the following methods:

i. The "Mannings" formula.

ii. The inlet headwater control/outlet tailwater control nomograph.

iii. Other methods approved by the city.

g. Wing walls, headwalls and all other culvert extremities will be designed to assure the stability of the surrounding soil. It is recommended that state department of transportation standard designs be observed unless special exemption is given.

h. Culverts and storm sewer outlets eighteen (18) inches and greater in diameter shall have a bar grate or screen installed on a flared end section to prevent animals, children, etc. from entering the system.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-237. - Off-site stormwater management.

(a) *Requirements.*

(1) In lieu of on-site stormwater detention or retention, the use of off-site stormwater conveyance, infiltration, and/or detention areas may be proposed, as long as property being utilized for post construction stormwater requirements is adjacent to parcel being developed. Off-site stormwater management facilities shall be designed to comply with the requirements specified in the grading ordinance and all other standards provided by this article that are applicable to on-site facilities.

(2) Off-site stormwater management areas may be shared with other landowners, provided that the terms of the proposal are approved by the city commission and city attorney.

(3) Adequate provision and agreements providing for maintenance and inspection of stormwater management facilities shall be made by recorded instrument, including an access easement, approved by the city.

(4) Accelerated soil erosion shall be managed off-site as well as on-site.

(b) *Performance guarantees, inspections, maintenance, and enforcement.* All provisions of division 5 shall apply to off-site stormwater conveyance and detention.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Secs. 21-238, 21-239. - Reserved.

DIVISION 5. - PERFORMANCE GUARANTEES, EASEMENTS, AND MAINTENANCE

Sec. 21-240. - Applicability of requirements.

Requirements of this article concerning performance guarantees, easements, and maintenance agreements shall apply to proprietors required to submit a stormwater management plan to the city for review and approval. The requirements of this division typically do not apply to grading plans for a one-lot single-family residential project which require city approvals under the grading ordinance.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-241. - Performance guarantees.

The applicant shall post an acceptable form of an irrevocable letter of credit, cash escrow, certified check, or other city-approved performance security. The performance guarantee shall be an amount determined by the city engineer, equal to one and one-half (1½) times the amount required to complete stormwater management and facilities as specified in the stormwater management plan, together with reasonable administrative expenses. Required performance guarantees shall be provided to the city after stormwater management plan approval but prior to the initiation of any earth change.

After determination by the city engineer for site plans, or by the county drain commissioner for site condominiums and subdivisions, that all facilities are constructed in compliance with the approved plan, the letter of credit or other securities shall be released.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-242. - Stormwater management easements.

(a) *Necessity of easements.* Stormwater management easements shall be provided in a form required by the city and recorded as directed by the city to assure:

(1) Access for inspections;

(2) Access to stormwater management facilities for maintenance purposes; and

(3) Preservation of primary and secondary drainage ways which are needed to serve stormwater management needs of other properties.

(b) *Easements for off-site stormwater management.* The applicant shall obtain easements assuring access to all areas used for off-site stormwater management, including wetlands.

(c) *Recording of easements.* Easements shall be recorded with the county register of deeds according to county requirements.

(d) *Recording prior to building permit issuance.* The proprietor must provide the city clerk with evidence of the recording of the easement prior to final subdivision plat approval or final construction approval.

(e) *Easement provisions.*

(1) Wording relative to easement information shown on the final development plan will be as specifically required by the city. If a city drain is to be established, or if a county drain is to be established under the Michigan Drain Code, related easement language will be depicted on final mylar plans and exhibit B condominium drawings as follows, as applicable:

"_______ private easement to City of Bloomfield Hills or Oakland County Drain Commissioner for drainage"

In addition, language will be included in the deed restrictions for the development and/or condominium master deed.

(2) The location and purpose of drainage easements should be clearly described in development deed restrictions or condominium master deeds.

Language shall be included within the development deed restriction or condominium master deed that clearly notifies property owners of the presence stormwater management facilities and accompanying easements, as well as restrictions on use or modification of these areas.

(3) If a utility is to be located within the right-of-way of any county drain or drainage easement, it will be located such that it will not significantly increase the expense of maintaining the drainage facility.

(4) Retention/detention basins or other stormwater management facilities will have sufficient easements for maintenance purposes. Easements will be sized and located to accommodate access and operation of equipment, spoils deposition, and other activities identified in the development's stormwater system maintenance plan.

(5) Easement widths will be sized by the city and be situated in such a way as to allow maximum maintenance access (for example, by offsetting them from the centerline). In general, easement widths will conform to the following:

a. Open channels and water courses. A minimum of fifty (50) feet total width. Additional width may be required in some cases, including but not limited to: water courses with floodplains delineated by FEMA; sandy soils, steep slopes, at access points from road crossings.

b. Back lot drainage (open swales). Minimum of twenty (20) feet total width or as required by the city.

c. Enclosed storm drains. A minimum of twenty (20) feet will be required, situated in such a way as to allow maximum maintenance access. Additional width will be required in some cases, including but not limited to, pipe depth exceeding four (4) feet from the top of pipe, sandy soils and steep slopes.

(f) *Existing drain fields.* Existing drain fields (septic areas) shall not be located within drainage easements.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-243. - Maintenance agreement.

(a) *Purpose of maintenance agreement.* The purpose of the maintenance agreement is to provide the means and assurance that maintenance of stormwater management and facilities shall be undertaken.

(b) *Maintenance agreement required.*

(1) A maintenance agreement shall be submitted to the city engineer for all development subject to stormwater management plan requirements.

(2) Maintenance agreements shall be approved by the city prior to final subdivision plat approval in the case of subdivisions, and prior to construction approval in other cases.

(c) *Maintenance agreement provisions.*

(1) The maintenance agreement shall include a plan for routine, emergency, and long-term maintenance of all stormwater facilities with a detailed annual estimated budget for the initial three (3) years.

(2)

The maintenance agreement shall be binding on all subsequent owners of land served by the stormwater management and facilities, and shall be recorded in the office of the county register of deeds prior to the effectiveness of the approval of the city commission or planning commission.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Secs. 21-244—21-249. - Reserved.

DIVISION 6. - VARIANCES

Sec. 21-250. - Zoning board of appeals authority.

The zoning board of appeals shall have the authority to grant variances from the strict terms of this article in accordance with the terms specified below.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , 9-13-22)

Sec. 21-251. - Written application requirements.

A written application shall be submitted to the building inspector demonstrating that:

(a) Special conditions and circumstances exist which are peculiar to the land or project involved, and which are not generally applicable to other plans or projects;

(b) The special conditions and circumstances do not result or have not resulted from the actions of the applicant or the applicant's predecessor;

(c) Literal interpretation of the provisions of this article would deprive the applicant of reasonable use of the property as a whole; and

(d) A plan demonstrating an alternate means to achieve the objectives of this article.

(e) The city manager shall have the authority to grant waivers and variances from specific control provisions of the stormwater management standards due to site-specific conditions, but only if the variance(s) are as restrictive as the county standards.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-252. - Hearing required.

Variances from the terms of this article shall not be granted unless and until a hearing shall be held by zoning board of appeals determines that the applicant has demonstrated all of the requirements of section 21-251.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-253. - Conditions for approval.

The zoning board of appeals may prescribe appropriate conditions and safeguards consistent with the purposes and standards of this article in connection with the grant of a variance.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Secs. 21-254—21-259. - Reserved.

DIVISION 7. - PENALTIES AND ENFORCEMENT

Sec. 21-260. - Penalties.

(a) Any person, firm or corporation determined to have been in violation of the provisions of this article shall be responsible for a municipal civil infraction and subject to the provisions of this Code.

(b) The city commission by way of the building inspector, in addition to other remedies, may institute any appropriate action or proceeding to prevent, abate or restrain the violation.

(c) Each day's continuance of a violation shall be deemed a separate and distinct offense. Expenses in connection with such action shall be assessed as damages against the violation.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Sec. 21-261. - Effect of approval on remedies.

The approval or disapproval of any stormwater management plan shall not have any effect on any remedy of any person at law or in equity.

(Ord. No. 346, § 1, 9-13-05; Ord. No. 454 , § 1, 9-13-22)

Secs. 21-262—21-299. - Reserved.

ARTICLE V. - MUNICIPAL SEPARATE STORM SEWER SYSTEM

DIVISION 1. - PURPOSES AND INTERPRETATION

Sec. 21-300. - Purposes.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the City of Bloomfield Hills through the regulation of nonstormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this article are:

(a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.

(b) To prohibit illicit connections and discharges to the municipal separate storm sewer system.

(c) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this article.

(Ord. No. 346, § 2, 9-13-05)

Secs. 21-301—21-309. - Reserved.

DIVISION 2. - DEFINITIONS

Sec. 21-310. - Definition of terms.

For the purposes of this article, the following shall mean:

Authorized enforcement agency. The building inspector or designees of the city manager for the City of Bloomfield Hills.

Best management practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and any subsequent amendments thereto.

Construction activity. Activities subject to NPDES construction permits or the city's grading ordinance. These include construction projects resulting in land disturbance of five (5) acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal discharge. Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in section 21-323 of this article.

Illicit connections. An illicit connection is defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the authorized enforcement agency.

Industrial activity. Activities subject to NPDES industrial permits as defined in 40 CFR § 122.26(b)(14).

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit. A permit issued by the EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Nonstormwater discharge. Any discharge to the storm drain system that is not composed entirely of stormwater.

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking areas.

Storm drainage system. Publicly-owned or privately-owned facilities by which stormwater is collected and/or conveyed including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater pollution prevention plan. A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(Ord. No. 346, § 2, 9-13-05)

Secs. 21-311—21-319. - Reserved.

DIVISION 3. - GENERAL PROVISIONS

Sec. 21-320. - Applicability.

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the authorized enforcement agency.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-321. - Responsibility for administration.

The city manager or the city manger's designee(s), shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the city manager to persons or entities acting in the beneficial interest of or in the employ of the agency.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-322. - Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-323. - Discharge prohibitions.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(a) The following discharges are exempt from discharge prohibitions established by this article: waterline flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than one (1) PPM chlorine), fire-fighting activities, and any other water source not containing pollutants.

(b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(d) The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-324. - Prohibition of illicit connections.

(a) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-325. - Suspension of MS4 access.

(a) *Suspension due to illicit discharges in emergency situations.* The authorized enforcement agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(b) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-326. - Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the authorized enforcement agency prior to the allowing of discharges to the MS4.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-327. - Monitoring of discharges.

(a) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(b) *Access to facilities.*

(1) The authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The authorized enforcement agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility are a violation of a stormwater discharge permit and of this article. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.

(7)

If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-328. - Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

Authorized enforcement agency may adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-329 - Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-330. - Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized enforcement agency within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(Ord. No. 346, § 2, 9-13-05)

Secs. 21-331—21-349. - Reserved.

DIVISION 4. - PENALTIES AND ENFORCEMENT

Sec. 21-350. - Enforcement, notice of violation.

Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this article, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

(a) The performance of monitoring, analyses, and reporting;

(b) The elimination of illicit connections or discharges;

(c) That violating discharges, practices, or operations shall cease and desist;

(d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(e) The payment of a fine to cover administrative and remediation costs; and

(f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-351. - Enforcement measures.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, then representatives of the authorized enforcement agency may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property upon the issuance of an order from a court of competent jurisdiction. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-352. - Cost of abatement of the violation.

Within fifteen (15) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of [sic] percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-353. - Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-354. - Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this article, the authorized enforcement agency may allow a violator to perform alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-355. - Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is deemed a threat to public health, safety, and welfare, and is declared a nuisance, public nuisance and nuisance per se and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-356. - Violations.

(a) Any person, firm or corporation determined to have been in violation of the provisions of this article shall be responsible for a municipal civil infraction and subject to the provisions of this Code.

(b) The city commission by way of the building inspector, in addition to other remedies, may institute any appropriate action or proceeding to prevent, abate or restrain the violation.

(c) Each day's continuance of a violation shall be deemed a separate and distinct offense. Expenses in connection with such action shall be assessed as damages against the violation.

(Ord. No. 346, § 2, 9-13-05)

Sec. 21-357. - Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. No. 346, § 2, 9-13-05)

Secs. 21-358—21-399. - Reserved.

ARTICLE VI. - SPECIAL ASSESSMENTS

Sec. 21-400. - Purpose.

The purposes of this article shall be to provide procedures for residents to initiate a special assessment district for stormwater improvements.

(Ord. No. 346, § 3, 9-13-05)

Sec. 21-401. - Definitions.

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

Cost. When referring to the cost of any local public improvement, means the cost of surveys, plans, professional services, rights-of-way, condemnation, spreading of rolls, notices, advertising, financing, construction, legal fees, interest on special assessment bonds, and all other costs incident to the making of such improvement, the special assessments therefore, and the financing thereof. In addition, "cost," when referring to the cost of any local public improvement, may include an amount not to exceed ten (10) percent of the amount of costs as defined in the previous paragraph, to be used as a capitalized reserve for special assessment bonds issued in anticipation of special assessments.

(Ord. No. 346, § 3, 9-13-05)

Sec. 21-402. - Authority to assess.

The whole cost or any part thereof of any improvement to a storm drain or stormwater management facility may be defrayed by special assessment upon the lands especially benefited by the improvement in the manner provided in this chapter.

(Ord. No. 346, § 3, 9-13-05)

Sec. 21-403. - Initiation of projects by advisory petition.

Storm drain or stormwater management facility improvements may be initiated by petition signed by property owners whose aggregate property in the proposed district is assessed for not less than sixty (60) percent of the total benefiting properties, as shown by the last preceding general tax records of the city and as determined by the city on a "unit of benefit" basis appropriate to the improvement. Such petition shall contain a brief description of the property owned by the respective signatories thereof, and if it shall appear that the petition is signed by at least sixty (60) percent of the benefiting properties as required, the clerk shall certify same to the city commission. The petition shall be addressed to the city commission and filed with the clerk and shall be considered advisory only, and not directory or jurisdictional.

(Ord. No. 346, § 3, 9-13-05)

Sec. 21-404. - Procedure for special assessment.

Once initiated by advisory petition, or by resolution of the city commission, a special assessment district for storm drain or stormwater management facility improvements shall be carried out in accordance with the requirements set forth in article X of the City Charter.

(Ord. No. 346, § 3, 9-13-05)

Sec. 21-405. - County drainage districts.

In order to establish a county drainage district, property owners make application to the Oakland County Drain Commissioner in accordance with Public Act 40 of 1956, the Drain Code of 1956, as set forth in MCL 280.1 et seq.

(Ord. No. 346, § 3, 9-13-05)

Chapter 22 - VEGETATION

> *Footnotes:*
> *--- (1) ---*
> ***Cross reference—*** *Grass and noxious weeds, § 10-36 et seq.; streets, sidewalks and other public places, Ch. 18.*

ARTICLE I. - IN GENERAL

Sec. 22-1. - Rules and regulations.

The superintendent of the department of public works shall make such rules and regulations supplementary to this chapter and not in conflict herewith, as he may from time to time deem necessary, which shall become effective upon approval by the city commission. Until changed pursuant to this section, the rules and regulations in effect at the adoption of this Code, shall continue in effect. No person shall fail to obey any rule or regulation effective hereunder.

(Code 1971, § 3.49)

Sec. 22-2. - Lawn extensions.

On residence streets, the abutting owner or occupant may maintain a planting strip on the lawn extension between the sidewalk and curb and may plant flowers, trees and shrubbery therein in conformity with this chapter. No person shall wilfully injure or destroy any grass, flower, tree or shrub, upon any such planting strip or throw any papers, refuse or other thing thereon. No person shall drive an automobile, bicycle or other vehicle upon or over any such planting strip.

(Code 1971, § 3.47)

Secs. 22-3—22-15. - Reserved.

ARTICLE II. - TREE AND WOODLANDS PROTECTION

> *Footnotes:*
> *--- (**2**) ---*
> ***Editor's note—** Ord. No. 397, § 1, adopted June 12, 2012 , changed the title of Art. II from "Tree Regulations" to "Tree and Woodlands Protection."*

DIVISION 1. - GENERALLY

Sec. 22-16. - Definitions.

The following definitions shall apply in the interpretation of this article:

Prohibited species shall mean any tree of the species of poplar (Populus Sp.), willow (Salix Sp.) and box elder (Acer Negundo).

Public utility shall mean any person, owning or operating any pole, line, pipe or conduit located in any public street or over or along any public easement or right-of-way for the transmission of electricity, gas, telephone service or telegraph service.

Street shall mean all the land lying between property lines on either side of all streets, highways and boulevards in the city.

Tree, unless the context clearly indicates otherwise, means trees, shrubs, bushes and all other woody vegetation.

(Code 1971, § 3.31)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 22-17. - Applicability.

The provisions of this article, except as otherwise specifically stated in this article, shall apply only to public streets, parkways and other land publicly owned or controlled by the city.

(Code 1971, § 3.31)

Sec. 22-18. - Enforcement.

The superintendent of the department of public works shall be charged with the duty of enforcing the provisions of this article.

(Code 1971, § 3.32)

Sec. 22-19. - Dutch elm disease.

Every elm tree, regardless of species or variety, infected with the fungus Ceratostomella ulmi, popularly called Dutch elm disease, shall be cut and burned; if on public property, within ten (10) days after the superintendent of the department of public works shall learn of the condition and, if on private property, within ten (10) days after notice as specified in section 22-36. No person shall possess, sell, give away or transport any elm tree afflicted with the fungus *ceratostomella ulmi* nor any wood from, or parts of, any tree so afflicted, except that wood, branches and roots of any tree so afflicted may be transported to a place for burning if first

sprayed thoroughly with a one (1) percent DDT solution in a manner approved by the superintendent of the department of public works. Elm trees or parts thereof in a dead condition, whether standing or cut wood, that may serve as breeding places for any carrier of the fungus are hereby declared a public nuisance. The city manager may direct the city attorney to prosecute appropriate action in a court having jurisdiction to abate any nuisance created by a violation of this chapter.

(Code 1971, § 3.43)

State Law reference— Dutch elm disease, MCL 41.681.

Sec. 22-19.5. - Oak wilt.

(a) Oak wilt is the systemic, lethal disease of Oak trees *(Quercus spp.)* caused by the fungus *Bretziella fagacearum.*

(b) Oak trees of any variety shall not be pruned or trimmed between April 1 and October 31 regardless of their location in a public right-of-way, private property, or utility easement.

(c) Any wounds, whether made by trimming, construction or accident, shall be treated immediately with an acceptable tree pruning sealer or latex paint to mask the exposed wound from contamination. Such repair shall occur as soon as possible, but not more than forty-eight (48) hours of the time of the injury.

(d) It shall be the responsibility of the property owner or any contractor to repair or cause to be repaired any oak trees that are inadvertently damaged or injured by storms, construction, accidents, or any other cause between April 1 and October 31. Exposed jagged surfaces shall be removed and sealed in accordance with the preceding subsection.

(e) Trees confirmed with oak wilt shall be the responsibility of the property owner to perform any of the following applicable practices, as approved in advance by the city manager:

(1) Members of the red oak family which have died of oak wilt shall be removed within four (4) weeks.

(2) Members of the red oak family not infected by oak wilt, but potentially root grafted to a tree that was killed or diseased with oak wilt, shall be treated by injection of fungicide.

(3) Members of the white oak family shall be treated with an appropriate tree injection.

(4) Trenching may be a practice in lieu or in addition to injections for oak wilt management.

(5) Dead oak trees will be removed and properly disposed by chipping to less than three (3) inches or removed to a disposal site for debarking, burning, or burial. Stumps left by the removal of oak trees shall be promptly removed or buried.

(f) Violations.

(1) Any property owner in violation of the provisions of this chapter shall be responsible for a municipal civil infraction and subject to the provisions of this Code.

(2) The code enforcement officer, in addition to other remedies, may institute any appropriate action or proceeding to prevent, abate or restrain the violation.

(3) Each day's continuance of a violation shall be deemed a separate and distinct offense. Expenses incurred in connection with such action shall be assessed as damages against the violation.

(Ord. No. 443 , § 1, 2-11-20)

Editor's note— Ord. No. 443 , § 1, adopted February 11, 2020, set out provisions designated as § 22-20. Inasmuch as § 22-20 already exist, and to prevent duplication of section numbers in the Code, and at the discretion of the editor, these provisions have been redesignated as § 22-19.5.

DIVISION 2. - PRESERVATION AND PROTECTION

Sec. 22-20. - Purpose and intent.

The purpose and intent of this article is to encourage the proliferation of and protect and maintain trees and woodlands within the city for the following reasons:

(a) The proliferation of and protection of trees within the city is desirable and essential to the present and future health, safety, and welfare of all the citizens of the city;

(b) Trees contribute significantly to the natural beauty, character, and value of property within the city. Trees absorb carbon dioxide, emit pure oxygen, help lower the temperature in the environment, clean and reduce air pollution and diminish the effects of global warming by removing excess carbon from the atmosphere and progressively restoring the ozone layer;

(c) The protection of trees is consistent with the goal of the Bloomfield Hills Master Plan to maintain the trees and woodlands that contribute to the unique character of the community.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-21. - Applicability—Tree removal permit requirements.

(a) A tree removal permit is required for removal of regulated trees, unless exempt under section 22-22.

(b) Any tree removal which is not subject to exemption must comply with section 22-24 or section 22-25, as applicable.

(c) The application for a tree removal permit shall be submitted to the building official for review and approval pursuant to sections 22-24 and 22-25.

(d) No tree that was planted or preserved as part of any landscape plan or in accordance with any street tree requirements approved in conjunction with a subdivision or site plan shall be removed, except for such trees directed to be removed pursuant to sections 22-23, 22-24 and 22-25. If damaged, dead or dying and/or diseased trees that are part of a landscape plan approved by the city commission or planning commission in conjunction with a subdivision or site plan are removed, they must be replaced by the owner of the property at its own cost with replacement trees in compliance with said landscape plan.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-22. - Exemptions.

Notwithstanding the provisions of this article, the following activities are exempt from the provisions of this article, unless otherwise prohibited by statute or ordinance.

(a) *Public utilities.* The trimming of trees necessitated by the installation, repair or maintenance work performed in a public utility easement or approved private easement for public utilities which grants such permission, which trimming of trees in non-emergency situations shall be performed in accordance with accepted forestry or agricultural standards and techniques, with the trimming to be limited to the minimum amount of trimming necessary and the public utilities shall give the city and the owners of the property on which the trees to be trimmed are located at least forty-eight (48) hours prior notice of the proposed tree trimming. Removal of trees for public utilities shall comply with section 22-24.

(b) *Public agencies.* The removal or trimming of trees if performed by or on behalf of the city, county, state or other public agencies in a public right-of-way, on public property or on an easement for public utilities in connection with a publicly awarded construction project such as the installation of public streets, which removal or trimming of trees in non-emergency situations shall be performed in accordance with accepted forestry or agricultural standards and techniques, with the removal or trimming of trees to be limited to the minimum amount of removal or trimming of trees necessary and the public agencies shall give the city and the owners of the property on which the trees to be removed or trimmed are located at least forty-eight (48) hours prior notice of the proposed tree removal or trimming.

(c) *Routine maintenance.* The trimming and pruning of trees as part of normal maintenance of landscaping or orchards, if performed in accordance with accepted forestry or agricultural standards and techniques.

(d) *Public safety.* The removal or trimming of dead, diseased or damaged trees if performed by or on behalf of the city, county, state, public utility, or other public agencies in a public right-of-way, utility easement, or on public property if done to prevent injury or damage to persons or property.

(e) *Damaged, dead or dying and diseased trees.* The removal or trimming of damaged, dead or dying or diseased trees provided that the removal or trimming is accomplished through the use of standard forestry practices and techniques. For purposes of this section, the property owner shall retain reasonable proof (e.g. photographs, estimates or receipts) of the alleged condition of the subject trees. For the purposes of this section, damaged tree, dead or dying tree and diseased tree shall be defined as follows:

  (1) Damaged tree means a tree that is injured or damaged from an accident or non-human means so that it is not a viable tree or may cause harm. Any tree with greater than seventy-five (75) percent of its canopy intact shall be considered viable and healthy. This determination shall be made during the regular growing season.

  (2) Dead or dying tree means a tree having less than fifty (50) percent of the canopy with leaves. This determination shall be made during the regular growing season.

  (3) Diseased tree means a tree that has been determined to have a terminal disease such as, but not limited to, Dutch Elm disease or Oak Wilt, which disease must be confirmed prior to the removal of the tree by a licensed arborist.

(f) *Disasters and emergencies.* Actions made necessary by an emergency, such as tornado, windstorm, flood, freeze or dangerous and infectious insect infestation or disease or other disaster, in order to prevent injury or damage to persons or property or to restore order.

(g) *Removable trees.* Removable Trees as defined in section 22-23.

(h) *Exemptions for individual parcels, excluding parcels being divided or subdivided into three (3) or more lots or units.* The owner of a parcel of property having an area of one and a half (1½) acres or larger may remove up to three (3) regulated trees within a two-year period without a permit. The owner of a parcel of property having an area of less than one and a half (1½) acres may remove up to two (2) regulated trees within a two-year period without a permit. The owners of schools or educational institutions located on parcels of property having an area of one hundred (100) acres or more and owners of country club and golf course parcels of property may remove five (5) percent of the regulated trees within a four-year period without a permit. If the owner elects to remove a percentage of the regulated trees on the parcel, they must adequately document the total number of regulated trees on the parcel.

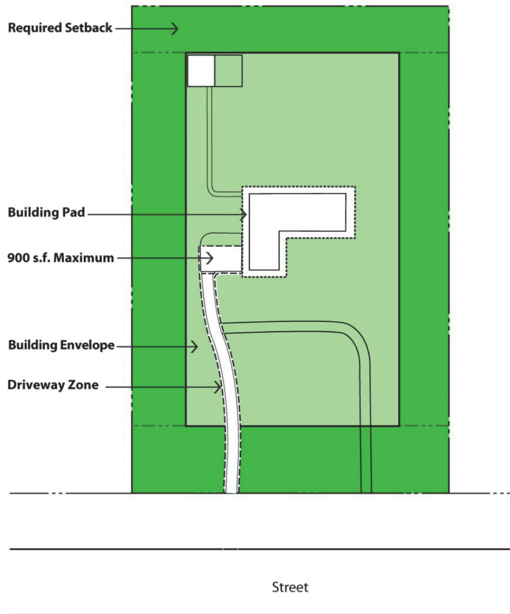
(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-23. - Definitions

The following terms, words and phrases shall have the following meaning for purposes of this section.

Activity shall mean any operation, development or action, including but not limited to constructing buildings or other structures; depositing or removing material; land balancing; draining, pumping or diverting water; paving; tree removal or other vegetation removal.

Building pad shall mean the building footprint plus that area within fifteen (15) feet of the building footprint of any principal structure and the applicable area for accessory structures as defined in section 24-229 of the Zoning Ordinance.



Building Envelope

Building envelope shall mean that area between the setback and the building pad, as defined herein.

Diameter breast height (DBH) shall mean the diameter in inches measured four and one-half (4½) feet above ground of a regulated tree.

Drip line shall mean an imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

Driveway zone shall mean an area leading from the street to either the garage in the case of a residence, or the main building in the case of a non-residential parcel. The driveway zone may include an area up to nine hundred (900) square feet located directly in front of the garage or main building. The driveway zone shall not apply to circular driveways for residential property or parking lots for nonresidential parking lots.

Land clearing shall mean operations which remove trees and vegetation in connection with the installation of storm or sanitary sewers, public or private utilities, streets or any other clearing or grading of the property at any time prior to construction of a building.

Landmark tree shall mean a tree of botanical name and DBH identified in the list below as well as any tree that is twenty-four (24) inches DBH or greater and the City encourages the preservation of landmark trees. The following are considered landmark trees and the listed DBH represents the minimum size protected for each species:

Common Name	Species	Min. Size DBH
American Basswood	Tilia americana	24
American Beech	Fagus grandifolia	18
Birch	Betula spp.	18
Black Alder	Alnus glutinosa	12
Black and White Walnut	Juglans nigra, J cirnerea	20
Buckeye	Aesculus glabra	18
Cedar, red	Juniperus spp.	12

Eastern Hemlock	Tsuga canadensis	12
Fir	Abies	18
Ginkgo	Ginkgo biloba	18
Hickory	Carya spp.	18
Horse Chestnut	Aesculus cornea	18
Kentucky Coffee tree	Gymnocladus dioicus	18
Larch/Tamarack	Larix laricina (Eastern)	12
Locust	Gleditsia triacanthos	24
London Planetree/Sycamore	Plantanus spp.	18
Maple (hard varieties)	Acer spp.	18
Oak	Quercus spp.	16
Pine	Pinus spp.	18
Sassafras	Sassafras albidum	15
Spruce	Picea spp.	18
Tuliptree	Liriodendron	18
Wild Cherry	Prunus spp.	18

Regulated tree shall mean any tree six (6) inches DBH or greater that is not a removable tree.

Removable tree shall mean those trees designated by resolution of the planning commission as being appropriate for removal due to their nuisance characteristics. Such trees shall be listed by common and botanical name. Such list shall be maintained by the city and shall initially include the following tree species. Additional trees may be added to this list by resolution:

- Ash
- Horse Chestnut (nut bearing)
- Autumn Olive
- Box Elder
- Russian Olive
- Common Buckthorn
- Tree-of-Heaven
- Elm, except American
- Weeping Willow

Replacement tree shall mean any tree not listed as a removable tree, as defined above, and which meets the requirements of section 22-26(b). Replacement trees shall be species, varieties or cultivars that are commonly grown and available in Michigan tree nursery stock. Replacement trees may not be counted toward landscaping required by other ordinances.

Setback shall mean a distance of twenty-five (25) feet from all property lines for the purpose of this article.

Tree survey shall mean a drawing and listing prepared and sealed or signed by a registered land surveyor or civil engineer or landscape architect and verified by a registered arborist, forester, or landscape architect containing all of the following information:

(1) The shape and dimensions of the property and the location of any existing and proposed structure or improvement;

(2) The identification (common and botanical name), size, location, condition and tagging in the field of all regulated trees using numbered, non-corrosive metal tags, and shown on the plan with the corresponding number.

Undeveloped shall mean a parcel of land which is substantially unimproved with buildings or structures on the effective date of this section.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-24. - Tree removal on individual parcels, excluding parcels being divided or subdivided into three (3) or more lots or units.

(a) *Submittal requirements.* A tree removal permit shall be required when the activity does not satisfy an exemption in section 22-22. The tree removal application shall be submitted to and reviewed by the building official. The application and development proposal shall conform to the provisions contained herein.

(b) *Permit application.* A completed tree removal permit application on a form prescribed by the city which shall include the following information:

(1) The name, address and telephone number of the property owner and applicant, if different from owner;

(2) The project location, including as applicable, the address, the street, road or highway, section number, lot or unit number and the name of the subdivision or development;

(3) A description of the activity to be undertaken, including a sketch or plot plan showing the location of regulated tree(s) to be removed and replacement trees that satisfy section 22-26; and

(4) A tree removal permit application fee in the amount established by resolution of the city commission.

(c) *Review standards.* A tree removal permit shall be granted when application and tree replacement requirements specified herein are satisfied based upon one (1) or more of the following circumstances:

Where no other practical alternative exists for the placement of a building, building addition, structure, driveway, deck, patio, recreation facility or lawn area for use by the inhabitants of the building or dwelling, or any other authorized improvements, but in the vicinity of an existing tree.

(1) Where the location or growth of a tree inhibits the enjoyment of any outdoor pool, patio, recreation facility or deck.

(2) Where the location, angle or growth of an existing tree makes it a hazard to structures or human life.

(3) Where the selective removal of trees will result in a healthier and more sustainable woodland environment without adversely impacting the character of the surrounding area.

(d) *Reviewing body.* The building official shall be the reviewing body for individual parcels, excluding parcels being divided or subdivided into three (3) or more lots or units. If the proposed tree removal is part of a project that requires planning commission or city commission approval, the reviewing body will be that commission responsible for considering approval of the project.

(e) *Planning commission review.* If, in the opinion of the building official, the request for tree removal does not satisfy the above criteria, then the application may be forwarded to the planning commission for review and decision.

(f) *Appeals.* If, in the opinion of the planning commission, the request for tree removal does not satisfy the above criteria, then within thirty (30) days from the planning commission's decision, an applicant may appeal in writing to the city commission for review and decision.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-25. - Tree removal on parcels being divided or subdivided into three (3) or more lots or units.

(a) *Submittal requirements.* An applicant for subdivision approval of three (3) or more lots shall submit the following materials to the city:

(1) *Tree removal permit application.* A completed tree removal permit application on a form prescribed by the city which shall include the following information:

a. The name, address and telephone number of the applicant and/or the applicant's agent;

b. The name, address and telephone number of the owner of the property and written authorization from the owner allowing the proposed activity;

c. The project location, including as applicable, the address, the street, road or highway, section number, lot or unit number and the name of the subdivision or development;

d. A detailed description of the activity to be undertaken including a tree survey and landscape plan as described below; and

e. A tree removal permit application fee in the amount established by resolution of the city commission.

(2) *Tree survey.* A sufficient number of copies as determined by the building official of a tree survey and a plan for proposed tree removal shall be provided.

(3) *Landscape plan.* A sufficient number of copies of a landscape plan prepared by a registered landscape architect shall be submitted with the application for tree removal, and shall include the following information:

a. The total number and location of regulated trees on site and regulated trees to be removed.

b. The replacement plan showing the type, location, and size of replacement trees on the plan and in a separate tabular summary.

(b) *Review standards.* Reviews of an application for a tree removal permit for subdivisions of three (3) or more lots shall be conducted by the planning commission. The following points shall be considered in the review and approval of an application for a tree removal permit, if required by this section.

(1) The protection and conservation of natural resources from pollution, impairment or destruction is of paramount concern. Therefore, all woodlands, trees and related natural resources shall have priority over development when there are feasible and prudent location alternatives on the site for proposed buildings, structures or other improvements. The applicant must consider and pursue alternative development options available under the zoning ordinance in order to preserve the woodlands and trees.

(2) The developer may remove regulated trees within those portions of the site that are set aside or required for installation of storm water management, sanitary and water lines, roads, utilities, and other requirements of the city without replacement.

(3) The developer may remove regulated trees within other areas of the site, including those for building construction, provided they comply with the applicable replacement requirements in section 22-31. The integrity of woodland areas shall be maintained to the greatest extent reasonably possible, regardless of whether such woodlands cross property lines.

(4) Where the proposed activity involves residential development, the residential structures shall, to the extent reasonably feasible, be designed and constructed to use the natural features of the site.

(5) The suitability of the landscape and replacement plan based on maintaining the character and harmony of the surrounding area.

(c) *Reviewing body.* The planning commission shall be the reviewing body for tree removal permits on subdivisions of three (3) or more lots.

(d) *Appeals.* If, in the opinion of the planning commission, the request for tree removal does not satisfy the above criteria, then within thirty (30) days from the planning commission's decision, an applicant may appeal in writing to the zoning board of appeals (or city commission) for review and decision.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-26. - Relocation and replacement.

(a) *Replacement ratio.* The permit holder shall provide replacement trees for each regulated tree, that is not a non-exempted landmark tree, to be removed in excess of exemption, the cumulative number of replacement trees necessary to equal or exceed fifty (50) percent of the DBH of each said regulated tree removed, with the minimum DBH of each deciduous replacement tree being at least three (3) inches and the minimum size of each coniferous replacement tree being eight (8) feet in height. Foreach non-exempted landmark tree removed, the permit holder shall provide the cumulative number of replacement trees necessary to equal or exceed the DBH of each non-exempted landmark tree removed, with the minimum DBH of each replacement tree being at least five (5) inches.

(1) No replacement trees are required within the building pad and driveway zone as defined in this article.

(2) An applicant using coniferous replacement trees greater than twelve (12) feet in height and deciduous trees greater than six (6) inches in caliper shall receive a twenty-five (25) percent reduction credit to the tree replacement ratio.

(b) *Minimum requirements.* All replacement trees shall satisfy current American standards for nursery stock and shall be as follows:

(1) Nursery grown or comparable, or relocated from the same parcel.

(2) Number one (1) grade, with a straight, unsecured trunk and a well-developed uniform crown.

(3) Guaranteed for two (2) years from the time of planting.

(4) A species not included on the list of removable trees. Arborvitae and other coniferous trees that are not likely to grow beyond fifteen (15) feet in height shall not be used as replacement trees.

(5) Tree replacement shall occur within one (1) year from the date of permit issuance except for parcels greater than ten (10) acres. For parcels greater than ten (10) acres replacement trees shall be planted within three (3) years or prior to a change in use, whichever occurs first or by providing an acceptable tree removal and replacement plan approved by the planning commission.

(6) Deciduous canopy trees are encouraged for use as replacement trees.

(c) *Location.* The location of any replacement tree for individual parcels, excluding parcels being divided or subdivided into three (3) or more lots or units, shall be on the same parcel as the removed tree whenever feasible, as determined by the city manager and the specific locations of the replacement trees on the same parcel shall be as determined and approved by the city manager, taking into consideration neighboring and public property views and the character of the area. In those cases where the proposed tree removal is on parcels being divided or subdivided into three (3) or more lots or parcels and/or the reviewing body is the planning commission, the location of any replacement tree shall be on the same parcel whenever feasible and the specific locations of the replacement trees on the same parcel shall be determined and approved by the planning commission, taking into consideration neighboring and public property views and the character of the area. In the event that the proposed tree removal is part of a project that requires planning commission or city commission approval, the location of any replacement tree shall be on the same parcel whenever feasible and the specific locations of the replacement trees on the same parcel shall be determined and approved by that commission responsible for considering approval of the project, taking into consideration neighboring and public property views and the character of the area. If the tree replacement on the same parcel is not feasible, the reviewing body may:

(1) Designate another planting location for the replacement tree within the city; or

(2)

Require the permit holder to deposit into the city general fund, tree preservation line (city tree fund), an amount determined by resolution of the city commission for tree replacement that would otherwise be required. These funds shall be utilized for the planting, maintenance and preservation of trees and woodland areas within the city.

(d) *Maintenance.* Replacement trees shall be staked, fertilized, watered and mulched to ensure their survival in a healthy, growing condition.

(e) *Responsibility.* Property owners are responsible to take all measures necessary to ensure the health and viability of replacement trees.

(f) *Performance guarantees.*

(1) For permits issued under section 22-24, if the replacement requirement is not satisfied within one (1) year of the date of the permit issuance, then the city may bill the property owner for the cost of said replacement trees and their planting. At the end of each fiscal year the city manager shall report any such charges to the city commission. When reported, the charges shall become a lien upon the property on which such replacement trees should have been planted and shall be assessed and collected in the manner provided in section 1-9 and the city may deposit any funds received in the city's tree fund. In the case where the tree removal permit was issued in connection with a building permit, the building official may withhold final project approval until the replacement obligation is satisfied or bond is provided. The property owner shall be responsible for timely advising the city when the required replacement trees have been planted on the property owner's property.

(2) For permits issued under section 22-25, the applicant shall post an acceptable form of an irrevocable letter of credit, cash escrow, certified check, or other city-approved performance security in an amount determined by the building official, equal to one and one-half (1½) times the amount required for the required replacement trees according to the approved landscape plan, together with reasonable administrative expenses. Required performance guarantees shall be provided to the city after approval of the proposed tree removal permit but prior to the initiation of any tree removal. After determination by the building official that all replacement trees are in compliance with the approved landscape plan, the letter of credit or other securities shall be released.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-27. - Terms of permit.

(a) Any and all tree removal permits issued by the city to a developer shall expire (unless extended) at the same time as the contemporaneous approval granted by the city, for the development, if any (i.e. tentative preliminary plat, preliminary site plan, special land use, site plan approval, etc.).

(b) Any and all tree removal permits issued by the city to any persons for an activity regulated under this section for which a contemporaneous approval of the development is not required by the city (i.e. removal of trees by a builder in connection with construction of a residence upon a parcel) shall expire one (1) year from the date of issuance.

(c) Any activity regulated under this section which is to be commenced after expiration of a tree removal permit shall require a new applicant, additional fees and new review and approval.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-28. - Display of permit.

The permit holder shall conspicuously display the tree removal permit on-site. The permit shall be displayed continuously while trees are being removed or while activities authorized under the permit are performed and for ten (10) days following completion of those activities. The permit holder shall allow the city to enter and inspect the premises during reasonable business hours or any other time during which activity is conducted as regulated by this article. Failure to allow an inspection authorized under this section is a violation of sections 22-24 or 22-25 above.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-29. - Enforcement and administration.

To ensure enforcement of this section and the approved plan for tree removal, various inspections may be performed at the site at the direction of the city. The applicant will be responsible for all inspection fees. The city shall have the authority to promulgate additional regulations to implement the terms of this section.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-30. - Violations.

(a) *Misdemeanor.* Any person or anyone acting in behalf of such person violating any of the provisions of this division 2 shall, upon conviction thereof, be subject to a fine not more than five hundred dollars ($500.00) and the cost of prosecution or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment at the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this division 2. In addition, the city shall have the right to enforce this division 2 through appropriate court action.

(b) *Injunctive relief.* Any activity conducted in violation of this division 2 is declared to be a nuisance per se, and the city may commence a civil suit in any court of competent jurisdiction for an order abating or enjoining the violation.

(c) *Fee for illegally removed trees.* In addition to any civil fine or sanction provided for a conviction for violation of this division 2, and notwithstanding

whether or not the city has commenced a civil suit for injunctive relief:

(1) *Payment to city tree fund.* Any person who removes or causes any tree to be removed except in accordance with this division 2 shall forfeit and pay to the city a civil fee equal to the total value of trees illegally removed or damaged, as computed by city staff and/or the city staff's designee applying the International Society of Arboriculture standards. The fee shall accrue to the city, and, if necessary, the city may file a civil action to recover the fee. The city shall place any sum collected in the city tree fund.

(2) *Tree replacement.* Alternatively, the city may require replacement of illegally removed or damaged trees as restitution in lieu of the fee. Replacement will be on a tree-for-tree and inch-for-inch basis computed by adding the total diameter measured at the diameter at breast height in inches of the illegally removed or damaged trees, unless an alternative basis of replacement or restitution is approved by the city. The city may use other reasonable means to estimate the tree loss if destruction of the illegally removed or damaged trees prevents exact measurement.

(3) *Fee payment and tree replacement.* The city may also require a combination of fee payment and tree replacement.

(d) *Stop work order.* The city may also issue a stop work order or withhold issuance of a certificate of occupancy, permits or inspections until the sections of this division 2, including any conditions attached to a tree removal permit, have been fully met. Failure to obey a stop work order shall constitute a violation of this division 2.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-31. - Variance.

Applicants may seek variances from the provisions of this article by filing a written request with the city commission which variances may be granted by the city commission upon a showing of practical difficulty.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

Sec. 22-32. - Tree protection.

The following tree protection standards shall be followed:

(a) All trees which have been approved for removal shall be so identified on site by fluorescent orange spray paint (chalk base) or by red flagging tape prior to any activity. Trees selected for transplanting shall be flagged with a separate distinguishing color.

(b) No person shall conduct activity within the drip line of any tree designated to remain, including but not limited to the placing of solvents, building materials, construction equipment or soil deposits.

(c) During construction, no person shall attach a device or wire to any remaining tree, except to cordon off protected areas as required.

(Ord. No. 397, § 2, 6-12-12 ; Ord. No. 449 , § 1, 8-10-21)

DIVISION 3. - PRIVATE PROPERTY

Footnotes:

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Editor's note— *Ord. No. 397, § 3, adopted June 12, 2012, renumbered §§ 22-46—22-51 as §§ 22-33—22-38 to read as set out.*

Sec. 22-33. - Street, right-of-way clearance.

Every owner of any tree on private property overhanging any street or right-of-way within the city shall trim the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of ten (10) feet above the surface of the street or right-of-way. Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic-control device or sign, such trimming to be confined to the area immediately above the right-of-way.

(Code 1971, § 3.40; Ord. No. 397, § 3, 6-12-12)

Editor's note— Ord. No. 397, § 3, adopted June 12, 2012, renumbered § 22-46 as § 22-33.

Sec. 22-34. - Street corner clearance.

All shrubs and bushes located on the triangle formed by two (2) right-of-way lines at the intersection of two (2) streets, and extending for a distance of twenty (20) feet each way from the intersection of the right-of-way lines on any corner lot within the city, shall not be permitted to grow to a height of more than thirty (30) inches in height from top of curb at street level, in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained on private property in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of ten (10) feet above the roadway surface. Any owner of any property failing to trim any trees, shrubs or bushes in conformity with this section or section 22-33, shall be notified by

the superintendent of the department of public works in the manner provided in section 1-9, to do so and such notice shall require trimming in conformity with this section within ten (10) days after the date of such notice. Upon the expiration of such period, the superintendent may cause the trimming to be done and the cost thereof may be collected from the owner of such property as a single lot assessment in accordance with section 1-9.

(Code 1971, § 3.41; Ord. No. 397, § 3, 6-12-12)

Editor's note— Ord. No. 397, § 3, adopted June 12, 2012, renumbered § 22-47 as § 22-34.

Sec. 22-35. - Inspection.

The superintendent of the department of public works and his assistants and employees shall have authority to enter upon private premises for the purpose of examining any trees, shrubs, plants, or vines for the presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any tree, shrub, or plant or fruit or injury to the same, if done by the superintendent or under his direction, in accordance with this article.

(Code 1971, § 3.46; Ord. No. 397, § 3, 6-12-12)

Editor's note— Ord. No. 397, § 3, adopted June 12, 2012, renumbered § 22-48 as § 22-35.

Sec. 22-36. - Diseases and infestations.

When the superintendent of the department of public works shall discover that any tree growing on private property within the city is afflicted with any dangerous and infectious insect infestation or tree disease, he shall forthwith serve a written notice upon the owner or his agent, or the occupant of the property, in the manner specified in section 1-8, describing the tree, its location and the nature of the infestation or tree disease and ordering the owner, agent and occupant to take such measures as may be reasonably necessary to cure such infestation or disease and to prevent the spreading thereof, specifying the measures required to be taken. Such order may require the pruning, spraying or destruction of trees as may be reasonably necessary. Every such notice shall be complied with within ten (10) days after service thereof upon the owner, agent or occupant of the property on which the afflicted tree is located or within such additional time as may be stipulated in such notice.

(Code 1971, § 3.42; Ord. No. 397, § 3, 6-12-12)

Editor's note— Ord. No. 397, § 3, adopted June 12, 2012 , renumbered § 22-49 as § 22-36.

Sec. 22-37. - Spraying by city.

The superintendent of the department of public works may, without serving the notice specified in section 22-36, when the owner or occupant of any private property shall consent thereto and pay the reasonable cost thereof, cause trees growing on private property to be sprayed when he deems the same necessary on account of any infestation or disease or threat thereof.

(Code 1971, § 3.45; Ord. No. 397, § 3, 6-12-12)

Editor's note— Ord. No. 397, § 3, adopted June 12, 2012, renumbered § 22-50 as § 22-37.

Sec. 22-38. - Failure to comply with order of superintendent of department of public works.

In case the owner, agent or occupant of the property refuse to carry out the order of the superintendent of the department of public works within the time limited, or in case of an appeal, within five (5) days after the commission shall have affirmed such order, the superintendent of the department of public works shall carry out the pruning, spraying or destruction of the trees as deemed necessary by him and shall bill the owner, agent or occupant of the property for the cost thereof. In case the owner of such property shall fail to pay such bill within sixty (60) days after the same has been rendered, the superintendent shall report the same to the city commission for collection as a single lot assessment against such property in accordance with section 1-9.

(Code 1971, § 3.45; Ord. No. 397, § 3, 6-12-12)

Editor's note— Ord. No. 397, § 3, adopted June 12, 2012, renumbered § 22-51 as § 22-38.

Sec. 22-39. - Removal of dead, diseased and damaged trees from private property.

The owner of private property shall, at the owner's sole cost and expense, remove and dispose of a dead, diseased or damaged tree located on the owner's property that poses an imminent danger of causing injury to persons or property from falling or blowing over due to the dead, diseased or damaged condition of the tree. If a dead, diseased or damaged tree that poses an imminent danger of causing injury to persons or property is located in a wetland or natural features setback, a permit must be applied for by the property owner and obtained from the city prior to removal of the dead, diseased or damaged tree. Dead, diseased or damaged trees that are located in a heavily forested area and that do not pose a threat of injury to persons or property are exempt from the provisions of this section.

(Ord. No. 435 , § 1, 3-12-19)

Sec. 22-40. - Removal of broken or decayed tree limbs and branches and piles and accumulations of dead brush and dead bushes from private property.

(a) The owner of private property shall, at the owner's sole cost and expense, remove and dispose of all broken or decayed tree limbs and branches located on the ground of the owner's private property and shall also remove and dispose of all piles and/or accumulations of dead brush and dead bushes located on said private property. If broken or decayed tree limbs and branches and/or piles and/or accumulations of dead brush and dead bushes are located in a wetland or natural features setback, a permit must be applied for by the property owner and obtained from the city prior to their removal. Broken or decayed tree limbs and branches and/or piles and/or accumulations of dead brush and dead bushes that are located in heavily forested areas and that are not visible from outside the heavily forested area are exempt from the provisions of this section.

(b) Overgrown trees, bushes and/or vegetation on private property that block traffic sight lines shall be trimmed or removed by the owner of the private property, at the owner's sole cost, so that they do not block traffic sight lines.

(Ord. No. 435 , § 1, 3-12-19)

Sec. 22-41. - Tree stump removal.

Unless a tree stump is located within a regulated wetland or natural features setback, the owner of private property shall, at the owner's sole cost and expense, either completely remove any tree stump located on the owner's private property or cut any tree stump on the private property so that the tree stump does not project above the preexisting surface of the ground. Further, the preexisting surface of the ground may not be raised in order to hide or cover the stump.

(Ord. No. 435 , § 1, 3-12-19)

Sec. 22-42. - Maintenance, treatment and removal.

It is the responsibility of the owner of private property to maintain the trees, shrubs, bushes and plants located on the owner's property and to treat, exterminate and/or remove any tree, shrub, bush or plant that is attacked by contagious or destructive insects or diseases.

(Ord. No. 435 , § 1, 3-12-19)

Sec. 22-43. - Notice and order of abatement.

When the city discovers a dead, diseased or damaged tree, tree stump, tree branch or tree limb that poses an imminent danger, the city shall serve written notice, by first class mail and certified mail, return receipt requested, upon the owner of the subject property. The notice shall describe the tree, tree stump, tree branch or tree limb and its location, the nature of the danger and order the owner of the private property to abate the danger by trimming, pruning or removing the tree, tree stump, tree branch or tree limb. The notice should specify the date for compliance by the owner not less than fourteen (14) days from the date of the notice. The owner shall comply within the time period specified in the notice, unless the owner provides written proof to the city from an arborist, certified by the International Society of Arboriculture or its equivalent, stating that the tree, tree stump, tree branch or tree limb is not dead, diseased or damaged and is not dangerous and does not require trimming, pruning or removal.

(Ord. No. 435 , § 1, 3-12-19)

Sec. 22-44. - Warrant to perform work; costs or a lien.

If the owner of private property fails to abate the dangerous condition as noticed pursuant to section 22-43, the city may seek a warrant to enter upon the private property to abate the dangerous condition by removing the dead, diseased or damaged tree, tree stump, tree branch or tree limb that poses an imminent danger. Upon obtaining the warrant and completion of the work, the city shall send a bill of all costs, including reasonable attorney's fees, if any, incurred by the city to the owner by first class mail. Costs incurred as specified in the written notice shall be secured by a lien on the property. The costs shall be paid within thirty (30) days from the date of mailing of the notice and if the costs are not paid within thirty (30) days, the city may place a lien for the amount of costs against the subject property and the city may pursue any available legal remedies to collect the costs owed.

(Ord. No. 435 , § 1, 3-12-19)

Sec. 22-45. - Emergency removal.

When a dead, diseased or damaged tree, tree stump, tree branch or tree limb constitutes an immediate danger to public health, safety and welfare and the delay of notification would serve to further endanger the public, the city may enter upon private property, perform the work required to alleviate the danger, and assess the costs thereof to the owner of the private property. Immediate danger includes but is not limited to circumstances such as a tree is endangering a utility pole or line, an existing structure, home, building, street, road, highway, sidewalk, fence or wall.

(Ord. No. 435 , § 1, 3-12-19)

Sec. 22-46. - Penalty.

A violation of any of the sections of division 3, Private Property, shall be a municipal civil infraction having the penalties set forth in section 1-11(c)(2) of the Bloomfield Hills City Code, as amended.

(Ord. No. 435 , § 1, 3-12-19)

Secs. 22-47—22-52. - Reserved.

Editor's note— At the direction of the city, § 22-52 has been removed from this Code. Former § 22-52 pertained to appeal of order of superintendent of department of public works and derived from Code 1971, § 3.44.

DIVISION 4. - PUBLIC PROPERTY

Footnotes:

*--- (**4**) ---*

Editor's note— *Ord. No. 397, § 3, adopted June 12, 2012 , renumbered §§ 22-31—22-33 as §§ 22-53—22-55 to read as set out.*

Sec. 22-53. - Trimming by public utilities.

The superintendent of the department of public works shall grant permission to public utilities to trim and keep trimmed all trees within the streets, alleys and public places of the city, in such a manner as shall keep the overhead lines of such public utilities safe and accessible. Such trimming shall be done in accordance with approved practices and under the general direction of the department of public works. Such permission, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced. Provided, however, that in the event of an emergency requiring immediate maintenance work on the overhead lines of such public utilities, prior notice of commencing work under such permit shall not be required. The word "emergency" as used in this section, shall be defined to mean the occurrence or happening of an event which could not be foreseen by the exercise of reasonable care and foresight, which might cause damage to the overhead lines of the public utilities.

(Code 1971, § 3.48; Ord. No. 397, § 3, 6-12-12)

Editor's note— Ord. No. 397, § 3, adopted June 12, 2012, renumbered § 22-31 as § 22-53.

Sec. 22-54. - Gas main leakage.

Gas pipes or mains within any public rights-of-way or on any public property shall be so maintained as to avoid any leakage therefrom. If a leak exists or occurs, it shall be reported to the owner of such pipe and main, and the leak shall be repaired within twenty-four (24) hours. Any damage to trees, shrubbery or grass resulting from the escape of gas from a pipe or main shall be repaired, and the cost of the work, including the cost of removal and the replacement of any trees, shall be levied against the owner of the pipe or main causing the damage.

(Code 1971, § 3.39; Ord. No. 397, § 3, 6-12-12)

Editor's note— Ord. No. 397, § 3, adopted June 12, 2012, renumbered § 22-32 as § 22-54.

Sec. 22-55. - Removal.

The department of public works shall have the right to plant, trim, spray, preserve, and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure safety or to preserve the symmetry and beauty of such public grounds. The superintendent of the department of public works may remove or cause or order to be removed, any tree or part thereof which is an unsafe condition, or which is of a prohibited species, or is affected with any injurious disease, fungus, insect or other pest. Whenever the department of public works shall remove any tree, plant or shrub, solely for the purpose of constructing any public work, the superintendent of the department of public works shall, if practicable, replace the same at public expense, at some nearby location by planting another tree, plant or shrub, not necessarily of the same type.

(Code 1971, § 3.34; Ord. No. 397, § 3, 6-12-12)

Editor's note— Ord. No. 397, § 3, adopted June 12, 2012, renumbered § 22-33 as § 22-55.

Chapter 23 - VEHICLES FOR HIRE

Footnotes:

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

Cross reference— *Streets, sidewalks and other public places, Ch. 18; traffic and motor vehicles, Ch. 20.*

ARTICLE I. - IN GENERAL

Secs. 23-1—23-15. - Reserved.

ARTICLE II. - TAXICABS

DIVISION 1. - GENERALLY

Sec. 23-16. - Definitions.

In the interpretation of this article the following definitions shall apply except where the context clearly indicates a different meaning:

Owner shall mean the person who is the registered owner of the taxicab licensed under this article.

Public highway shall mean and include any street, alley, avenue, court, lane, road or other public place in the city.

Taxicab shall mean and include any motor vehicle, furnishing individual service for compensation in the transportation of persons on public highways, provided that motor vehicles used as hearses, ambulances or motor buses shall not be construed as taxicabs.

(Code 1971, § 7.101)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 23-17. - Inspection; condition of vehicles.

(a) All vehicles, before the same shall be licensed under the provisions of this article, shall be examined under the direction of the public safety director as to the security of the parts or the condition of the equipment, and after such licenses shall be issued, such vehicles shall be kept in good mechanical order and when so operated shall be kept free from all unnecessary odor or noise.

(b) All vehicles so operated shall at all times be kept in a clean, wholesome and sanitary and tidy condition. Each licensee under this article shall report quarterly to the public safety director who shall ascertain by such inspection as he shall deem necessary that the provisions of this section are complied with.

(Code 1971, § 7.111)

Sec. 23-18. - Capacity.

No taxicab shall carry more passengers than its licensed seating capacity and not more than one (1) passenger shall ride in the front seat with the driver.

(Code 1971, § 7.110)

Sec. 23-19. - Discharging, taking on passengers.

It shall be unlawful to stop any taxicab upon the street or highway for the purpose of taking on or discharging passengers if the right hand side of such taxicab is more than two (2) feet distant from the right hand curb or the right hand edge of the traveled portion of such highway. All stops for the purpose of taking on or discharging passengers shall also be made at the far side of the street intersections or at such other places as may be designated by the public safety department and shall be made in such manner as not to obstruct traffic.

(Code 1971, § 7.112)

Sec. 23-20. - Riding outside body.

It shall be unlawful to drive or operate any taxicab while any person is riding thereon outside the body thereof and it shall be unlawful for any person to ride outside of the body of any such taxicab while it is in motion.

(Code 1971, § 7.110)

Sec. 23-21. - Cruising.

No taxicab, while awaiting employment by passengers, shall stand on any street or highway other than at a taxicab stand designated as provided in section 23-22, and no driver of any such taxicab shall seek employment by cruising on the streets or highways of the city.

(Code 1971, § 7.114)

Sec. 23-22. - Stands.

The city manager shall designate certain locations as public taxicab stands, subject to the approval of the city commission.

(Code 1971, § 7.113)

Sec. 23-23. - Lost property.

All licensed taxicab drivers shall, within twelve (12) hours, turn over to the chief of police, all articles found by them in any taxicab, unless the same be sooner claimed by the owners thereof.

(Code 1971, § 7.118)

Sec. 23-24. - Rates of fare.

The city commission may by resolution establish the rate or fare to be charged by taxicabs engaging in the transportation of passengers and no greater rate or fare shall at any time be charged by the operators thereof than that fixed by the commission. A printed schedule of the fares as fixed by the city commission printed in type of such size as to be plainly visible to all passengers shall at all times be posted in each taxicab in a conspicuous place.

(Code 1971, § 7.115)

Secs. 23-25—23-35. - Reserved.

DIVISION 2. - BUSINESS LICENSE

> *Footnotes:*
> *--- (**2**) ---*
> ***Cross reference—*** *Licenses generally, Ch. 9.*

Sec. 23-36. - Required.

(a) No person shall engage in the business of operating a taxicab upon the public highways of the city without having first obtained a license for each taxicab used in such business and no person shall drive or operate a taxicab upon the public highways of the city without first having obtained a license therefor.

(b) A taxicab not so licensed may bring passengers into the city but may not pick up any passengers or accept any business within the city for any destination within or without the city, except in response to a specific request therefor.

(Code 1971, § 7.102)

Sec. 23-37. - Public convenience and necessity.

No license shall be granted to any applicant unless and until there shall have been passed by the city commission, a resolution certifying that public convenience and necessity would require the operation of the taxicab to be licensed. In determining such public convenience and necessity the city commission shall consider the number of taxicabs then operating in the city, and shall in the issuance of licenses prefer those then owning or operating such taxicabs and in the issuance of licenses in addition to the number then operating shall consider whether the demands of the public require additional taxicab service, the financial responsibility of the applicant, the number, kind, type, equipment, schedule of rates proposed to be charged and such other relevant facts as the commission may deem advisable or necessary. The judgment of the commission on the question of public necessity and convenience shall be conclusive.

(Code 1971, § 7.103)

Sec. 23-38. - Application—Contents.

Application for a license under this division shall be made under oath and in writing to the city commission upon blanks to be furnished by the city clerk and shall state the applicant's full name, residence or principal place of business and if an individual or a firm the ages of the applicants and whether such applicants are married or single and whether they are citizens of the United States. The application shall also state the engine and serial number and the current license number of each automobile proposed to be used in the business and its seating capacity, and there shall also be contained in such application such other information as may be required by the commission.

(Code 1971, § 7.104)

Sec. 23-39. - Same—Investigation by director of public safety.

If the city commission shall determine that public convenience and necessity will permit the licensing of the applicant, the application shall be referred to the director of public safety for his investigation. The director of public safety shall make such inquiry as he shall deem necessary in regard to the applicant, the length of time, and the place where the applicant may have been engaged in such business, and, within a reasonable length of time, shall endorse upon such application his recommendation as to the granting of a license, and shall return the same to the city commission for approval or rejection.

(Code 1971, § 7.105)

Sec. 23-40. - Same—Decision.

The decision of the commission as to the rejection or approval of any application for a license required by this division shall be conclusive.

(Code 1971, § 7.105)

Sec. 23-41. - Fee; bond; insurance.

(a) Before the city commission shall issue a license as required by his division each applicant shall pay to the city treasurer an annual fee as provided in section 9-12 and shall execute and file with the city clerk a bond running to the city in the penal sum as provided in section 9-12 for each taxicab so licensed, with a corporate surety, duly licensed to do business in the state, satisfactory to the city manager, conditioned that such taxicab will be operated in accordance with the provisions of the laws of the state and the City Code, and that no greater fare will be charged by any taxicab than the rate of fare established or sanctioned by law, and that any property left by any passenger in such taxicab will be returned to him upon application therefor. Any person who suffers loss or damage by reason of such taxicab being operated in violation of the provisions of such bond may, in the name of the people of the city, institute an action upon the same to recover any damages sustained by him.

(b) In addition, each applicant, prior to the issuance of such license, shall also file with the city clerk a policy of insurance, executed by a company authorized to do business in the state and approved by the city manager, conditioned that any judgment rendered in any court against such applicant arising out of damage or injury to any persons, including passengers, or damage to any property caused by the negligent operation of such taxicab will be paid. In such policy of insurance the maximum coverage specified shall not be less than the amount prescribed in section 9-12. Such policy of insurance shall contain a provision to the effect that it shall remain in full force and effect for the full period covered by the license or any renewal thereof.

(Code 1971, § 7.106)

Sec. 23-42. - Issuance.

If an application for a license required by this division is approved by the commission, it shall by resolution instruct the city clerk to issue a license to such applicant upon the payment of a license fee and the filing of such bond or bonds as are required.

(Code 1971, § 7.105)

Sec. 23-43. - Form; posting; defacing, changing; transfer.

(a) All such licenses shall be in manner and form approved by the city manager and in addition shall contain the signature of such licensee.

(b) The license shall be posted at all times in some conspicuous place in the motor vehicle for which the same was issued when such licensee is engaged in the operation thereof under the provisions hereof.

(c) Any licensee who changes, defaces or obliterates any entry upon such license blank shall be penalized by the revocation of such license.

(d) The license shall not be transferable and if any licensee shall cease to use his motor vehicle for the purposes provided for in this division such license shall be surrendered to the city clerk forthwith except as otherwise provided in this division.

(Code 1971, § 7.107)

Sec. 23-44. - Transfer from one taxicab to another.

Upon transfer of ownership of any taxicab the commission may, where the transferor indicates that the vehicle is no longer to be operated as a taxicab, instruct the city clerk to validate by appropriate endorsement thereon such license for use on another taxicab to be designated by such transferor. The provision of the foregoing sentence shall also apply where the licensee shall produce satisfactory evidence that such taxicab has through destruction or otherwise ceased to be used as a taxicab.

(Code 1971, § 7.103)

Sec. 23-45. - Required operation.

(a) All licensees under this division shall make the taxicab business their principal occupation and shall on all secular days, unless good cause to the contrary is shown therefor, cause their taxicabs to be operated as common carriers for at least eighteen (18) hours per day, and all of the taxicabs, when not engaged in the actual transportation of passengers, shall be parked in the streets or highways only at the stands therefor designated. It is the purpose of this provision to ensure to the city the operation of taxicabs by licensees who will make the operation of taxicabs their principal occupation.

(b) No driver of any licensed taxicab shall leave his or her vehicle for a greater length of time than ten (10) minutes while the same is being operated under the provisions hereof upon the public highways or places in the city.

(c) The city manager may, upon application of any licensee under this division, and for good cause shown, permit such licensee to discontinue any taxicab for such period of time as in his judgment shall be deemed advisable.

(Code 1971, § 7.108)

Sec. 23-46. - Substitute vehicles.

The holder of any license required by this division may substitute one (1) car for another, but if such substitution continues for more than three (3) days, a written notice of substitution shall be filed with the city clerk and notice thereof endorsed upon the license theretofore issued by the city clerk.

(Code 1971, § 7.109)

Secs. 23-47—23-60. - Reserved.

DIVISION 3. - DRIVER'S LICENSE

> *Footnotes:*
> *--- (**3**) ---*
> ***Cross reference—*** *Licenses generally, Ch. 9.*
> ***State Law reference—*** *Operator's and chauffeur's license, MCL 257.301 et seq., MSA 9.2001 et seq.*

Sec. 23-61. - Required.

Every person driving a taxicab while the same is being used in the business licensed under this article shall be licensed as such.

(Code 1971, § 7.116)

Sec. 23-62. - Examination of applicant.

The applicant for the license required by this division shall take and successfully pass a police examination relative to such applicant's knowledge of the traffic laws and chapter 20 of this Code, his or her general knowledge of the streets and highways in the city and as to his or her competency as a driver of a motor vehicle.

(Code 1971, § 7.116)

Sec. 23-63. - Application—Contents.

The applicant for a license required by this division shall fill out upon a form provided by the city clerk a statement giving his full name, place of residence, age, height, color of eyes and hair, place of birth, length of time he has resided at the residence given, whether a citizen of the United States, whether married or single, whether he has ever been convicted of a felony or misdemeanor and if so under what circumstances, whether he has previously been licensed as a driver or a chauffeur and if so when and where, and whether his license has ever been revoked and if so for what cause. Such applicant shall also furnish a certificate from a licensed practicing medical physician to the effect that he or she is not suffering from any contagious or infectious disease.

(Code 1971, § 7.116)

Sec. 23-64. - Same—Investigation.

The investigation of any such application shall be conducted by the public safety department and when such investigation is completed the application, together with any certificates or other information required, shall be forwarded to the city commission by the public safety director who shall endorse his recommendation thereon.

(Code 1971, § 7.116)

Sec. 23-65. - Same—Approval, rejection.

The city commission shall have full authority to approve or reject any application for the license required by this division.

(Code 1971, § 7.116)

Sec. 23-66. - Issuance; fee; posting.

If the application for a license required by this division is approved by the city commission the city clerk shall issue to such applicant upon the payment of the fee prescribed in section 9-12 a taxicab driver's license which license shall contain a true photograph of the licensee furnished by him, and the signature of such licensee, and the license shall be posted at all times in a conspicuous place in the taxicab operated by such licensee.

(Code 1971, § 7.117)

Sec. 23-67. - Changing, defacing.

Any licensee under this division who changes, defaces or obliterates any entry upon his license may be penalized by the revocation of such license.

(Code 1971, § 7.117)

Sec. 23-68. - Transferability.

No license issued pursuant to this division shall be transferable.

(Code 1971, § 7.117)

Chapter 25 - WETLANDS PRESERVATION

ARTICLE I. - IN GENERAL

Sec. 25-1. - Findings.

It is recognized by the city commission that wetlands conservation is a matter of city concern inasmuch as a loss of a wetland, and, particularly, in cumulation with other losses of wetlands, will deprive the people of the city, or others, of flood and/or storm control, wildlife habitat, protection of subsurface water resources and provision of valuable watersheds and recharging ground water supplies, pollution treatment, erosion control and sources of nutrients, and it is further recognized by the city commission that rapid growth, the spread of development, and increasing demands upon natural resources, have resulted in the shrinkage of the critically necessary domain of wetlands and have had the effect of encroaching on, despoiling, pollution or eliminating many wetlands, and other natural resources, and the public trust therein, and that preservation of the remaining wetlands in an undisturbed and natural condition shall be and is necessary to maintain important physical, aesthetic, recreational and economic assets for existing and future residents of the city and of this state.

(Ord. No. 340, § 1.1, 9-14-04)

Sec. 25-2. - Intent and purpose.

It is the purpose and intent of this chapter, in view of the findings specified in section 25-1, above, to promote and maintain a harmonious and compatible land use balance within the city and to obviate the nuisance condition which would arise with the indiscriminate development of existing wetlands areas; to provide for the protection, preservation, proper maintenance and use of city wetlands in order to minimize disturbance of and to them; to prevent damage caused by erosion, scarification, sedimentation, turbidity and/or siltation; to provide for the protection of soils capable of providing necessary filtration for the maintenance of aquifer stability; to protect against loss of wildlife, fish or other beneficial aquatic organisms, or vegetation, and also against the destruction of natural habitat; to minimize the phenomenon of environmental deterioration; to secure safety from the dangers of flood and pollution, to prevent loss of life, property damage and other losses and risks associated with flood conditions; to protect individual and community riparian rights; to preserve the location, character and extent of natural drainage courses; and to provide for the enforcement of this chapter and coordination of the enforcement of appropriate local county, and state ordinances or statutes and corresponding agencies.

(Ord. No. 340, § 1.2, 9-14-04)

Sec. 25-3. - Validity and necessity.

The city commission declares that this chapter is essential to the health, safety, economic and general welfare of the people of the city, and to the furtherance of the policy set forth in Article 4, Section 52 of the Constitution of the State of Michigan and the Michigan Environmental Protection Act, Act 127 of the Public Acts of 1970, and the Wetland Protection Act, Act 59 of the Public Acts of 1995, as amended, MCL 324.30301.

(Ord. No. 340, § 1.3, 9-14-04)

Sec. 25-4. - Construction and application.

(1) The following rules of construction apply in the interpretation and application of this chapter:
  (a) In the case of a difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
  (b) Particulars provided by way of illustration or enumeration shall not control general language.
  (c) Ambiguities, if any, shall be construed liberally in favor of the protection and preservation of natural resources.
(2) It is the intent of this chapter to promote flood protection; however, this chapter cannot be relied upon for determining where floods may occur.

(Ord. No. 340, § 1.4, 9-14-04)

Secs. 25-5—25-20. - Reserved.

ARTICLE II. - DEFINITIONS

Sec. 25-21. - Words defined.

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

Aquatic vegetation shall mean plants and plant life forms which naturally occur in, at, near or predominantly near water.

Commission or *wetlands commission* shall mean the City of Bloomfield Hills Planning Commission.

Continuous shall mean any of the following:

(1) A permanent surface water connection or other direct physical contact with an inland lake or pond, a river or stream.

(2) A seasonal or intermittent direct surface water connection to an inland lake or pond, a river or stream.

(3) A wetland is partially or entirely located within five hundred (500) feet of the ordinary high water mark of an inland lake or pond or a river or stream, unless it is determined by the city in accordance with Rule 281.924 of the administrative rules adopted by the department of environmental quality, land and water management division, wetland protection that there is no surface or groundwater connection to these waters.

(4) Two (2) or more areas of wetland separated only by barriers, such as dikes, roads, berms, or other similar features, but with any of the wetland areas contiguous under the criteria described in paragraphs (1), (2) or (3) of this definition.

Deposit shall mean to fill, place, grade or dump.

Director shall mean the city manager for the City of Bloomfield Hills, or the city manager's designate.

DEQ shall mean the Michigan Department of Environmental Quality.

Material shall mean soil, sand, gravel, clay, peat, vegetation, debris and refuse, or any other substance, organic or inorganic.

Operation shall mean the making of additions or deposits, performing any construction or excavation activity, removing, improving and/or developing land in any manner, or any combination thereof.

Ordinary high-water mark shall mean the line between upland and bottom land which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is markedly distinct from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. On an inland lake which has the level established by law, it means the high established level. Where water returns to its natural level as a result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

Owner shall mean any person who has dominion over, control of, title to and/or any other proprietary interest in designated wetland and/or watercourse areas, or title to an obstruction, natural or otherwise, to wetland and watercourse properties.

Remove shall include digging, dredging, sucking, pumping, bulldozing, dragline or blast.

Runoff shall mean the surface discharge of precipitation to a watercourse or low area. Delayed runoff can occur from sudden warming after winter precipitation accumulated as snow and/or ice.

Seasonal shall mean any intermittent or temporary operation which occurs annually and is subject to interruption from changes in weather, water level, or time of year, and may involve annual removal and replacement of an operation, obstruction or structure.

Soils:

(1) *Poorly drained soils* are those general organic soils from which water is removed so slowly that the soil remains wet for a large part of the time. The water table is commonly at or near the surface during a considerable part of the year. Poorly drained conditions are due to a high-water table, to a slower permeable layer within the soil profile, to seepage, or to some combination of these conditions.

(2) *Very poorly drained soils* are those soils from which water is removed from the soil so slowly that the water table remains at or on the surface a greater part of the time. Soils of this drainage class usually occupy larger or depressed sites and are frequently ponded.

Structure shall mean any assembly or materials above or below the surface of the land or water, including but not limited to, houses, buildings, plants, bulkheads, piers, docks, rafts, landings, dams, sheds or waterway obstructions.

Temporary shall mean a time period as specified in the use permit, or if unspecified, shall mean an uninterruptible time period less than nine (9) months in duration.

Upland shall mean the land area adjoining a lake, stream or watercourse, above the ordinary high-water mark, uses for which are essentially nonaquatic.

Wetlands shall mean land characterized by the presence of water or a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp or marsh. For purposes of this chapter, a "wetland" must be two (2) acres, or more, in size, including the area of any contiguous inland lake, pond, river or stream. If the land area is less than two (2) acres in size, it may nonetheless be considered a "wetland" if it is determined that the protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the owner of the property has been so notified.

(Ord. No. 340, § 2.1, 9-14-04)

Sec. 25-22. - Words not defined in section 25-21.

Words not specifically defined, above in section 25-21, shall have meanings generally understood in the wetlands and water regulation discipline, and otherwise shall have the meanings generally ascribed to them in common usage.

(Ord. No. 340, § 2.2, 9-14-04)

Secs. 25-23—25-30. - Reserved.

ARTICLE III. - PROHIBITIONS

Sec. 25-31. - Unlawful without permit.

It shall be unlawful for any person to do or assist in any of the following unless and until a written permit is obtained from the city pursuant to this chapter:

(1) Deposit or permit to be deposited any material, including, without limitation, structures, into, within or upon any wetland.

(2) Remove or permit to be removed any material from any wetland.

(3) Dredge, fill or land balance wetlands.

(4) Construct, place, enlarge, extend or remove a temporary, seasonal or permanent operation or structure in any wetlands, including any temporary, seasonal or permanent dock which serves or is intended to serve more than one (1) single-family home, lot or parcel.

(5) Construct, extend, enlarge or connect any conduit, pipe, culvert, or open a closed drainage facility erected for the purpose of carrying storm water runoff from any residential site of two (2) or more single-family residences or from a multiple residence, commercial site, industrial site, parking area, unimproved private or public road, or any other land use permitting discharge or silt, sediment, organic or inorganic materials, chemicals, fertilizers, flammable liquids or any substance producing turbidity, except through an interceptor, retention or settling, fitter or treatment facility designed to control and eliminate the pollutant before discharged to any wetland, provided the design of such facility must first be approved by the city or the DEQ.

(6) Construct, enlarge, extend or connect any private public sewage or waste treatment plant discharge to any wetland except in accordance with the latest requirements of and permit by the County of Oakland, State of Michigan and/or the United States, to the extent that such entities have jurisdiction.

(7) Drain, or cause to be drained, any water from a wetland.

(Ord. No. 340, § 3.1, 9-14-04)

Sec. 25-32. - Activities not requiring a permit.

A permit under this chapter shall not be required for uses exempted from permit requirement under MCL 324.30305.

(Ord. No. 340, § 3.2, 9-14-04)

Secs. 25-33—25-40. - Reserved.

ARTICLE IV. - APPLICATION PROCESS; PERMITS; FEES

Sec. 25-41. - Permit application.

(1) Application for a city wetland permit shall be made on the form supplied by the Michigan Department of Environmental Quality.

(2) Each person applying for a city wetland permit shall make application directly with the city, through the city clerk. The application shall include a field investigation to delineate the precise boundaries of wetland and watercourses on a project site and shall be the responsibility of the applicant. Such investigation shall include:

(a) A map indicating the location and extent of protected wetlands as identified through field investigation and presented on a topographic map of suitable scale, but not less than 1" = 50'.

(b) The map shall include applicant's name, name of waterway, if applicable, section of the city, graphic scale, date, name and professional credentials of the engineer, architect, landscape architect, or professional community planner preparing the site plan and the name and professional credentials of the wetland scientist or environmental specialist responsible for delineating the wetland boundaries.

(c) Identification of the types of wetlands on the site using methods approved by the MDEQ as set forth in the Michigan "Wetland Determination Manual Draft for Field Testing" or other official publication.

(d) A site plan, plat or planning map that overlays the proposed development or project onto the wetlands map. Existing and proposed structures and utilities on and within fifty (50) feet of the site shall be clearly identified.

(e)

Identification and description of mitigation areas, if any, whether on or off-site.

(3) Upon receipt, the city clerk shall forward a copy of each application to the Michigan Department of Environmental Quality.

(4) The wetland commission, with the assistance of the city's consultants in those cases deemed by the city to be appropriate, shall review the application pursuant to this chapter.

(5) The application shall be modified, approved or denied within ninety (90) days after receipt, subject to the following provision.

(6) The applicant for an approval required in conjunction with site plan review or subdivision approval shall, at the time of submission, elect to have the application processed under either subsection (a) or subsection (b), below:

(a) The wetland application shall be reviewed immediately, either prior to or concurrent with the review of the site plan, plat or other proposed land use submitted by the applicant, with the understanding that the land use review may not be completed at the time the decision is rendered on the wetland application. Election of this alternative may require a reopening of the wetland application if the land use approval is inconsistent with the wetland approval; or

(b) The wetland application shall be reviewed and acted upon concurrent with the review of the site plan, plat or other proposed land use submitted by the applicant, and the ninety-day review period limitation specified in MCL 324.30307 shall thereby be extended accordingly.

(7) The denial of a permit shall be accompanied by a written reason for denial. The failure to supply complete information with a permit application may be reason for denial of a permit.

(Ord. No. 340, § 4.1, 9-14-04)

Sec. 25-42. - Application review.

(1) *Review procedure.*

(a) Following receipt of an application for a permit for a proposed activity or operation other than one single-family dwelling, the city clerk shall send a notice of the application by first-class mail to the owners of property abutting the proposed project, based upon the records on file at the city. Such notice shall also be sent to all members of the city commission and to all persons, subdivision associations and lake associations registered with the city, if directly associated with, or impacted by, the project, as determined by the clerk and to the adjoining governmental entities if the wetland at issue extends into such entities. The notice shall include either a copy of the permit application or a summary of the proposed activity or operation, and a specification of the time, date and place of a public hearing to be conducted on the application. Public comment shall be received, either in writing prior to the date of hearing, or in person at the hearing. Such application shall be reviewed by the wetlands commission, which shall conduct the public hearing and review the application in accordance with the standards and criteria set forth in section 25-43, below. If the proposed activity or operation is found to conform with the standards and criteria of section 25-43 of this section, and with all of the requirements of this chapter, a permit shall be issued in conformance with section 25-44, below with or without specified conditions. If the application fails to meet such standards, criteria and requirements, the wetlands commission shall deny the permit.

(b) If the proposed activity or operation involves the construction or alteration of one (1) single-family dwelling which is not part of other construction or development by the same person or entity on adjoining property following receipt of an application the clerk shall forward the application to the city manager or the city manager's designee, and shall send a notice by first class mail to all persons and entities specified in section 25-42(1)(a), above. The notice shall include either a copy of the permit application or summary of the proposed activity or operation, and a specification that comments regarding the proposed activity or operation will be received by the city clerk for a period of fifteen (15) days following the date of the notice. At the end of the fifteen-day period, the city manager or the city manager's designee, shall review the application in accordance with the standards and criteria set forth in section 25-43, below, taking into consideration all comments received pursuant to the notice sent as provided above. The city manager, or the city manager's designee shall determine whether the assistance of the city's wetland consultant shall be required in each case. If the proposed activity or operation is found to conform with the standards and criteria of section 25-43, and with all of the requirements of this chapter, the city clerk shall issue a permit in conformance with section 25-44, below with or without specified conditions. If the application fails to meet such standards, criteria and requirements, the city clerk shall deny the permit. A permit issued under this subsection shall not be effective for fifteen (15) days from the date of issuance. Upon issuance of the permit, a notice of issuance shall, concurrent with the issuance of the permit, be transmitted by first-class mail to any person or entity who has filed comments in response to the notice sent in accordance with this subsection.

(c) Review of the permit application by the city wetlands consultant may be required, at the discretion of the wetlands commission or city manager or the city manager's designee, as the case may be. Any costs associated with the wetlands consultant shall be paid out of monies escrowed in advance by the applicant.

(d) Following approval of a wetland application, a wetland permit shall be issued upon determination that all other requirements of ordinance and law have been met, including site plan, plat or land use approval, as applicable, and including issuance of a permit by the Michigan Department of Environmental Quality, if required under MCL 324.30301. In cases where a Michigan Department of Environmental Quality permit allows activities not permitted by the wetland approval granted under this chapter, the restrictions of the approval granted under this chapter shall govern.

(2) *Appeal.* Any person aggrieved by a decision or an application may request relief in accordance with applicable law.

(Ord. No. 340, § 4.2, 9-14-04)

Sec. 25-43. - Review standards and criteria.

In arriving at a determination with respect to the issuance of a permit under this chapter, the city manager or the city manager's and/or the wetlands commission shall take into consideration at least the following standards and criteria:

(1) A permit shall be issued only if the proposed project or activity is clearly in the public interest, and is otherwise lawful in all respects.

(2) In determining whether the activity is in the public interest, the benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state and national concern for the protection and preservation of natural resources from pollution, impairment and/or destruction. If, as a result of such a balancing, there remains a debatable question whether the proposed project and/or activity is clearly in the public interest, a permit shall not be issued. The following general criteria shall be applied in undertaking this balancing test:

(a) The relative extent of the public and private need for the proposed activity.

(b) The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.

(c) The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the wetland provides.

(d) The probable impact of the proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.

(e) The probable impact on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.

(f) The size and quality of the wetland being considered.

(g) The amount and quality of remaining wetland in the area.

(h) Proximity to any waterway.

(i) Economic value, both public and private, of the proposed land change to the general area.

(j) The necessity for the proposed project.

(3) A permit shall not be issued unless it is shown that:

(a) An unreasonable disruption of aquatic resources will not result;

(b) The proposed activity is primarily dependent upon being located in the wetland; and

(c) A feasible and prudent alternative does not exist.

(4) The manner in which the activity is proposed to be undertaken will result in the minimum negative impact upon the wetland and attendant natural resources under all of the circumstances.

(Ord. No. 340, § 4.3, 9-14-04)

Sec. 25-44. - Permit contents.

The permit issued under this chapter shall contain at least the following:

(1) The name, address and telephone number of the person to whom the permit has been issued.

(2) The name, address and telephone number of the owner of the property on which the activity or operation shall occur.

(3) A statement of all conditions imposed in connection with the issuance of the permit.

(4) Any required time period for commencement of one (1) or more operations.

(5) The date by which any construction, removal, deposit or operation must be completed; i.e., the expiration date of the permit.

(6) The amount of any cash bond or irrevocable letter of credit and the institution issuing such irrevocable letter of credit as determined necessary by the city engineer or wetlands commission as the case may be, to ensure compliance with the permit as issued.

(7) The following statement:

All operations permitted or approved by this permit shall be conducted in such a manner as will cause the least possible damage and encroachment or interference with natural resources and natural processes within wetlands.

(8) The legal description of the parcel to which the permit pertains.

(9) All soil erosion permit requirements shall be met prior to any operation.

(10) Any and all necessary temporary drainage measures, as approved shall be undertaken to insure that no temporary or permanent blockages of drainage result.

(Ord. No. 340, § 4.4, 9-14-04)

Sec. 25-45. - Posting of permit.

Upon issuance of a permit and prior to the undertaking of any on-site work the persons to whom the permit has been issued shall post a copy of the permit on the property in a conspicuous place which is accessible for inspection and reading by the public.

(Ord. No. 340, § 4.5, 9-14-04)

Sec. 25-46. - Fees.

(1) With the filing of an application, a deposit shall be made payable to the city in an amount specified by resolution of the city commission intended to cover all fees, including inspection, public hearing and monitoring fees.
(2) If an environmental statement, environmental assessment, or an environmental impact study is required, or if other consultant fees are required to be expended in reviewing the application, a further deposit shall be made in an amount determined by the city manager or the city manager's designee, at the time the city imposes or learns of the requirement of such submission and/or consultants based upon the nature and extent of the study and/or consultations.
(3) All amounts of deficiency shall be paid, and all amounts of overage shall be returned, prior to or concurrent with final action on the application.

(Ord. No. 340, § 4.6, 9-14-04)

Secs. 25-47—25-50. - Reserved.

ARTICLE V. - CONCURRENT JURISDICTION

Sec. 25-51. - Jurisdiction for regulation.

The city shall have jurisdiction for the regulation of wetlands under this chapter concurrent with the jurisdiction of the Michigan Department of Environmental Quality.

(Ord. No. 340, § 5.1, 9-14-04)

Sec. 25-52. - Additional required permits.

Issuance of a permit under this chapter shall not relieve a property owner from obtaining a permit from the department of environmental quality and/or from the Army Corps of Engineers or other agency, if required.

(Ord. No. 340, § 5.2, 9-14-04)

Sec. 25-53. - Meeting all requirements for permit issuance.

Issuance of a permit by the department of environmental quality and/or Army Corps of Engineers shall not relieve a property owner from obtaining a permit under this chapter if a permit is required by the terms of this chapter, and all permit requirements under this chapter shall be met.

(Ord. No. 340, § 5.3, 9-14-04)

Secs. 25-54—25-60. - Reserved.

ARTICLE VI. - PROPERTY TAX ASSESSMENT

Sec. 25-61. - Appeal for reevaluation upon permit denial.

If a permit is denied for a proposed wetland use, a land owner may appear at the annual board of review for the purpose of seeking a revaluation of the affected property for assessment purposes to determine its fair market value under the use restriction.

(Ord. No. 340, § 6.1, 9-14-04)

Secs. 25-62—25-70. - Reserved.

ARTICLE VII. - WETLAND MAPPING

Sec. 25-71. - Wetland inventory map.

The city commission may adopt a wetland inventory map, showing an inventory of wetland within the municipality.

(Ord. No. 340, § 7.1, 9-14-04)

Sec. 25-72. - Notification of map amendments to property owners.

Upon amendment of the wetland map, the city shall notify each record owner of property on the property tax roll of the city that the wetland map has been amended, where the map may be viewed and that the owner's property may be designated as a wetland on the inventory map, and that the city has an ordinance regulating wetlands. Such notice shall also inform the property owner that the wetland map does not necessarily include all of the wetlands within the city that may be subject to the wetlands ordinance.

(Ord. No. 340, § 7.2, 9-14-04)

Sec. 25-73. - Presumptions.

The wetland map shall not create any legally enforceable presumptions regarding whether property that is or is not included on the inventory map is or is not in fact a wetland.

(Ord. No. 340, § 7.3, 9-14-04)

Secs. 25-74—25-80. - Reserved.

ARTICLE VIII. - INVESTIGATION AND INITIAL WETLAND DETERMINATION

Sec. 25-81. - Intent.

This article is intended to apply in those cases in which a project or activity has been commenced, and the city receives notice or otherwise learns that activities may be occurring in regulated wetlands without a permit.

(Ord. No. 340, § 8.1, 9-14-04)

Sec. 25-82. - Initial determination of lack of permit.

In those cases where the city learns that activities may be occurring in a regulated wetland without a permit, the city will make an initial determination, in the reasonable discretion of the respective city official, whether there may be an activity occurring which requires a permit, i.e., whether there may be a violation of this chapter.

(Ord. No. 340, § 8.2, 9-14-04)

Sec. 25-83. - Notice to stop activities.

In a case in which the city makes a determination that there may be a violation of this chapter, upon notice from the city the property owner and all persons actively engaged in activities in the wetlands which may be a violation, shall stop all such activities immediately, in which case the property owner, or the property owner's agent, shall make an election to either:

(1) Apply for a permit under this chapter; or

(2) Request an official determination by the city on whether a permit shall be required.

(Ord. No. 340, § 8.3, 9-14-04)

Sec. 25-84. - Request for official determination.

In the event a property owner, or the property owners agent, requests an official determination as provided in section 25-83(2), an escrow in an amount reasonably determined to cover the costs of the city's wetland consultant in connection with such determination shall be established with the city for such purpose.

(Ord. No. 340, § 8.4, 9-14-04)

Sec. 25-85. - Commencement of activities.

If a notice to cease activities has been issued by the city in accordance with this article, such activities shall not continue, and shall not again commence until such time as a permit has been issued under this chapter, or a determination has been made that a permit is not required.

(Ord. No. 340, § 8.5, 9-14-04)

Secs. 25-86—25-90. - Reserved.

ARTICLE IX. - VIOLATION AND PENALTIES

Sec. 25-91. - Fees and penalties.

Every person convicted of a violation of any provision of this chapter shall be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment of not more than ninety (90) days or both such fine and imprisonment.

(Ord. No. 340, § 9.1, 9-14-04)

Sec. 25-92. - Each violation separate offense.

Each act of violation and every day upon which any violation shall occur, shall constitute a separate offense.

(Ord. No. 340, § 9.2, 9-14-04)

Sec. 25-93. - Penalties not exclusive.

The penalties provided for in this chapter shall not be exclusive and the city shall be entitled to seek any and all other remedies available at law or in equity in connection with the violation of this chapter.

(Ord. No. 340, § 9.3, 9-14-04)

APPENDIX A - FRANCHISES

> *Footnotes:*
> *--- **(1)** ---*
> ***Editor's note—*** *Printed herein are the franchises adopted by the city and currently in effect. Amendments to the ordinances are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code has been used. Additions made for clarity are indicated by brackets.*

ARTICLE I. - CONSUMERS ENERGY COMPANY GAS FRANCHISE

Sec. 1. - Grant, terms and use areas.

Subject to and as provided in this ordinance, the City of Bloomfield Hills Hills, Oakland County, Michigan, the "city", hereby grants to Consumers Energy Company, a Michigan corporation, the "grantee", the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the public highways, streets, alleys, bridges, waterways and other public places ("use areas"), and to transact a local gas business, furnishing manufactured or natural gas, in the city for a period of thirty (30) years.

(Ord. No. 349, § 1, 4-11-06)

Sec. 2. - Consideration.

In consideration of the rights, power and authority granted by the city, grantee [sic] which when used in this ordinance shall include all of its officers, employees and agents, [the grantee] shall faithfully perform and be subject to all provisions of this ordinance.

(Ord. No. 349, § 1, 4-11-06)

Sec. 3. - Conditions.

(a) No use area used by the grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same or better order and condition as when the work was commenced within a reasonable time to be determined by the city. Upon the grantee's failure to complete required restoration, the city, after giving ten (10) business days' notice (except in an emergency as determined by the city) to the grantee of its intention to do so, may perform or secure performance of the required restoration work, with the costs thereof to be paid by grantee to the city within thirty (30) days of the city's billing or invoice.

(b) Except in the case of an emergency, the grantee shall provide at least five (5) business days' written notice to the city prior to the commencement of any work that will obstruct any use area.

(c) No use area shall be placed or left in a dangerous or unsafe condition by the grantee. In the event that a dangerous or unsafe condition exists as a result of activities conducted by the grantee and it is not corrected by the grantee in a time and manner consistent with the nature and location of the condition as designated by the city in a verbal, telephone, written or electronic notice to the grantee, the city may abate the dangerous or unsafe condition in the same manner, with the grantee responsible for any and all costs incurred by the city in doing so and in responding to and securing the location of the condition pending the grantee's response to the city's notice. Restoration obligations of the grantee for use areas other than abatement of dangerous or unsafe conditions are provided for in section 3(a).

(d) The grantee's installations and operations shall not unnecessarily or unreasonably interfere with public and other permitted uses of any use area. All of the grantee's structures, supplies, and equipment shall be so placed, while work is being done, on either side of the use area so as not to unnecessarily interfere with the use thereof by the public.

(e) Unless preempted by the existing or amended Michigan Gas Safety Code, the grantee's rights under this ordinance are conditioned on and require compliance with all lawful and applicable city ordinances, including the city's Amended Right-of-Way Management Ordinance disruption permit requirements, provided however, that nothing herein shall be construed as a waiver by the grantee of its existing or future rights under state or federal law.

(f) The grantee's rights in any use area are subject to lawful and reasonable existing and future regulations of the use area that the city reserves the right to adopt and enforce. The city shall provide the grantee with at least thirty (30) days' written notice of any such regulation.

(g) The grantee's rights in any use area are subject to the right of the city and/or other governmental entity with jurisdiction of that use area to make improvements and/or perform repairs, maintenance and other work. If such work requires the grantee's mains, pipes, facilities or services to be temporarily or permanently discontinued, disconnected, moved or relocated, the grantee shall be responsible for doing so within a reasonable time specified in a written notice and for all of the costs and expenses in doing so. If the grantee fails to comply with such a notice, the city and/or governmental entity may perform or secure the performance of the required work, with the costs thereof to be paid by the grantee within thirty (30) days of being billed or invoiced.

(h) Nothing in this ordinance should be construed to alleviate the grantee from having to comply with any state, federal, or local law regulating and/or pertaining to wetlands or waterways.

(Ord. No. 349, § 3, 4-11-06)

Sec. 4. - Grantee liability; indemnification and hold harmless obligations.

The grantee shall at all times keep and save the city and its officials, officers, employees and agents free and harmless from all claims for damages, costs and expense arising from or related to the grantee's negligent or other legally actionable errors or omissions in the exercise of rights in a use area under this ordinance. In case any action asserting such a claim and/or a claim against the city on account of the permission herein given is commenced, the grantee shall defend the action and save the city and its officials, officers, employees and agents free and harmless from all costs, expenses, losses and damages awarded or incurred in the action. The grantee shall reimburse the city for any costs incurred in responding to any emergency involving the grantee's natural gas transmission or distribution facilities. Nothing in this section shall authorize city to make or attempt to make alterations and or repairs to the grantee's natural gas transmission or distribution facilities, structures, and equipment. The city will promptly provide written notice to the grantee of claims or actions believed to be the responsibility of the grantee under this section.

(Ord. No. 349, § 4, 4-11-06)

Sec. 5. - Insurance.

The grantee shall maintain liability insurance coverage in a manner authorized by the laws of the State of Michigan, insuring against liability for loss or damages for bodily injury, death and property damages that are caused by, arise from or are the result of the grantee's actions or omissions in the exercise of rights under this ordinance. The grantee shall provide written proof of the required liability insurance coverage to the city clerk upon written request.

(Ord. No. 349, § 5, 4-11-06)

Sec. 6. - Extension.

The grantee shall construct and extend its gas distribution system within the city, and shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations.

(Ord. No. 349, § 6, 4-11-06)

Sec. 7. - Franchise not exclusive.

The rights, powers and authority granted to the grantee by this ordinance are not exclusive.

(Ord. No. 349, § 7, 4-11-06)

Sec. 8. - Rates, billings and meters.

The grantee may charge for gas furnished in the city according to rates approved by the Michigan Public Service Commission or its successor authority. Such rates and rules shall be subject to review and change upon petition by the grantee or the city by resolution of its city commission. All bills for gas furnished by the grantee shall be payable monthly or on another periodic basis authorized by law. The grantee shall furnish and maintain commercially accurate meters to measure the gas furnished to each customer.

(Ord. No. 349, § 8, 4-11-06)

Sec. 9. - Revocation.

The franchise granted by this ordinance is subject to revocation at the will of either party upon sixty (60) days' written notice to the other party.

(Ord. No. 349, § 9, 4-11-06)

Sec. 10. - Michigan Public Service Commission Jurisdiction.

In addition to the other requirements of this ordinance, the grantee shall be subject to and comply with the applicable rules and regulations of the Michigan Public Service Commission or its successor applicable to gas service in the city.

(Ord. No. 349, § 10, 4-11-06)

Sec. 11. - Sale, assignment and transfer.

The grantee shall not sell, assign, sublet or transfer this franchise or any rights under it without the written consent of the city commission.

(Ord. No. 349, § 11, 4-11-06)

Sec. 12. - Notices.

Subject to modification by written notice of the party entitled to receive notice, grantee notices to the city under this ordinance shall be to the City Manager and City Clerk at 45 East Long Lake Road, Bloomfield Hills, MI 48304-2322, and city notices to the grantee shall be to grantee's Community Services Manager at 1030 Featherstone Road, Pontiac, Michigan 48342, with notices considered as given on the day they are received if given electronically, by fax or by certified or delivered mail, or if first class mail is used, on the third business day after mailing.

(Ord. No. 349, § 12, 4-11-06)

Sec. 13. - Effect of invalidity.

If any part of this ordinance is invalid, it shall not affect the validity and enforceability of this ordinance and its remaining portions.

(Ord. No. 349, § 13, 4-11-06)

Sec. 14. - Acceptance.

The grantee shall file a written acceptance of the franchise granted by this ordinance with the city clerk within thirty (30) days after adoption.

(Ord. No. 349, § 14, 4-11-06)

Sec. 15. - Effective date.

This ordinance shall take effect upon publication and the grantee's written acceptance being filed as required by section 14.

(Ord. No. 349, § 15, 4-11-06)

CODE COMPARATIVE TABLE - 1971 CODE

This table gives the location within this Code of those sections of the 1971 Code, as supplemented through January 14, 1975, which are included herein. Sections of the 1971 Code as supplemented, not listed herein have been omitted as repealed, superseded, obsolete, or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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Footnotes:

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Editor's note— *The Michigan Statutes Annotated is obsolete and will no longer be updated. References to MSA will be removed from the Code text and notes as pages are supplemented.*

BLOOMFIELD HILLS MICHIGAN CITY CODE (ZONING) VOLUME II

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info@municode.com | 800.262.2633 | www.municode.com
P.O. Box 2235 Tallahassee, FL 32316

Chapter 24 - ZONING

> *Footnotes:*
> *--- **(1)** ---*
> ***Charter reference—** Zoning and other land use powers, Ch. II, § 3.*
> ***Cross reference—** Any ordinance pertaining to rezoning saved from repeal, § 1-4(12); buildings and building regulations, Ch. 4; planning, Ch. 13; signs, Ch. 16; soil removal, Ch. 17; streets, sidewalks and other public places, Ch. 18; subdivision of land, Ch. 19.*
> ***State Law reference—** Authority to regulate land use, MCL 125.581 et seq.*

ARTICLE I. - IN GENERAL

Sec. 24-1. - Title.

This chapter shall be known and may be cited as the "City of Bloomfield Hills Zoning Ordinance".

(Ord. No. 188, § 100, 11-8-83)

Sec. 24-2. - Construction of language.

The following rules of construction apply to the text of this chapter:

(1) The particular shall control the general.

(2) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

(3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular unless the context clearly indicates the contrary.

(5) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."

(6) The word "person" includes any individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(7) The word "dwelling" includes the word "residence," and the word "lot" includes the word "plot" or "parcel."

(8) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either ... or," the conjunction shall be interpreted as follows:

a. "And" indicates that all the connected items, conditions, provisions or events shall apply.

b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

c. "Either ... or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(9) Terms not defined in this section or in section 24-3 shall have the meaning customarily assigned to them.

(Ord. No. 188, § 200, 11-8-83)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 24-3. - Definitions.

In the interpretation of this chapter, the following definitions shall apply except where the context clearly indicates a different meaning:

Accessory shall mean a use, building or structure which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same principal use to which it is related. An accessory use includes, but is not limited to, the following:

(1) Residential accommodations for servants and/or caretakers located outside the main building;

(2) Swimming pools, play courts, tennis courts and other recreational courts at grade or located wholly in the main building for the use of the occupants of a residence, or their guests;

(3) Porches, patios, terrace and decks; and

(4) Structures included under section 24-229(2).

Adjacent shall mean when two (2) points of reference are not widely separated, though they may not actually touch. These points of reference may lie near or close to one another and may sometimes be contiguous.

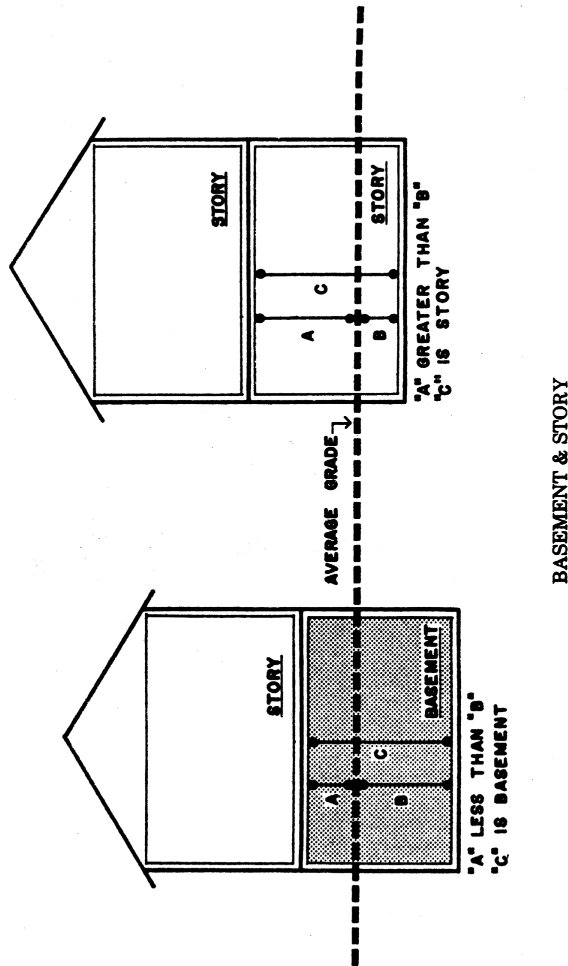
Alley shall mean any dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration shall mean 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, the consummated act of which may be referred to in this chapter as "altered" or "reconstructed."

Attic, habitable shall mean an attic which has a stairway as a means of access and egress and in which the ceiling area at a height of seven and one-third (7⅓) feet above the attic floor is not more than one-third (⅓) the area of the next floor below.

Auto service station shall mean a space, building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities in or on such vehicles, but not including space or facilities for the storage, repair, or refinishing thereof; except, however, that minor repairs and temporary storage of vehicles shall be permitted.

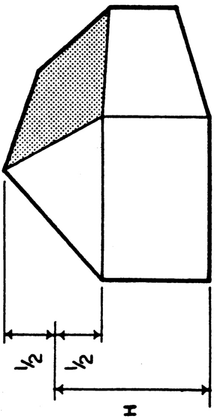
Basement shall mean that portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story and a basement shall not be used in computing the minimum required floor area.

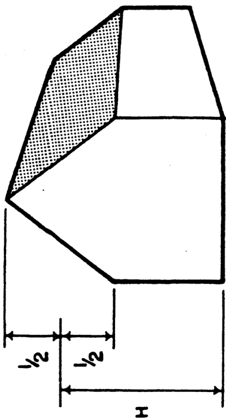


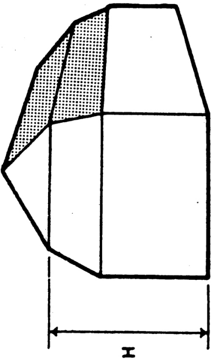
Block shall mean the property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or live stream, or between any of the foregoing and any other barrier to the continuity of the development or corporate boundary lines of the municipality.

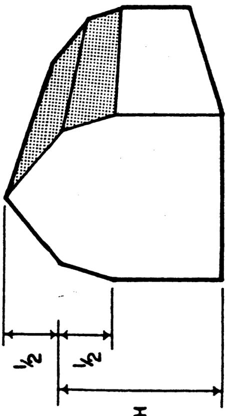
Building shall mean a structure that encloses space intended for the occupancy of persons or animals or the storage of goods and chattels for purposes of residence, recreation, services and economic enterprises, which structure shall have a roof supported by columns or walls.

Building height shall mean the vertical distance measured from grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs.





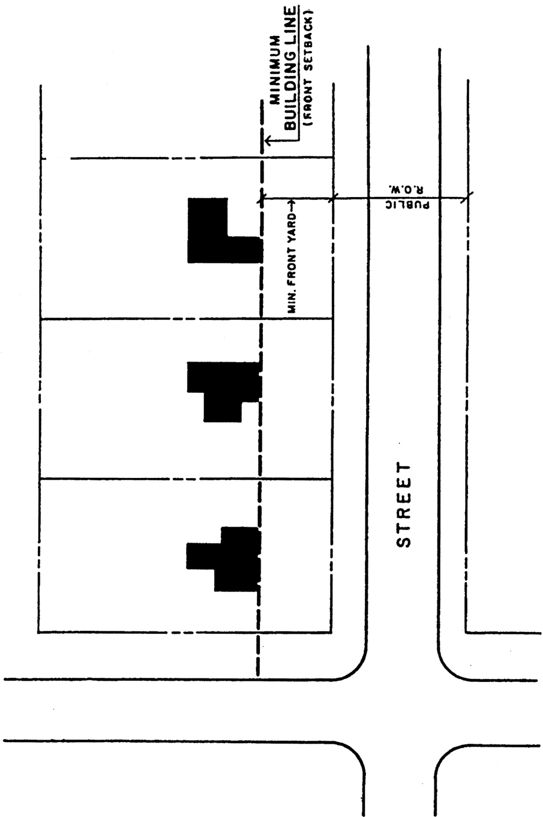




H = HEIGHT OF BUILDING

BUILDING HEIGHT

Building line shall mean a line formed by the face of the building. For the purposes of this chapter, a building line is the same as a front setback line.



BUILDING LINE

Clinic shall mean an establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar professions.

Club shall mean an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

Columbarium shall mean a structure located within a columbarium park to be used as a repository for inured cremated human remains.

Columbarium park shall mean an area of land designated for the location of columbariums.

Column or *pier* shall mean a pillar, pole, or post, including mailbox columns, flanking a driveway entrance constructed of brick, wood, stone, concrete, or other materials.

Convalescent home shall mean a special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of its residents. This definition also applies to uses commonly referred to as nursing homes, congregate care, assisted living, memory care or continuing care.

Courtyard shall mean an open area, on the same lot with a building or group of buildings which is bounded on three (3) or more sides by such building or buildings.

Cubic content for dwellings shall mean the volume of the dwelling unit computed by using outside dimensions and the mean of the grade, and shall include all permanently enclosed and heated projections, bays, dormers and porches, balconies or projections of chimneys. The cubical content of attached garages included within or which are an integral part of a private dwelling shall not be included in the total required volume of such dwelling, except that the cubical content of any living quarters in connection therewith and having direct access to such dwelling shall be included.

District shall mean a portion of the city within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

Dwelling unit shall mean a building or portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking facilities.

Dwelling, one-family shall mean a building designed exclusively for, and occupied exclusively by, one (1) family.

Dwelling, two-family shall mean a building or portion thereof, designed exclusively for occupancy by two (2) families living independently of each other.

Dwelling, multiple-family shall mean a building or portion thereof designed exclusively for occupancy by three (3) or more families living independently of each other.

Dwelling, one-family attached shall mean the attaching of one-family units through a common party wall subject to section 24-72.

Erected shall mean built, constructed, altered, reconstructed, moved upon or any physical operations on the premises which are required for construction. Excavation, fill, drainage and the like shall be considered a part of erection.

Essential services shall mean the erection, construction, alteration, maintenance and use by public utilities or municipal departments or underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms, police callboxes, traffic signals, hydrants and similar accessories in connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. Private cable companies shall not be considered an essential service and shall be subject to the provisions of this chapter.

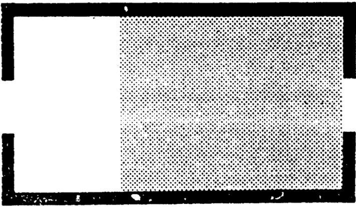
Excavation shall mean any breaking of ground, except common household gardening and ground care.

Family shall mean one (1) or two (2) persons, or parents, with their direct lineal descendants and adopted children (and including the domestic employees thereof) together with not more than two (2) persons not so related living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional group of two (2) or less persons living in such housekeeping unit shall be considered a separate family for the purpose of this chapter.

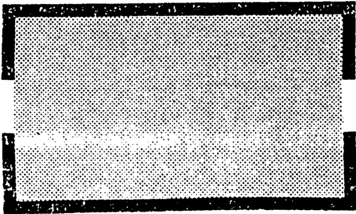
Fence shall mean a structure serving as a barrier or screen, excluding graded berms or living hedges, constructed of wood, metal, wire, masonry, or any other material.

Floor area for dwellings shall mean the sum of the horizontal areas of each story of the dwelling unit which shall be measured from the interior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways common halls and stairways, and enclosed and unenclosed porches.

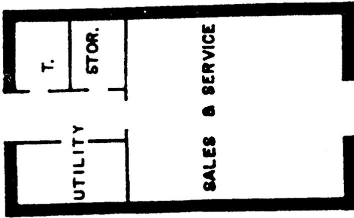
Floor area ratio (F.A.R.) shall mean a ratio resulting from the floor area of all principal and accessory buildings, including basements and excluding penthouses, measured from the interior face of the exterior walls, divided by the area of the lot excluding existing public street right-of-way. Basement level parking areas are excluded from floor area; aboveground parking structures are included.



USABLE FLOOR AREA
(FOR PURPOSES OF COMPUTING PARKING)



TOTAL FLOOR AREA



FLOOR AREA

Floor area, total/gross (for the purposes of computing parking) shall mean the sum of the horizontal areas of the all floors of the building, measured from the interior faces of the exterior walls. Total gross floor area shall include usable floor area, plus all floor area used for the storage of merchandise, hallways, elevators, stairs, bulkheads, utilities or sanitary facilities. Measurement of floor area shall be the sum of the horizontal areas of all floors of the building, measured from the interior faces of the exterior walls.

Floor area, usable (for the purposes of computing parking) shall mean that area used for or intended to be used for the sale of merchandise or services, for use to serve patrons, clients or customers and all that area used for employee work space. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways or elevators, or for stairs, bulkheads, utilities or sanitary facilities, shall be excluded from this 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.

Garage, private shall mean an accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory.

Gate shall mean a movable frame or solid structure, including pedestrian access gates, that swings, slides, or rolls controlling ingress and egress through an opening in a fence, wall, or vegetation.

Grade shall mean a ground elevation 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 computing the average elevation of the ground at the perimeter of the building.

Ground floor area shall mean the sum of the horizontal areas of the first story of the dwelling unit which shall be measured from the outside face of the exterior walls. The ground floor area is inclusive of attached garages and enclosed porches.

Hotel shall mean a dwelling, occupied as the more or less temporary abiding place of persons, in which the rooms are occupied for hire and in which rooms no provisions are made for cooking, and in which building there is a general kitchen and a public dining room for the accommodation of its occupants.

Landscaped open space shall mean that area of a lot which may not be used for the erection of buildings or portions thereof, including accessory uses of any type, whether pervious or impervious, or for impervious surfaces such as paved areas for parking, or access aisles, other than certain pedestrian walkways, except as provided in this chapter. Impervious surfaces shall mean those areas that the city's consulting engineers determine are covered by materials that are not sufficiently porous to allow water and/or other liquids to pass through said surface areas.

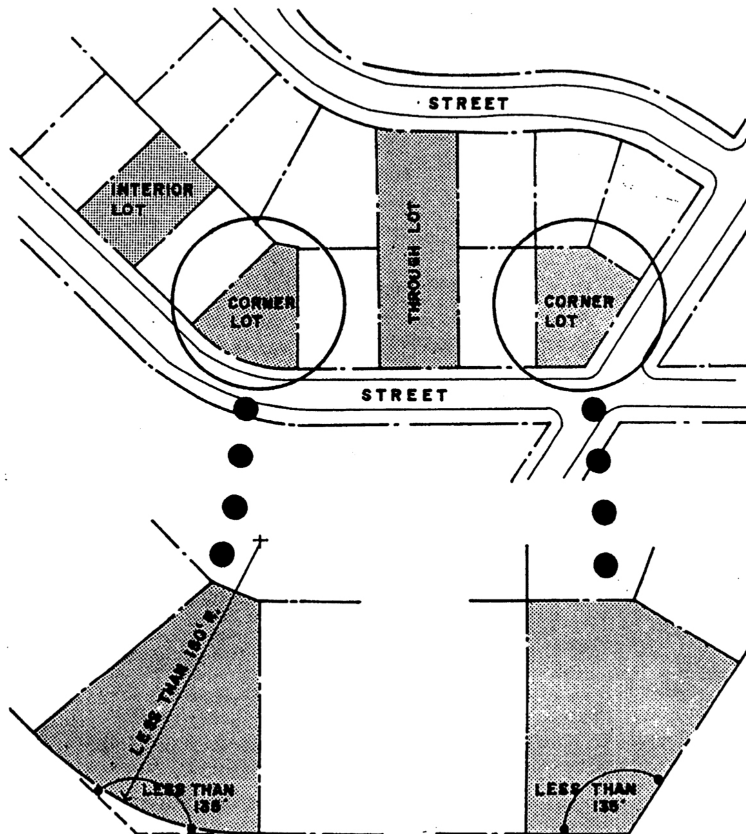
Loading space shall mean an off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

Lot shall mean a parcel of land occupied or to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this chapter.

Lot of record shall mean a parcel of land the dimensions of which are shown on a document or maps on file with the county register of deeds or in use by the city or city officials, and which actually exists as so shown, or any part of such parcel held in a recorded ownership separate from that of the remainder thereof.

Lot area shall mean the total horizontal area within the lot lines of the lot.

Lot, corner shall mean a lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this chapter if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two (2) points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred thirty-five (135) degrees.



INTERIOR, THROUGH & CORNER LOTS

Lot depth shall mean the horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot, double frontage shall mean any interior lot having frontages on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of such lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

Lot, interior shall mean any lot other than a corner lot.

Lot lines shall mean the lines bounding a lot as defined below:

(1) *Front lot line* in the case of an interior lot, is that line separating such lot from the street. In the case of a corner lot, or double frontage lot, it is that line separating such lot from either street.

(2) *Rear lot line* is that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot. In the case of an "L" shaped or other irregular lot, where two (2) or more lines are so located, all shall be considered to be rear lines except such as may be within fifty (50) feet of the front lot line, or which may be twenty (20) feet or less in length.

(3) *Side lot line* is 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.

Lot width shall mean the horizontal distance between the side lot lines, measured at the two (2) points where the building line or setback intersects the side lot lines.

Main building shall mean a building in which is conducted the principal use of the lot upon which it is situated.

Main use shall mean the principal use to which the premises are devoted and the principal purpose for which the premises exist.

Major thoroughfare shall mean an arterial street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond, and is designated as a major thoroughfare, parkway, freeway, expressway or equivalent term on the major thoroughfare plan to identify those streets comprising the basic structure of the major thoroughfare plan.

Master plan shall mean the comprehensive community plan including graphic and written material 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 or parts thereof.

Mechanical amusement device shall mean any amusement machine or device operated by means of the insertion of a coin, token or similar object for the purpose of amusement or skill and for the playing of which a fee is charged. "Mechanical amusement device" does not include vending machines in which are not incorporated gaming or amusement features, nor does the term include any coin-operated mechanical musical device.

Municipality shall mean the City of Bloomfield Hills, Michigan.

Nonconforming building shall mean a building or portion thereof lawfully existing on November 8, 1983, or on the effective date of amendments hereto that does not conform to the provisions of this chapter in the district in which it is located.

Nonconforming use shall mean a use which lawfully occupied a building or land on November 8, 1983, or on the effective date of amendments hereto and that does not conform to the use regulations of the district in which it is located.

Off-street parking lot shall mean a facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrances and exits for the parking of more than two (2) vehicles.

Open fence, wall, or *gate* shall mean a fence, wall, or gate constructed in such a way so that no more than twenty (20) percent of the surface area obstructs a ground level view through the fence, wall, or gate.

Parking setback shall mean a line back of a lot line between which line and the lot line no vehicular parking or standing or access aisles other than necessary drives between parking areas and the public right-of-way and more or less perpendicular thereto may be permitted, except as provided in this chapter.

Parking space shall mean an area of definite length and width, which area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

Planning commission shall mean the planning commission of the City of Bloomfield Hills.

Pool house shall mean an accessory building or structure intended for all uses customarily found in connection with a swimming pool and may include bathrooms, changing rooms, and cooking facilities but not bedrooms.

Principal use shall mean the main use to which the premises are devoted and the principal purpose for which the premises exist.

Public utility shall mean any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public gas, steam, electricity, sewage disposal, communication, telegraph transportation or water.

Retaining walls shall mean walls that are solely used for the purpose of retaining or maintaining soils native to the property in question and in the immediate vicinity of the proposed location of that wall. Retaining walls shall not include walls that retain or maintain soils when any portion of said soils were brought onto the property in question from other property and/or properties.

Reception antenna facility shall mean an apparatus installed out-of-doors which is capable of receiving communications for radio and/or television purposes, including satellite reception antennas, but excluding such facilities as have been preempted from city regulation by applicable state or federal law or regulation.

Setback shall mean the distance required to obtain minimum front, side or rear yard open space provisions of this chapter.

Sign shall mean the use of any words, numerals, figures, devices, designs or trademarks by which anything is made known (other than billboards) such as are used to show an individual firm, profession, or business, and are visible to the general public.

Sign, accessory shall mean a sign which is accessory to the principal use of the premises.

Sign, nonaccessory shall mean a sign which is not accessory to the principal use of the premises.

Solid fence, wall, or gate shall mean a fence, wall or gate constructed in such a way so that more than twenty (20) percent of the surface area obstructs a ground level view through the fence, wall or gate.

Story shall mean that part of a building included between the surface of one (1) floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story.

Story, half shall mean an uppermost story lying under a sloping roof, the usable floor area of which does not exceed seventy-five (75) percent of the floor area of the story immediately below it, and not used or designed, arranged or intended to be used in whole or in part as an independent housekeeping unit or dwelling.

Street shall mean a thoroughfare which affords the principal means of access to abutting property.

Structure shall mean anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Temporary use or *building* shall mean a use or building permitted by the board of appeals to exist during a period or periods of construction of the main building or use or for special events.

Urban design shall mean the relationship between buildings, open space, topography, pedestrian and vehicular circulation, and land uses as they affect the function, economics and essential character of the community or its parts.

Use shall mean the principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

View shall mean the scene from the primary living area of a residence. The term "view" includes both upslope and down slope scenes, but is generally medium or long range in nature, as opposed to short range.

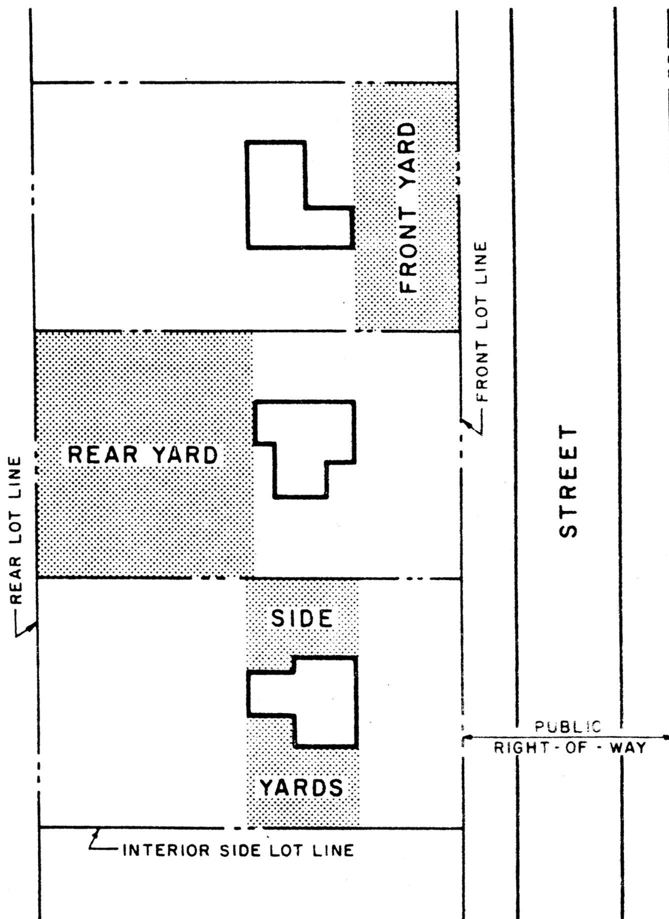
Wall shall mean an upright structure of, stone, brick or masonry or combination of those materials serving to enclose, divide, or support and usually having greater mass than a fence. A wall shall not include an architectural feature of a residence that is an integral part of the residence and does not act as an enclosure as its primary purpose.

Yards shall mean the open spaces on the same lot with a main building unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter, and as defined below:

(1) *Front yard* shall mean an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. All yards abutting on a street shall be considered as front yards for setback purposes.

(2) *Rear yard* shall mean an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

(3) *Side yard* shall mean 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 point of the main building.



YARDS

Zoning exceptions and variances:

(1)

Exception shall mean a use permitted by the zoning board of appeals only after review of an application, such review being necessary because the provisions of this chapter covering conditions, precedent or subsequent, are not precise enough to permit the approval of applications without interpretation, and such review is required by this chapter.

(2) *Variance* shall mean a modification of the literal provisions of this chapter concerning height and area restrictions, setback, open space, parking and similar restrictions granted when strict enforcement of this chapter imposes practical difficulties in the occupation or development of property due to circumstances unique to the individual property on which the variance is granted. The characteristics of a variance are (a) practical difficulties, (b) unique circumstances, (c) peculiar to the specific property involved. A variance is not justified unless all three (3) elements are present in the case.

The "exception" differs from the "variance" in several respects. Among them, an exception does not require "practical difficulties" in order to be allowable. The exceptions that are authorized by this chapter may be granted on review by the zoning board of appeals.

(Ord. No. 188, § 201, 11-8-83; Ord. No. 195, § 1, 12-11-84; Ord. No. 203, § 1, 7-8-86; Ord. No. 211, § 1, 5-10-88; Ord. No. 220, § 1, 6-13-89; Ord. No. 303, § 1, 11-13-97; Ord. No. 304, § 1, 11-13-97; Ord. No. 348, §§ 1, 2, 11-8-05; Ord. No. 355, § 1, 12-12-06; Ord. No. 383, § 1, 5-11-10; Ord. No. 391, § 1, 7-12-11; Ord. No. 404, § 1, 11-13-12 ; Ord. No. 413, § 1, 11-12-13 ; Ord. No. 424 , § 1, 10-18-16; Ord. No. 439 , § 2, 10-7-19; Ord. No. 444 , § 1, 6-9-20; Ord. No. 452 , § 1, 7-12-22)

Sec. 24-4. - Severability.

This chapter and the various parts, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the chapter shall not be affected thereby. Provided, however, that in the event of the entry of a final judgment of a court of competent jurisdiction, holding and determining that the requirements of any use district provided for in this chapter are unconstitutional or otherwise invalid as to any specific parcel of land therein, the uses permitted on and the regulations applicable to the parcel shall be those of another use district in accordance with the following table:

From	To	From	To
A-1	A-2	A-6	B-1
A-2	A-3	B-1	O-2
A-3	A-4	O-2	O-1
A-4	A-5	O-1	C-1
A-5	A-6		

(Ord. No. 188, Art. XX, 11-8-83)

Sec. 24-5. - Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, morals, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annual any ordinance, rules, regulations or permits previously adopted or issued which are not in conflict with any of the provisions of this chapter, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this chapter; nor is it intended by this chapter to interfere with or abrogate or annual any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings or requires larger open spaces or larger lot areas than are imposed or required by such agreements, the provisions of this chapter shall control.

(Ord. No. 188, Art. XXI, 11-8-83)

Sec. 24-6. - No vested right granted.

It is hereby expressly declared that nothing in this chapter shall be held or construed to give or grant to any person any vested right, license, privilege or permit.

(Ord. No. 188, Art. XXIV, 11-8-83)

Sec. 24-7. - Uses in violation of law prohibited.

Uses as established in this chapter for any enterprise, activity, conduct, or venture in the city that are contrary to federal, state or local laws or ordinances are prohibited. This section shall not be interpreted to prevent the use of medical marijuana by a state licensed patient in their personal residence. Provided, however, the cultivation and/or distribution of medical marijuana is strictly prohibited.

(Ord. No. 387, § 1, 9-14-10)

Sec. 24-8. - Penalty.

Any person or anyone acting in behalf of such person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine not more than five hundred dollars ($500.00) and the cost of prosecution or, in default of the payment thereof, by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment at the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate

offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter. In addition, the city or any property owner shall have the right to enforce this chapter through appropriate court action.

(Ord. No. 188, Art. XXII, 11-8-83)

Secs. 24-9—24-20. - Reserved.

ARTICLE II. - ZONING DISTRICTS AND MAP

DIVISION 1. - GENERALLY

Sec. 24-21. - Districts enumerated.

For the purpose of this chapter, the city is hereby divided into the following districts:

A-1	One-family dwelling district
A-2	One-family dwelling district
A-3	One-family dwelling district
A-3-1	One-family dwelling district
A-4	One-family dwelling district
A-5	One-family dwelling district
A-6	One-family attached district
B-1	Multiple-family district
C-1	Commercial district
O-1	Office district
O-2	Office district
I-1	Institutional district
P-1	Vehicular parking district
RR	Railroad district

(Ord. No. 188, § 300, 11-8-83)

Sec. 24-22. - Zoning maps.

Each area shall be set forth on maps containing such information as may be acceptable to the city commission and showing by appropriate means the various districts into which the area is divided, which maps shall be entitled, "Zoning District Map of Bloomfield Hills" and shall bear the date adopted or amended and it shall be the duty of the city clerk to authenticate such records by placing his official signature thereon. Such maps with all explanatory matter thereon, are hereby made a part of this chapter and shall be as much a part of this chapter as if the matter and information set forth thereon were all fully described in this chapter.

(Ord. No. 188, § 301, 11-8-83)

Sec. 24-23. - District boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts established in this chapter as shown on the zoning district maps, the following rules shall be applied:

(1) Where district boundaries are indicated as approximately following the center line of streets or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be the boundaries.

(2) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries.

(3) Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no such distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.

(4) Where the boundary of a district follows a subdivision boundary line, such boundary line shall be construed to be the district boundary line.

(5) Where, due to the scale, lack of detail, or illegibility of the zoning map accompanying this chapter, there is any uncertainty, contradiction, or confliction as to the intended location of any district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined upon written application to, or upon its own motion, by the zoning board of appeals.

(Ord. No. 188, § 302, 11-8-83)

Sec. 24-24. - Zoning of vacated areas.

Whenever any street, alley or other public way within the city shall be vacated, such street, alley or other public way or portion thereof shall automatically be classified in the same zone district as the property to which it attaches.

(Ord. No. 188, § 303, 11-8-83)

Sec. 24-25. - Zoning of annexed areas.

Any area annexed to the city shall immediately upon such annexation be automatically classified as an A-1 district until a zoning map for the area has been adopted by the city commission. The planning commission shall recommend appropriate zoning for such area within three (3) months after the matter is referred to it by the city commission.

(Ord. No. 188, § 304, 11-8-83)

Sec. 24-26. - District requirements.

All buildings and uses in any district shall be subject to the provisions of Article III, General Exceptions, and Article IV, General Provisions.

(Ord. No. 188, § 305, 11-8-83)

Secs. 24-27—24-40. - Reserved.

DIVISION 2. - A-1—A-4 ONE-FAMILY RESIDENTIAL DISTRICTS

Sec. 24-41. - Purpose.

One-family residential districts (A-1 through A-4) are designed to provide for one-family dwelling sites and residentially related uses in keeping with the existing low-density character of the city. The preservation of the natural terrain and the standards under which the community has had its development take place is reflected in the controls set forth in this division.

(Ord. No. 188, Art. IV, 11-8-83)

Sec. 24-42. - Principal uses permitted.

In a one-family residential district (A-1 through A-4), no building or land shall be used and no building shall be erected for one (1) or more of the following specified uses unless otherwise provided in this chapter:

(1) One-family detached dwellings;

(2) Buildings and uses, and property of the city;

(3) Golf and country clubs and riding and hunt clubs subject to the review and approval of the zoning board of appeals as to conformity with the following conditions:

a. On a lot occupied by a building other than a one-family residential unit, in which persons congregate, or which is designed, arranged, remodeled or normally used for the congregation of persons in excess of twenty-five (25) persons, the width of side yards shall be increased four (4) feet for each twenty-five (25) persons or fraction thereof in excess of twenty-five (25) persons for the accommodation of whom the building is designed, arranged, remodeled or normally used.

b. All ingress and egress from the site shall be directly onto a major or secondary thoroughfare as designated in the major thoroughfare plan.

c.

The off-street parking and general site plan layout and its relationships to all adjacent lot lines shall be reviewed by the zoning board of appeals, which may impose any reasonable restrictions or requirements so as to ensure that contiguous residential areas will be adequately protected in carrying out the intent of the above standards.

(4) Churches, church houses and parish houses subject to review and approval of the zoning board of appeals as to conformity with the following conditions:

a. Any facilities normally incident thereto shall be a part of an integrated unit plan upon the same or adjacent property.

b. The site shall be so located as to provide for ingress and egress from the site directly onto a major or secondary thoroughfare as designated in the major thoroughfare plan.

c. The provisions of section 24-235 shall apply.

(5) Accessory uses customarily incident to any of the above permitted uses including not more than one (1) private garage, and including signs pertaining to the sale, lease or use of a lot or building placed thereon. Dwellings for the use of the servants or employees of the owner, lessee or occupant of the principal dwelling on a lot shall be considered accessory buildings. Private garages may or may not have living quarters for servants and may or may not have a contiguous area for parking.

(Ord. No. 188, § 400, 11-8-83)

Sec. 24-43. - Area and bulk requirements.

See section 24-196, the provisions of which limit the height and bulk of buildings, the minimum size of lot as permitted by land use, and maximum density permitted for one-family residential districts (A-1 through A-4).

(Ord. No. 188, § 401, 11-8-83)

Sec. 24-44. - Open space preservation option.

The standards set forth in the Schedule of Regulations [section 24-196] shall be modified, at the option of the landowner, to allow the number of dwelling units that would be permitted in A-1 through A-4 districts on a total development parcel, to be located on eighty (80) percent of the land area (including street right-of-way) being developed, provided that twenty (20) percent of the land area remains in an undeveloped state. Such undeveloped state shall be maintained in perpetuity, and such modifications shall be subject to the following conditions:

(1) *Density calculation.* The maximum density of dwelling units shall be determined by the number of lots or sits that could be developed under a conventional layout of the parcel that meets the area and width requirements of the district and that complies with all other applicable laws and ordinances.

a. A parallel plan shall be submitted to the planning commission in order to establish the maximum permitted density. The parallel plan shall illustrate how a parcel could be developed under the conventional standards of the zoning district in which the property is situated along with the requirements of all other applicable state and municipal regulations and standards. The parallel plan shall result in lots with building envelopes of sufficient size, taking into consideration topography, easements or encumbrances, drainage, retention/detention areas, along with all necessary road and road-related improvements, without impacting natural areas or features required to be preserved under applicable law or ordinance. All unbuildable areas and areas with limitations to development must be accurately identified on the parallel plan including, but not limited to, wetlands, watercourses, drains, floodplains and similar features. It is not the intent of this provision to require detailed engineering in preparation of this plan, however, the plan must realistically take into consideration the natural assets and constraints of the property.

b. The planning commission shall find that the parallel plan could meet all applicable city ordinance requirements, and then, based on the parallel plan, make a determination as to the number of units that will be permitted.

(2) *Development requirements.* The minimum lot width and setback requirements of the district in which the parcel is located, shall be provided for each home site. Attached units shall not be permitted. Setbacks determined by formula shall not be applicable under this option.

(3) *Review by planning commission.* The planning commission shall hold a public hearing, review the documents submitted for the open space preservation option and make a determination as to the suitability of the proposal as set forth in section 24-248, Open space preservation.

(Ord. No. 330, § 2, 12-10-02)

Secs. 24-45—24-55. - Reserved.

DIVISION 3. - A-5 ONE-FAMILY DETACHED DISTRICTS

Sec. 24-56. - Purpose.

(a) The A-S one-family detached districts are designed and intended to permit the development of detached one-family residential cluster patterns where transition can be achieved between a more intensive residential use and existing one-family development. This pattern is specifically provided so as to permit the most sound development of oddly shaped parcels, permitting the placement of residential structures on one portion of the parcel so as to

recognize the physical limitations of the site.

(b) It is intended that the detached one-family residential cluster units developed in this division be clearly similar in character to the one-family dwellings permitted in the A-1 through A-4 districts so as to permit a sound physical integration of such cluster developments with the adjacent residential districts.

(Ord. No. 188, Art. V, 11-8-83)

Sec. 24-57. - Principal uses permitted.

In an A-5 one-family detached district no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

(1) Any use permitted in an A-4 one-family residential district, as detailed in section 24-42;

(2) Clustering as one-family detached units when such dwelling units are placed about a court in close proximity to one another but clearly separated with side yards. The maximum number of units so constructed shall not exceed four (4) in cluster.

(Ord. No. 188, § 500, 11-8-83)

Sec. 24-58. - Site considerations.

In reviewing the plans and approving the application of this section to a particular site in an A-5 one-family detached district, the planning commission shall require the following:

(1) A landscaped greenbelt, fifty (50) feet in width, shall be provided on those sides abutting one-family residential districts so as to serve as a physical transition between the cluster development and abutting one-family districts. Where necessary, a berm shall be erected in this greenbelt area to more effectively effect the visual transition. The greenbelt may be used in area computations in establishing density.

(2) In those areas where development is planned to abut a major thoroughfare, provision shall be made for a marginal access service drive.

(3) Plans submitted shall be subject to section 24-236.

(4) Access roads and service drives within the development area may be developed as private roads. Wherever the planning commission finds that a road through the development area is required as a public thoroughfare so as to afford continuity to the municipality's street system, such road shall be dedicated as a public road to the municipality at the standards set forth in the subdivision chapter. All public roads shall be excluded from the land area used to compute density.

(Ord. No. 188, § 501, 11-8-83)

Sec. 24-59. - Area, bulk and yard requirements.

(a) See section 24-196, the provisions of which limit the height and bulk of buildings and the minimum size of lot as permitted by land use for A-5 one-family detached districts.

(b) The following additional yard requirements shall also be provided:

(1) On that side of a cluster adjacent to a dedicated street or marginal access drive, front yards shall be equal to at least forty (40) feet.

(2) Spacing between detached units shall be at least twenty (20) feet, measured between the nearest point of each unit.

(3) Spacing between any unit in a cluster and an abutting existing recorded subdivision zoned as a one-family residential district shall be equal to at least one hundred (100) feet, including the fifty-foot berm or greenbelt when required, measured between the nearest point of an individual unit in a cluster grouping and the property line of the one-family residential district.

(4) The minimum distance between a boundary line and any point on a cluster unit shall be forty (40) feet.

(Ord No 188, § 502, 11-8-83)

Sec. 24-60. - Open space preservation option.

The standards as set forth in the Schedule of Regulations [section 24-196] shall be modified at the option of the landowner, to allow the number of dwelling units that would be permitted in A-5 district on a total development parcel, to be located on eighty (80) percent of the land area (including street right-of-way) being developed, provided that, twenty (20) percent of the land area remains in an undeveloped state. Such undeveloped state shall be maintained in perpetuity, and such modifications shall be subject to the following conditions:

(1) *Development requirements.*

a. The density of dwelling units shall not exceed one and three-tenths (1.3) units per acre.

b. The minimum area, bulk and setback requirements of the A-5 district shall be provided for each home site. The attaching of units shall not be permitted. Plans shall include building envelopes that will illustrate the maximum area to be occupied by the buildings. If there are significant natural features that cannot be preserved by adhering to the minimum requirements of the ordinance, the planning commission may alter the minimum requirements, except for minimum standards that are required because the parcel abuts a one-family dwelling district.

(2)

Review by planning commission. The planning commission shall hold a public hearing, review the documents submitted for the open space preservation option and make a determination as to the suitability of the proposal as set forth in section 24-248, Open space preservation.

(Ord. No. 330, § 3, 12-10-02)

Secs. 24-61—24-70. - Reserved.

DIVISION 4. - A-6 ONE-FAMILY ATTACHED DISTRICTS

Sec. 24-71. - Purpose.

The A-6 one-family attached districts are designed and intended to permit the development of attached one-family residential cluster patterns which, through design innovation, will introduce flexibility so as to provide for the sound physical handling of site plans in situations where the normal subdivision approach would otherwise be restrictive.

(Ord. No. 188, Art. VI, 11-8-83)

Sec. 24-72. - Principal uses permitted.

In an A-6 one-family attached district, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

(1) Any use permitted in an A-5 one-family cluster detached district, as detailed in section 24-57.

(2) Clustering as one-family attached units subject to the following:

a. The attaching of units shall be accomplished by means of a common party wall which does not have over thirty (30) percent of its wall area or any floor in common with an abutting dwelling unit wall; by means of an architectural wall detail which does not form an interior room space; or through a common party wall in only the garage portion of adjacent structures, there being no common party wall relationship permitted through any other portion of the residential unit.

b. The maximum number of attached units shall not exceed four (4) per cluster.

c. Any courtyard, atrium or similar uncovered area between attached units shall be of sufficient width and area as will, in the judgment of the planning commission, provide for a usable outdoor living area.

(Ord. No. 188, § 600, 11-8-83)

Sec. 24-73. - Site considerations.

In reviewing the plans and approving the application of this section to a particular site in an A-6 one-family attached district, the planning commission shall require the following:

(1) A landscaped greenbelt, fifty (50) feet in width, shall be provided on those sides abutting one-family residential districts so as to serve as a physical transition between the cluster development and abutting one-family districts. Where necessary, a berm shall be erected in this greenbelt area to effect visual transition. Such greenbelt may be used in area computations in establishing density.

(2) In those areas where development is planned to abut a major thoroughfare, provision shall be made for a marginal access service drive.

(3) Plans submitted shall be subject to section 24-236.

(4) Access roads and service drives within the development area may be developed as private roads. Wherever the planning commission finds that a road through the development area is required as a public thoroughfare so as to afford continuity to the municipality's street system, such road shall be dedicated as a public road to the municipality at the standards set forth in the subdivision chapter. All public roads shall be excluded from the land area used to compute density.

(Ord. No. 188, § 601, 11-8-83)

Sec. 24-74. - Area, bulk and yard requirements.

(a) See section 24-196, the provisions of which limit the height and bulk of buildings and the minimum size of lot as permitted by land use in A-6 one-family attached districts.

(b) The following additional yard requirements shall also be provided:

(1) On that side of a cluster adjacent to a dedicated street or marginal access drive, front yards shall be equal to at least forty (40) feet.

(2) Spacing between groups of attached units shall be at least thirty (30) feet, measured between the nearest of two (2) or more groupings.

(3) Spacing between a group of attached units and a detached unit shall be at least thirty (30) feet, measured between the nearest points of the attached group and the detached unit.

(4) Spacing between detached one-family cluster units shall be at least twenty (20) feet, measured between the nearest point of each unit.

(5) Spacing between any unit in a cluster and an abutting existing recorded subdivision zoned as a one-family residential district shall be equal to at least one hundred (100) feet, including the fifty-foot berm or greenbelt when required, measured between the nearest point of any individual unit in a cluster grouping and the property line of the one-family residential district.

(6) The minimum distance between a boundary line and any point on a cluster unit shall be forty (40) feet.

(7) Units in a cluster grouping shall be varied relative to their minimum front setback so as to create a stepped effect, placing any one (1) unit at least fifteen (15) feet forward or to the rear of the front building line of the immediately adjacent unit.

(8) So as to accomplish a unified appearance, the units in each cluster grouping shall be constructed of similar materials and shall have one (1) architectural style applied. The building facades, in their overall treatment, shall be so varied as not to give the appearance of repetition. All off-street parking shall be provided within a fully enclosed garage space which shall be attached to the living space which they serve through a common party wall.

(Ord. No. 188, § 602, 11-8-83)

Sec. 24-75. - Open space preservation option.

The standards as set forth in the Schedule of Regulations [section 24-196] shall be modified, at the option of the landowner, to allow the number of dwelling units that would be permitted in A-6 district on a total development parcel, to be located on eighty (80) percent of the land area (including street right-of-way) being developed, provided that, twenty (20) percent of the land area remains in an undeveloped state. Such undeveloped state shall be maintained in perpetuity, and such modifications shall be subject to the following conditions:

(1) *Development requirements.*

a. The density of dwelling units shall not exceed three (3) units per acre.

b. The minimum area, bulk and setback requirements of the A-6 district shall be provided. Plans shall include building envelopes that will illustrate the maximum area to be occupied by buildings. If there are significant natural features that cannot be preserved by adhering to the minimum requirements of the ordinance, the planning commission may alter the minimum requirements, except for minimum standards that are required because the parcel abuts a one-family dwelling district.

(2) *Review by planning commission.* The planning commission shall hold a public hearing, review the documents submitted for the open space preservation option and make a determination as to the suitability of the proposal as set forth in section 24-248, Open space preservation.

(Ord. No. 330, § 4, 12-10-02)

Secs. 24-76—24-85. - Reserved.

DIVISION 5. - B-1 MULTIPLE-FAMILY DWELLING DISTRICTS

Sec. 24-86. - Purpose.

B-1 multiple-family dwelling districts are designed to provide sites for multiple dwelling structures which will serve as zones of transition between the commercial district and the low-density single-family residential areas. The multiple dwelling districts are further provided to serve the limited needs for the apartment type of unit in an otherwise low-density, single-family community.

(Ord. No. 188, Art. VII, 11-8-83)

Sec. 24-87. - Principal uses permitted.

In a B-1 multiple-family dwelling district no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

(1) Any use or accessory use, customarily incidental thereto permitted in an A-4 one-family residential district subject, however, to the minimum restrictions applicable to that district, except that the front yard depth on Woodward Avenue shall be a minimum of seventy-five (75) feet, and except that the minimum lot area for a single dwelling shall be thirty thousand (30,000) square feet;

(2) Multiple dwellings when such dwelling units are attached through a common party wall which does not have over seventy-five (75) percent of its wall area on any floor in common with an abutting dwelling unit wall;

(3) Accessory buildings and uses customarily incident to any of the above permitted uses.

(Ord. No. 188, § 700, 11-8-83)

Sec. 24-88. - Uses permitted on special approval.

The following uses shall be permitted in B-1 multiple-family dwelling districts after the zoning board of appeals, upon review of the plans, finds that the plans meet the conditions required by this division:

(1) Townhouses not to exceed a height of three (3) stories (or thirty-five (35) feet) when the following conditions are met:

a. All such multiple units shall be permitted only as a part of a planned development occupying a parcel of at least five (5) acres or more and under one (1) ownership at the time of development.

b. All three-story multiples permitted under this section shall be set back at least one hundred fifty (150) feet from any abutting street and at least one hundred fifty (150) feet from any single dwelling district at such point.

c. Densities shall not exceed those outlined under footnote (k) of section 24-196.

d. The site plan shall be so arranged as to provide ingress into and egress from the multiple dwelling area directly onto a major thoroughfare or secondary thoroughfare as designated on the major thoroughfare plan.

(2) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(Ord. No. 188, § 701, 11-8-83)

Sec. 24-89. - Area, bulk and yard requirements.

(a) See section 24-196, the provisions of which limit the height and bulk of buildings, the minimum size of lot permitted by land use, and maximum density for those uses permitted under sections 24-87 and 24-88 for B-1 multiple-family dwelling districts.

(b) A landscaped greenbelt, fifty (50) feet in width, shall be provided on those sides abutting one-family residential or one-family detached or attached districts so as to serve as a physical transition between the multiple-family development and abutting one-family districts. Where necessary, a berm shall be erected in this greenbelt area to effect visual transition. Such greenbelt may be used in area computations in establishing density.

(c) Spacing between any building in a multiple-family development and an abutting existing recorded subdivision zoned as a one-family residential district shall be equal to at least one hundred (100) feet, including the fifty-foot berm or greenbelt when required, mea-sured between the nearest point of any building in a multiple-family development and the property line of the one-family residential district.

(Ord. No. 188, § 702, 11-8-83; Ord. No. 204, § 1, 2-10-87)

Sec. 24-90—24-100. - Reserved.

DIVISION 6. - C-1 COMMERCIAL DISTRICTS

Sec. 24-101. - Purpose.

The C-1 commercial districts are designed to perform a twofold function in the area of the commercial needs of the city. They are designed to cater to the convenience of retail shopping of persons residing in adjacent residential areas and permit such other uses as are necessary to satisfy those specialized service needs of the residents of the city.

(Ord. No. 188, Art. VIII, 11-8-83)

Sec. 24-102. - Principal uses permitted.

In a C-1 commercial district no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

(1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as but not limited to food, drugs, liquor, dry goods and notions or hardware;

(2) Any personal service establishment which performs services on the premises within a completely enclosed building for persons residing in the adjacent residential areas, such as but not limited to repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barbershops, interior decorators or dry cleaners;

(3) Restaurants and taverns where the patrons are served while seated within the building occupied by such establishment, and where such establishment does not extend as an integral part of or accessory thereto any service of a drive-in or open front nature;

(4) Theaters when completely enclosed;

(5) Offices and office buildings of an executive, administrative or professional nature;

(6) Banks, including drive-up facilities and automated teller machines as an accessory use only;

(7) Municipal buildings and post offices;

(8) Public utility offices, telephone exchanges, and public utility substations when in a completely enclosed building, although not necessarily roofed;

(9) Hotels;

(10) Bowling alleys;

(11) Retail package outlets, including specially designated distributor (SDD) and specially designated merchant (SDM) licensed outlets shall be permitted in a C-1 commercial district subject to the following criteria:

a. All retail package outlets shall be at least two thousand six hundred forty (2,640) feet from any other licensed outlet.

b. Only one (1) SDD license shall be issued for every three thousand (3,000) of population or fraction thereof.

(12) Other uses, which in the determination of the zoning board of appeals, are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.

b. All business, servicing or processing except for off-street parking or loading shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

(13) Accessory buildings and uses customarily incidental to any of the above permitted uses;

(14) Mechanical amusement devices may be permitted as accessory uses only to establishments which have been issued a Class C liquor license by the state, subject to review and approval by the zoning board of appeals.

(Ord. No. 188, § 800, 11-8-83; Ord. No. 380, §§ 1, 2, 12-8-09)

Sec. 24-103. - Special conditions.

The hours of operation of all retail and service commercial establishments permitted in the C-1 commercial district shall be as set forth in the appropriate ordinance of the city.

(Ord. No. 188, § 801, 11-8-83)

Sec. 24-104. - Area and bulk requirements.

See section 24-196, the provisions of which limit the height and bulk of buildings, and the minimum size of lot as permitted by land use in C-1 commercial districts.

(Ord. No. 188, § 802, 11-8-83)

Secs. 24-105—24-115. - Reserved.

DIVISION 7. - O-1 OFFICE DISTRICTS

Sec. 24-116. - Purpose.

The O-1 office districts are designed to accommodate office buildings and uses and basic personal services and are, as a use district, intended to serve the function of land use transition between the commercial districts, major thoroughfares and the adjacent residential districts.

(Ord. No. 188, Art. IX, 11-8-83)

Sec. 24-117. - Principal uses permitted.

In an O-1 office district no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

(1) Office buildings for any of the following occupations: executive, administrative and professional;

(2) Medical and dental offices, including clinics;

(3) Banks, not including drive-up facilities but permitting a drive-up facility with tellers and/or automated teller machines as an accessory use and only when the automated teller window and/or machines are located within the main building or located on the outside walls of the main building.

(4) Municipal buildings and public utility offices, but not including storage yards, transformer stations, exchanges or substations;

(5) Other uses similar to the above and subject to review and approval by the zoning board of appeals;

(6) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(Ord. No. 188, § 900, 11-8-83; Ord. No. 240, § 1, 11-13-90)

Sec. 24-118. - Area and bulk requirements.

See section 24-196, the provisions of which limit the height and bulk of buildings and the minimum size of lot as permitted by land use in O-1 office districts.

(Ord. No. 188, § 901, 11-8-83)

Secs. 24-119—24-130. - Reserved.

DIVISION 8. - O-2 OFFICE DISTRICTS

Sec. 24-131. - Purpose.

The O-2 office districts are designed and intended to accommodate the development of office campuses or larger office buildings and restricted retail and service uses. A major purpose of these districts to provide attractive settings so that these areas of the community will basically create an office environment and permit related uses similar in development to the office uses. These uses are not intended to serve as a transitional space between residential districts and nonresidential districts or major thoroughfares.

(Ord. No. 188, Art. X, 11-8-83)

Sec. 24-132. - Principal uses permitted.

In an O-2 office district no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

(1) Any use permitted in an O-1 office district as detailed in section 24-117.

(2) Additional uses shall be permitted after the planning commission finds that they meet the following standards:

a. Related and reasonably necessary or convenient for the satisfactory and efficient operation of a complete and integrated office district;

b. Similar in character to one or more of the uses permitted under subsection (1) of this section;

c. Of the character of a personal service, administrative service, or limited retail business establishment; located, designed and intended to serve only persons working within the office complex;

d. Of such character that the vehicular traffic generated by such use is similar to one (1) or more of the above permitted uses and that it does not require frequent short-term stops by vehicles in a pattern similar to a retail establishment serving the general public.

(Ord. No. 188, § 1000, 11-8-83)

Sec. 24-133. - Area and bulk requirements.

See section 24-196, the provisions of which limit the height and bulk of buildings and the minimum size of lot as permitted by land use in O-2 office districts.

(Ord. No. 188, § 1001, 11-8-83)

Secs. 24-134—24-145. - Reserved.

DIVISION 9. - I-1 INSTITUTIONAL DISTRICTS

Sec. 24-146. - Purpose.

The I-1 institutional districts are designed to provide sites for institutional uses serving an area which, in many instances, is larger than the corporate area of the city. It is the specific intent of this district to provide for sites which will service the basic needs of people residing in the immediate geographic area of the city.

(Ord. No. 188, Art. XI, 11-8-83; Ord. No. 205, § 1, 11-10-87)

Sec. 24-147. - Principal uses permitted.

In an I-1 institutional district no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

(1) Public, parochial and other private elementary, intermediate and/or high schools offering courses in general education.

(2) Churches and/or religious retreat facilities. A columbarium park shall be permitted as an accessory use to a church, but not a religious retreat facility, after review and approval by the planning commission of a site plan submitted in accordance with section 24-236, subject to the following conditions:

a. No part of the columbarium park may be located within a required yard.

b. All structures located within the columbarium park shall be no more than four (4) feet in height and shall be compatible with the architecture of the church.

c. Exterior building materials used on any structure shall be comparable to and compatible with those materials used on the principal structure.

d. The columbarium park shall be located upon and not exceed five (5) percent of the area of the lot upon which the principal use is located.

e. The columbariums shall be totally obscured from the view of adjacent property by a suitable wall or greenbelt as approved by the planning commission.

f.

The area occupied by the columbarium park shall not be considered as landscaped open space for the purpose of computing the minimum landscaped open space requirement of section 24-196.

(3) Municipal buildings.

(4) Museums and libraries.

(5) Other institutional uses similar to those above and of no more objectionable character and which, in the opinion of the planning commission, will not be injurious or have an adverse affect on the adjacent areas.

(6) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general education and not operated for profit shall be permitted subject to the review and approval by the planning commission subject to the following conditions:

a. Any use permitted in this division shall be developed only on sites of at least forty (40) acres in area and shall not be permitted on any portion of a recorded plat.

b. All ingress and egress from such site shall be directly on a major or secondary thoroughfare as designated in the major thoroughfare plan.

c. No building shall be closer than one hundred (100) feet from a property line with the exception of a dormitory or residential type structure in which instance the structure shall be set back at least seventy-five (75) feet from any property line.

(7) Convalescent homes shall be permitted where no adjacent property is within any one-family district. Where such activity is adjacent to any one-family district, it shall be subject to review and approval by the planning commission as having met the following conditions:

a. The site shall be developed to create a land to building ratio on the lot or parcel whereby for each one (1) bed in the development, there shall be provided not less than three thousand five hundred (3,500) square feet of open land. The three thousand five hundred (3,500) square feet of open land area per bed shall provide for landscape setting, off-street parking, service drives, loading space and yard requirements.

b. No building shall be closer than one hundred (100) feet from any property line of a one-family district.

c. All ingress and egress from such site shall be directly onto a major or secondary thoroughfare as designated in the major thoroughfare plan.

(8) Nonprofit clubs when permitted by the planning commission upon its finding that its chief activity is something other than a service customarily carried on as a business and that its operation would not be a nuisance or injurious to the surrounding neighborhood and not contrary to the spirit and purpose of this chapter.

(9) Accessory uses customarily incident to any of the above permitted uses.

(Ord. No. 188, § 1100, 11-8-83; Ord. No. 195, § 2, 12-11-84; Ord. No. 355, § 2, 12-12-06)

Sec. 24-148. - Area and bulk requirements.

See section 24-196, the provisions of which limit the height and bulk of buildings, and the minimum size of lot as permitted by land use in I-1 institutional districts.

(Ord. No. 188, § 1101, 11-8-83)

Secs. 24-149—24-160. - Reserved.

DIVISION 10. - P-1 VEHICULAR PARKING DISTRICTS

Footnotes:

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

Cross reference— *Traffic and motor vehicles generally, Ch. 20.*

Sec. 24-161. - Purpose.

The P-1 vehicular parking districts are designed to accommodate the off-street parking for those nonresidential uses which are not able to provide adequate space within their own district boundaries.

(Ord. No. 188, Art. XII, 11-8-83)

Sec. 24-162. - Uses permitted.

Premises in P-1 vehicular parking districts shall be used only for an off-street vehicular parking area and shall be developed and maintained subject to such regulations as are provided in this division.

(Ord. No. 188, § 1200, 11-8-83)

Sec. 24-163. - Limitation of use.

(a) The parking area in a P-1 vehicular parking district shall be accessory to, and for use in connection with one (1) or more business or office establishments, or in connection with one (1) or more existing institutional, office building or business uses.

(b) The parking area shall be used solely for parking of private passenger vehicles.

(c) No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in such parking area.

(d) No signs of any kind, other than signs designating entrances, exits and conditions of use shall be maintained on such parking area.

(e) No building other than those for shelter of attendants shall be erected upon the premises and they shall not exceed fifteen (15) feet in height.

(f) Such parking lots shall be situated on premises which have an area of not less than four thousand (4,000) square feet, unless otherwise permitted by the zoning board of appeals.

(Ord. No. 188, § 1201, 11-8-83)

Sec. 24-164. - Entrances and exits.

(a) Plans for the layout of the parking area in a P-1 vehicular parking district shall be in the manner provided in section 24-231.

(b) Adequate entrances and exits for vehicles to premises used as a parking area shall be provided and shall be by means of streets or alleys adjacent to or extending through C-1, O-1, O-2 or I-1 districts, or by means of private roadways extending through such districts. All such roadways shall be surfaced in a manner at least equivalent with that which is provided in this division for the parking area.

(c) Each entrance to and exit from such parking lot shall be at least twenty (20) feet distant from any adjacent property located in any residential district.

(Ord. No. 188, § 1202, 11-8-83)

Sec. 24-165. - Minimum distances and setbacks.

(a) *Side yards.* Where the P-1 vehicular parking district is contiguous to side lot lines of premises within a residentially zoned district, the required wall shall be located at least five (5) feet from the side lot line adjacent to the residential unit, or adjacent residential district.

(b) *Front yards.* Where the P-1 vehicular parking district is contiguous to a residentially zoned district which has a common frontage on the same block, there shall be a setback equal to the required residential setback for such residential district. The required wall shall be located on this minimum setback line.

(Ord. No. 188, § 1203, 11-8-83)

Sec. 24-166. - Screening and landscaping.

Screening and landscaping in P-1 vehicular parking districts are subject to the provisions of section 24-235.

(Ord. No. 188, § 1204, 11-8-83)

Sec. 24-167. - Surface of parking area.

In P-1 vehicular parking districts the parking area shall be provided with concrete or asphalt pavement having a permanent, durable and dustless surface and shall be graded and drained as to dispose of all surface water accumulated within the area. The parking area shall be surfaced within one (1) year of occupancy of the use it is to serve if it is for a new use, and within six (6) months of the effective date of the rezoning for P-1 vehicular parking use if the parking area is to be served an existing use or uses. Suitable bond shall be provided to ensure completion of paving within the specified time after issuance of the certificate of occupancy or rezoning for parking use.

(Ord. No. 188, § 1205, 11-8-83)

Sec. 24-168. - Lighting.

Lighting in P-1 vehicular parking districts is subject to the provisions of section 24-235.

(Ord. No. 188, § 1206, 11-8-83)

Sec. 24-169. - Approval and modifications.

(a) Plans for the development of any P-1 vehicular parking area must be approved by the planning commission before construction is started, and prior to the issuance of a permit for parking purposes.

(b) The planning commission, upon application by the property owner of the parking area, may modify the yard and wall requirements where, in unusual circumstances, no good purpose would be served by compliance with the requirements of this division.

(c) In all cases where such a wall extends to an alley which is a means of ingress and egress to a parking area, it shall be permissible to end the wall not more than ten (10) feet from such alley line in order to permit a wider means of access to the parking area.

(Ord. No. 188, § 1207, 11-8-83)

Secs. 24-170—24-180. - Reserved.

DIVISION 11. - RR RAILROAD DISTRICTS

Sec. 24-181. - Uses permitted.

In an RR railroad district, no structure or premises shall be erected or used except for those facilities required to permit efficient operation of moving railroad equipment, passenger stations, bridges and similar uses. It is specifically the intention of this section not to include uses permitted in other districts nor uses not mentioned in this section which are, in the opinion of the zoning board of appeals, not of a similar nature.

(Ord. No. 188, § 1300, 11-8-83)

Secs. 24-182—24-195. - Reserved.

DIVISION 12. - SCHEDULE OF REGULATIONS

Sec. 24-196. - Standards limiting height, bulk, setbacks, density and area by land use.

The following are standards limiting height, bulk, setbacks, density and area by land use:

	Minimum Lot Size		Maximum Building Height		Minimum Building Setbacks Side Yards				Minimum Parking Setbacks Side Yards				Minimum Dwelling Content or Area	
Use District	Area in Acres	Width in Feet	in Stories	in Feet	Front	Least One	Total of Two	Rear	Front	Least One	Total of Two	Rear	Total Content (c.f.)	Min. Above Grade (c.f.)
A-1	2	200	2(x)	30(y)	65(b,c,v,z)	32(a,c,v,z)	70(a,c,v,z)	60(v,z)	-	-	-	-	35,000	30,00
A-2	1.5	175	2(x)	30(y)	60(b,c,v,z)	26(a,c,v,z)	60(a,c,v,z)	50(v,z)	-	-	-	-	35,000	30,00
A-3	1	150	2(x)	30(y)	45(b,c,v,z)	24(a,c,v,z)	50(a,c,v,z)	40(v,z)	-	-	-	-	35,000	30,00
A-3-1	1	150	2(x)	30(y)	45(b,c,v,z)	24(a,c,v,z)	50(a,c,v,z)	40(v,z)	-	-	-	-	25,000	20,00
A-4	0.75	125	2(x)	30(y)	40(b,c,v,z)	20(a,c,v,z)	40(a,c,v,z)	35(v,z)	-	-	-	-	30,000	25,00
A-5	(p)	-	2	30(y)	(a,b,c,r,z)	(a,c,r,z)	(a,c,r,z)	(r,z)	-	-	-	-	20,000	16,00
A-6	(q)	-	2	30(y)	(a,b,c,s,z)	(a,c,s,z)	(a,c,s,z)	(s,z)	-	-	-	-	20,000	16,00
B-1	(k)	(k)	2	30	(l,w,z)	(m,w,z)	(m,w,z)	(m,w,z)	-	-	-	-	(k)	(k)
C-1	-	100	2	30	45 (d,w,z)	(d,e,w,z)	(d,e,w,z)	20(e,g,w,z)	20(h,z)	-	-	10(f,g,z)	-	-
O-1	-	-	2(t)	25(t)	35 (b,d,w,z)	15(d,n,w,z)	40(d,n,w,z)	100(g,o,w,z)	(i,z)	10(i,z)	10(i,o,z)	50(o,z)	-	-
O-2	-	-	3	35	45 (d,w,z)	30(d,n,w,z)	80(n,w,z)	200(g,o,w,z)	(i,z)	20(i,z)	20(i,o,z)	50(o,z)	-	-
I-1	-	-	2	30	45 (d,w,z)	20(d,w,z)	40(d,w,z)	35(w,z)	20(h,z)	10(i,z)	20(z)	10(z)	-	-

Standards on this chart are in feet, except where otherwise specified.

Notes to Schedule of Regulations

(a) On a lot occupied by a building other than a one-family residential unit, in which persons congregate, or which is designed, arranged, remodeled or normally used for the congregation of persons in excess of twenty-five (25) persons, the width of side yards shall be increased four (4) feet for each twenty-five (25) persons or fraction thereof in excess of twenty-five (25) persons for the accommodation of whom the building is designed, arranged, remodeled or normally used.

(b Buildings on Woodward Avenue shall be provided with a minimum setback of forty-five (45) feet from the right-of-way line.

(c) Residential buildings having a front or side yard on Long Lake Road shall be provided with a setback of at least one hundred (100) feet from the center line of such road, as now established.

(d) Buildings on Long Lake Road shall be provided with a setback of at least seventy-five (75) feet from the center line of such road as now established.

(e) When such districts border a residential district, there shall be provided a minimum building setback of at least twenty (20) feet for any side yard adjacent to such districts.

(f) For a lot of record in C-1, 0-1 and 0-2 districts, which is less than twenty-five thousand (25,000) square feet in area and which has a rear lot line abutting the side lot line of a P-1 district or of a parcel of any of the same districts, the board may, for cause shown, waive the rear parking setback, and approve in lieu thereof a masonry wall constructed in accordance with the provisions of section 24-235.

(g) When a parcel is provided with both P-1 parking district and a greenbelt buffer strip with a substantial landscape planting screen, the rear building setback and the rear parking setback shall not be applicable to that portion of the parcel which is zoned C-1 commercial, O-1 office, or O-2 office.

(h) Off-street parking may be permitted in a front yard provided that the minimum setback is met. Off-street parking abutting Long Lake Road shall be provided with a minimum setback of fifty-five (55) feet from the center line of the road.

(i) Off-street parking may be permitted in a front yard provided that the minimum setback is met. Off-street parking shall not be permitted in any yard abutting a residential district.

(j) See requirements under section 24-235.

(k) The average floor area per dwelling unit shall not be less than one thousand four hundred (1,400) square feet; the minimum floor area for any one (1) unit shall be not less than one thousand two hundred (1,200) square feet. Basement area shall not be included in computing the floor area per dwelling unit. No one (1) building shall contain more than six (6) dwelling units and no more than four (4) dwelling units may have access from a common entrance way. Multiple dwellings shall contain not more than four and one-half (4½) dwelling units per acre of ground in the lot area.

(l) Front yards shall be provided as follows:

(1) One-story: A minimum front yard of at least fifty (50) feet.

(2) Two-story: A minimum front yard of at least sixty (60) feet.

(3) On Woodward Avenue and Long Lake Road, a minimum setback of at least seventy-five (75) feet shall be provided.

(m) Side yards, rear yards and the spacing between buildings shall be not less than forty-five (45) feet.

(n) All side yards abutting residentially zoned land shall be equal to at least two (2) times the height of the structure.

(o) All those rear yards abutting residentially zoned land shall have a landscape berm provided of a width of at least fifty (50) feet.

(p) An A-5 development shall not contain more than one and three tenths (1.3) dwelling units per acre on the overall site.

(q) An A-6 development shall not contain more than three (3) dwellings units per acre on the overall site.

(r) See section 24-59.

(s) See section 24-74.

(t) The maximum height of a building or portion thereof, may be increased to three (3) stories or thirty-five (35) feet when such building, or portion thereof, is set back at least three hundred (300) feet from any residential district.

(u) P-1 districts used in conjunction with a C-1, O-1 or O-2 district shall be included in lot area calculations provided the P-1 district is under the same ownership and control as the C-1, O-1, or O-2 district. If more than one (1) district is served by the P-1 district, its area shall be pro-rated in proportion to area of the other districts.

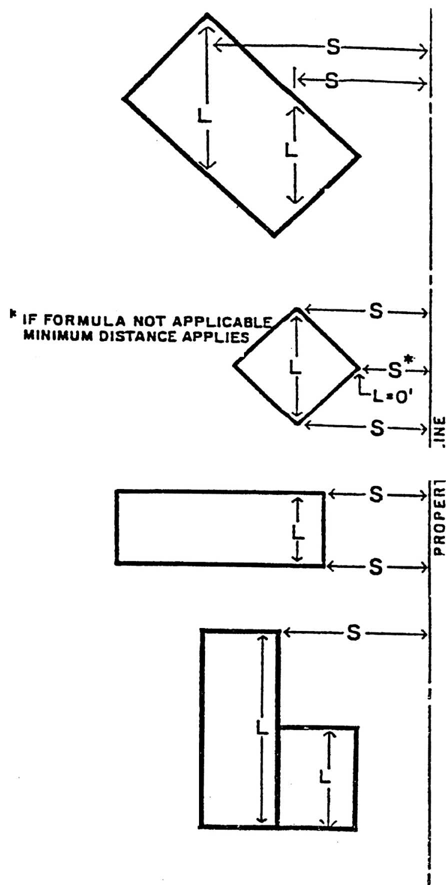
(v) The minimum setbacks indicated shall apply to main buildings unless exceeded by the distance required by the formula L + 2H ° 2, defined as follows:

S— Is the required setback.

L— Is the total length of a line when viewed directly from above, which is parallel to the lot line and intersects any part of the building. For purposes of measuring "L", if the depth of a courtyard is greater than its width, the width of the courtyard shall be included in the measurement of "L".

H— Is the height, as defined in section 24-3 of the building face adjacent to the lot line.

D— Is a divisor (see diagram).



(w) The minimum setbacks indicated shall apply unless exceeded by the distance required by other applicable footnotes of this section or by the following formulae, as defined in footnote (v) above; whichever is greater.

(1) Along these lot lines which abut a one-family residential district A-1 through A-4 and which are not separated from the one-family district by a major or secondary thoroughfare or super highway, or the abutting one-family district is not already developed for a permitted use other than one-family residential, the minimum required setback shall be determined by: S = L + 2H ° 2.

(2) Along those lot lines which abut a public street right-of-way or an A-5, A-6 or B-1 District or an existing use in a one-family residential district other than a single-family dwelling, the minimum required setback shall be determined by: S = L + 2H ° 3.

(3) In all other instances, the minimum required setback shall be determined by: S = L + 2H ° 4.

(x) Habitable attics as defined herein are permitted in addition to two (2) stories provided the total building height does not exceed thirty (30) feet.

(y) For purposes of determining building height, when a new established grade is two (2) or more feet higher than the existing natural ground grade, the measurement shall be taken from the existing natural ground grade. When a new established grade is lower than the existing natural ground grade, the measurement shall be taken from the new established grade. Exceptions from this limitation may be permitted by the planning commission in unusual circumstances provided that the following findings are made:

(1) The exception would not interfere with an adequate supply of light and air to adjacent surrounding properties.

(2) The exception would not permit a building which is out of harmony with the property on which it is located as well as the surrounding properties.

(3) The exception would not result in a building which is elevated significantly higher than those which would be permitted under this subsection on this surrounding properties.

(z) Refer to section 24-249 of the General Provisions of this chapter regarding natural feature setbacks (all districts).

(aa) Creation of new buildable lots. Where a new buildable lot or lots are proposed in the A-1 through A-4 Districts via land division, the newly created lots shall comply with the minimum lot width and area requirements listed in the chart above.

In addition such newly created lots shall provide a lot width and area equal to or greater than the average lot width and area of existing properties within a five-hundred-foot radius of the lot lines of the subject parent parcel proposed to be divided. The area within this five-hundred-foot radius shall be defined as the "study area". The study area shall be measured from the perimeter of the subject parent parcel. For the calculation of average lot, only lots along the same road frontage shall be measured. In case of a corner lot or through lot, the study area shall include lots within the five-hundred-foot radius that are along both road frontages.

Furthermore, the study area shall only include only those lots within the City of Bloomfield Hills and within the same residential zoning district as the subject parent parcel and shall exclude properties occupied by nonresidential uses allowed in the district (i.e., golf or riding clubs, schools, and churches).

In a situation where an existing lot in the study area provides at least two (2) times the lot width or area of any other lot within the study area, the planning commission may exclude said larger lot from the calculation of the average lot width and average lot area.

A property map of the study area and table of lot width and area calculations shall be submitted with the lot split application. Such information shall be prepared and sealed by a professional engineer or surveyor licensed by the State of Michigan.

The above provisions shall not apply to a situation where an owner proposed to shift a common line and shall not be deemed to render any existing lot nonconforming. Any such lots approved via land division shall not be given consideration for any future land divisions.

Use District	Minimum Lot Size Area in Acres	Width in Feet
A-1	2(aa)	200(aa)
A-2	1.5(aa)	175(aa)
A-3	1(aa)	150(aa)
A-3-1	1(aa)	150(aa)
A-4	0.75(aa)	125(aa)

(Ord. No. 188, Art. XIV, 11-8-83; Ord. No. 204, § 1, 2-10-87; Ord. No. 212, §§ 1, 2, 5-10-88; Ord. No. 216, § 1, 1-10-89; Ord. No. 219, §§ 1, 2, 6-13-89; Ord. No. 220, §§ 2, 3, 6-13-89; Ord. No. 246, §§ 1, 2, 6-11-91; Ord. No. 250, § 4, 10-15-91; Ord. No. 304, § 2, 11-13-97; Ord. No. 305, § 1, 12-9-97; Ord. No. 330, § 7, 12-10-02; Ord. No. 342, 9-14-04; Ord. No. 348, § 5, 11-8-05; Ord. No. 405, § 1, 11-13-12 ; Ord. No. 411, § 1, 8-13-13 ; Ord. No. 411 , § 1, 8-13-13; Ord. No. 422 , § 1, 3-15-16)

DIVISION 13. - PUD PLANNED UNIT DEVELOPMENT OPTION

Footnotes:

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Editor's note— *Ord. No. 400, § 1, adopted Oct. 9, 2012 , repealed the former Div. 13, §§ 24-197—24-203, and enacted a new Div. 13 as set out herein. The former Art. X pertained to similar subject matter and derived from Ord. No. 360, § 1, adopted June 12, 2007.*

Sec. 24-197. - Authority and purpose.

PUD planned unit development option is established in accordance with the definitions and provisions established by the Michigan Zoning Enabling Act (Public Act 110 of 2006).

The purpose of the PUD option is as follows:

(1) Permit flexibility in development and building regulations to respond to unique factors for a particular site where appropriate.

(2) Provide a design option to encourage innovation in the variety, design, layout and type of structures; conserve significant natural features and open space; ensure new development is consistent with the character of the city and adjacent land uses; promote efficient provision of public services and utilities; minimize adverse traffic impacts; encourage improvement to existing development where site conditions make desired development under conventional zoning difficult.

(3) Allow appropriate mix of uses, densities or lot sizes that would otherwise not be permitted, provided the PUD standards herein are met. For properties approved as a PUD, these standards provide the developer with flexibility in design and permit limited variation of the specific bulk, and area requirements, subject to the approval of the PUD by the planning commission and city commission in accordance with the requirements set forth herein.

(Ord. No. 400, § 1, 10-9-12)

Sec. 24-198. - Eligibility criteria.

The PUD option may be effectuated in any zoning district classification, but is not applicable for the development of a one-family detached dwelling. To qualify for this option, it must be demonstrated that all of the following criteria will be met:

(1) Any approval for an activity, building or use shall be compatible with the overall goals and recommendations of the City of Bloomfield Hills Master Plan.

(2) Any approval for an activity, building or use not normally permitted shall result in an improvement to the public health, safety and welfare in the subject area affected or a recognizable public benefit. Such public benefit shall be evaluated in contrast to a project that would otherwise be permitted, on factors such as:

a. Preservation of unique site design features;

b. High quality architectural design and building materials;

c. Extensive landscaping beyond the site plan requirements of the zoning code;

d. Preservation, enhancement or restoration of natural resources (e.g., trees, slopes, non-regulated wetland areas, waterfront views, etc.);

e. Incorporation of multiple lots and/or principal buildings;

f. Preservation or enhancement of historic resources;

g. Provision of open space or public plazas or features;

h. Efficient consolidation of poorly dimensioned parcels or property with difficult site conditions (e.g., topography, shape, etc.);

i. Effective transition between higher and lower density uses, and/or between nonresidential and residential uses; development of incompatible adjacent land uses in a manner that is not possible using a conventional approach;

j. Shared vehicular access between properties or uses;

k. A complementary mix of uses or a variety of housing types;

l. Mitigation to offset impacts on public facilities (such as road improvements);

m. Use of low impact development (storm water management) and LEED techniques and practices in site and building design.

(3) The PUD shall not be utilized in situations where the same land use objectives can be accomplished by the application of conventional zoning provisions or standards.

(Ord. No. 400, § 1, 10-9-12)

Sec. 24-199. - Height, bulk, density and area standards.

(1) Height, bulk, density and setback standards of each zoning district shall be applicable within each specific district area designated on the plan, except as specifically modified and noted on the PUD plan and PUD agreement. In no instance can the PUD option be used to increase the density beyond that permitted by the underlying zoning district. The location and distribution of dwellings within the PUD shall be determined through design that meets the eligibility criteria described in section 24-198.

(2) Where the underlying zoning is one-family residential, the number of dwelling units allowable within a PUD shall be determined through preparation of a plan that illustrates the number of units that could be developed under a conventional plan. This conventional plan shall meet all standards for lot size, lot width and minimum setbacks in accordance with the dimensional requirements for the underlying zoning district, and other applicable city and state standards.

(Ord. No. 400, § 1, 10-9-12)

Sec. 24-200. - Submittal requirements.

The following items shall be included along with a completed application requesting approval of the PUD option:

(1) *PUD concept plan.* The following information shall be provided:

a. For residential projects only, a conventional plan showing the development possible based on the current zoning district standards. This plan will be used to determine density and dimensional standards permitted in the PUD;

b. A conceptual or schematic plan that illustrates the general arrangement of buildings, parking, access and landscaping; alternatives for site arrangement and building architecture;

c. Documentation indicating how the PUD eligibility criteria of section 24-198 have been met;

d. A table which details requested modifications from the established zoning district uses, area, height and setback requirements, off-street parking regulations, general provisions or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of a PUD; this table shall clearly identify the allowed regulation in comparison to the requested modification; and

e. Any additional information requested by the planning commission at the pre-application conference to better assist in the determination of PUD qualification. Such information includes, but is not limited to: market studies, fiscal impact analysis, traffic impact studies, environmental impact assessments, and additional drawings, perspectives and cross sections.

f. If the PUD is to be designed as a subdivision plat, the tentative plat requirements described in chapter 19, subdivision of land, shall be followed and reviewed as part of the PUD concept plan review.

(2) *Final PUD plan.* The following information shall be provided with a request for approval of a final PUD plan:

a. A final site plan including all of the information required by section 24-236 (site plan review);

b. Information required by subsection (1), PUD concept plan, updated to address revisions from the concept to final PUD plan; and

c. A PUD agreement, to be executed between the applicant and city commission, including the following information:

1. A survey of the acreage comprising the proposed development;
2. The manner of ownership of the developed land;
3. The manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space;
4. Provision assuring that open space areas shown on the plan for use by the public or residents of the development will be or have been irrevocably committed for that purpose; the city may require conveyances or other documents to be placed in escrow to accomplish this;
5. Satisfactory provisions have been made to ensure the future financing of any improvements shown on the plan for site improvements, including but not limited to roads, buildings, utilities, open space areas and common areas which are to be included within the development, and that maintenance of such improvements is also assured by a means satisfactory to the planning commission and city commission;
6. Provisions to ensure adequate protection of natural features;
7. Provisions to ensure enforcement of city and other regulations, and requirements of the agreement, on all property and property owners or occupants within the PUD, including the ability of the city to enforce corrective actions as necessary; and
8. The PUD site plan shall be incorporated by reference and attached as an exhibit.

d. If the PUD is to be designed as a subdivision plat, the preliminary plat requirements described in chapter 19, subdivision of land, shall be followed and reviewed as part of the final PUD plan review.

e. If the PUD is to be designed as a condominium project developed under Act 50 of the Public Acts of 1978, as amended, the applicable sections of section 24-245, Site Condominium Projects, shall be satisfied as appropriate. The proposed master deed, by-laws, proposed restrictions and any additional documentation to be recorded with the register of deeds shall be provided as part of the final PUD approval.

f. After final PUD approval and execution of the PUD agreement, a final subdivision plat may be reviewed in accordance with chapter 19, subdivision of land.

(Ord. No. 400, § 1, 10-9-12)

Sec. 24-201. - Approval procedure.

(1) *Pre-application conference.* A pre-application conference with the planning commission, to discuss the appropriateness of a PUD and the concept plan shall be required of the applicant. This conference will also be used to determine the level of impact analysis that is needed with the formal PUD concept plan submittal.

(2) *PUD concept plan.* The planning commission and the city commission shall each conduct separate public hearings on the request. Prior to the planning commission scheduling a public hearing, the applicant shall arrange for one (1) or more informal meetings with representatives of the adjoining properties and neighborhoods, soliciting their comments and providing same to the planning commission. The city shall be advised in advance as to the scheduling and location of all such meetings. The planning commission shall review the request in consideration of public hearing comments, technical reviews from city staff and consultants, correspondence from applicable review agencies and compliance with the standards of this division. The planning commission and city commission shall approve, approve with conditions or deny the PUD request based on the following:

(a) That the proposal provides the recognizable benefits of the PUD in contrast to development under conventional zoning;

(b) That the PUD shall not change the essential character of the surrounding area;

(c) That the PUD conforms to the city master plan;

(d) That all applicable provisions of this division and the zoning code are met;

(e) That the eligibility criteria of section 24-198 are met;

(f) That the PUD shall not place demands on public services, municipal facilities and streets in excess of uses permitted by current zoning and current capacity, unless improvements are made by the petitioner; and

(g) That the project successfully provides a transition between higher and lower density uses and/or between nonresidential and residential uses.

(3) *Final PUD plan.* Following PUD qualification/concept plan approval, a final site plan for the PUD or individual phases of the PUD shall be submitted in accordance with section 24-236, site plan review. The planning commission and the city commission shall review all site plans subsequently submitted for conformance with the PUD concept plan, all conditions attached to PUD concept plan approval and other applicable requirements of this chapter and shall approve, approve with conditions or deny the PUD.

(4) *Approval.* The concept PUD plan and final PUD plan shall each require approval by a majority of the members of the planning commission (five (5)) and a majority of the members of the city commission (three (3)).

(Ord. No. 400, § 1, 10-9-12)

Sec. 24-202. - Additional PUD provisions.

(1) *Public hearing notification.* Notices for all public hearings shall be given as follows:

(a) Notice of the hearing shall be not less than fifteen (15) days before the date of the public hearing.

(b) Notice of the hearing shall be published in a newspaper of general circulation.

(c) Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.

(d) Notice shall also be sent by mail to all persons to whom real property is assessed within five hundred (500) feet of the property and to the occupants of all structures within five hundred (500) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

(e) The city shall also post notice on the city's website.

(f) A sign shall be posted on the property by the applicant indicating that the property is proposed to be developed with the PUD option in accordance with the city sign ordinance (chapter 16 of the City Code) including the following:

1. The sign shall be four (4) feet by eight (8) feet in size.
2. The sign shall be erected in full public view along the road frontage.
3. If the property to be developed with the PUD option is located at an intersection, a sign for each road frontage must be provided.
4. The sign shall state 'THIS PROPERTY IS PROPOSED TO BE DEVELOPED AS A PUD".
5. The sign shall include the current and proposed zoning and uses, area in acres of the property, and a generalized map of the property.
6. Such sign shall indicate the date, time, and location of the planning commission public hearing where the proposal will be reviewed.
7. The sign shall be erected fifteen (15) days prior to the scheduled public hearing.
8. The applicant shall be responsible for erecting, maintaining through the public hearing date and removing the sign. The sign shall be removed three (3) days after the public hearing.

(2) *Appeals.* The zoning board of appeals shall have no jurisdiction to hear appeals or make interpretation or any other decisions regarding this division or a proposed PUD concept plan or final PUD plan.

(3) *Fees.* Fees and costs incurred by the city for review of PUD plans under this division, including, but not limited to, legal, planning and engineering, shall be paid by the applicant as established by resolution of the city commission.

(4) *Interpretation of approval.* Approval of a PUD under this division shall be considered an optional method of development and improvement of property subject to the mutual agreement of the city and the applicant.

(5) *Amendments to PUD plan.* Proposed amendments or changes to an approved final PUD plan shall be submitted both to the planning commission and to the city commission. The proposed amendments shall be reviewed in accordance with the provisions and procedures of this division as they relate to approval of a final PUD plan and both a majority of the members of the planning commission (five (5)) and a majority of the members of the city commission (three (3)) shall be required to approve the amendment.

(6) *PUD expiration.* Approval of a final PUD plan shall be subject to the time frame established for final site plan approval described in subsection 24-236(e)(2).

(Ord. No. 400, § 1, 10-9-12)

Secs. 24-203—24-210. - Reserved.

ARTICLE III. - GENERAL EXCEPTIONS

Sec. 24-211. - Area, height and use exceptions.

The regulations in this chapter shall be subject to the following interpretation and exceptions:

(1) *Essential services.* Essential services shall be permitted as authorized and regulated by law and other ordinances of the city, it being the intention hereof to exempt such essential services from the application of this chapter.

(2) *Voting place.* The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

(3) *Height limit.* The height limitations of this chapter shall not apply to chimneys, church spires, flagpoles, public monuments or transmission towers; provided, however, that the zoning board of appeals may specify a height limit for any such structure when such structure requires authorization as a conditional use. Provided further that the height limitation shall apply to roof mounted satellite reception antennas, the installation of which is subject to approval by the zoning board of appeals as set forth in subsection (7).

(4)

Yard regulations. When yard regulations cannot reasonably be complied with, as in the case of a planned development in the multiple-family district, or where there application cannot be determined on lots existing and of record at the time this chapter became effective and on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified by the zoning board of appeals.

(5) *Terraces.* An open, unenclosed paved terrace may project into a front yard for a distance not exceed ten (10) feet, but this shall not be interpreted to include or permit fixed canopies.

(6) *Projections into yards.* Architectural features, not included vertical projections, may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally demountable.

(7) *Height exceptions, rooftop equipment.* Penthouse or rooftop structures for the housing of elevators, stairways, tanks, heating and air conditioning equipment, and other similar apparatus may be erected above the height limits of the zoning district in which located after the zoning board of appeals, upon review of the plans, finds that the plans meet the following conditions:

a. All rooftop equipment and apparatus shall be housed in a penthouse or structure constructed of the same type of building material used in the principal structure.

b. The penthouse and structures shall be set back from the outermost vertical walls or parapet of the principal structure a distance equal to at least two (2) times the height of such penthouse or structure. The height of such penthouse or structure shall in no instance exceed fifteen (15) feet.

c. Such penthouse or structure shall not have a total floor area greater than fifteen (15) percent of the total roof area of the building.

d. For purposes of this section, a roof mounted reception antennas facility shall be considered as a rooftop structure, subject to the conditions of subsections (7)a, b and c, above; provided, however, in the instance of roof mounted reception antenna facility only, review of the proposed plans shall be by the city planning commission which may permit a modification of subsection (7)a., under the following circumstances:

1. Screening may be exempted if and to the minimum extent such exemption is demonstrated to be necessary in order to provide adequate reception. Further, screening may be accomplished by a structure constructed of a material other than that of the principal building when the planning commission determines that the proposed screening material is reasonably compatible with the building material used in the principal building taking into consideration color, texture, and other related factors.

2. The applicant shall submit such information as may be required by the planning commission to permit the planning commission to define directional aspects relative to signal reception.

(8) *Zoning controls as related to historic buildings.* The height, bulk, setback, density and area regulations set forth in section 24-196, the off-street parking and loading regulations, and the general provisions as they relate to the main building and accessory structures may be waived when such buildings or premises have, upon request of the owner, been designated by the city commission as historic buildings or buildings of architectural value and when it has been demonstrated to the city commission that it is necessary to depart from such regulations and provisions. In reviewing a request for a variance from the regulations and provisions above stipulated, the city commission shall act only after the following conditions have been fully satisfied:

a. A site plan of the proposed preservation or restoration project has been submitted to, and reviewed by the planning commission and all points of conflict have been itemized by the planning commission in a written report to the city commission.

b. The city commission shall, after a full review is made of all competent evidence submitted, determine that it is necessary to accomplish, encourage and promote the purposes and objectives of restoration or preservation of historic buildings or buildings or architectural value.

(9) *Fire districts as related to historical buildings.* The provisions of the building code relating to construction, repair, alterations, enlargement and moving of buildings or structures in fire districts established by such code, shall not apply to buildings or structures designated as historic buildings or buildings of architectural value when the director of public safety certifies to the city commission that, in his opinion, such building or structure and character of construction will not materially increase the danger from fire, and that such act will accomplish, encourage and promote the purposes and objectives set forth by the historic commission.

(10) *Recreational facilities in one-family dwelling districts.*

a. Structures for recreational purposes including but not limited to tennis courts, swimming pools, racquetball courts and such similar uses, ancillary to a residential use, may be located in that portion of a front or side yard of a one-family dwelling district (A-1 through A-6) that exceeds the minimum required yard setback if the planning commission, at the time approval is sought, finds all the following conditions to exist:

1. The lot or parcel in question is peculiar in shape, contains major topographic problems, or has a major stand of trees so that any one (1) of these conditions would make sound physical development of the improvement difficult to accomplish in the rear yard.

2. Placement in the front or side yard allows for the greatest preservation of the natural setting.

3. Placement in the front or side yard allows for the greatest protection of the abutting residential land as it relates to uninterrupted views, privacy and from potential noise emanating from the proposed use area.

4. Placement in the front yard shall be permitted only where the front yard is at least three (3) times greater in depth than the minimum setback requirement.

b. The applicant shall be required to submit the following materials with the application to the planning commission:

1.

A property line survey map of the lot or parcel in question, prepared by a registered land surveyor. The drawing shall be prepared at a scale of one (1) inch equals fifty (50) feet including:

i. Topography shall be superimposed on the property line map drawn with contour interval of not greater than two (2) feet.
ii. All existing building and structure outlines shall be superimposed on the drawing showing the topography.
iii. The proposed plan shall be superimposed on a print containing all data required above.
iv. No part of the structure, except fencing and ancillary appurtenance of the principal use, shall be more than one (1) foot above ground.

2. The plan shall show all proposed grading and shall include complete details of the proposed improvement.

c. The chief building inspector shall not issue a permit to erect a recreational structure until the planning commission has approved the plan.

d. The planning commission shall fix a time for hearing on the application for approval of the recreation plan. The planning commission shall give due notice of the hearing to the petitioner and to other owners of record of property within three hundred (300) feet of the premises in question, as shown by the records of the city assessor's office, who may be interested under the provisions of this chapter.

e. Fees for review of site plans shall be established by a resolution of the city commission.

(Ord. No. 188, § 1500, 11-8-83; Ord. No. 197, § 1, 5-14-85; Ord. No. 203, § 4, 7-8-86)

Secs. 24-212—24-225. - Reserved.

ARTICLE IV. - GENERAL PROVISIONS

Sec. 24-226. - Conflicting regulations.

Wherever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of such law or ordinance shall govern.

(Ord. No. 188, § 1600, 11-8-83)

Sec. 24-227. - Scope.

No building or structure or part thereof shall hereafter be erected, constructed, altered and/or maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this chapter.

(Ord. No. 188, § 1601, 11-8-83)

Sec. 24-228. - Nonconforming lots, nonconforming uses of land, nonconforming structures, nonconforming uses of structures and premises.

(a) *Intent.*

(1) Within the districts established by this chapter or amendments that may later be adopted there exist lots, structures and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment.

(2) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as a reason for adding other structures or uses prohibited elsewhere in the same district.

(3) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

(4) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to November 8, 1983, or on the effective date of amendment of this chapter and upon which the actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed actual construction, provided that work shall be diligently carried on until completion of the building involved.

(b) *Nonconforming lots.* In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record lawfully usable as a building site on November 8, 1983, or on the effective date of an amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or

width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained through the approval of the zoning board of appeals.

(c) *Nonconforming uses of land.* Where, on November 8, 1983, or on the effective date of an amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on November 8, 1983, or at the effective date of amendment of this chapter.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on November 8, 1983, or on the effective date of an amendment of this chapter.

(3) If such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(d) *Nonconforming structures.* Where a lawful structure exists on November 8, 1983, or on the effective date of an amendment of this chapter that could not be built, under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged or altered in a way which increase the nonconformity.

(2) Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(e) *Nonconforming uses of structures and land.* If a lawful use of a structure, or of structure and land in combination, exists on November 8, 1983, or on the effective date of an amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the zoning board of appeals, either by general rule or by making findings in the specific case, shall find that he proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the zoning board of appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for six (6) consecutive months or for eighteen (18) months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.

(6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(f) *Repairs and maintenance.*

(1) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the building as fixed by the city assessor, provided that the cubic content of the building as it existed at the time of the passage or amendment of this chapter shall not be increased.

(2) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(g) *Uses under exception provisions not nonconforming uses.* Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action, be deemed a conforming use in such district.

(h) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises provided there is no change in the nature or character of such nonconforming uses.

(Ord. No. 188, § 1602, 11-8-83)

Sec. 24-229. - Accessory buildings and structures.

(a) *Accessory buildings.* Accessory buildings, except as otherwise permitted and regulated in this chapter, shall be subject to the regulations imposed in this section:

(1) Where an accessory building is attached to a main building, it shall conform to all regulations of this chapter applicable to main buildings.

(2) In the A-1 through A-4 districts, accessory buildings or structures may be located in any side yard or rear yard which is in excess of the side or rear yard setback requirement. In such rear yard, the building or structure shall not be located closer to a side lot line than the distance required for the side yard setback.

(3) No detached building shall be located closer than twenty (20) feet to any main building.

(4) In the A-1 through A-4 districts, the total floor area of all accessory buildings shall not exceed the maximum garage credit plus one-quarter (¼) of the ground floor area of the main building. The maximum garage credit for the affected districts is:

Use District	Maximum Garage Credit
A-1	800 square feet
A-2	700 square feet
A-3 and A-3-1	600 square feet
A-4	500 square feet

(5) No detached accessory building in any A-1 through A-6 or B-1 district shall exceed one (1) story or fourteen (14) feet in height. Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in such district subject to review and approval by the planning commission.

(6) In an A-1 through A-4 district, when an accessory building is intended for a use other than the storage of private motor vehicles or, a pool house that is properly screened from adjacent properties, such accessory building and the use for which such building is intended shall be subject to approval of the planning commission in accordance with the provisions of section 24-284.

(b) *Accessory structures.* Accessory structures, except as otherwise permitted and regulated in this chapter, shall be subject to the regulations imposed in this section:

(1) Accessory structures in any A-1 through A-6, B-1 and I-1 district which are intended for recreational use including, but not limited to, swimming pools, tennis courts and similar structures shall be permitted subject to the following:

a. Such structure shall not be erected in any required yard and shall be located only in a nonrequired rear yard except as otherwise provided in section 24-211(10).

b. Reserved.

c. When such structure is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lots to its rear, such structure shall not project beyond the front yard line required on the lot in the rear of such corner lot. When such structure is located on a corner lot, the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, such structure shall not project beyond the side yard line of the lot in the rear of such corner lot.

(2) Accessory structures including, but not limited to, decorative landscape features such as fountains, sculptures, decorative lighting fixtures, and similar decorative elements; screening walls, screening fences, retaining walls, tree wells, site lighting and similar site improvement features; which are clearly incidental to and customarily found in connection with the exterior improvement of a site for occupancy by a principal permitted use shall be permitted in a required yard subject to the following:

a. For any use or district requiring site plan approval under the provisions of section 24-236(a), the location, height, design and arrangement of such structures shall be in accord with the approved site plan.

b. For any use which does not require site plan approval under the provisions of section 24-236(a), such structures shall be subject to the following requirements:

1. Fountains and sculptures shall not exceed five (5) feet in height.

(3) Accessory structures to obscure rooftop equipment, see section 24-211(7).

(4) Accessory structures to enclose service areas, see section 24-237.

(5) Accessory structures to provide access through yards, see section 24-238.

(6) Accessory structures to identify residential entranceways, see section 24-239.

(7) Accessory structures, reception antenna facilities, see section 24-240.

(8) Accessory sign shall be permitted subject to the requirements of chapter 16.

(9) Columbarium parks shall be permitted subject to the requirements of section 24-147(2).

(10) Structures which support lighting fixtures, other than signs, may be permitted in any yard where off-street parking is permitted.

(11) Central air conditioning units, generators, heat pumps or similar noise producing mechanical system components (referred to herein as "unit") that are typically required to be located on the exterior of a house shall be subject to the following:

a. The nearest point of the unit shall be located not more than five (5) feet from the main building or a detached accessory building.

b. If not located within a building, units shall be screened by densely planted landscaping or a solid screen or masonry wall at least one (1) foot higher than any part of the unit, located to screen the view from abutting property or a public street. The solid screen or masonry wall shall contain the use of materials identical to those used in the main building at the point of placement of the unit. Plantings shall be spaced so as to provide an immediate screening effect. Evergreen plant material utilized in screening shall be maintained in a healthy condition. Dead or diseased plant materials shall be replaced with healthy materials of like size and kind.

c. The noise generated by such unit shall not exceed 65dB(A) when measured from the nearest point at the property line, as determined by the manufacturer's specifications. Testing or maintenance of such unit shall only be permitted between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday.

d. The unit shall be located within the non-required rear yard. In those instances where a property owner desires a side yard location, such placement shall be subject to review and approval of the building official in accordance with conditions below:

1. Such unit shall not be located within the required minimum side or rear yard setback for the district.

2. The unit be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of the district in which it is situated as well as adjacent districts.

e. If an applicant is aggrieved by the decision of the building official, the property owner shall have the right to appeal the decision or apply for a variance from the zoning board of appeals in accordance with the provisions of this chapter.

(Ord. No. 188, § 1603, 11-8-83; Ord. No. 195, § 3, 12-11-84; Ord. No. 203, § 5, 7-8-86; Ord. No. 250, §§ 1, 2, 10-15-91; Ord. No. 307, § 1, 7-14-98; Ord. No. 337, § 1, 12-9-03; Ord. No. 348, §§ 3, 4, 11-8-05; Ord. No. 372, § 1, 5-12-09; Ord. No. 384, § 2, 6-8-10; Ord. No. 413, § 2, 11-12-13)

Sec. 24-230. - Off-street parking requirements.

There shall be provided in all districts, at the time of erection or enlargement of any main building or structure, automobile off-street parking spaces with adequate access to all spaces. The required number of off-street spaces, in conjunction with all land or building uses, shall be shown on a plan included with the application for a building permit. Compliance with the regulations of this section shall be confirmed prior to the issuance of a certificate of occupancy, as prescribed below:

(a) *Location.*

(1) In the C-1, O-1, O-2, and I-1 districts, off-street parking may be located within a front, side, or rear yard in compliance with the minimum parking lot setback requirements in section 24-196, provided that sites should be designed to avoid or minimize front yard parking to the extent practical as determined by the planning commission. Further, within the "City Center" area, as identified in the master plan, an applicant must demonstrate to the planning commission that any parking in the front yard is the best design solution in consideration of the following factors:

a. Views to and from the parking lot;

b. Compatibility with adjacent land uses;

c. Convenient access to and from the building;

d. The amount of landscaping provided to screen views of vehicles;

e. Physical features of the site, such as topography; and

f. The amount of parking in the front yard compared to the total area of the front yard.

(2) Off-street parking for other than residential uses shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve. Distance shall be measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.

(b) *Residential parking.* Residential off-street parking spaces for a single family home shall consist of a parking strip, driveway, garage or combination thereof and shall be located on the premises they are intended to serve, and subject to the provision of section 24-229, applicable to accessory buildings.

(c) *Removal of off-street parking.* Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere subject to planning commission review and recommendation for approval.

(d) *Reduction of off-street parking.* Off-street parking existing in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

(e)

Storage and repair of vehicles. Off-street parking is intended only for temporary vehicle parking related to activities on the premises. The storage of merchandise, motor vehicles for sale, recreational vehicles, limousines, or trucks and trailers is prohibited, except for uses approved for this type of storage. Use of off-street parking for the storage or parking of wrecked or junked cars or the repair of vehicles is prohibited.

(f) *Uses not mentioned.* For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use which the planning commission considers as being similar in type in terms of parking demand. For those uses found not to be of a similar character, the planning commission shall establish a requirement for off-street parking based on published parking research or acceptance of a parking study provided by the applicant in accordance with subsection 24-230(m).

(g) *Off-street parking space requirements.* The minimum number of off-street parking spaces by type of use, including changes in use or building alterations or changes in employment, shall be determined in accordance with Table 24-230(1). For the purpose of computing the number of parking spaces, the definition of "floor area, total/gross," in section 24-3, shall govern.

Table 24-230(1) Parking Space Requirements	
Use	Parking Space Requirements
Residential Uses	
One-family detached and attached dwelling	2 per dwelling unit
Multiple-family dwellings	2 per dwelling unit
Recreational Uses	
Golf course country clubs	6 per golf hole and 1 space for each 1 employee, plus spaces required for each accessory use such as a driving range, restaurant or bar, provided the planning commission may reduce the total number of spaces required per (k), below
Health and athletic clubs	1 per 125 square feet of floor area
Swimming pool clubs	1 per 50 square feet of water area
Stadiums/arenas	1 per 4 seats or 8 feet of benches
Theaters	1 per 2 seats
Institutional Uses	
Churches, temples, synagogues and similar places of worship	1 per 5 seats in the main unit of worship plus spaces required for each accessory use such as a school, provided the planning commission may reduce the total number of spaces required per (k) below
Colleges, universities	1 per classroom, plus 1 per 3 students based on the maximum number of students attending classes at any one time
Elementary and middle schools	1 per teacher, employee or administrator
High schools	1 per teacher, employee, or administrator and 1 per 10 students in addition to the requirements of the auditorium or stadium, whichever seats more
Libraries and museums	1 per 300 square feet of floor area
Government buildings	1 per 250 square feet of floor area
Clubs, lodges, community centers, conference and convention halls	1 per 200 square feet of floor area

Commercial Uses	
Retail and service, except as otherwise specified in this section, grocery and food stores	1 per 200 square feet of floor area
Automobile service stations	1 per employee, plus 1 per 100 square feet of floor area used for cashier and retail sales in addition to space provided at each fuel pump dispenser
Banks	1 per 200 square feet of floor area, plus 3 stacking spaces for the first drive-up window and 1 per additional window or ATM
Stand-alone furniture store	1 per 400 square feet of floor area
Shopping centers	1 per 200 square feet of retail floor area. If a shopping center contains more than 20% of the floor area as restaurants or entertainment uses, a parking study shall be provided and prepared in accordance with subsection 24-230(m), to determine the number of spaces required in consideration of the parking requirements of such uses herein, and the peak parking demands of the mix of uses in the shopping center
Accomodation and Food Service Uses	
Sit-down restaurants without liquor license	1 per 60 square feet of floor area
Sit-down restaurants with liquor license and taverns	1 per 50 square feet of floor area
Carryout restaurants	1 per 65 square feet of floor area
Coffee house	1 per 65 square feet of floor area
Drive-through restaurant	1 per 65 square feet of floor area and 8 stacking spaces for each drive-through window
Hotel	1.25 per room, plus 1 per 100 square feet of restaurant, bar, banquet or conference facility
Professional and Medical Uses	
Business offices or professional offices (nonmedical)	1 per 250 square feet of floor area. Any restaurant or retail use with a separate entrance shall be calculated based upon the requirements for that use
Professional offices of doctors, dentists or similar professions	1 per 175 square feet of floor area. Any restaurant or retail use with a separate entrance shall be calculated based upon the requirements for that use
Combined medical and nonmedical offices	Where an office building will contain a mixture of medical and nonmedical tenants, the amount of parking shall be based upon the above parking standards and the proportion of medical and nonmedical tenants. Where the tenant mix is not known, the requirement shall be 1 per 200 square feet of floor area

(h) Reserved.

(i) Reserved.

(j) *Reduced parking requirements.* Developments proposed in C-1 commercial and O-1 and O-2 office districts may be approved by the planning commission for reduced parking area construction if all of the following conditions have been fulfilled:

(1) The planning commission determines substantial evidence has been presented by the applicant that parking requirements of the proposed use will be less than the applicable requirements of this chapter based on a parking study that shall be provided and prepared in accordance with subsection 24-230(m).

(2) The site plan for the proposed development shall illustrate that sufficient area is reserved to accommodate the required additional parking area and that site stormwater facilities are designed to accommodate runoff from the additional parking in the event construction is required in the future. The site plan shall illustrate the additional parking area with dotted parking lot layout, including dimensions and landscape islands. The additional parking area shall be maintained as landscaped open space until such time as the parking is constructed and shall not be converted to another use.

(3) An agreement between the property owner and the city, acceptable to the city attorney, shall be executed that requires construction of the additional parking area, including required landscaping and stormwater improvements, upon a determination by the planning commission of a demonstrated need for additional parking. Such determination may be made at any time subsequent to granting of the original special permit.

(4) The applicant shall provide a parking study, prepared in accordance with subsection 24-230(m), within nine (9) months of occupancy of the building, to demonstrate that actual parking demand is consistent with the approved reduction or to identify that some additional parking is required. The planning commission may specify a more expedited submittal of such a study or allow a postponement until at least eighty (80) percent of the building is occupied.

(5) An occupancy permit shall not be issued for any subsequent use until a review of the parking usage has been made by the planning commission to confirm parking is adequate. The planning commission may require the applicant to provide parking usage data.

(k) *Shared parking provisions.* Parking required for two (2) or more buildings or uses that use a common parking facility shall be equal to the required number of spaces for all of the uses computed separately, provided the planning commission may permit a reduction, if all of the following conditions have been fulfilled:

(1) The reduced number of parking spaces is supported by a parking study, prepared in accordance with subsection 24-230(m), and, for an existing site, observed conditions.

(2) The reduced parking results in additional landscaped open space equal to or greater than the amount that would have been required for the parking area.

(3) The shared parking is conveniently located in proximity to all the buildings or uses served.

(4) The location of the shared parking in relation to the buildings or uses will not create pedestrian safety hazards due to vehicular/pedestrian conflicts or physical barriers.

(5) A shared parking agreement between the property owners, acceptable to the city attorney, shall be executed.

(l) *Maximum allowed parking.* In order to improve aesthetics and minimize excessive areas of pavement that increases the amount of stormwater runoff, exceeding the minimum parking space requirements by more than twenty (20) percent shall require a special use permit by the planning commission. In granting such additional parking, the planning commission shall determine that such parking will be required, based on documented evidence, to accommodate the parking demands for the use during a typical peak parking period. The planning commission may require that additional spaces be constructed with alternative paving materials, such as permeable/grass pavers or pervious concrete. A required or requested use of alternative paving materials shall include a maintenance plan and agreement from the property owner deemed satisfactory to the planning commission.

(m) *Parking studies.* Parking studies shall be prepared by a qualified expert, such as a professional transportation engineer or professional transportation planner, based upon standards, manuals and research published by professional organizations, such as the Institute of Transportation Engineers, the Transportation Research Board and the Urban Land Institute. The planning commission may require parking studies of comparable uses in the general area as part of the study.

(Ord. No. 188, § 1604, 11-8-83; Ord. No. 250, § 3, 10-15-91; Ord. No. 383, § 2, 5-11-11)

Cross reference— Traffic and motor vehicles generally, Ch. 20.

Sec. 24-231. - Off-street parking space layout and driveway standards, construction and maintenance.

Whenever the off-street parking requirements in section 24-230, or the P-1 parking district require the building of an off-street parking facility, such off-street parking lots and associated driveways shall be laid out, constructed and maintained in accordance with the following standards and regulations:

(a) *Design.*

(1) Parking spaces and aisles shall be laid out in accord with the minimum dimensions indicated in subsection (b) of this section, exclusive of the portions of planting islands required in subsection (d), below, or other landscaped open space areas required in section 24-235.

(2) Parking spaces shall be designed so that maneuvering vehicles do not interfere with the operational area of streets, driveways, loading zones or waste receptacles.

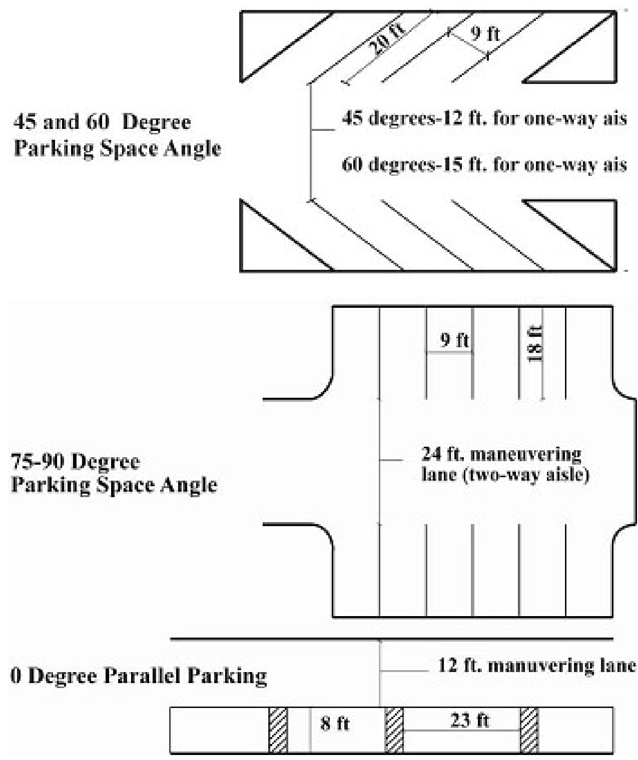
(3) Barrier-free parking spaces shall be provided in accordance with the Michigan barrier-free design.

(b) *Dimensional requirements.* Plans for the layout of the parking lot shall be in accordance with Table 24-231(1), and the following graphic, and show a total dimension across two (2) tiers of spaces and one (1) aisle (maneuvering lane).

Table 24-231(1)

Off-Street Parking Dimensional Requirements

Parking Pattern	Parking Space Width	Parking Space Length	Maneuvering Lane Width	Total Width of One Tier of Spaces Plus Maneuvering Lane	Total Width of Two Tiers of Spaces Plus Maneuvering Lane
0° (parallel parking)	8 ft.	23 ft.	12 ft.	20 ft.	28 ft.
30° to 53°	9 ft.	20 ft.*	12 ft.	32 ft.	52 ft.
54° to 74°	9 ft.	20 ft.*	15 ft.	36 ft. 6 in.	58 ft.
75° to 90°	9 ft.	18 ft.*	24 ft.	20 ft.	60 ft.
*May include a maximum of two (2) feet unobstructed vehicle overhang area at the front of the parking space upon approval of the parking layout by the planning commission.					



(c) *Access.*

(1) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.

(2) All drives shall be surfaced in a manner equivalent to that which is provided for the parking areas under section 24-167, with a geometric design and deceleration lanes or tapers as required by the city engineer or, in accordance with the design requirements of the road commission for Oakland County or the Michigan Department of Transportation for county and state roads.

(3) Driveways and parking lots must be designed to provide adequate access and circulation for fire trucks, garbage trucks, delivery vehicles and other large vehicles that will be expected to use the property. Dimensions for turning movements by these vehicles must be shown on a plan prior to the issuance of a building permit. Turning movement dimensions must be provided to demonstrate safe and adequate access to loading spaces and waste receptacles.

(d) *Driveway spacing.* Minimum spacing between a proposed nonresidential driveway and an intersection either adjacent or on the opposite side of the street shall meet the requirements in Table 24-231(2), measured from the near edge of the proposed driveway to the near lane edge of the intersecting street or pavement edge for uncurbed sections. For sites with insufficient street frontage to meet the below requirements, the planning commission may require construction of the driveway on a side street, a shared driveway with an adjacent property, or construction of the driveway along the lot line farthest from the intersection.

Table 24-231(2)

Minimum Commercial Driveway Spacing from Street Intersection

Location of Driveway	Minimum Spacing for a Full Movement Driveway	Minimum Spacing for Right-Turn Only Driveways or Those Along Woodward Avenue
Along Woodward Avenue and Long Lake Road at the intersection of a major thoroughfare (mile roads)	250 ft.	125 ft.
Along Woodward Avenue and Long Lake Road where intersecting street is not a major thoroughfare	200 ft.	125 ft.
All other streets	75 ft.	60 ft.

(1) Minimum spacing between two (2) nonresidential driveways shall be as provided in Table 24-231(3), determined based upon posted speed limits along the lot frontage. The minimum spacing indicated below is measured from centerline to centerline.

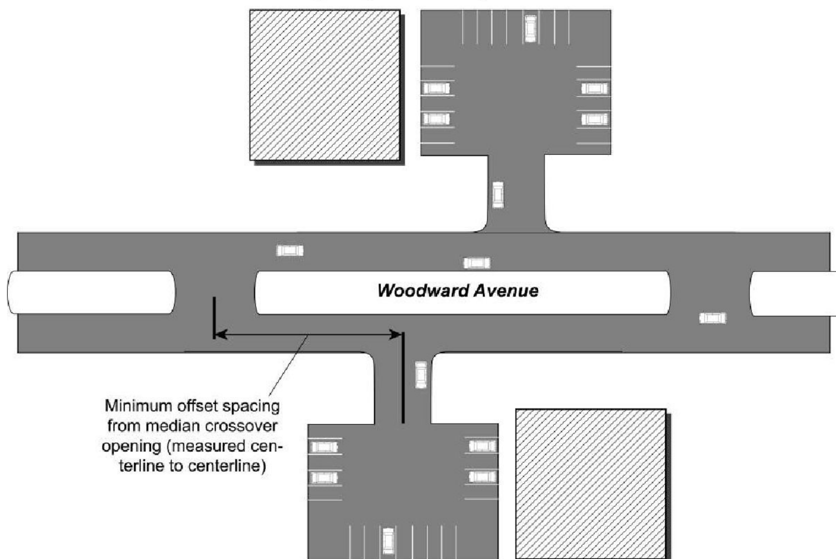
Table 24-231(3)

Minimum Commercial Driveway Spacing from Another Driveway

Posted Speed Limit (MPH)	Along Woodward Avenue and Long Lake Road	All Other Streets
25	130 ft.	90 ft.
30	185 ft.	120 ft.
35	245 ft.	150 ft.
40	300 ft.	185 ft.
45 & over	350 ft.	230 ft.

(2) To reduce left turn conflicts, new driveways shall be aligned with those across the street, where possible. If alignment is not possible along major streets, driveways shall be offset from those on the opposite side of the street a distance equal to subsection (b), above.

(3) Access points along Woodward Avenue shall also be located in consideration of the need for sufficient length to safely accommodate weaving maneuvers to or from median crossovers across travel lanes to driveways. Access points shall generally be offset a minimum of two hundred fifty (250) feet from the crossover, centerline to centerline, provided that, in some cases, a shorter dimension may be acceptable for a use that generates low traffic volumes or direct alignment may be acceptable; in both cases such location must be approved by the Michigan Department of Transportation.



(4) In the case of expansion, alteration or redesign of an existing development, where it can be demonstrated that preexisting conditions prohibit adherence to the minimum driveway spacing standards, the planning commission may modify the driveway spacing requirements. Any modification shall be the minimum necessary, but in no case shall spacing of a full-access driveway be less than sixty (60) feet, measured

centerline to centerline. As an alternative, the planning commission may restrict movements to only right turns.

(5) The number of driveways serving a property shall be the minimum number necessary to provide reasonable access and access for emergency vehicles, while preserving traffic operations and safety along the public street. Access shall be provided per separately owned lot by means of an individual driveway, shared driveway or via a service drive. Additional driveways may be permitted for property meeting one (1) of the following:

a. One (1) additional driveway for properties with a continuous frontage of over three hundred (300) feet, and one (1) additional driveway per additional three hundred (300) feet of frontage.

b. Two (2) one-way driveways may be permitted where the frontage is at least one hundred twenty five (125) feet.

c. A traffic impact study determines additional access is justified without compromising traffic operations along the public street.

(e) *Landscaping.* One (1) canopy tree shall be required for each ten (10) parking spaces, rounded upward to the nearest whole number, in accordance with the following:

(1) Canopy trees shall be a minimum of two and one-half (2½) inch caliper at the time of planting. Canopy trees shall be species of deciduous trees that normally grow to a mature height of twenty-five (25) feet or more. Up to twenty-five (25) percent of the required trees may be evergreen trees, which must be a minimum of seven (7) feet tall, at locations that do not obstruct traffic visibility. All trees shall be tolerant of a parking lot environment and adaptive to the Michigan climate.

(2) Required parking lot tree trunks shall be placed within the parking lot or within ten (10) feet from the edge of the pavement.

(3) At least one-half (½) of the required trees shall be placed within islands in the paved portion of the parking lot that includes lawn, or planting area and curbing. The planning commission may waive the curbing requirement for low-impact stormwater management facilities such as rain gardens or bioswales, based upon the recommendation of the city engineer.

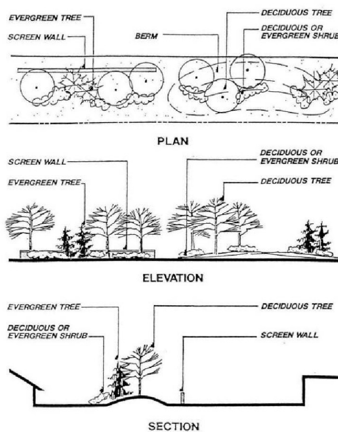
(4) Canopy trees shall have a minimum clearance of four (4) feet between the ground and the lowest branches.

(5) Landscape islands shall be dispersed throughout the parking lot to break up pavement and help direct pedestrian and traffic flow.

(6) Landscaped parking lot islands shall be a minimum of three hundred (300) square feet, a minimum width of eighteen (18) feet, a depth two (2) feet shorter than the adjacent parking space with a minimum radii of ten (10) feet at ends facing main circulation aisles and one (1) foot for other locations.

(7) Screening, landscaping and lighting shall be provided in keeping with the requirements of section 24-235.

(8) The planning commission may require additional landscaping, beyond the requirements above, for the purpose of minimizing views of vehicles where any front yard parking is proposed in the "City Center" area identified in the master plan.



(f) *Screening.*

(1) Off-street parking areas for all uses, except for single-family dwelling units, shall be provided with a continuous and essentially obscuring face brick or stone wall or a landscaped earth berm, not less than four (4) feet nor more than six (6) feet in height, measured from the surface of the parking area, adjusted to reflect topography, on all sides where the next zoning district is designated as a residential district. Where a berm is used, it shall have a maximum slope ratio of 4:1 and be landscaped with a minimum of one (1) canopy tree, two (2) evergreen trees and four (4) shrubs for each forty (40) feet of common property line length.

(2) In C-1 commercial districts and in O-1 and O-2 office districts an essentially obscuring face brick or stone wall or landscape berm shall be constructed on a side lot line where such lot line separates adjacent parking areas under separate ownership. The length and location of each wall or berm must be approved by the planning commission and shall be such as to contain within the site or minimize adverse influences of automobile parking and drives provided thereon. The wall or berm shall be not less than four (4) feet nor more than six (6) feet in height, as measured from the surface of the adjacent parking area, to reflect topographic characteristics.

(g) *Maintenance.*

(1) Parking lot pavement, curbing, pavement markings, signs, light fixtures and other similar items must be properly maintained to ensure visibility, clarity and good condition.

(2) All parking lots shall be maintained free of trash and debris.

(3) All landscaping shall be maintained in a healthy and orderly state. Any dead or diseased plants shall be removed and replaced with the same or similar species within one (1) year from the time that the plant dies. Trees required by this section must be maintained so long as they remain healthy and shall not be removed unless approved by the city.

(h) *Parking structures.* Parking structures shall meet the following requirements:

(1) Parking stall and driving aisles shall meet the parking lot layout requirements of section 24-231, above.

(2) Internal arrangement and design shall be reviewed by the city engineer for appropriate grades, traffic circulation, aisle length, column spacing, ceiling height, exit stairwell and elevator location.

(3) Storage areas for entering and exiting traffic shall be long enough to minimize backups of traffic onto surrounding streets or within the garage.

(4) Adequate lighting shall be provided for the safe movement of vehicles and pedestrians and for the security of patrons and parked vehicles.

(5) Parking structures shall be set back the same distance as required for principal buildings.

(6) Parking structures shall be architecturally compatible with the buildings they serve. Building materials and colors shall match or complement the principal building. Openings within the facade of the parking structure shall have proportions that are similar to the fenestration of the principal building on the site.

(i) *Parking lot lighting.* Parking lot lighting shall be provided in accordance with section 24-250.

(Ord. No. 188, § 1606, 11-8-83; Ord. No. 383, § 3, 5-11-10)

Sec. 24-232. - Off-street loading and unloading.

(a) *Location.* On the same premises with every building, structure or part thereof used in the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained in the rear yard on the lot adequate off-street space(s) for standing, loading and unloading in order to avoid undue interference with public use of parking area or dedicated rights-of-way. The planning commission may permit central loading areas to be shared by multiple uses, such as a retail shopping center or office park.

(b) *Size.* The size of all required loading/unloading spaces shall be at least ten (10) feet by fifty (50) feet or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height. The planning commission may modify this requirement for uses that will involve smaller delivery trucks, such as offices. The size and location of the loading area shall be sufficient to prevent undue interference with adjacent required parking spaces, maneuvering aisles, or traffic flow on streets.

(c) *Approaches.* Loading dock approaches shall be constructed of concrete with a base sufficient to accommodate expected vehicle weight.

(Ord. No. 188, § 1606, 11-8-83; Ord. No. 383, § 4, 5-11-10)

Sec. 24-233. - Plant materials.

Whenever in this chapter a greenbelt or planting is required, it shall be planted to completion within three (3) months, and no later than November 30, from the date of issuance of a certificate of occupancy if the certificate is issued during the April 1 to September 30 period; if the certificate is issued during the October 1 to March 30 period, the planting shall be completed no later than the ensuing May 31; plantings shall thereafter be reasonably maintained, including permanence and health of plant materials to provide a screen to abutting properties and including the absence of weeds and refuse. Spacing, as required by this section, shall be provided in any required greenbelt or planting.

(1) Plant material spacing and size.

a. Plant material shall not be located within four (4) feet of the property line.

b. Where materials are placed in two (2) or more rows, plantings shall be staggered in rows.

c. Evergreen trees shall not be less than seven (7) feet in height. When planted in informal groupings, they shall be spaced not more than twenty (20) feet on centers. When planted in rows, they shall be spaced not more than twelve (12) feet on centers.

d. Narrow evergreen trees shall not be less than five (5) feet in height. When planted in informal groupings, they shall be spaced not more than ten (10) feet on centers. When planted in rows, they shall be planted not more than five (5) feet on centers.

e. Large shrubs shall not be less than thirty (30) inches in height. When planted in informal groupings, they shall be spaced not more than six (6) feet on centers. When planted in a single row, they shall not be more than four (4) feet on centers.

f. Small shrubs shall not be less than thirty (30) inches in spread. They shall be planted not more than four (4) feet on centers.

g. Large deciduous trees shall not be less than two and one-half (2½) inches in caliper. When placed in informal groupings, they shall be planted not more than thirty (30) feet on centers.

h. Small deciduous trees shall not be less than two (2) inches in caliper. When planted in informal groupings, they shall be spaced not more than fifteen (15) feet on centers.

(2) A mixture of plant materials (evergreen and deciduous trees and shrubs) is suggested in all landscape plans as a protective measure against disease and insect infestation. Plant materials used together shall meet the following on-center spacing requirements:

SUGGESTED PLANT MATERIALS

Evergreen Tree		*Narrow Evergreen Tree*	
Fir	Pine	Red Cedar	Junipers
Spruce	Hemlock	Arborvitae	
Douglas Fir			
Large Deciduous Tree		*Small Deciduous Tree*	
Oaks	Ginko (male only)	Flowering Dogwood	Mountain Ash

Evergreen Tree		*Narrow Evergreen Tree*	
Hard Maples	Honeylocust (seedless	Hawthorn	Hornbeam
Beech	and thornless	Redbud	Russian Olive
Lindens	varieties)	Magnolia	Flowering Crabapple
Ash	Birch		(disease resistant varieties)
Large Shrubs		*Small Shrubs*	
Deciduous	*Evergreen*	*Deciduous*	*Evergreen*
Honeysuckle	Irish Yew	Compact Burning	Spreading Yew
Lilac	Hicks Yew	Bush	(Dense, Brown's,
Border Privet	Mugo Pine	Regal Privet	Ward, etc.)
Sumac	Pfitzer Juniper	Fragrant Sumac	Low Spreading
Buckthorn	Savin Juniper	Japanese Quince	Junipers (Andora,
Pyracantha		Cotoneaster	Hughes, Tamarack,
Flowering Quince		(Cranberry,	etc.)
Barberry		Rockspray)	Dwarf Mugo Pine
Forsythia		Potentilla	Big Leaf Winter-
Cotoneaster			creeper
(Peking Spreading)			
Sargent Crabapple			

Dogwood (Red Osier, Grey)			

TREES NOT PERMITTED

Box Elder	Poplars
Catalpa	Soft Maples (Red-Silver)
Elms	Tree of Heaven
Horse Chestnut (nut bearing)	Willows

DISTANCE BETWEEN PLANT MATERIALS

Plant Material Types	Evergreen Trees	Narrow Evergreen Trees	Large Deciduous Trees	Small Deciduous Trees	Large Shrubs	Small Shrubs
Evergreen trees	Min. 10′ Max. 21′	Min. 12′	Min. 20′	Min. 12′	Min. 6′	Min. 5′
Narrow evergreen trees	Min. 12′	Min. 5′ Max. 10′	Min. 15′	Min. 10′	Min. 5′	Min. 4′
Large deciduous trees	Min. 20′	Min. 15′	Min. 20′ Max. 30′	Min. 15′	Min. 5′	Min. 3′
Small deciduous tress	Min. 12′	Min. 10′	Min. 15′	Min. 8′ Max. 15′	Min. 6′	Min. 3′
Large shrubs	Min. 6′	Min. 5′	Min. 5′	Min. 6′	Min. 4′ Max. 6′	Min. 5′
Small shrubs	Min. 5′	Min. 4′	Min. 3′	Min. 3′	Min. 5′	Min. 3′ Max. 4′

(3) Whenever a greenbelt or plant materials are required under the provisions of this chapter, a detailed planting plan of such greenbelt shall be submitted for approval prior to the issuance of a building permit. The planting plan shall indicate, to scale, the location, spacing, starting size and description for each unit of plant material proposed for use within the required greenbelt area.

(4) The planting plan shall be reviewed relative to:

a. The proper spacing, placement and location of plant materials relative to the length and width of greenbelt so as to ensure that the required horizontal and vertical obscuring effect of proposed land uses will be achieved;

b. The selection of plant materials so that root systems will not interfere with public utilities and so that fruit and other debris (other than leaves) will not constitute a nuisance within public rights-of-way or to abutting property owners;

c. The proposed relationship between deciduous and evergreen plant materials so as to ensure that the desired obscuring effect will be accomplished;

d. The size of plant material (both starting and ultimate) to ensure adequate maturity and optimum screening effet of proposed plant materials.

(Ord. No. 188, § 1607, 11-8-83)

Sec. 24-234. - Use restriction.

No portion of a lot used in complying with the provisions of this chapter for yards, lot area per family or percentage of lot occupancy, in connection with an existing or projected building or structure, shall again be used as part of the lot required in connection with any other building or structure existing or intended to exist at the same time. Where less than the total lot or parcel area is used to comply with the provisions for yards, lot area per family or percentage of lot occupancy, the plot plan shall be drawn to designate that portion used for such compliance which may not thereafter be used again and that portion not used for such compliance which may not thereafter be used again and that portion not so used and which may be used at some future time for purposes of additional construction. When the total area of a lot or parcel is required for a proposed development, this fact shall be entered on the plot plan indicating that no additional development capacity is available for that parcel.

(Ord. No. 188, § 1608, 11-8-83)

Sec. 24-235. - Landscape open space.

(a) Where parking and vehicular circulation space is provided in any zone except one-family residential districts, such parking and circulation space shall be effectively screened from public rights-of-way and/or from any adjacent residential districts by one (1) or more of the following means:

(1) Buildings in accordance with all applicable codes and ordinances of the city.

(2) Plant materials as specified in section 24-233.

(3) Earth-molding or a differential in topography not less than four (4) feet in height measured from the surface of the parking area, and so designated as to minimize the view of parked cars or paved surface.

(4) A continuous obscuring face brick or stone wall not less than four (4) feet and not more than six (6) feet in height measured from the surface of the parking area, adjusted to reflect topographic characteristics. Whenever such wall is required, all land between such wall or fence and the lot line or boundaries of P-1 districts shall be kept free from refuse and debris and shall be landscaped with deciduous or evergreen plants, and ornamental trees of height and size and density as approved by the planning commission. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.

(5) Parking decks, underground garages or other effectively screened parking structures.

(b) All landscaping plans shall be submitted to the planning commission for approval as to suitability of planting material and arrangement thereof, in accordance with the provisions of the preceding paragraph.

(c) Where lighting facilities for parking or exteriors of buildings are provided, they shall be so arranged or so screened by landscaping or other means as to reflect the light away from residential districts and public rights-of-way.

(d) For the purposes of computing the landscaped open space as required in section 24-196, the following shall apply:

(1) Impervious surface areas intended solely for pedestrian walkways or plant holders or structures that have no purpose other than for decoration, such as, but not limited to, sculptures and pieces of art, shall be included as open space, provided that such areas shall not exceed thirty (30) percent of the total required landscaped open space.

(2) Patios or terraces, including those portions of patios and terraces which can be used for pedestrian walkways, shall not be calculated as open space.

(3) Tennis courts, sports courts and other recreational courts, whether pervious or impervious, shall not be calculated or included as open space.

(4) Impervious surfaces adjacent to swimming pools and/or cabana areas shall not be calculated as open space.

(5) Only those portions of planting islands within parking lots, and open space area at the perimeter of parking lots, which are located beyond the maximum vehicle overhang as permitted in section 24-231(4) shall be included as landscaped open space. The minimum width of a planter island shall be four (4) feet, exclusive of the vehicle overhang area.

(6) Necessary drives of a width not exceeding ten (10) feet and the length being the single most direct route between the road right-of-way and a garage bay area not exceeding twenty (20) feet in width and twenty (20) feet in depth may be included as open space. Any area of a drive exceeding those dimensions are not considered open space.

(Ord. No. 188, § 1609, 11-8-83; Ord. No. 303, § 2, 11-13-97; Ord. No. 439 , § 1, 10-7-19; Ord. No. 441 , § 3, 1-14-20; Ord. No. 452 , § 2, 7-12-22)

Sec. 24-236. - Site plan review (all districts).

(a) *By planning commission.* Preliminary and final site plans shall be submitted to the planning commission for approval of:

(1) Any use or development for which the submission of a site plan is required by any provision of this chapter;

(2) Any development, except one-family residential, for which off-street parking areas are provided as required in section 24-230;

(3) Any use in an A-5, A-6, B-1, C-1, O-1, O-2, I-1 and P-1 district lying contiguous to or across a street from a one-family residential district;

(4) Any use which lies contiguous to a major thoroughfare;

(5) All residentially related uses permitted in one-family districts such as but not limited to churches and golf and country clubs.

(6) Any site condominium project shall be subject to the requirements of this section and also all of the requirements of section 24-245.

(7) Any proposed subdivision shall be subject to the requirements of this section as well as all of the requirements of Article III, Subdivision Controls, of Chapter 19 of the Bloomfield Hills' City Code. In the event that there are any conflicts between the requirements of this section and the requirements of Article III, Subdivision Controls, of Chapter 19 of the Bloomfield Hills' City Code shall control.

(b) *Considerations.* In reviewing the site plan, the planning commission shall consider:

(1) One-family development on the basis of a subdivision layout.

(2) The location and design of driveways providing vehicular ingress to and egress from the site in relation to streets giving access to the site and in relation to pedestrian traffic.

(3) The traffic circulation features within the site and location of automobile parking areas, and may make such requirements with respect to any matters as will ensure:

a. Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets;

b. Satisfactory and harmonious relations between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.

(4) The adequacy of essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, utilities and schools.

(5) The desirability and stability of the proposed development in order to ensure the contiguous property will not be unreasonably affected.

(6) The planning commission may further require landscaping, fences and walls in pursuance of these objectives and same shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant.

(c) *Form, contents of site plans.* Every preliminary and final site plan submitted to the planning commission in accordance with the requirements of this section shall contain such information and be in such form as prescribed in this section. No site plan shall be approved until same has been reviewed for compliance with the standards of all applicable ordinances of the city.

(d) *Rules for site plan submission (all zoning districts).*

(1) *Statement of purpose.* The requirements set forth in this section are intended to provide the sponsors of projects requiring site plans with guidelines which will expedite the submission and review of plans, and which will generate clear understandings between the developer and the city and its representative.

(2) *Application for site plan review.*

a. *Submission of application.* In order to be placed on the agenda and considered, an application for site plan review, with all requisite material, shall be delivered to the office of the city clerk in accordance with the schedule adopted by city commission.

b. *Contents of site plan review application.* The application shall state:

1. The legal description of the land involved. If separately described parcels of land owned by more than one (1) party are involved, then all the information required in this and the following subsections shall be separated and supplied as to each individual parcel.

2. The purpose of the proposed site development.

3. The name of the owner of the fee simple legal and equitable title to the land, and current address and telephone number of same, and if an artificial entity, the name, address and telephone number of the natural person who is the legal representative.

(3) *Material to accompany application.* The material required to accompany an application is divided essentially into the following categories:

a. An area map showing the site location relative to the section, major thoroughfares, public lands and abutting uses. Property lines shall be submitted in eleven (11) copies, one (1) of which shall be a reproducible transparency. The area map may be placed on a sheet of the topographic map if suitable space is available. Otherwise, the area map shall be drawn on a separate sheet either eight and one-half (8½) by eleven (11) inches or eleven (11) by fifteen (15) inches.

b. Plans and data displaying the characteristics of the site and its surroundings (see subsection (d)(4), Information concerning existing condition of site and surrounding area).

c. Plans and data displaying the proposed developed condition of the site, including topographic alterations, improvements, facilities and structures. The site plan shall show complete and detailed information with exact dimensions which, when approved by the planning commission, shall be understood to represent a firm commitment, and from which actual site development shall not deviate excepting upon approval by the planning commission of a revised site plan.

(4) *Information concerning existing condition of site and surrounding area.* The following information displaying the characteristics of the site and its surroundings shall be provided:

a. Property survey. There shall be supplied a property survey presented on a drawing at suitable scale, signed and sealed by a registered land surveyor with notation of the date of survey. The property survey information may be presented on the required topographic survey drawing. If not a separate drawing, the property survey shall be submitted in eleven (11) legible copies, one (1) of which shall be a clearly reproducible transparency.

b. Topographic survey. There shall be supplied a topographic map made, signed and sealed by a registered land surveyor or a civil engineer licensed to practice in the state. Accurate photogrammetric surveys made under the direction of and verified by a registered land surveyor or civil engineer and with supplemental details and data added by one (1) of the foregoing will be acceptable, and shall include:

1. Scale and sheet size. The topographic survey shall be presented on plan or map drawn to a standard engineer's scale not smaller than fifty (50) feet to one (1) inch. Plan sheets shall be not larger than thirty (30) inches by forty-two (42) inches. Additional matching sheets shall be used if the area covered at the scale used exceeds the thirty-inch by forty-two-inch size.

2. Datum. All elevations shall be on U.S.C. and G.S. datum.

3. Information required. The topographic map shall be drawn true to scale throughout and shall show at least the following information:

i. The surface configuration and elevation of the land and all abutting streets, highways and alleys.

ii. All existing structures on the site and on abutting property within such distance beyond the property lines as the topographic map is required to extend as provided in this section for various sizes and types of sites. The dimensions, type of construction and use of each structure shall be noted.

iii. All single trees having trunk diameter of four (4) inches or more at four (4) feet above the ground shall be shown and identified. Wooded areas shall be delineated by symbolic lines tracing the spread of outermost branches and shall be described as to the general sizes and kinds of trees contained.

iv. All watercourses including defined intermittent drainage lines shall be located and identified as to character and size.

v. All bridges and culverts which provide passage of stormwater onto or away from the site, under abutting roads, shall be shown with details of sections, length and elevation listed.

vi. All recorded easements across the site shall be shown, as shall all evidences of possible unrecorded easements such as existing roadways, pipelines, pole lines, etc.

vii. The details of improvement of abutting streets and thoroughfares shall be shown, including width and kind of surfacing, curbs, shoulders and ditches (all with all dimensions and elevations requisite to provide a clear definition of existing conditions). Trees or planting within street or highway right-of-way shall be shown.

viii. All existing roadways or driveways entering abutting streets or thoroughfares from the site, or from adjoining land within the limits of survey overlaps hereinafter listed, and all streets, roadways or driveways entering the opposite sides of abutting streets or highways within the same limits, shall be delineated on the map.

ix. The use of properties on the opposite side of abutting streets or thoroughfares, and of all properties abutting the site shall be noted on the map.

x. Where abutting thoroughfares have been officially designated for eventual widening, the existing centerline and the proposed future right-of-way line shall be shown.

xi. All existing utilities including storm and sanitary sewers, water mains, gas mains, electric and telephone lines, located in streets, alleys or easements abutting the site shall be identified and shown in their true locations and the locations dimensioned in relation to right-of-way or easement lines. All visible utility structures, including manholes, wells, shut-off boxes and catchbasins shall be shown in their true locations. Field measured elevations of flow lines of storm and sanitary sewers shall be shown. Known proposed utility lines shall also be shown and identified.

4. Extent of topographic survey and map; details of representations of land configuration. The extent and type of topographic survey and map shall be as follows:

i. For a site of not more than three (3) acres, excluding the existing right-of-way of any undedicated thoroughfare and the declared future right-of-way of any existing thoroughfare, the survey and map shall extend to a distance of at least fifteen (15) feet beyond the lines between the site and abutting properties and shall cover abutting streets or thoroughfares to distances not less than thirty (30) feet beyond the limits of the site.

ii. For a site of more than three (3) acres and not more than ten (10) acres excluding the existing right-of-way of any undedicated thoroughfare and the declared future right-of-way of any existing thoroughfare, the survey and the map shall be extended at least forty (40) feet beyond the lines of abutting properties and shall cover abutting streets or thoroughfares to distances of not less than one hundred (100) feet beyond the limits of the site.

iii. For a site of more than ten (10) acres, the survey and map shall be extended at least one hundred (100) feet beyond the lines of abutting properties and shall cover abutting streets or thoroughfares to a distance of not less than two hundred (200) feet.

iv. Surface configuration of the surveyed area shall be shown by contours which shall be at elevation intervals as follows:

Rate of Slope of Surface	Maximum Contour Interval
Up to 3 feet in 100 feet	1 foot
Between 3 feet and 20 feet in 100 feet	2 feet
Greater than 20 feet in 100 feet	5 feet

Contour elevations shall be identified at sufficiently frequent intervals to make the map readily comprehensible. At each of the listed contour intervals, every fifth contour shall be accepted. Elevation in figures shall be noted at highest points within hilltop contours, at lowest points within depression contours and at control points between equal contours denoting saddle formation. Within street and thoroughfare rights-of-way, contours shall be supplemented by noting in figures the elevation of all controlling points.

(5) *General requirements.*

a. Responsibility. A site plan may be prepared under the principal direction of a registered architect, registered civil engineer, registered community planner, registered land surveyor or registered landscape architect (licensed to practice in the state).

b. Details.

1. The site plan shall be prepared at the same scale and in the same sheet arrangement as the topographic map so as to permit ready comparison.
2. Each sheet of the site plan shall show a north arrow and a notation of the drawing scale. The principal sheet of the plan shall show a graphic scale as well as scale in figures.
3. The name of the proposed development and the name and address of the proprietor or responsible developer shall appear on each sheet of plan. Each sheet of plan shall bear a drawing number and date of completion.
4. Any drawing altered after initial submission to the planning commission shall bear notations stating the date and nature of each revision.
5. The survey dimensions of the site shall be shown on the site plan.
6. All abutting thoroughfare and street rights-of-way with center line indicated and all existing street improvements which will be undisturbed by the site development shall be reproduced on the site plan.

(6) *Additional requirements.*

a. *Preparation.* With the requirements of subsection (d)(2), Application for site plan review, satisfied, a preliminary site plan shall present the proposed development to at least meet the minimum requirements set forth in this chapter: section 24-196, Schedule of regulations; article IV, General Provisions, and article III, General Exceptions. The sections applying to all site plans would include, but are not limited to:

1. Section 24-196 (including footnotes), Height, bulk, density;
2. Section 24-211(7), General exceptions, rooftop equipment;
3. Section 24-230, Parking requirements;
4. Section 24-231, Off-street parking space layout;
5. Section 24-233, Plant materials;
6. Section 24-235, Landscaped open space.

The plan shall be completely dimensioned and shall be specific relative to data presented.

b. *General details.* The following data, where applicable, shall be presented with each site plan:

1. A statement of land area, in acres, and each land type, including:
   i. Total area of site in question.
   ii. Area in existing and proposed public or dedicated private streets in each land use type.
   iii. Total area falling within subaqueous, swampy or submerged bottomland of lakes or streams.
2. A statement of density projected for the site including the number of total rooms and/or dwelling units projected for the site eligible for computation of density.
3. A statement, with all computations included, indicating usable area for the computation of off-street parking needs, and the proposed number of spaces provided. The parking layout shall be fully dimensioned.
4. On a separate sheet, the following details shall be superimposed on the site plan:
   i. Finished elevations of grading and paving shall be calculated and shown on the plan.
   ii. The storm drainage system shall be shown in specific location on the plan, with catchbasins, manholes and deflection points in ditches (if any) positioned by dimension. Controlling flow line elevations shall be shown.
   iii. On-site sanitary sewers, if any, shall be shown in specific location on the plan, with manholes and building sewer connection locations positioned by dimensions. Controlling flow line elevations shall be shown.
5. Structure dimensions and locations.
   i. Each structure shall be completely dimensioned in plan or alternatively if the structure outline involves many offsets, the preliminary plan may show a rectilinear envelope within which the structure will be totally contained. If the latter alternative is adopted, spacing between envelopes, property boundaries, roadways and other features shall be not less than the minimum spacing for structures in the same circumstances.
   ii. The location and orientation of each structure (or structure envelope) shall be positively fixed on the plan by dimensions and directions.
6. Off-street parking layouts, landscape plans and wall details shall be fully dimensioned and specified in detail so as to meet the requirements of those sections of this chapter pertaining to the related facilities and improvements.

(e) *Conditional approvals.*

(1) A preliminary plan may be approved by the planning commission without having the following material finalized:

a. Landscape plan;
b. Floor plan;
c. Grading plan.

A statement must be furnished on the preliminary plan by the sponsor of the project indicating that the final plan will meet the requirements of this chapter.

(2) The final plan shall show all details and requirements of this chapter prior to final approval. Conditional approval shall not be permitted in the final plan stage.

(f) *Duration of approval.*

(1) Preliminary plans approved shall remain effective for a period of six (6) months from the date of approval. If final plans are not submitted within this period, the approval of preliminary plans shall cease to be effective.

(2) Approval of a final site plan by the planning commission shall remain firm for a period of one (1) year, during which construction of the development covered by the plan shall be initiated and carried on with reasonable diligence. If construction is not initiated within one (1) year from the date of approval of the site plan, such failure shall be considered abandonment of the plan and shall render its approval null and void. If construction, once started under an approved site plan, is discontinued for a period of six (6) months, the undeveloped portion of the plan shall be considered abandoned and its approval shall be null and void. If extended approval is desired for a site plan, upon which construction is not started within one (1) year, or for the uncompleted portion of a site plan upon which work has been discontinued for six (6) months, a new application shall be made to the planning commission who will reconsider the plan in the light of regulations and conditions then existing. The duration of any extension of approval granted by the planning commission shall be determined by the planning commission, but in no case shall be more than one (1) year, for any one (1) extension.

(g) *Fees.* Fees for review of site plans shall be established from time to time by a resolution of the city commission.

(h) *Engineering plans, specifications, inspection.* Subsequent to site plan approval, and before any construction proceeds, complete engineering plans and specifications for construction of storm sewers and drains, sanitary sewers, water mains, roads and parking area improvements, all conformed to the city's standard requirements, shall be submitted for review and approval by the city and, when required, by county and state agencies. Construction of any of the above improvements shall not be commenced until the requisite deposit to cover inspection costs has been paid to the city and a construction permit is issued.

(i) *Improvements.*

(1) As used in this section, "improvements" means those features and actions associated with a project which are considered necessary by the planning commission in granting site plan approval, to protect natural resources or the health, safety and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including roadways, parking, lighting, utilities, sidewalks, screening, drainage and similar features. Improvement does not include the entire project which is the subject of site plan approval.

(2) To ensure compliance with this chapter any conditions imposed by this chapter, the planning commission may require that a cash deposit, certified check or irrevocable bank letter of credit, acceptable to the city, covering the estimated cost of improvements associated with a project for which site plan approval is sought, be deposited with the city clerk to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the building permit. The planning commission shall not require the deposit of the performance guarantee prior to the time when the city is prepared to issue the permit. The planning commission shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses.

(Ord. No. 188, § 1610, 11-8-83; Ord. No. 242, § 1, 12-11-90; Ord. No. 363, § 1, 11-13-07; Ord. No. 386, § 1, 6-8-10)

Sec. 24-237. - Purpose.

The purpose of this section is to establish standards which preserve and enhance the physical appearance and natural beauty and strengthen the character of the city as recommended in the master plan. These standards are also intended to foster a more attractive economic and business climate which protects the general health, safety and welfare of the community.

(Ord. No. 421 , § 1, 11-10-15)

Sec. 24-237(A). - General rule.

The design standards in this section apply to all buildings, building alterations other than routine maintenance and site plans associated with all zoning districts, except those in one-family dwelling districts.

(Ord. No. 421 , § 1, 11-10-15)

Sec. 24-237(B). - Administration.

(1) *Requirement for approved design: nature of review.* Except for one-family dwellings, no permit for the erection, construction, alteration or repair other than routine maintenance of any building or structure or any site development which involves an exterior design feature shall be issued by the city unless and until the planning commission grants an approval which conforms with the design standard requirements as provided in this section. The planning commission may determine that no exterior design feature is involved in the work for which the approval is sought, in which case the planning commission may so specify.

(2) *Application.* Drawings and plans for site development and erection, construction, alteration or repair of any building or structure shall be required as part of the site plan review application. Site development plans shall conform to the requirements described in section 24-236. Building and structure plans shall be at a scale of not smaller than one (1") inch equals twenty (20') feet and conform to all city requirements. All plans shall provide sufficient detail to

illustrate clearly the design for which approval is sought. Such plans shall show the following:

(a) Site plans shall show existing conditions, topography, trees (both public and private) and natural features, all structures and uses, improvements, public streets, rights-of-way, sidewalks, zoning, public and private easements and restrictions, and the official grade of public rights-of-way, as established by the city engineer or the county road commission for the subject site and all property within the distance required by section 24-236.

(b) Architectural elevations shall show all exterior building elevations, colors of exterior walls, trims and roofs, lighting materials, ornamental, pictorial or decorative material to be used in or about the exterior of the structure. Samples of building materials and colors shall be submitted.

(c) Such other information as may be required by the planning commission to permit reasonable consideration of the application.

(Ord. No. 421 , § 1, 11-10-15)

Sec. 24-237(C). - Design standards.

(1) *Criteria.* The design standards herein provide criteria which shall be considered in the design of the site, buildings and structures, plantings, signs, site accessories and other miscellaneous structures which are observed by the public. These criteria are not intended to restrict imagination, innovation, or variety, but to provide a guide for decision making that will maintain the character and enhance the visual appearance of the city. The standards in this section are a supplement to regulations and requirements contained in other sections of this chapter including, but not limited to; area, bulk and other requirements of particular zoning districts, schedule of regulations, general provisions which govern off-street parking, plant materials, landscape open space and enclosure of exterior service areas. The standards shall be applied during the site plan review process.

(2) *Site and building design.*

(a) To the extent reasonably feasible, building design, scale and location on site shall be compatible with the character of the site, adjacent buildings, and surrounding area.

(b) Architectural style is not restricted. Evaluation of appearance of a project shall be based on the quality of its design and relationship to surroundings. Harmony in texture, lines, and masses is required.

(c) Adjacent buildings of different architectural styles shall be transitioned by such means as screens, site breaks, and materials.

(d) Monotony of design in single or multiple building projects shall be avoided. Variation of building detail and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.

(e) Buildings shall be constructed of quality, durable materials such as brick and stone. Synthetic finishes such as Exterior Installation Finishing System (EIFS), vinyl and aluminum shall be limited to building accents unless unusual conditions mandate their expanded use.

(f) Building materials shall be selected for suitability to the character and type of building and the design in which they are used. Buildings shall have the same materials, or those which are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.

(g) In a building design where the structural frame is exposed to view, the structural materials shall meet the criteria for materials described in this section.

(h) Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationship to one another.

(i) Colors shall be harmonious with the character of the site, buildings, and surrounding area and not used to draw attention, i.e. serve as a sign.

(j) Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so as not to be visible from any public ways or residential district.

(k) Exterior lighting shall be part of the architectural concept. Fixtures and all exposed accessories shall be harmonious with building design.

(l) Refuse and waste removal areas, service and storage yards, and exterior work areas shall be screened from view from public ways using materials as stated in criteria for equipment screening.

(m) Parking areas shall be designed to avoid front yard parking to the extent practical and include decorative elements, building wall extensions, plantings, berms or other innovative means so as to largely screen parking areas from view from public ways.

(n) Newly installed utility services and service revisions necessitated by exterior alterations shall be underground, unless not reasonably feasible.

(o) All new fences, walls, gates and columns to be located on properties in commercial, office or institutional zoning districts shall comply with the requirements of section 24-242(c) unless reviewed and approved by the planning commission.

(3) *Landscape and site treatment.*

(a) Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water features, and all visible construction except buildings and utilitarian structures. Landscape and site treatment shall complement and be compatible with the character of the site and surrounding area.

(b) Where natural or existing topographic conditions contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography may be allowed (as permitted by ordinance) where it improves site appearance.

(c) Landscape treatment shall be provided to enhance architectural features, strengthen vistas and important relationships, and provide shade. Spectacular effects shall be reserved for special locations only.

(d) Unity of design shall be achieved by repetition of certain plant varieties and other materials, and by correlation with adjacent developments.

(e)

Attractive landscape transition to adjoining properties shall be provided.

(4) *Miscellaneous structures and site accessories.*

(a) Miscellaneous structures include any structures, other than buildings, visible to view from any public way. Site accessories include all objects not commonly referred to as structures and located outside of buildings and in public view.

(b) Miscellaneous structures and site accessories located on private property shall be designed to be part of the architectural concept of building design and landscape. Materials shall be compatible with buildings, scale shall be in proportion to site and buildings, and colors shall be in harmony with buildings and surroundings.

(c) Lighting in connection with miscellaneous structures and site accessories shall meet the criteria applicable to the site, the landscape, the buildings and the signs.

(5) *Maintenance; planning and design considerations.* Selections of materials and finishes shall consider their durability, wear and maintenance requirements, and visual appearance. Proper measures and devices shall be incorporated into the design for protection against the elements, neglect, damage and abuse and which provide for appropriate maintenance.

(Ord. No. 421 , § 1, 11-10-15; Ord. No. 441 , § 2, 1-14-20)

Sec. 24-237(D). - Appeals.

An appeal shall be taken by filing with the zoning board of appeals a notice of appeal specifying the grounds thereof pursuant to article VI, section 24-280.

The zoning board of appeals shall consider whether to uphold the decision in whole or in part or whether to reverse the decision in whole or in part.

(Ord. No. 421 , § 1, 11-10-15)

Sec. 24-238. - Enclosure of exterior service areas.

In all zoned districts, except one-family residential, rubbish and garbage collection areas and other service areas shall be enclosed by an obscuring structural appurtenance not less than five (5) feet in height, or as approved by the planning commission. The structure, location and materials shall be acceptable to the planning commission as a prerequisite to issuance of a building permit.

(Ord. No. 188, § 1611, 11-8-83; Ord. No. 363, § 1, 11-13-07; Ord. No. 421 , § 3, 11-10-15)

Editor's note— Ord. No. 421 , §§ 1, 3, adopted November 10, 2015, added new provisions set out as §§ 24-237, 24-237(A)—24-237(D) and renumbered the remaining §§ 24-237—24-240 as §§ 24-238—24-241.

Sec. 24-239. - Access through yards.

For the purpose of this chapter, access drives may be placed in the required front or side yards so as to provide access to rear yards and/or accessory or attached structures. These drives shall not be considered as a structural violation in front or side yards. Further, any walk, terrace or other pavement serving a like function, and not in excess of nine (9) inches above the grade upon which placed, shall, for the purpose of this chapter, not be considered a structure and shall be permitted in any required yard.

(Ord. No. 188, § 1612, 11-8-83; Ord. No. 421 , § 3, 11-10-15)

Editor's note— Former § 24-239. Please see editor's note, § 24-238.

Sec. 24-240. - Residential entranceway.

(a) In all A-1 through A-6 and in B-1 residential districts, so-called entranceway structures, including, but not limited to, walls, columns and gates marking entrance to one-family subdivisions and multiple-family developments may be permitted and may be located in a required yard. Such entranceway shall comply with all codes and ordinances of the city and to ensure such compliance, the chief building inspector will certify to such compliance and issue permit for such use.

(b) When such entrance ways include any sign as part of the structure, the zoning board of appeals shall review the proposal in accordance with the standards set forth in section 24-283 prior to the granting of approval by the chief building inspector. The zoning board of appeals shall require that any numerals, letters or graphics included as part of the structure shall refer only to the subdivision or development upon which located, and it shall find that such sign shall represent a minor portion of the structure.

(Ord. No. 188, § 1613, 11-8-83; Ord. No. 421 , § 3, 11-10-15)

Editor's note— Former § 24-240. Please see editor's note, § 24-238.

Sec. 24-241. - Reception antenna facilities.

In all zoning districts, the installation and/or use of a reception antenna facility shall be considered to be a special land use, and shall be permitted only as an accessory use, and only as authorized in the following provisions of this section. Application for approval of this special land use shall be filed with the city clerk, who shall place the application on the agenda of the planning commission. Notice of the time and place of the planning commission's consideration of the application shall be given in the manner provided for zoning board of appeals hearings pursuant to section 24-282 of this chapter and by notice published in a newspaper of general circulation in the city not less than five (5) or more than fifteen (15) days before the hearing. Upon review of the application, the planning commission shall grant approval if it is found that the plans comply in all respects with this chapter.

(1) *Objectives.* It is the intent and purpose of this section to provide reasonable regulation for the mounting of reception antenna facilities. The objectives of these regulations are:

a. To promote safety, and prevent dangers to persons and property resulting from accidents involving antenna facilities which become dislodged in whole or in part and fall from building or structural mountings due to wind load, snow load, and/or other factors and/or instrumentalities which may reasonably be expected to impact upon such facilities when so mounted;

b. To promote utilization of ground mounting for antenna facilities where reasonably feasible;

c. To require the screening of ground-mounted facilities, and the minimizing of visibility with respect to roof or structure mounted facilities, in the interest of maintaining high architectural and aesthetic quality of property improvements, and in the interest of maintaining and preserving property values;

d. To conditionally exclude from the operation of this section, conventional VHF and UHF television antennas, based upon the following findings: there is relatively small concern for wind and snow load issues; there has been a long demonstrated safety record; there has been an historical acceptance of such facilities from architectural and aesthetic standpoints; and, the cost of complying with the procedure for application and review would be greater in relation to the cost of purchasing and installing the facility;

e. To balance and minimize the regulation of the place and manner of reception antenna installation based upon the right and duty of the city to promote and protect the public health, safety and welfare by the exercise of its police powers in relation to the right of the public to construct and use reception antennas to receive signals without unreasonable restriction.

(2) *Ground-mounted facilities.* Ground-mounted reception antenna facilities shall be subject to the following conditions.

a. The maximum height of any part of the facility shall be fourteen (14) feet;

b. The antenna facility shall be located only in the rear yard area, but shall not be located in a required yard setback area;

c. The antenna facility shall be obscured from view from adjacent properties by a screening wall or fence, berm, evergreen plantings, or a combination of such means, provided, if there is no conforming location on the property where the facility may be so obscured from view, screening shall be accomplished to the extent reasonably feasible, as proposed by the applicant and approved in the discretion of the planning commission, by the aforementioned means.

(3) *Roof- or structure-mounted facilities in single-family residential districts.* In single-family residential districts, reception antenna facilities mounted on a roof of a building, or on a structure more than three (3) feet in height, shall be subject to the following regulations:

a. The antenna facility itself shall not be larger than eight (8) feet in height and/or width. Moreover, the facility shall be of perforated, mesh or rod and/or pole construction, and shall not be of solid sheet or panel construction.

b. A roof-mounted antenna facility shall be located on that portion of the roof adjacent to the rear yard on the property, and a structure-mounted facility shall be located in the rear yard area but shall not be located in a required yard setback area. The applicant may, however, propose in the application to situate the antenna facility in an alternative location, provided, the applicant shall set forth in the application an explanation as to why:

1. The alternative location is as safe or safer; and

2. Visibility of the antenna facility from adjacent properties, and by pedestrian and vehicular passers-by, is reduced or unaltered in relation to the rear yard orientation/location.

c. No part of the antenna facility shall extend higher than;

1. Three (3) feet above the ridge and/or peak of the roof, but in no event higher than the maximum height limitation in the zoning district, in the case of a building mounted facility; and/or

2. Seventeen (17) feet above grade in the case of a structure mounted facility.

d. If it clearly appears to the planning commission in the review of an application that the location of the antenna facility results in less than maximum safety and/or minimum visibility:

1. In the case of a roof-mounted facility, the planning commission shall condition approval of the special use upon the facility being situated in a specified location, including a ground-mounted location, and/or upon the applicant proposing and the planning commission approving a satisfactory screening device; or

2. In the case of a structure-mounted facility, the planning commission shall condition approval upon the facility being situated in a specified location and/or the facility being further screened by wall, fence, berm, evergreen plantings, or a combination of such means.

(4) *Roof- or structure mounted facilities not situated in single-family residential districts.*

a. Reception antenna facilities mounted on the roof of a building in districts other than a single-family residential district shall be subject to the requirements of section 24-211(7), and such requirements shall apply whether or not the facility would exceed the height limits of the zoning district.

b. Reception antenna facilities mounted on a structure other than the roof of a building in districts other than single-family residential shall be subject to the regulations contained in subparagraphs a through d, inclusive, of paragraph (3) above.

(5) *Interpretation guidelines.* The provisions of this section shall be interpreted to carry out the stated objectives of this section, and shall not be interpreted so as to impose costs on the applicant which are excessive in light of the purchase and installation cost of the antenna facility and accessory equipment.

(6) *Conditional exemption.* Conventional VHF and/or UHF television antennas which have width and height dimensions of not more than one hundred thirty-five (135) inches and ten (10) feet, respectively, which are situated on that portion of the roof adjacent to the rear yard on the property, and which do not extend higher than eight (8) feet above the ridge and/or peak of the roof or the maximum height limitation in the zoning district, shall be exempted from the requirement of applying for and receiving approval under this section.

(7) *Reception antenna facility.* No reception antenna facility shall be installed, constructed, erected, used, or moved upon property within the city without an accessory structure building permit required by section 24-258(d) being applied for and issued.

(Ord. No. 188, § 1614, 11-8-83; Ord. No. 197, § 2, 5-14-85; Ord. No. 201, § 1, 2-11-86; Ord. No. 203, §§ 2, 3, 7-8-86; Ord. No. 278, § 2, 5-10-94; Ord. No. 421 , § 3, 11-10-15)

Editor's note— Former § 24-241. Please see editor's note, § 24-238.

Sec. 24-242. - Fences in residential districts.

(a) *Permits required.* No fence, wall, gate or column structure shall be erected or replaced without the prior issuance of a zoning permit from the city. Any front or side yard fence, wall, or gate, permitted in this section is subject to review and approval by the planning commission. Retaining walls do not require review and approval by the planning commission but shall comply with the standards contained in subsection 7.5-2(10) of the Grading Ordinance and shall not adversely impact drainage conditions onto adjacent properties.

(b) *Development standards for fences, walls, gates, and columns.*

1. All fences, walls, gates and columns shall meet the following requirements:

a) The finished side of the fence, wall or gate shall face the adjacent property or private or public right of way.

b) Fences, walls, and gates shall be constructed of high quality, durable materials including brick, natural stone, decorative wood, or decorative metal such as wrought iron or painted aluminum. Chain link fences and chain link gates shall be subject to the requirements of subsection 24-242(c).

c) No fence, wall, gate or column shall be located within a public or private road right-of-way or pathway easement. Any existing fence, wall, gate or column located within any road right-of-way may be required to be removed at the owner's expense.

d) A four-foot tall mailbox wooden post or column may be located within a road right-of-way. The maximum height of four (4) feet does not include the mailbox unit. A concrete, brick or mortar post or column structure containing a mailbox shall be prohibited.

e) Clear vision area. The purpose of the provisions of this section is to provide an unobstructed view of approaching traffic on the intersecting roads. Solid walls, fences, or gates shall not exceed a maximum height of thirty (30) inches and all shrubs and plants shall be pruned to a height not to exceed thirty (30) inches above the road level at its nearest point in an area bounded by the right-of-way lines of intersecting roads or easements for vehicular access, public or private and a straight line joining points on such right-of-way lines twenty (20) feet distant from their intersection. All side limbs of trees in such area shall be pruned to a height of not less than ten (10) feet above the road surface. The city engineer may prescribe greater restrictions than the height set forth in this paragraph where unusual conditions make such additional restrictions desirable in the interest of the public safety.

f) The vertical dimension of any fence, wall, gate or column shall be measured from the finished grade on both sides of any such fence, wall, gate or column to any point on top of the fence, wall, gate or column, including post/column caps and any ornamental features.

g) All fences, walls, and gates shall be maintained in good condition by the property owner.

h) The planning commission, when considering whether to approve a fence, gate, wall or column located in the front or side yard of any lot in a residential district, may take into consideration recorded deed restrictions or covenants that affect the property, particularly as such restrictions or covenants regulate or prohibit fences on the subject property.

2. Rear yard fences, walls, and gates. Fences, walls, and gates may be located in rear yard areas subject to the following requirements:

a) Fences, walls and gates shall not exceed six (6) feet in height as measured from grade.

b) Fences, walls and gates may be of open or closed construction.

c) The planning commission may allow fences, walls, and gates to exceed six (6) feet provided the following requirements are met:

i. The size, height and location of the fence, wall or gate does not in any way endanger the public safety.

ii. The size, location, height, design and materials of the fence, wall or gate are aesthetically in harmony with both the property on which it is located as well as surrounding properties.

iii.

The proposed removal of vegetation and trees and disturbance to natural terrain has been minimized.

iv. Any fence or wall may be required to be landscaped. Screen plantings required as a condition of approval for any fence or wall shall be maintained in good condition by the property owner.

v. The size, height, design and location of the fence, wall or gate does not create a traffic or pedestrian hazard.

vi. The size, height, location and nature of the fence, wall or gate shall not discourage the development of adjacent land or impair the value thereof.

vii. The size, height, and location of the fence, wall or gate shall not interfere with the view of adjacent property owners.

3. Front and side yard fences, walls and gates, not including driveway gates addressed in subsection 24-242(b)4. Front yard fences, walls and gates are prohibited in a front yard on property that faces the main entrance of the residence on the property. The planning commission may allow fences, walls and gates in other front yards, such as in a through lot, that do not face the main entrance of the residence on the property, or in a side yard subject to the following requirements:

(a) Fences, walls and gates with an open design shall not exceed four (4) feet in height.

(b) Fences, walls and gates with a solid design may not exceed three (3) feet in height.

(c) Fences, walls and gates located in front yard or side yards must be in keeping with the character of neighboring properties.

(d) All fences or walls in a front or side yard that are required by Appendix G of the Michigan Residential Code to surround a swimming pool, spa or hot tub shall be reviewed and approved by the planning commission.

(e) The size, height and location of the fence, wall or gate does not in any way endanger the public safety.

(f) The size, location, height, design and materials of the fence, wall or gate are aesthetically in harmony with both the property on which it is located as well as surrounding properties.

(g) The proposed removal of vegetation and trees and disturbance to natural terrain has been minimized.

(h) Any fence, wall or gate located in a front or side yard shall be required to be landscaped so as to sufficiently screen the fence, wall or gate from view from the road and adjacent properties. Screen plantings required as a condition of approval for any fence, wall or gate shall be maintained in good condition by the property owner and the fence, wall, or gate as well as areas on both sides of the fence, wall or gate shall be maintained in good condition by the property owner.

(i) The size, height, design and location of the fence, wall or gate does not create a traffic or pedestrian hazard.

(j) The size, height, location and nature of the fence, wall or gate shall be such that it does not discourage the development of adjacent land or impair the value thereof.

(k) The size, height, and location of the fence, wall or gate shall not interfere with the view of adjacent property owners.

(l) Exceptions: Planning Commission approval is not required for a side yard fence or wall as follows:

i. Walls, fences or gates of a solid design required to screen generators or air conditioners in compliance with section 24-229 of the Zoning Ordinance.

4. Driveway gates. The City of Bloomfield Hills Master Plan provides that visibly gated driveways (security gates) can alter the feel of a residential street and therefore, such gated driveways should be generally avoided. The planning commission may allow driveway gates in front yards adjacent to: Long Lake Road, Quarton Road, and Lahser Road right-of-ways subject to the following requirements:

a) Driveway gates located in a front yard must be of an open design and shall not exceed four (4) feet in height. The minimum unobstructed opening distance between columns located at a driveway entrance shall be sixteen (16) feet. All driveway gates located at and/or across a driveway entrance shall either be black or a dark metallic color with a matte finish and shall not exceed twenty (20) feet in length.

b) The driveway gate shall be set back on the lot such that there shall be a sufficient area between a driveway gate located in the front yard and the road to allow vehicles to turn around so as not to obstruct traffic. No portion of the area to allow vehicles to turn around shall be located in the road right-of-way.

c) Any driveway gate restricting vehicular access to property shall be accessible using a public safety department-provided code in the event of an emergency. The city shall be held harmless for any damage caused to any driveway gate by city emergency vehicles, for any damage caused to any public safety vehicles and for any delays in responding to emergencies due to the existence of the driveway gate. The homeowner (applicant) shall sign an indemnification agreement agreeable to the city.

d) Security shall not be a primary concern the planning commission approving a driveway gate.

e) The size, height and location of the driveway gate does not in any way endanger the public safety.

f) The size, location, height, design and materials of the driveway gate are aesthetically in harmony with both the property on which it is located as well as surrounding properties.

g) The proposed removal of vegetation and trees and disturbance to natural terrain has been minimized.

h) . The size, height, design and location of the driveway gate does not create a traffic or pedestrian hazard.

i) . The size, height, location and nature of the driveway gate shall be such that it does not discourage the development of adjacent land or impair the value thereof.

j) The size, height, and location of the driveway gate shall not interfere with the view of adjacent property owners.

5. Except as otherwise provided in item 5(d) herein, columns or piers may be located in a front yard or side yard subject to the following requirements:
   (a) Columns or piers shall have a maximum height of five (5) feet including decorative features.
   (b) The minimum unobstructed opening distance between columns or piers located at a driveway entrance shall be sixteen (16) feet.
   (c) The Planning Commission may allow wing walls attached to columns or piers flanking driveway entrances, provided that said wing walls do not exceed six (6) feet in length.
   (d) The Planning Commission may allow piers or columns not exceeding three (3) feet in height in auto-courts located in front yards.

(c) *Prohibited fences, walls, gates, columns types.* The following are prohibited:

1. Chain-link or cyclone fences, including any fence with bare lengths of wire stretched between metal poles, with the exception of dark green or black chain-link fences located in heavily wooded and/or vegetated areas that obscure the chain link fences from a public view, or chain link fences that are approved by the planning commission.
2. Barbed or razor wire fences, including any fence with attached barbs, sharp points, or razors.
3. Electric fences, including any fence containing an electric current or charge of electricity.
4. Any fence, wall, gate or column located within a public or private road right-of-way or pathway easement except for a mailbox column.

(d) *Fences, walls, gates, and columns requiring public notice.* Permit requests for all front and side yard fences, walls, and gates and rear yard fences, walls, and gates that exceed six (6) feet require notification pursuant to subsection 24-263(2). The notice of the public hearing, the provisions of subsection 24-263(2) notwithstanding, shall be sent to the owners of the property assessed within five hundred (500) feet of the boundary of such property.

(e) *Requirements for nonconforming fences, walls, gates, and columns.* Replacement of existing legal nonconforming fences, walls, gates, and columns shall be subject to the requirements in this ordinance. Exceptions may be granted pursuant to item (i) (below) of this ordinance, or where the strict application of these requirements will result in a hardship for the property owner.

(f) *Repairs.* Repair of short sections of legal nonconforming fences, walls, gates, or columns (repair of less than fifty (50) feet or repair of no greater than twenty-five (25) percent of total fence or wall length) will not require zoning approval if no other work is done on the same structure over a twelve-month period.

(g) *Replacement.* The replacement of any nonconforming structure shall be prohibited if the city manager determines that a public safety hazard exists or that the structure encroaches in an easement or public right-of-way. Fences and walls as determined by the city manager to contribute to the historical character of the city may be allowed to be rebuilt.

(h) *Violations.* Any fence, wall, gate or column constructed without a lawfully issued permit shall be in violation pursuant to section 24-7 of the City Code.

(i) *Exceptions.* Exceptions may be granted for the replacement of existing nonconforming fences, walls, gates and columns referenced in subsections (e) and (g), subject to a noticed hearing and upon the zoning board of appeals approval pursuant to subsection 24-278(2) making all of the following findings:

1. The height and design of the proposed fence, wall, gate or column are compatible with other such structures in the neighborhood;
2. The proposed removal of vegetation and trees and disturbance to natural terrain has been minimized; and
3. The proposed structure is otherwise in compliance with all regulations and policies set forth in the Bloomfield Hills City Code and the Bloomfield Hills Master Plan.

   Any fence, wall, gate or column proposed to be located closer to the right-of-way (public or private) than required shall require a variance in accordance with the provisions of article VI, zoning board of appeals, section 24-279 of the zoning ordinance.

(Ord. No. 208, § 1, 12-8-87; Ord. No. 391, § 2, 7-12-11; Ord. No. 404, § 2, 11-13-12 ; Ord. No. 424 , § 2, 10-18-16; Ord. No. 441 , § 1, 1-14-20; Ord. No. 444 , §§ 2, 3, 6-4-20)

Cross reference— Barbed wire fences within three feet from public sidewalk declared a nuisance, § 10-2(15).

Sec. 24-243. - Parking and storage of recreational vehicles in residential districts.

(1) For the purposes of this section, the term "recreational vehicle" shall mean any motor vehicle or trailer designed and used as a travel trailer, tractor trailer, pickup camper, camper, camping trailer, motor home, travel coach, motorized dwelling, tent trailer, boat, boat trailer, snowmobile, snowmobile trailer, horse trailer, dune buggy and any other similar equipment.

(2) No recreational vehicle shall be parked or stored on any lot in a residential district except in an enclosed garage; provided however that a recreational vehicle may be parked on a driveway or in the rear yard of a residential lot for a period not to exceed a total of twenty-four (24) hours during loading or unloading. Under extraordinary circumstances the city manager may issue a temporary permit allowing the parking of a recreational vehicle in a rear yard on private property not to exceed a period of one (1) week. All recreational vehicles parked or stored shall not be used for living, sleeping or housekeeping purposes and shall not be connected to sanitary facilities when on a residential lot.

(Ord. No. 209, § 1, 1-12-88)

Sec. 24-244. - Parking of vehicles, trailers and machinery at construction sites in all zoning districts.

Any and all vehicles, trailers and machinery associated with and/or used for construction purposes at a construction site in all zoning districts shall be required to park on the construction site at all times. *Parking on the construction site* shall be defined as the actual physical location of the vehicles, trailers and machinery on the property which constitutes the construction site. No vehicle, trailer or machinery shall be parked on the traveled portion of the street and/or in the street right-of-way in the vicinity of the construction site. In the event due to unusual soil conditions, topography or other unique features of the construction site that any vehicles, trailers or machinery cannot be parked on the construction site, application may be made to the city manager for special permission to utilize the street adjacent to the construction site upon such conditions as may be imposed by the city manager. In the event special permission is granted as outlined above, said approval shall be granted only when such parking is in conformance to the preservation of the public health, safety and welfare.

Vehicles, trailers and machinery located on a construction site which, in the judgment of the city manager, are not being utilized on a regular basis for construction purposes shall not be permitted to be parked or stored on the construction site and shall, upon the order of the city manager, be immediately removed.

(Ord. No. 229, § 1, 12-12-89; Ord. No. 425 , § 1, 2-14-17)

Charter reference— City manager, Ch. III, §§ 9, 10.

Cross reference— City manager, § 2-171, et seq.

Sec. 24-245. - Site condominium projects.

(a) *Definitions.* The following definitions shall apply in the construction and application of this section:

Building envelope shall mean the ground area occupied, or to be occupied by, the principal structure which is, or is intended to be placed on a building site, together with any attached accessory structures, e.g., house and attached garage.

Building site shall mean the condominium unit, including the building envelope, and the contiguous limited common area or element under and surrounding the building envelope and shall be the counterpart of "lot" as used in connection with a project developed under the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. Lines defining building sites (lots) shall be fully dimensioned on all plans.

Director shall mean the city manager of the City of Bloomfield Hills.

Site condominium project shall mean a condominium project proposed to be developed under Act 59 of the Public Acts of 1978, as amended, in an A-1, A-2, A-3, A-4, A-5 or A-6 zoning district.

Subdivision control ordinance shall mean and refer to the subdivision control ordinance provisions codified as Article III, Subdivision Control, of Chapter 19 of the Bloomfield Hills' City Code, the same being incorporated as part of this section by reference. In construing the subdivision control ordinance, reference to principal building or structure shall be construed as being the "building envelope" and reference to lot or parcel shall be construed as being the "building site."

(b) Approval under this section shall be required as a condition to the right to construct, expand or convert a site condominium project or the convert an existing development to a site condominium project in the city. The approval process shall involve three phases:

(1) Preliminary site plan approval.

(2) Final site approval.

(3) Final engineering plan approval.

(c) Following approval of the preliminary site plan, if the developer desires to proceed with the project, an application for final site plan approval shall be submitted for review in accordance with the requirements of this section and also the requirements of section 24-236. In addition to any information required to be submitted for site plan review, the developer shall include with the application for site plan approval, sufficient information for determination whether the project conforms with all applicable laws, codes, ordinances, rules and regulations enforceable by the city.

(1) The application for site plan review shall also include a copy of the proposed master deed, by-laws, proposed restrictions and any additional documentation to be recorded with the register of deeds, for review and approval by appropriate city consultants. The master deed shall be reviewed by the planning commission, with the advice of city consultants as deemed appropriate by the planning commission, with respect to all matters subject to regulation by the city, including, without limitation, ongoing preservation and maintenance of drainage, retention, wetland and other natural areas and common areas, and maintenance of landscaping in the project.

(2) If the site plan conforms in all respects to this section, site plan approval shall be granted by the planning commission. If the site plan fails to conform, the planning commission shall either deny the application, or grant approval with conditions with a time limit for compliance with such conditions and resubmission, as deemed appropriate by the planning commission.

(3) Site plan approval shall be effective for a period of one (1) year. Such approval may be extended if applied for by the developer within the effective period and granted by the city planning commission.

(d) Following the grant of final site plan approval, if the developer desires to proceed with the project, an application for final engineering approval shall be submitted which shall include plans and information in sufficient detail for the city and appropriate consultants to determine compliance with all applicable laws, codes, ordinances, rules and regulations for the construction of the project, including, without limitation, the design standards of Article III, Subdivision Control, of the Subdivision of Land Ordinance. Subject to applicable provisions of subsection (5), immediately following, a building permit

for construction of a unit on a building site shall be issuable at such time as final engineering plans have been approved, all applicable permits and approvals have been secured from other governmental entities, and all improvements for the project have been constructed, provided, however, the planning commission may determine that certain improvements need not be constructed prior to issuance of building permits for units on building sites on the condition that all improvements will be completed prior to issuance of a certificate of occupancy and the developer posts cash, or a letter of credit or establishes pursuant to an escrow agreement an escrow in a form, amount and with an escrow agent determined appropriate by the planning commission following advice of city consultants, for the timely completion of such improvements.

(e) Additional regulations applicable to site condominium projects.

(1) Each building site shall front on and have direct access to a street or easement.

(2) The area within each building site shall be equal in area to the lot area required by the zoning ordinance. In the case of streets, the building site area may be included to the dedicated street right-of-way line and for easements, the building site area may be included to the edge of the easement.

(3) In the case of streets, front yard setbacks shall be measured from the dedicated street right-of-way line. For easements, the front yard setbacks shall be measured from the edge of the easement.

(4) All streets shall be dedicated to the public unless private streets or easements are allowed by the planning commission. In considering whether or not to allow private streets or easements, the planning commission shall give consideration to the following criteria:

a. If the site is an unusual shape or located in such a way that right-of-way for public streets would create an impractical situation.

b. If the site contains natural features that could be better preserved through the use of private streets.

c. The use of private streets would not prevent the interconnection of existing or planned public streets.

(5) There shall be compliance with all requirements of the schedule of regulations, and all other provisions of this section and other applicable ordinances, with the understanding that reference to "lot" in such regulations shall mean and refer to "building site" as defined in this section, and reference to "building" (meaning principal building) or "structure" (meaning principal structure) shall mean and refer to "building envelope" as defined under this section. In the review of preliminary plans, site plans and engineering plans, it is recognized that it may not be feasible to precisely apply traditional definitions and measures applicable to developments proposed under, for example, the Subdivision Control Act. However, the review of plans submitted under this section shall be accomplished with the objective and intent of achieving the same results as if the improvements were being proposed pursuant to the Subdivision Control Act (aside from procedure).

(6) Prior to the issuance of building permits for units, the developer shall demonstrate approval by the Oakland County Road Commission, the Oakland County Drain Commission, the Oakland County Treasurer, the Oakland County Health Department, the state treasurer's office, the Michigan Department of Transportation, the Michigan Department of Natural Resources and all other county, state, municipal and other entities having jurisdiction with regard to any aspect of the development, including, without limitation, roads, water supply and sewer disposal.

(7) Prior to issuance of certificates of occupancy, the developer shall demonstrate approval by all governmental entities having jurisdiction, and the director shall determine that all improvements have been completed in accordance with approved plans. If the director determines that a temporary certificate of occupancy may be issued prior to full completion, such a temporary certificate of occupancy shall be granted for a specified period on the condition that a suitable letter of credit or corporate surety bond, issued by a company licensed to do business in Oakland County, in a form and in the amount approved by the director following advice from city consultants, or on the condition that an escrow is established, with the escrow agent and escrow agreement approved by the director, with advice from city consultants. The security shall be in an amount equal to one and one-half (1½) times the cost of the improvement based upon either a contract executed for completion of the improvement or estimate of the cost by the city engineer, as determined appropriate by the director.

(8) With respect to each building envelope, within sixty (60) days following inspection of the improvement, the developer shall submit to the director an "as-built" survey, including dimensions between each improvement and the boundaries of the building site, and distance of each improvement from any wetland, flood plain and/or floodway. The corners of each building site shall be staked in the customary manner in connection with the survey performed for the project by a registered land surveyor or professional engineer.

(9) The fees for all reviews shall be established by ordinance and/or resolution adopted by the city commission.

(10) Any proposed amendment of a master deed which would involve any subject matter reviewed or reviewable under this section shall be reviewed and approved by the planning commission prior to recordation.

(Ord. No. 243, § 1, 12-11-90)

Sec. 24-246. - Wireless communication facilities.

(a) *Purpose and intent.* It is the general purpose and intent of the city to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the city to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the city at large. In fashioning and administering the provisions of this section, attempt has been made to balance these potentially competing interests.

Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this section to:

(1)

Provide for the administration of this section so as to preclude the necessity of having new, lattice tower or pole structures in the city, and so as to discourage the establishment of wireless communication facilities in residential neighborhoods or on or near school properties in residential neighborhoods.

(2) Facilitate adequate and efficient provision of sites for wireless communication facilities.

(3) Establish predetermined districts or zones of the number, shape, and in the location considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.

(4) Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined districts or zones. In such cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the city. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.

(5) Ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.

(6) Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.

(7) Promote the public health, safety and welfare.

(8) Provide for adequate information about plans for wireless communication facilities in order to permit the city to effectively plan for the location of such facilities.

(9) Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.

(10) Minimize the negative visual impact of wireless communication facilities on neighborhoods, city landmarks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice structures that are unnecessary, taking into consideration the purposes and intent of this section.

(11) The city commission finds that the presence of tower and/or pole structures, particularly if located within residential areas, would decrease the attractiveness and destroy the character and integrity of the city. This, in turn, may have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall tower structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of the public health, safety and welfare.

(b) *Definitions.* The following definitions shall apply in the interpretation of this section:

Attached wireless communications facilities shall mean wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.

Colocation shall mean the location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the city.

Planning official shall mean the city manager, or his or her designee.

Wireless communication facilities shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment building and private and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; shortwave receiving facilities; radio and television broadcast reception facilities; federally licensed amateur radio facilities; satellite dishes; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Wireless communication support structures shall mean structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

(c) *Authorization.*

(1) The planning official may permit an attached wireless communication facility under any one (1) of the following circumstances:

a. The facility and any accessory equipment shall be located within an existing building or structure of a principal permitted use and shall not be visible from outside of the structure in which located. In the A-1 through A-4 Districts and in the B-1 Districts, such facility shall be permitted only with uses that are other than residential uses.

b. The facility is proposed to be colocated upon a wireless communication support structure which had been preapproved for such colocation as part of an earlier approval by the city.

c. The facility is proposed to be attached to an existing utility pole or tower located within the RR District.

(2) The planning commission may permit an attached wireless communication facility in the C-1, O-1, O-2 or I-1 District provided that the following conditions are met:

a. The facility is attached to an existing building or structure of a principal permitted use.

b.

The commission finds that the facility is designed in such a manner that it is compatible with the character of existing building or structure. Any accessory building necessary for the enclosure of equipment shall be covered with the same or compatible building material as the principal building. The facility shall be attached to the structure in such a manner as to minimize its identity. If attached to a building, the height of the facility shall not extend above the height of the existing building.

(3) Wireless communication facilities subject to the standards and conditions set forth below shall be authorized as special land uses to be approved by the city commission following public hearing and recommendation by the planning commission, within the I-1 District or on land occupied by an existing golf course or riding or hunt club located within the A-1, A-2 or A-3 One-Family Dwelling District subject to the following conditions:

a. The base of the wireless communication facilities shall have a minimum setback of five hundred (500) feet to any lot line located in an A-1 through A-6 or B-1 District.

b. The base of the wireless communication facilities and any other structures connected therewith shall provide the minimum setback required by the district to any abutting C-1, O-1, O-2, I-1 or RR District; provided that the setback of the wireless communication facilities shall be not less than the height of the facility.

c. If located on the same zoning lot with another permitted use, such wireless communication facilities and any other structures connected therewith shall not be located in a front yard.

d. Exceptions to these conditions may be permitted by the city commission where the commission finds that circumstances of the site and in the surrounding area warrant different conditions.

e. Such wireless communications facilities shall further be subject to the conditions set forth in subsections (d) and (e) below.

(4) If it is demonstrated by an applicant that a wireless communication facility may not reasonably be established as a permitted use under subsections (c)(1), (2) or (3), above, and is required to be established outside of a district identified in subsections (c)(1), (2) and (3), above, in order to operate a wireless communication service, then wireless communication facilities may be permitted elsewhere in the city as a special land use to be approved by the city commission following public hearing and recommendation by the planning commission, subject to the criteria and standards of subsections (d), (e), and (f) below.

(d) *General regulations.*

(1) *Standards and conditions applicable to special land use facilities.* Applications for special approval of wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the city commission in its discretion after recommendation of the planning commission:

a. Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.

b. Facilities shall be located and designed to be harmonious with the surrounding areas.

c. Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

d. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.

e. The following additional standards shall be meet:

1. The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and any known colocated wireless service provider. (Wireless entities proposing facilities which do not have a cellular topology must locate on an existing structure and may not propose a height increase of any existing structure or facilities which establish the maximum height of a structure to be permitted as a special land use.) The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.

2. The distance of the support structure from any residential district shall be no less than the height of the highest point of any support structure on the premises unless otherwise provided in (c)(3) above.

3. Where an attached wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.

4. The city commission shall, with respect to the color of the support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.

5. There shall be unobstructed access to the support structure for operation, maintenance, repair and inspection purposes which may be provided through or over an easement. The access shall have a width and location determined by such factors as: the location of adjacent superhighway and traffic and circulation within the site; utilities needed to service the tower and any attendant facility; the location of buildings and parking facilities; proximity to residential districts in minimizing disturbance to the natural landscape; and the type of equipment which will be needed to access the site.

6. The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.

f. The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one (1) or more of the following factors:

1. Proximity to a superhighway or major thoroughfare.
2. Concentration of commercial, industrial, and/or other business centers.
3. Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
4. Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
5. Other specifically identified reason(s) creating facility need.

g. The proposal shall be reviewed in conformity with the colocation requirements of this section.

h. The use of high intensity (strobe) lighting on a wireless communication facility shall be prohibited, and the use of other lighting shall be prohibited absent a demonstrated need. Where the FCC (in concert with the FAA) requires the installation and maintenance of marking and lighting or the use of high intensity or dual lighting systems for aeronautical reasons, the applicant shall propose a height reduction such that these requirements are eliminated or shall submit detailed technical data for review by the city which clearly demonstrates the need for the requested height including an analysis demonstrating that other sites are unavailable or inadequate for the communication purposes proposed.

i. Applications made which do not include the signature of the licensed operator of a wireless communication service at the time of city processing may be tentatively approved, but shall not receive final approval unless and until the application has been amended to include a signature on behalf of a licensed operator. A tentative approval shall be valid for ninety (90) days. If, during a ninety-day tentative approval period, final approval is granted to authorize a wireless communication facility within two (2) miles of the property on which a facility has been tentatively approved, such tentative approval shall thereupon expire unless the applicant granted tentative approval demonstrates that it would not be feasible for it to colocate on the facility that has been newly granted final approval.

j. The antenna and other attachments on a wireless communication facility shall be designed and constructed to include the minimum attachments required to operate the facility as intended at the site, both in terms of number and size, and shall be designed and constructed to maximize aesthetic quality. If the structure is not designed to physically accommodate other colocated users, the applicant shall prepare and submit a statement as to rationale for not so constructing the facility. This may include statements from other potential users indicating a lack of interest in using the facility.

(2) *Standards and conditions applicable to all facilities.* Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

(e) *Application requirements.*

(1) A site plan prepared in accordance with section 24-236 shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.

(2) The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan fencing which is required for protection of the support structure and security from children and other unauthorized persons who may otherwise access facilities.

(3) The application shall include a signed certification by a state licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.

(4) The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in subsection (h) below. In this regard, the security shall, at the election of the applicant, be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the attorney for the city and recordable at the office of the register of deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys fees incurred by the city in securing removal.

(5) The application shall include a map showing existing and known proposed wireless communication facilities within the city, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the city in the location, and in the areas, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the city, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy. MCL 15.243(1)(g). This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the city.

(6) The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

(7) A fee, established by resolution of the city commission, shall be paid with each application presented for approval of a wireless communication facility. Such fee shall cover the cost of advertising and printing and shall be paid to the city clerk to be credited to the general fund of the city.

(8) The owner or duly authorized representative of all ownership interest in the land on which the wireless communication facility is proposed to be located shall sign the application. In addition, if a licensed entity intended to be the operator on the facility does not sign the application, approval shall be restricted as provided in the general regulations above.

(9) A copy of the application submitted to the FCC detailing technical parameters and/or a copy of the FCC authorization for the proposed facilities along with any notification submitted to the FAA.

(f) *Special requirements for facilities proposed to be situated outside district.* For facilities which are not permitted uses under subsection (c)(1) or (2), above, and proposed to be located outside of a district identified in (c)(1), (2) or (3) above, an application shall be reviewed and, if approved, facilities shall be constructed and maintained in accordance with the following additional standards and requirements, along with those in subsection (d):

(1) At the time of the submittal, the applicant shall demonstrate that a location permitted in subsection (c)(1), (2) or (3) above cannot reasonably meet the coverage and/or capacity needs of the applicant and that the applicant shall demonstrate that it has reasonably exhausted all efforts to locate its facility in accordance with subsection (c)(1), (2) and (3).

(2) Wireless communication facilities shall be of a design such as (without limitation) a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the city.

(g) *Colocation.*

(1) *Statement of policy.* It is the policy of the city to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the city and encourage the use of existing structures for attached wireless communication facility purposes, consistent with the statement of purpose and intent set forth in subsection (a) above. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the city that all users should colocate on attached wireless communication facilities and wireless communication support structures in the interest of achieving the purposes and intent of this section, as stated above, and as stated in subsection (a) of this section. If a provider fails or refuses to permit colocation on a facility owned or otherwise controlled by it, where colocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the city. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the city.

(2) *Feasibility of colocation.* Colocation shall be deemed to be feasible for purposes of this section where all of the following are met:

a. The wireless communication provider entity under consideration for colocation will undertake to pay market rent or other market compensation for colocation.

b. The site on which colocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.

c. The colocation being considered is technologically reasonable, e.g., the colocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.

d. The height of the structure necessary for colocation will not be increased beyond a point deemed to be permissible by the city, taking into consideration the several standards contained in subsections (d) and (e) above.

(3) *Requirements for colocation.*

a. A permit for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible colocation is not available for the coverage area and capacity needs.

b. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate colocation.

c. The policy of the city is for colocation. Thus, if a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible colocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use and shall not be altered, expanded or extended in any respect.

d. If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to permit a feasible colocation, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible colocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the city, and, consequently such party shall take responsibility for the violation and shall be prohibited from receiving approval for a new wireless communication support structure within the city for a period of five (5) years from the date of the failure or refusal to permit the colocation. Such a party may seek and obtain a variance from the zoning board of appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five-year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

(4) *Incentive.* Review of an application for colocation, and review of an application for a permit for use of a facility permitted under subsection (c)(1) and (2), above, shall be expedited by the city.

(h) *Removal.*

(1) A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one (1) or more of the following events:

a. When the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use.

b. Six (6) months after new technology is available at reasonable cost as determined by the municipal legislative body, which permits the operation of the communication system without the requirement of the support structure.

(2) The situations in which removal of a facility is required, as set forth in subsection (h)(1)a. above, may be applied and limited to portions of a facility.

(3) Upon the occurrence of one (1) or more of the events requiring removal, specified in (h)(1) above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the planning official.

(4) If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days' written notice, the city may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

(i) *Effect of approval.*

(1) Subject to the following subsection (2), final approval under this section shall be effective for a period of six (6) months.

(2) If construction of a wireless communication facility is commenced within two (2) miles of the land on which a facility has been approved, but on which construction has not been commenced during the six-month period of effectiveness, the approval for the facility that has not been commenced shall be void thirty (30) days following notice from the city of the commencement of the other facility unless the applicant granted approval of the facility which has not been commenced demonstrates that it would not be feasible for it to colocate on the facility that has been newly commenced.

(Ord. No. 297, § 1, 5-13-97)

Sec. 24-247. - Valid term of certain planning commission approvals.

Except as otherwise specifically provided for in this chapter, such as in sections 24-236 and 24-245, any approval, permission and/or exception granted by the planning commission which permits the erection, construction, installation or alteration of a building, structure or thing and/or permits the use of a building, premises or structure, including, but not limited to, any approval, permission and/or exception granted pursuant to sections 24-132, 24-169, 24-210, 24-211, 24-229, 24-230, 24-237, 24-240, and 24-242, shall only be valid for a period of one (1) year from the date of the planning commission's grant of the approval, permission and/or exception unless a building permit for the erection, construction, installation or alteration is obtained within said one-year period and the erection, construction, installation or alteration is started and proceeds to completion in accordance with the terms of such permit, or if such use is established within said one-year period provided, however, that where such use permitted is dependent upon the erection, construction, installation or alteration of the building, structure or other thing, such approval, permission and/or exception shall continue in force and effect if a building permit for such erection, installation, construction or alteration is obtained within such period and said construction, erection, installation or alteration is started and proceeds to completion in accordance with the terms on such permit.

(Ord. No. 308, § 1, 9-8-98)

Sec. 24-248. - Open space preservation.

Sections 24-44, 24-60 and 24-75 permit the preservation of open spaces under certain conditions. These options shall be subject to the following review requirements:

(1) *Criteria for approval.* In determining the location, shape and suitability of the open space and the lot or unit layout or configuration proposed under this option, the planning commission shall apply the following criteria:

a. Areas to be preserved may include:

1. Wetlands, floodplains and natural watercourses.
2. Woodlands.
3. Scenic views.
4. Historic structures.
5. Recreation facilities.
6. Open space buffers to roads or abutting land uses.
7. Other natural or manmade features acceptable to the Planning Commission.

b.

Water retention basins may be included in the calculation of open space only if existing, horizontal, natural land contours are followed for the outline of the basin and slopes do not exceed one (1) foot vertical change for every six (6) foot horizontal distance and the area is not fenced or required to be fenced.

c. The area and width of the resulting individual lots and building setback requirements under this open space preservation option shall be reasonable and rationally related to the type of development proposed and shall comply, to the maximum extent feasible, with the standards, requirements and intent of the zoning district in which the proposed development is located. Factors to be considered in determining the reasonableness of the area, width and setback requirements shall include the amount of open space, the density permitted in the zoning district or as determined by a parallel plan.

(2) *Requirements.*

a. The undeveloped state of the open space shall be maintained in perpetuity by means of a conservation easement, plat dedication, restrictive covenant or other assurance that runs with the land. Such document shall be recorded with the Oakland County Register of Deeds.

b. Land area within twenty-five (25) feet of a building and land located between a building and any vehicular street, road, drive or aisle shall not be included in the calculation of open space, provided that land included within individual lot lines or site condominium lines shall not be included in the calculation of open space.

c. Access shall be provided to areas dedicated for open space for those units not bordering on such open space by means of streets or pedestrian access ways.

d. The proprietor or developer shall dedicate the total open space area at the time of filing of the final site plan.

e. Provisions satisfactory to the planning commission shall be made to provide for financing any improvements shown on the plan for the open space areas and any common use areas which are to be included within the development. The physical maintenance of such improvements shall be assured by a means satisfactory to the planning commission.

(3) *Submission and notice.*

a. A site plan or plat shall be submitted in accordance with section 24-236 or section 24-245, respectively. Material submitted for review shall include, in addition to that required by section 24-236, documentation necessary to address the criteria for establishing the open space areas to be preserved under section 24-248.

b. The planning commission shall hold a public hearing on the proposed open space option. Notice of the hearing shall be given in accordance with section 24-263.

(4) *Open space application fee.* The city, by resolution of the city commission, may establish a review fee to be paid by the developer to the city upon the filing of such application.

(Ord. No. 330, § 5, 12-10-02)

Sec. 24-249. - Natural feature setbacks (all districts).

(1) *Intent and purpose.* It is the intent of this section to require a minimum setback from natural features, and to regulate activity within such setback in order to prevent physical harm, impairment and/or destruction of or to a natural feature. It has been determined that, in the absence of such regulation, intrusions in or onto natural features would occur, resulting in harm, impairment and/or destruction of natural features contrary to the public health, safety and general welfare. This regulation is based on the police power, for the protection of the public health, safety and welfare, including the authority granted in the Zoning Enabling Act.

It is the purpose of this section to establish and preserve minimum setback from natural features in order to recognize and make provision for the special relationship, interrelationship and interdependency between the natural feature and the setback area in terms of: Spatial relationship; interdependency in terms of physical location, plant species, animal species and an encouragement of diversity and richness of plant and animal species; over land and subsurface hydrology; water table; water quality; erosion of sediment deposition.

If a greater setback or prohibition is required by other ordinance, or other provision of this ordinance, such greater setback or prohibition shall apply.

(2) *Regulation.* A natural feature setback shall be maintained in relation to all areas defined in this ordinance as being a "natural feature," unless, and to the extent, it is determined by the city to be in the public interest not to maintain such setback.

(3) *Definition of "activity.*" Activity herein shall be defined as any physical process that involves the relocation, repair, placement or replacement or removal of any structures, recreational features, landscape products, soils, vegetation, water or water products, such as fountains or aerators.

(4) *Definition of "natural feature.*" A natural feature shall mean a wetland, as defined in the City Wetlands Ordinance and shall mean a watercourse, including a lake, pond, river, stream, or creek.

(5) *Authorization and prohibition.*

(a) The natural feature setback shall be an area or feature with boundaries and limitations determined in accordance with the standards and provision in this section in relation to respective types of natural features.

(b) In conjunction with the review of plans submitted for authorization to develop property or otherwise undertake an activity in or on, or adjacent to, a natural feature, applicable natural feature setbacks shall be determined, and authorizations and prohibitions established, by the body undertaking the plan review. In the event an activity is proposed within a setback area as designed under subsection 8(a) or 8(b), below, but such activity is not

proposed in conjunction with an activity within the natural feature itself, such as dredging of a pond, placing docks, using the water for legal means, review under this section shall be conducted by the planning commission reviewing the proposed activity.

(c) Within an established natural feature setback, unless and only to the extent determined to be in the public interest by the body or official undertaking plan review, there shall be no activity such as construction of any structures requiring a concrete footing, placement of patios, pools, decks, sport courts, or other accessory structure, installation of driveways, removal or deposit of any structures or soils, filling or land balancing, and removal of native vegetation. This prohibition shall not apply with regard to those activities exempted from this prohibition, below.

(d) In determining whether proposed construction or operations are in the public interest, the benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the construction or other operation, taking into consideration the local, state and national concern for the protection and preservation of the natural feature in question. If, as a result of such a balancing, there remains a debatable question whether the proposed project and/or operation is clearly in the public interest, authorization for the construction and/or operation within the natural features setback shall not be granted. The following general criteria shall be applied in undertaking this balancing test:

i. The relative extent of the public and private need for the proposed activity.

ii. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.

iii. The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the natural feature and/or natural feature setback provides.

iv. The probable impact of the proposed construction and/or operation in relation to the cumulative effect created by other existing and anticipated activities in the natural feature to be protected.

v. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values, and on fish, wildlife and the public health.

vi. The size and quantity of the natural feature setback being considered.

vii. The amount and quantity of the remaining natural feature setback.

viii. Proximity of the proposed construction and/or operation in relation to the natural feature, taking into consideration the degree of slope, general topography in the area, soil type and the nature of the natural feature to be protected.

ix. Economic value, both public and private, of the proposed construction and/or operation, and economic value, both public and private, if the proposed construction and/or operation were not permitted.

x. The necessity for the proposed construction and/or operation.

(6) *Exemptions.* If and to the extent the city is prohibited by its ordinances and/or law from regulating the proposed activity in or on the respective natural feature, regulation under this section shall be exempted. In addition, the following activities shall be exempted, provided, it is not the intent of this provision to exempt regulation by other ordinance provisions relative to the natural feature itself:

(a) Maintenance of established lawn areas.

(b) Grading and filling necessary in order to conform with express requirements imposed by the city.

(c) The connection to a public or private utility that is located in or beyond the natural feature setback and reasonable alternatives do not exist.

(d) Installation of storm water drains with proper water quality measures, irrigation piping or other related material provided the disturbed area is promptly restored with native plantings.

(e) Addition of native plant materials including trees, shrubs, and native grasses or flowers.

(f) Temporary encroachment for the construction of permissible structures that will lie outside of the natural feature setback provided the disturbed area is promptly restored with native plantings.

(g) Department of public works or other city projects.

(h) The removal of dead or diseased shrubs, bushes or trees, provided that the natural feature is protected from debris and/or contaminants during this operation and the disturbed area is promptly restored with native plantings.

(i) Maintenance of an existing water feature such as a pond or detention/retention storm water basin provided the natural feature setback area is restored to existing conditions. Provided however, hydraulic dredging, that does not require setting platforms and heavy equipment in the water and on the banks, can be approved administratively. Provided further that if the dredging involves major equipment, it shall require planning commission approval.

(7) *Application form.* Application shall be made under this section on the form approved by the city commission and provided by the city clerk.

(8) *Setback standards.* Unless otherwise determined by the body or official undertaking the plan review, the following setbacks shall apply:

(a) A 25-foot setback from the boundary or edge of a wetland, as defined and regulated in the City Wetland Ordinance.

(b) A 25-foot setback from the ordinary high water mark of a watercourse.

(9) *Appeals.* An interested person who is aggrieved by the determination under this section may request relief in accordance with applicable law.

(Ord. No. 342, 9-14-04; Ord. No. 405, § 1, 11-13-12)

Editor's note— Ordinance No. 342, adopted Sept. 14, 2004, enacted provisions designated as § 24-248. Inasmuch as there already exists such a section said provisions have been redesignated as § 24-249 to avoid duplication of numbers.

Sec. 24-250. - Lighting (all districts).

(1) *Intent and purpose.* It is the intent of this section to protect the health, safety, and welfare of the public by recognizing that buildings and sites need to be illuminated for safety, security, and visibility for occupants, users, pedestrians, and motorists. To do so, this article provides standards for various forms of lighting that will:

(a) Minimize light pollution;

(b) Maintain safe nighttime driver performance on public roadways;

(c) Preserve the restful quality of nighttime by eliminating intrusive artificial light and lighting that unnecessarily contributes to "sky glow";

(d) Reduce light trespass from light sources onto adjacent properties;

(e) Conserve electrical energy; and

(f) Curtail the degradation of the nighttime visual environment.

(2) *Applicability.* The standards in this article shall apply to any light source that is visible from any property line, or beyond, for the site from which the light is emanating. The city manager or designee may review any building or site to determine compliance with the requirements under this article. Whenever a person is required to obtain a building permit, electrical permit for outdoor lighting or signage, a special land use approval, subdivision approval or site plan approval from the city, the applicant shall submit sufficient information to enable the city manager or designee to determine whether the proposed lighting will comply with this article.

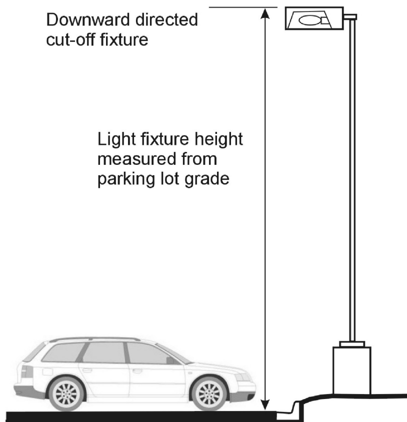
(3) *Lighting definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Canopy structure. Any overhead protective structure which is constructed in such a manner as to allow pedestrians/vehicles to pass under.

Flood or spotlight. Any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.

Footcandle. The standard imperial unit used to measure the amount of light falling onto a surface, such as a roadway or parking lot.

Fully shielded fixture. Outdoor light fixtures shielded or constructed so that zero (0) percent of the lamp lumens are emitted above ninety (90) degrees. A luminaire mounted in a recessed fashion under a canopy or other structure such that the surrounding structure effectively shields the light in the same manner is also considered fully shielded for the purposes of this article.



Glare. Direct light emitted by a lamp, luminous tube lighting or other light source.

Lamp. The component of the luminaire that produces the actual light including luminous tube lighting.

Light fixture. The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting.

Light pollution. Artificial light which causes a detrimental effect on the environment, or enjoyment of the night sky or causes undesirable glare or unnecessary illumination of adjacent properties.

Light trespass. The shining of light produced by a luminaire beyond the boundaries of the property on which it is located in an objectionable manner, as determined by the city manager or his designee.

Luminaire. The complete lighting system including the lamp and light fixture.

Luminous tube lighting. Gas-filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g., neon, argon, etc.

Outdoor light fixtures. Outdoor artificial illuminating devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for floodlighting, general illumination or advertisement.

Sky glow. The "haze" or "glow" that surrounds highly populated areas and reduces the ability to view the nighttime sky. Specifically, light that enters the sky from an outdoor lighting system by indirect light reflected from atmospheric particles such as fog, dust, or smog.

(4) *Submittal requirements.* The following information must be included for all site plan submissions and where site plan approval is not required, some or all of the items may be required by the city manager or designee prior to lighting installation:

(a) Location of all freestanding, building-mounted and canopy light fixtures on the site plan and building elevations.

(b) Photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in footcandles).

(c) Specifications and details for the type of fixture being proposed, including the total lumen output, type of lamp and method of shielding.

(d) Use of the fixture proposed.

(e) Any other information deemed necessary by the planning commission, city manager or designee to determine compliance with provisions of this article.

(5) *Lighting standards.* Unless exempted under subsection (6), exemptions, herein, all lighting must comply with the following standards:

(a) Freestanding pole lighting.

1. Exterior lighting shall be fully shielded and directed downward to prevent off-site glare. Fixed (not adjustable), downward directed, metal halide, LED or induction full cutoff fixtures or approved decorative fixtures shall be used in an effort to maintain a unified lighting standard throughout the city and prevent "sky glow".
2. The intensity of light within a site shall not exceed ten (10) footcandles within any site or one (1) footcandle at any property line, except where it abuts a service drive or other public right-of-way. Footcandles abutting a residential district or use can be a maximum of 0.5 footcandle at the property line. The only exception is for gas station canopy and automobile dealership lighting, where a maximum of twenty (20) footcandles is permitted within the site, but the above standards shall apply to intensity at the property line.
3. The planning commission, city manager or designee (depending upon who has approval authority over the project) may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures are necessary to preserve the intended character of the site.
4. The maximum height of parking lot light fixtures shall be twenty (20) feet, except that the planning commission may permit a maximum height of thirty (30) feet within commercial and office zoning districts and in institutional districts when the poles are no closer than one hundred fifty (150) feet to a residential district or use.
5. Parking lot poles shall be located in parking lot islands or in the periphery parking lot area. Light poles shall be prohibited in parking spaces.
6. Except where used for security purposes and not creating off-site glare, all outdoor lighting fixtures, existing or hereafter installed and maintained upon private property within nonresidential zoning districts, shall be turned off between 11:00 p.m. and sunrise, except where such use continues after 11:00 p.m. but only for so long as such use continues.

(b) Building-mounted lighting.

1. Building-mounted lighting shall be fully shielded and directed downward to prevent off-site glare. Fixed (not adjustable), downward directed, metal halide fixtures shall be used in an effort to maintain a unified lighting standard throughout the city and prevent sky glow.
2. The intensity of light within a site shall not exceed ten (10) footcandles within any site or one (1) footcandle at any property line, except where it abuts a service drive or other public right-of-way. Footcandles abutting a residential district or use can be a maximum of 0.5 footcandle at the property line.
3. The planning commission, city manager or designee (depending upon who has approval authority over the project) may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures will improve the appearance of the site.
4. Luminous tube and exposed bulb fluorescent lighting is prohibited as an architectural detail on all buildings, e.g., along the roof line and eaves, around windows, etc.

(c) Window lighting.

1. Any light fixtures visible through a window must be shielded to prevent glare at the property line.
2. Luminous tube and exposed bulb fluorescent lighting (visible from the property line) is prohibited unless it is part of a sign that meets the requirements of chapter 16 of the city code.

(d) Accessory lighting. Lighting provided for all accessory uses such as, but not limited to, tennis courts, swimming pools or other outdoor facilities shall be arranged and shielded so that the light pattern shall not extend beyond the property line and the light source shall not be directly visible from beyond the property line. In addition, the maximum height for fixtures that illuminate tennis courts is twenty-four (24) feet and shall be turned off between 10:00 p.m. and sunrise.

(e) Private road street lighting.

1. Street lights along private residential roads may be required by the planning commission as part of a condominium or site condominium project. Where required, the applicant shall provide a full lighting plan including all of the information required by subsection 24-250(4), above.
2. Where such lighting is required, the planning commission shall use the following standards for guidance:

a. Lighting may be provided along both sides of the street, or staggered on opposite sides with spacing generally between four hundred (400) and six hundred (600) feet.

b. Fixtures should be fully shielded and downward directed unless decorative light fixtures are used that provide no off-site glare and are in keeping with the character of the site.

c. Fixture height should not exceed twenty (20) feet.

d. Lighting intensity should be limited to a range between one (1) and six (6) footcandles, depending upon the fixture style, with the greater intensity at intersections and crosswalks.

e. A determination should be made that the proposed lighting plan will not adversely impact surrounding properties.

(f) Other lighting.

1. The internal illumination of building-mounted canopies is prohibited.
2. Indirect illumination of signs, canopies and buildings is permitted provided there is no off-site glare.
3. The use of a laser light source, searchlights or any similar high intensity light for outdoor advertisement or entertainment is prohibited.
4. Lighting shall not be of a flashing, moving or intermittent type.
5. Luminous tube and exposed bulb fluorescent lighting is permitted as part of a sign meeting the requirements of chapter 16 of the city code.
6. Sports field lighting is permitted to be in use no later than 10:00 p.m., provided it is located at least five hundred (500) feet away from any existing residential zone or use. Sports field lighting may be approved by the planning commission after a determination that the lighting is directed away from residential properties, to the extent feasible, and that all efforts possible were made to minimize negative impacts to surrounding uses.

(6) *Exemptions.* The following are exempt from the lighting requirements of this article, except that the city manager or designee may take steps to eliminate the impact of the exempted items when there is off-site glare and deemed it necessary to protect the health, safety, and welfare of the public.

(a) Swimming pools (below the water surface only).

(b) Holiday decorations.

(c) Window displays without glare.

(d) Shielded pedestrian walkway lighting.

(e) Residential lighting with no light trespass.

(f) Residential entry piers with no more than one (1) footcandle along the front lot line.

(g) Low-voltage, or solar-powered landscape lighting.

(h) Street or directional lighting in existing public rights-of-way.

(7) *Lamp or fixture substitution.* Should any light fixture regulated under this section, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the city manager or designee for approval, together with adequate information to assure compliance with this section, which must be received prior to substitution.

(Ord. No. 384, § 1, 6-8-10)

Secs. 24-251—24-255. - Reserved.

ARTICLE V. - ADMINISTRATION AND ENFORCEMENT

> *Footnotes:*
> --- ***(4)*** ---
> ***Cross reference—*** *Administration, Ch. 2.*

Sec. 24-256. - Enforcement.

Except where otherwise stated in this chapter, the provisions of this chapter shall be administered by the chief building inspector, or by such other officer as shall be legally designated by the city commission.

(Ord. No. 188, § 1700, 11-8-83)

Sec. 24-257. - Duties of chief building inspector.

(a) The chief building inspector shall have the power to grant zoning compliance and occupancy permits and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. It shall be unlawful for the chief building inspector to approve any plans or issue any permits or certificates of occupancy for any excavation until he has inspected such plans in detail and found them to conform with this chapter.

(b) The chief building inspector shall record all nonconforming uses existing on November 8, 1983, for the purpose of carrying out the provisions of section 24-228.

(c) The chief building inspector is, under no circumstances, permitted to make changes to this chapter nor vary the terms of this chapter in carrying out his duties as chief building inspector.

(d) The chief building inspector shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts such as covenants or private agreements which may occur upon the granting of such permit.

(Ord. No. 188, § 1701, 11-8-83)

Sec. 24-258. - Building permit required.

(a) It shall be unlawful to use or permit the use of any building or land or part thereof hereafter created, erected or altered, or to change or to enlarge any use of any building or land or part thereof until a certificate of occupancy with the provisions of this chapter, properly endorsed as to occupancy, shall have been issued by the chief building inspector.

(b) No building or structure within the city shall hereafter be erected, moved, repaired, altered or razed, nor shall any work be started on such building to be erected, moved, repaired, altered or razed, until a building permit shall have been obtained from the chief building inspector, nor shall any change made in the use of a building or land without a building permit having been obtained from the chief building inspector, except that no building permit shall be required for nonstructural alterations costing less than five hundred dollars ($500.00). No such building permit shall be issued to erect a building or structure, or make any changes of use of a building or of land unless they are in conformity with the provisions of this chapter, and all amendments thereto. When two (2) or more principal structures and/or buildings are planned for a single land parcel, separate building permits shall be issued for each structure or building and for site development construction.

(c) Except as otherwise provided, building permits issued by the city shall be valid for a period of six (6) months from date of issuance and all work and activities authorized by the building permit shall be completed within six (6) months from the date of issuance of the building permit. No additional work and/or activities which would have been authorized by the building permit shall be allowed after the expiration of the building permit. Applicant shall submit with the application for a building permit an estimated time schedule for each phase of construction for completion of the building. A person and/or entity who is issued a building permit which is valid for six (6) months may prior to the expiration of the building permit request an extension of time for the building permit to remain valid and the city manager shall grant a reasonable extension of time provided that the applicant establishes to the city manager that the applicant has diligently and/or in good faith attempted to complete the work and/or activities within the initial six (6) month period of validity of the building permit. At the time an application for a building permit is filed with the city, the city manager may grant a building permit which is valid for a period of time longer than six (6) months provided that the applicant can establish that the work and activities requested to be undertaken cannot reasonably be completed within six (6) months.

(d) Accessory buildings or structures, including reception antenna facilities, that require an approval by the planning commission, zoning board of appeals or city commission under the terms of this ordinance shall not be installed, constructed, erected, used or moved upon property within the city without an accessory structure building permit being applied for and issued. This permit requirement applies notwithstanding the exception for nonstructural alterations costing less than five hundred dollars ($500.00) in subsection (b).

(Ord. No. 188, § 1702, 11-8-83; Ord. No. 241, § 1, 12-11-90; Ord. No. 278, § 2, 5-10-94; Ord. No. 429 , § 2-13-18)

Sec. 24-259. - Plot plan required.

The chief building inspector shall require that all applications for building permits shall be accompanied by plans and specifications including a plot plan, in duplicate, drawn to scale, showing the following:

(1) The actual shape, location and dimensions of the lot;

(2) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot;

(3) The existing and intended use of the lot and all such structures upon it including, in residential areas, the number of dwelling units the building is intended to accommodate;

(4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed;

(5) A topographic map of existing conditions including existing natural ground grade, signed and sealed by a registered land surveyor or a civil engineer licensed to practice in the state. The survey shall include either spot grades on a minimum twenty-five (25) foot grid or contour elevations at a minimum interval of two (2) feet.

A record of such plans shall be kept in the office of the chief building inspector.

(Ord. No. 188, § 1703, 11-8-83; Ord. No. 246, § 3, 6-11-91)

Sec. 24-260. - Certificates.

No land, building or part thereof shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such new use or any such change in use. The following shall apply in the issuance of any certificate:

(1)

Certificates not to be issued. No certificates of occupancy pursuant to the building code shall be issued for any building, structure or part thereof, or for the use of any land which is not in accordance with all the provisions of this chapter; and, additionally, the following requirements are complied with and approved by the building inspector:

a. Prior to the issuance of a certificate of occupancy, a grading certificate prepared, signed, and sealed by a registered professional civil engineer or a registered professional land surveyor shall be submitted to the building inspector. The grading certificate shall be submitted in duplicate, attesting to the fact that the site has been constructed and graded in accordance with the approved grading plan. The grading certificate shall also state that the permanent irons at each lot corner are in evidence, and that the drainage pattern is in accordance with the grading plan as approved at the time of issuance of the building permit.

b. If, at the completion of the building project, and if for reasons beyond the control of the applicant, such as when weather conditions make finish grading unfeasible to be completed, the applicant shall, in lieu of a grading certificate, post a financial guarantee with the city in the form of a cash bond. This alternative may be used at the discretion of the building inspector, and the bond shall be in an amount set by the building inspector to insure completion of the finish grading and the submission of such certificate within nine (9) months, or at the next opportunity. In such case, a temporary certificate of occupancy may be issued, in accordance with the terms of this article, and the date for completion of grading shall be indicated on the temporary certificate of occupancy or its related documents.

c. Prior to the issuance of a certificate of occupancy, permanent lawn grass ground cover shall be installed by seeding or sodding, pursuant to written specifications of seed, sod, soil and time of planting approved by the building inspector. Permanent ground cover other than lawn grass may be substituted in disturbed areas, subject to approval by the building inspector.

d. If the above-prescribed final grading is not completed, and the above-prescribed ground cover is not established and thriving at the time of application for the certificate of occupancy, the applicant shall post a financial guarantee with the city in the form of a cash bond in an amount estimated by the building inspector necessary to ensure completion thereof within nine (9) months. All temporary erosion control measures must remain in place until such time that the ground cover is established.

(2) *Certificates required.* No building or structure, or parts thereof, which is hereafter erected or altered shall be occupied or used or the same caused to be done unless and until a certificate of occupancy shall have been issued for such building or structure.

(3) *Certificates including zoning.* Certificates of occupancy as required by the building code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures shall also constitute certificates of occupancy as required by this chapter.

(4) *Certificates for existing buildings.* Certificates of occupancy will be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land are in conformity with the provisions of this chapter.

(5) *Temporary certificates.* Nothing in this chapter shall prevent the issuance of a temporary certificate of occupancy for a portion of a building or structure in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six (6) months, and provided further that such portion of the building, structure or premises is in conformity with the provisions of this chapter.

(6) *Record of certificates.* A record of all certificates issued shall be kept on file in the office of the chief building inspector and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

(7) *Certificates for dwelling accessory buildings.* Buildings accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwelling.

(8) *Application for certificates.* Application for certificates of occupancy shall be made in writing to the chief building inspector on forms furnished by the city and such certificates shall be issued within ten (10) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this chapter. If such certificate is refused for cause, the applicant, therefore, shall be notified of such refusal and cause thereof within the aforesaid ten-day period.

(Ord. No. 188, § 1704, 11-8-83; Ord. No. 366, § 1, 12-11-07)

Sec. 24-261. - Final inspection.

The holder of every building permit for the construction, erection, alteration, repair or moving of any building, structure, or part thereof shall notify the chief building inspector immediately upon the completion of the work authorized by such permit for final inspection.

(Ord. No. 188, § 1705, 11-8-83)

Sec. 24-262. - Fees.

Fees for the inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this chapter shall be collected by the chief building inspector in advance of issuance. The amount of such fees shall be established by resolution of the city commission and shall cover the cost of inspection and supervision resulting from enforcement of this chapter.

(Ord. No. 188, § 1706, 11-8-83)

Sec. 24-263. - Notice of public hearing.

For uses making reference to this section, and in all applications for special approval, notice of the public hearing before the planning commission or the city commission shall be given as follows:

(1) The planning commission shall review all proposed zoning ordinances or amendments thereto and shall hold a public hearing thereon if such hearing is required by this article, chapter 24 of this Code or PA 110 of the Public Acts of 2006, as amended (being the Michigan Zoning Enabling Act, MCL 125.3101, et seq.), and shall provide notice of the public hearing in accordance with the following:

(a) Except as otherwise provided in PA 110 of the Public Acts of 2006, as amended, if the planning commission holds a public hearing, notice of the public hearing shall first be published in a newspaper of general circulation in the city not less than fifteen (15) days before the date of the hearing.

(b) For applications involving the rezoning of ten (10) or fewer adjacent properties and for other applications as to which a public hearing is required under this article, chapter 24 of this Code or PA 110 of the Public Acts of 2006, as amended, a notice of public hearing shall be given to the following individuals by depositing said notice during normal business hours with the United States postal service:

(i) The applicant and the owner of the subject property, if different from the applicant.

(ii) All persons to whom real property is assessed for property taxes within five hundred (500) feet of the property that is the subject of the application regardless of whether the property or structure is located in the city.

(iii) One (1) occupant of each dwelling unit or spatial area in each building that contains four (4) or less dwelling units and is located within five hundred (500) feet of the subject property regardless of whether it is located in the city.

(iv) The owner or manager of a building containing more than four (4) dwelling units, who shall be requested in writing to post the notices at the primary entrance of the building, but failure of such posting shall not constitute a lack of notice to the owners or occupants of such dwelling units.

(v) If the above-described five hundred-foot radius extends outside the city's boundaries, the notice shall nevertheless be provided outside the city's boundaries, within the five hundred-foot radius, to all persons stated above in this subsection.

(c) The notices of public hearing under this section shall include the following information:

(i) A description of the application or request.

(ii) An identification of the property that is the subject of the applications or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven (11) or more adjacent properties are being proposed for rezoning.

(iii) The date and time the application or request will be considered, and the location of the public hearing.

(iv) The location or address where written comments concerning the application or request will be received, and the period of time within which such written comments may be submitted.

(v) Any other information required under PA 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, MCL 125.3101, et seq.

(2) Following city commission adoption of a zoning ordinance or any subsequent amendments thereof, the zoning ordinance or subsequent amendments shall be filed with the clerk of the city, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the city within fifteen (15) days after adoption.

(Ord. No. 330, § 6, 12-10-02; Ord. 393, § 1, 8-9-11)

Secs. 24-264—24-275. - Reserved.

ARTICLE VI. - ZONING BOARD OF APPEALS

> *Footnotes:*
> *--- (**5**) ---*
> ***Cross reference—*** *Administration, Ch. 2; boards of commissions generally, § 2-301, et seq.*

Sec. 24-276. - Creation and membership.

(a) There shall be established and appointed by the city commission in accordance with Act 110 of the Public Acts of 2006, as amended, a zoning board of appeals. The zoning board of appeals shall consist of seven (7) members. The new appointments shall be as follows: One (1) new member shall be appointed for a period of one (1) year; one (1) new member shall be appointed for a period of two (2) years and one (1) new member shall be appointed to hold offices for the full three-year term. Each new appointment shall coincide with the appointment dates for the remaining members of the board and thereafter shall be reappointed for three-year terms. Any vacancies in the board shall be filled by the city commission not more than one (1) month after

the term of the preceding member has expired for the remainder of the unexpired term. One regular member may be a member of the city commission but shall not serve as chairperson. One of the regular members shall be a member of the planning commission. The board shall annually elect its own chairman, vice chairman and secretary.

(b) The city commission may appoint not more than two alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called as specified to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the zoning board of appeals.

(Ord. No. 188, § 1800, 11-8-83; Ord. No. 351, § 1, 8-15-06)

Sec. 24-277. - Meetings, hearings.

All meetings of the zoning board of appeals shall be held at the call of the chairman and at such times as the board may determine. All hearings conducted by such zoning board of appeals shall be open to the public. The zoning board of appeals 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 action. Four (4) members of the zoning board of appeals shall constitute a quorum for the conduct of its business.

(Ord. No. 188, § 1800, 11-8-83)

Sec. 24-278. - Jurisdiction and powers.

(a) The zoning board of appeals shall have the following powers and it shall be its duty:

(1) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the chief building inspector in the enforcement of this chapter;

(2) When approval of the zoning board of appeals is required for an exception, or special approval, it shall determine in addition to the other requirements set forth in this chapter that the proposed structure and use will not rate any threat to public health and safety, will not unduly aggravate traffic problems, and will be so designed and laid out as to be consistent with the general trend and character of development in the city.

(3) It shall be the duty of the zoning board of appeals, in hearing and deciding appeals, to grant such variances as may be in harmony with the general purpose and intent hereof, so that the function of this chapter be observed, public safety and welfare secured, and substantial justice done, including the following:

a. Interpret the provisions of the chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, accompanying and made part of this chapter, where street layout actually on the ground varies from the street as shown on the map aforesaid;

b. Permit the erection and use of a building or use of premises for public utility purposes, upon recommendation of the planning commission;

c. Permit such modification of the height, building location and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape or so located with relation to surrounding development or physical characteristics that it cannot otherwise be appropriately improved without such modification;

d. Permit temporary buildings and uses for period not to exceed one (1) year.

(b) Nothing contained in this section shall be construed to give grant to the zoning board of appeals the power or authority to alter or change this chapter or the zoning map; such power and authority being reserved to the city commission in the manner provided by law.

(Ord. No. 188, § 1805, 11-8-83; Ord. No. 296, §§ 1, 2, 5-13-97; Ord. No. 351, § 1, 8-15-06)

Sec. 24-279. - Variance standards and procedures.

(a) *Dimensional or non-use variances.* The zoning board of appeals may grant a dimensional or non-use variance only upon a finding that compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would create a practical difficulty. A finding of practical difficulty shall require demonstration that all the following conditions are met:

(1) That strict compliance with the restrictions governing area, setbacks, frontage, height, bulk, density, and other similar items would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with said restrictions unnecessarily burdensome.

(2) That a variance would do substantial justice to the proponent as well as to other property owners in the zoning district or whether a lesser relaxation of the restrictions would give substantial relief to the proponent and be more consistent with justice to others (i.e., are there other more reasonable alternatives);

(3) That the plight of the property owner is due to unique circumstances of the property;

(4) That the proponent's problem is not self-created; and

(5) That the granting of the variance will not adversely affect the purposes or objectives of the master plan of the city.

(b)

Use variances. Where, owing to special conditions, a literal enforcement of the provisions of this chapter would involve an unnecessary hardship, the zoning board of appeals shall have power upon appeal in specific cases to authorize such variation or modifications of the use regulations of this chapter in accordance with the following procedures, with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this chapter so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this chapter shall be granted unless it appears that the following requirements and procedures have been met and that all of the following facts and conditions exist:

(1) *Application requirements.* In addition to the information required for other variance requests, an application for a use variance shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions which would establish unnecessary hardship:

a. Applicant's property cannot be used for the purposes permitted in the zoning district.

b. Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.

c. Applicant's suggested use would not alter the essential character of the area.

d. Applicant's problem is not self-created.

At the end of each statement (a. through d.) identify all persons who will testify at the hearing with respect to each of the facts, and, separately, identify all persons who will testify at the hearing relative to the respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

(2) *Prehearing conference.*

a. Prior to the scheduling of a hearing, the applicant shall contact the planning official (the city manager) for the purpose of scheduling a prehearing conference.

b. The purposes of the prehearing conference shall be to:

1. Review the procedure for the hearing and identify all persons who will testify (directly or through affidavit) and the evidence to be offered on behalf of the applicant.

2. Attempt to secure a statement of agreed-upon facts to be used to narrow the matters of dispute and shorten the hearing.

3. Explore a means of providing relief to the applicant by way of non-use variance from the zoning board of appeals, or other relief which may require action by persons or bodies other than the zoning board of appeals which will afford an adequate remedy for the applicant.

4. Discuss the need, desirability, and the terms of providing a verbatim record of the hearing.

c. The planning official shall determine who should be present at the prehearing conference based upon the application submitted and taking into consideration the discussion with the applicant or the applicant's representative.

d. The prehearing conference shall be scheduled and conducted on an expeditious manner so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the prehearing conference, stated above.

(3) *Hearing procedure.*

a. The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must demonstrate each of the four (4) factors set forth in paragraphs a. through d. of subsection (1), above.

b. Manner of presentation:

1. Community representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the zoning district, and any planning, engineering, financial, environmental or other considerations which are generally relevant within the zoning district and/or in the general area of the property at issue.

2. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions. The applicant shall be provided with the opportunity to present all testimony and evidence proposed to be presented at the prehearing conference, either through witnesses or affidavits; however, the chairperson of the zoning board of appeals may restrict testimony and evidence which would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the zoning board of appeals may require the presence of any witness who has offered either testimony by affidavit on a material question of fact or testimony of an expert nature, with the view of permitting members of the zoning board of appeals to ask questions of such witnesses.

3. At the conclusion of the applicant's presentation, interested persons attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.

4. When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentation shall be to ensure that a full picture, including all relevant information, is before the zoning board of appeals for consideration as it relates to the specific application presented.

5. If testimony or evidence has been offered by or on behalf of interested persons and/or the community, the applicant shall have the opportunity to present rebuttal, restricted to responding to the points raised by interested persons and the community. The manner of presenting witnesses, and requirement of their presence and questioning, shall be the same as provided above for the applicant's principal

case.

6. At the hearing, the zoning board of appeals may determine to establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons and/or on behalf of the community, or other rules found to be necessary or appropriate by the board. When questions of procedure arise during the hearing, the chairperson of the zoning board of appeals may solicit the recommendation of the representatives of both the applicant and the community.
7. If a hearing is not completed at a given meeting within the time period allowed by the zoning board of appeals, the board shall adjourn the hearing to a date certain for continuation.

(4) *Decision of the zoning board of appeals.*

a. The zoning board of appeals may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.

b. At the conclusion of the hearing, the zoning board of appeals may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.

c. If the zoning board of appeals determines to grant variance relief, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. Such relief may be in the form of one (1) or more non-use variances and/or in the form of a use variance. The motion may include conditions that are authorized by law.

d. If the zoning board of appeals adopts a motion to grant variance relief, such motion may be made as a tentative grant of relief, subject to review by the planning commission, planning director/consultant, engineer or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If such a tentative grant of relief is approved, the zoning board of appeals shall request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.

(c) In consideration of all appeals and all proposed variations to this chapter, the zoning board of appeals shall, before making any variations from this chapter in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property; nor unreasonably increase the congestion in public streets, nor increase the danger of fire or endanger the public safety, nor unreasonably diminish or impair established property values within the surrounding area, nor in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city. The concurring vote of four (4) members of the zoning board of appeals shall be necessary to reverse any order, requirements, decision or determination of the chief building inspector, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. Provided, however a two-thirds vote of the members shall be necessary to grant a use variance.

(Ord. No. 188, § 1801, 11-8-83; Ord. No. 351, § 1, 8-15-06)

Sec. 24-280. - Appeals—Filing and standards.

(a) An appeal shall be taken by filing simultaneously with the chief building inspector and the zoning board of appeals a notice of appeal specifying the grounds thereof. The chief building inspector shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken. Such appeals shall be filed within such time as shall be prescribed by the zoning board of appeals by general rule.

(b) The zoning board of appeals may reverse an order of an administrative official or the planning commission only if it finds that the action or decision appealed meets one or more of the following requirements:

(1) The decision was arbitrary or capricious.

(2) The decision was based on an erroneous finding or a material fact.

(3) The decision constituted an abuse of discretion.

(4) The decision was based on erroneous interpretation of the zoning code or zoning law.

(Ord. No. 188, § 1804, 11-8-83; Ord. No. 351, § 1, 8-15-06)

Sec. 24-281. - Same—Fee.

A fee, established by resolution of the city commission, shall be paid to the city clerk at the time of notice of appeal is filed, which the city clerk shall forthwith pay over to the city to the credit of the general fund of the city.

(Ord. No. 188, § 1802, 11-8-83; Ord. No. 351, § 1, 8-15-06)

Sec. 24-282. - Same—Stay.

An appeal stays all proceedings in furtherance of the action appealed from, unless the chief building inspector certifies to the zoning board of appeals, after notice of appeal shall have been filed with him, that, by reason of facts stated in his certificate, a stay would, in his opinion, cause imminent peril to life or property. In this case, proceedings shall not be stayed, except by a restraining order which may be granted by the zoning board of appeals or by the circuit court on application, provided notice to show cause why the restraining order should not be issued shall first be served on the chief building inspector.

(Ord. No. 188, § 1803, 11-8-83; Ord. No. 351, § 1, 8-15-06)

Sec. 24-283. - Same—Hearing, decision.

The zoning board of appeals shall fix a time for hearing the appeal. The zoning board of appeals may adjourn the hearing from time to time when, in its judgment, adjournment is necessary to ensure due process of law. The zoning board of appeals shall give a written notice of the time and place of such hearing at least fifteen (15) days prior to the date of the hearing to the parties to the appeal and to the persons to whom real property within three hundred (300) feet of the property line of the premises in question is assessed, as shown by the records of the city assessors office, and to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to the occupants of all structures within three hundred (300) feet of the boundary of the property in question, the notice to be delivered personally or by first class mail addressed to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is unknown, the term "occupant" may be used. Upon the hearing, any person may appear in person, by agent, or by attorney. The zoning board of appeals may reverse, or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal is taken. The decision of the zoning board of appeals shall be final insofar as it involves discretion or the findings of facts.

(Ord. No. 188, § 1806, 11-8-83; Ord. No. 351, § 1, 8-15-06)

Sec. 24-284. - Uses requiring board approval—Standards.

Each case before the zoning board of appeals shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such case. All uses as listed in any district requiring board approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts. The zoning board of appeals shall give consideration to the following:

(1) The location and size of the use;

(2) The nature and intensity of the operations involved in or conducted in connection with it;

(3) Its size, layout and its relation to pedestrian and vehicular traffic to and from the use;

(4) The assembly of persons in connection with it will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood;

(5) Taking into account among other things, convenient routes of pedestrian traffic, particularly of children;

(6) Vehicular turning movements in relation to routes of traffic flow, relation to street intersections, site distance and the general character and intensity of development of the neighborhood;

(7) The location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping of the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;

(8) The nature, location, size and site layout of the uses shall be such that it will be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one (1) type of use to another and characteristic;

(9) The location, size, intensity and site layout of the use shall be such that its operation will not be objectionable to nearby dwellings, by reason of noise, fumes or flash of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses, nor interfere with an adequate supply of light and air, nor increase the danger of fire or otherwise endanger the public safety.

(Ord. No. 308, § 2, 9-8-98; Ord. No. 351, § 1, 8-15-06)

Sec. 24-285. - Valid term of zoning board of appeals approvals.

(a) A variance granted by the zoning board of appeals which permits the erection, construction, installation or alteration of a building, structure or other thing shall only be valid for a period of one (1) year from the date of the zoning board of appeals' grant of the variance, unless a building permit for such erection, construction, installation or alteration is obtained within said one-year period and such erection, construction, installation and/or alteration is started and proceeds to completion in accordance with the terms of such permit.

(b) A variance granted by the zoning board of appeals permitting the use of a building, premises or structure shall only be valid for a period of one (1) year from the date of the zoning board of appeals grant of the variance unless such use is established within said one-year period; provided, however, that where such use permitted is dependent upon the erection, construction, installation and/or alteration of a building, structure or thing, such variance shall continue in force and effect if a building permit for such erection, construction, installation or alteration is obtained within such period, and such erection, construction, installation or alteration is started and proceeds to completion in accordance with the terms of such permit.

(c) Except as otherwise specifically provided in this chapter, any approval, permission and/or exception granted by the zoning board of appeals which permits the erection, construction, installation or alteration of a building, structure or other thing or which permits the use of a building, premises or structure, including but not limited to any approvals, permissions and/or exceptions granted pursuant to sections 24-3, 24-88, 24-102, 24-117, 24-147, 24-163, 24-211, 24-229, 24-230, 24-239 and 24-278, shall only be valid for a period of one (1) year from the date of the zoning board of appeals' grant of the

approval, permission and/or exception unless a building permit for such erection, construction, installation or alteration is obtained within said one-year period and the erection, construction, installation or alteration is started and proceeds to completion in accordance with the terms of such permit, or if such use is established within said one-year period; provided, however, that where such use permitted is dependent upon the erection, construction, installation or alteration of a building, structure or other thing, such approval, permission and/or exception shall continue in force and effect if a building permit for such erection, construction, installation or alteration is obtained within such period, and such erection, construction, installation or alteration is started and proceeds to completion in accordance with the terms of such permit.

(Ord. No. 351, § 1, 8-15-06)

Secs. 24-286—24-295. - Reserved.

ARTICLE VII. - AMENDMENTS

Sec. 24-296. - Changes and amendments.

The city commission may, from time to time, on recommendation from the planning commission, on petition or on its own motion, amend, supplement or change the district boundaries or the regulations in this chapter, or subsequently established in this chapter pursuant to the authority and procedure established in Act 207 of the Public Acts of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.

(Ord. No. 188, § 1900, 11-8-83)

Sec. 24-297. - Fees.

A fee, established by resolution of the city commission, shall be paid with each petition presented for a change or amendment to this chapter. Such fee shall cover the cost of advertising and printing and shall be paid to the city clerk to be credited to the general fund of the city.

(Ord. No. 188, § 1901, 11-8-83)

ZONING COMPARATIVE TABLE

This table shows the location of the sections of Ch. 24, the basic Zoning Ordinance, and the amendments thereto.

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		201	24-3
		300—305	24-21—24-26
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		1600—1604	24-226—24-230
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195	12-11-84	1	24-3
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197	5-14-85	1	24-211(7)
		2	24-240
201	2-11-86	1	24-240(4)
203	7- 8-86	1	24-3
		2	24-240(title)
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		4	24-211(7)
		5	24-229(b)(7)
204	2-10-87	1	24-89(b), (c),
			24-196
205	11-10-87	1	24-146
208	12- 8-87	1	24-242
209	1-12-88	1	24-243
211	5-10-88	1	24-3
212	5-10-88	1	24-196
		2	24-196(s), (u)
216	1-10-89	1	24-196
219	6-13-89	1	24-196(v), (w)
		2	24-196
220	6-13-89	1	24-3
		2	24-196(x)
		3	24-196
229	12-12-89	1	24-244
240	11-13-90	1	24-117(3)
241	12-11-90	1	24-258(c)
242	12-11-90	1	24-236(a)(6), (7)
243	12-11-90	1	24-245
246	6-11-91	1	24-196(y)
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250	10-15-91	1	24-229(a)
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278	5-10-94	1	24-240
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296	5-13-97	1 Added	24-278(a)(5)
		2 Rnbd	24-278(a)(5)
		as	24-278(a)(6)
297	5-13-97	1 Added	24-246
303	11-13-97	1	24-3
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304	11-13-97	1	24-3

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305	12- 9-97	1	24-196(w)(2)
307	7-14-98	1	24-229(b)(2)
308	9- 8-98	1 Added	24-247
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330	12-10-02	2	24-44
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337	12- 9-03	1 Added	24-229(b)(11)
342	9-14-04	Added	24-249,
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348	11- 8-05	1, 2	24-3
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		4	24-229(b)(2)b.1.
351	8-15-06	1	24-276,
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355	12-12-06	1	24-3
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360	6-12-07	1 Added	24-197—24-203
363	11-13-07	1	24-236(d)
366	12-11-07	1 Added	24-260(1)a.—d.
372	5-12-09	1	24-229(b)(11)
380	12- 8-09	1 Added	24-102(11)
		2 Rnbd	24-102(11)—(13)
		as	24-102(12)—(14)
383	5-11-10	1-4	24-3, 24-230—24-232
384	6- 8-10	1 Added	24-250
		2 Rpld	24-229(b)(1)b., 24-241
386	6- 8-10	1	24-236(h)
387	9-14-10	1 Added	24-7
		Rnbd	24-7
		as	24-8
391	7-12-11	1	24-3, 24-242
393	8- 9-11	1	24-263
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		Added	24-197—24-202
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		2	24-242
405	11-13-12	1	24-249
			24-196(z)
411	8-13-13	1 Added	24-196(aa)
413	11-12-13	1	24-3
		2	24-229(a)(6)
421	11-10-15	1 Added	24-237
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			24-237(B)
			24-237(C)
			24-237(D)
		3 Rnbd	24-237, 24-238, 24-239, 24-240
		as	24-238, 24-239, 24-240, 24-241
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424	10-18-16	1	24-3
		2	24-242
425	2-14-17	1	24-244
429	2-13-18	1	24-258(c)
439	10-13-19	1	24-235(d)
		2	24-3
441	1-14-20	1	24-242
		2	24-237(c)(2)(o)
		3	24-235(d)

444	6- 9-20	1	24-3
		2	24-242(b)(4)3.
		3	24-242(b)(5)
452	7-12-22	1	24-3
			24-235(d)