

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - Designation and citation of Code.

This codification of ordinances shall be known and cited as the "Code of Ordinances, City of Durand, Michigan" or the "Durand City Code."

State law reference— Codification authority, MCL 117.5b.

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

In the construction of this Code and of all ordinances of the city, the following definitions and rules of construction shall be observed, unless they are inconsistent with the intent of the council or the context clearly requires otherwise:

Charter. The term "Charter" shall mean the Charter of the City of Durand, Michigan, adopted August 5, 1958, and shall include any amendment to such Charter.

City. The term "city" shall denote the City of Durand, Michigan.

City council, council. The terms "city council" and "council" shall mean the city council or council of the City of Durand.

Code. The expressions "Code" and "this Code" shall mean the Code of Ordinances, City of Durand, Michigan, as designated in section 1-1 and as modified by amendment and revision and by the adoption of new chapters, articles, divisions or sections.

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

County. The terms "the county" and "this county" shall mean the County of Shiawassee in the State of Michigan.

Gender. Terms denoting the masculine gender shall be deemed to include the feminine and neuter genders.

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

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

MCL. The abbreviation "MCL" refer to the Michigan Compiled Laws, as amended.

Month. The term "month" shall mean a calendar month.

Number. Terms in the singular shall include the plural, and terms in the plural shall include the singular.

Officer, employee, department, board, commission or other agency. Whenever any officer, employee, 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 Durand, Michigan." Whenever, by the provisions of this Code, any officer, employee, department, board, commission or other agency of the city is assigned any duty or empowered to perform any act or duty, reference to such officer, employee, department, board, commission or agency shall mean and include such officer, employee, department, board, commission or agency or any deputy or authorized subordinate.

Person. The term "person" and its derivatives and the term "whoever" shall include a natural person, partnership, association, legal entity or a corporate body or any body of persons corporate or incorporate. Whenever used in any clause prescribing and imposing a penalty, the terms "person" and "whoever," as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

Shall/may. Whenever the term "shall" appears in this Code, it shall be considered mandatory and not directory, except as otherwise provided, and the term "may" is permissive.

State. The terms "the state" and "this state" shall be construed to mean the State of Michigan.

Tense. Words used in the present or past tense include the future as well as the present and past.

State law reference— Rules of construction, MCL 8.3 et seq.

Sec. 1-3. - Interpretation per state acts.

Unless otherwise provided in this Code, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this Code as those governing the interpretation of the Public Acts of Michigan.

Sec. 1-4. - Amendments to Code.

This Code shall be amended by ordinance. The title of each amendatory ordinance shall be substantially as follows:

(1) To amend any section:

An ordinance to amend the Code of Ordinances, City of Durand, Michigan, by amending section ;#rule; (or sections ;#rule; and ;#rule;) of chapter ;#rule;.

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

An ordinance to amend the Code of Ordinances, City of Durand, Michigan, by adding a new section (;#rule;, new sections or a new chapter, as the case may be), which new section (sections or chapter) shall be designated as section ;#rule; (sections ;#rule; and ;#rule;) of chapter ;#rule; of the Code.

(3) To repeal a section or chapter:

An ordinance to amend the Code of Ordinances, City of Durand, Michigan, by repealing section ;#rule; (sections ;#rule; and ;#rule;), chapter ;#rule;, of the Code.

Sec. 1-5. - Captions.

Headings and captions used in this Code, such as the chapter, article, division and section numbers, are employed for reference purposes only and shall not be deemed a part of the text of any section and do not limit the subject matter.

Sec. 1-6. - References and notes.

Charter references, cross references, state law references and editor's notes are by way of explanation only and should not be deemed a part of the text of any section.

Sec. 1-7. - Application to future legislation.

All of the provisions of this chapter, not incompatible with future legislation, shall apply to ordinances adopted that amend or supplement this Code, unless otherwise specifically provided.

Sec. 1-8. - Rules of severability.

Each chapter, article, division or section or, whenever divisible, subsection of this Code is hereby declared to be severable, and the invalidity of any chapter, article, division, section or divisible subsection shall not be construed to affect the validity of any other chapter, article, division, section or subsection of this Code.

Sec. 1-9. - Reference to other sections.

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

Sec. 1-10. - Reference to offices.

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

Sec. 1-11. - Certain provisions saved from repeal.

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

- (1) Any offense committed or penalty incurred or any right established prior to the effective date of the Code;
- (2) Any ordinance levying annual taxes;
- (3) Any ordinance appropriating money;
- (4) Any ordinance authorizing the issuance of bonds or borrowing of money;
- (5) Any ordinance establishing utility rates;
- (6) Any ordinance establishing franchises or granting special rights to certain persons;
- (7) Any ordinance authorizing public improvements;
- (8) Any ordinance authorizing the purchase or sale of real or personal property;
- (9) Any ordinance annexing or detaching territory;
- (10) Any ordinance granting or accepting easements, plats or dedication of land to public use;
- (11) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city;
- (12) Any ordinance establishing or prescribing grades in the city;
- (13) Any ordinance prescribing the number, classification or compensation of any city officers or employees;
- (14) Any ordinance prescribing traffic and parking restrictions pertaining to specific streets;
- (15) Any ordinance pertaining to zoning;
- (16) Any other ordinance or part thereof which is not 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.

Sec. 1-12. - Supplementation of Code.

By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council.

Sec. 1-13. - Enforcement official or agent.

If sections of this Code do not directly name a city official who is responsible for carrying out enforcement provisions, the city manager may direct any one of its employees, officers or another agency to perform the stated enforcement provisions.

Sec. 1-14. - Conflicting regulations.

Where there is a difference or conflict between other provisions of this Code or those contained in lawfully adopted county, state, city, federal or other governmental agency rules, regulations, ordinances or laws, the most liberal interpretation of the most restrictive or the one imposing the most desirable standard shall prevail.

Sec. 1-15. - Service of notice.

Except where the manner of service of notice is specifically provided for in sections of the city Charter, or in any section of this Code requiring notice, such notice may be served:

- (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 thereof, by registered, certified, or first class mail, to such owner at his last known residence or business address;
- (3) By posting such notice in some conspicuous place on the premises of his last known residence or business address; or
- (4) By one publication of such notice in a newspaper having a general circulation in the city.

Sec. 1-16. - General penalty.

- (a) 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, regulation or order adopted or issued in pursuance thereof shall be punished by a fine of not more than \$500.00 and costs of prosecution in the discretion of the court. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.
- (b) The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this Code, whether or not such penalty is reenacted in the amendatory ordinance.
- (c) The penalty shall be in addition to the abatement of the violating condition, any injunctive relief or revocation of any permit or license.

Cross reference— Fines for violation of municipal civil infraction, § 2-505.

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

Chapter 2 - ADMINISTRATION

FOOTNOTE(S):

⁽¹⁾ **Cross reference**— Elections, ch. 26; emergency preparedness, ch. 30; law enforcement, ch. 46; offenses affecting governmental functions, § 50-41 et seq.; administration of traffic regulations, § 74-66 et seq.; utilities, ch. 78; administration and enforcement of sewer regulations, § 78-176 et seq.

⁽¹⁾ **State Law reference**— Standards of conduct and ethics, MCL 15.341 et seq.; open meetings act, MCL 15.261 et seq.; freedom of information act, MCL 15.231 et seq.

ARTICLE I. - IN GENERAL

Sec. 2-1. - 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 by law, the Charter, ordinance or the provisions of this Code.

(Code 1977, § 1.146)

Sec. 2-2. - Bonds.

- (a) Surety bonds, conditioned as required by section 5.11 of the city Charter, shall be filed by the following officers of the city in not less than the amounts indicated:

Treasurer\$25,000.00

Manager10,000.00

Clerk10,000.00

(b) All other officers of the city and employees, except the mayor and councilmembers, shall file a blanket bond in an amount to be designated by the order of the city council.

(Code 1977, § 1.147)

Secs. 2-3—2-35. - Reserved.

ARTICLE II. - ADMINISTRATIVE SERVICE

FOOTNOTE(S):

⁽²⁾ **Cross reference**— Any ordinance prescribing the number, classification or compensation of any city officers or employees saved from repeal, § 1-11(13); fire department, § 38-81 et seq.; department of health, § 42-31 et seq.; police department, § 46-31 et seq.; department of parks and recreation, § 54-31 et seq.; department of public works, § 78-1; water department, § 78-5.

DIVISION 1. - GENERALLY

Sec. 2-36. - Division.

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:

Office or Department	Official Head
Office of clerk	City clerk
Office of assessor	City assessor
Office of treasurer	City treasurer
Department of police	Chief of police
Fire department	Fire chief
Department of public works	Director of public works and utilities
Department of water	Water superintendent
Department of health	Health officer
Department of parks and recreation	Director of parks and recreation
Department of law	City attorney

(Code 1977, § 1.40)

Secs. 2-37—2-60. - Reserved.

DIVISION 2. - CITY MANAGER

Sec. 2-61. - Duties generally.

The city manager shall see that all laws, ordinances, rules and regulations adopted by the council and the provisions of this Code, are properly enforced. He shall attend all meetings of the city council, regular and special. He shall be responsible for the proper preaudit and recording of all financial transactions. He shall establish and maintain a system of accounts for the city and shall prescribe the system and method of bookkeeping for any city office or department which he may require to keep such records.

(Code 1977, § 1.140)

Sec. 2-62. - Department heads.

All administrative officers are responsible to the city manager for the effective administration of their respective departments and offices and all activities assigned to them. The city manager may set aside any action taken by any administrative officer and may supersede him in the functions of his office, but, as to officers appointed by the council, such action shall be subject to approval by the council.

(Code 1977, § 1.141)

Sec. 2-63. - Vacancies.

In case of a vacancy in office or during the absence of any administrative officer, the city manager may designate an interim acting head or perform personally the functions of the office.

(Code 1977, § 1.142)

Sec. 2-64. - Departments of city; requirements.

All departments of the city shall comply with the following:

- (1) 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) Reports of the activities of each department shall be made to the manager at the end of each month, and an annual report shall be filed with the manager within 60 days after the end of the fiscal year. A summary of all such reports shall be made by the manager and submitted to the council. Each department head shall establish a system of records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the manager. The city manager shall keep the council fully advised at all times as to the financial condition and needs of the city.
- (3) 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 such records. 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 council.

(Code 1977, § 1.143)

Sec. 2-65. - Administrative manual.

The city manager is authorized to adopt such administrative regulations in addition to, but not inconsistent with, the city 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 1977, § 1.144)

Secs. 2-66—2-85. - Reserved.

DIVISION 3. - CLERK

Sec. 2-86. - Duties and responsibilities generally.

This office shall be headed by the city clerk, who shall serve as clerk of the city council and perform such other duties for the council as may be required by it. He shall be responsible for the publication, filing, indexing and safekeeping of all proceedings of the city council.

(Code 1977, § 1.41)

Sec. 2-87. - Election records.

He shall keep and maintain all election records and have custody of all property used in connection with elections.

(Code 1977, § 1.42)

Sec. 2-88. - Other duties.

He shall publish all legal notices unless otherwise provided; collect all license fees required by ordinance or statute except as otherwise provided; be the custodian of the official seal; and notify the appointing authority of any board or commission 30 days prior to the expiration of the term of office of any member thereof. He shall examine and audit all accounts against the city and promptly report to the city council through the city manager in writing any default or delinquency he may discover in the books, records or accounts of any city department. It shall be his duty to examine, verify and approve all accounts against the city. He shall not verify or approve for payment any voucher until he has verified the correctness of the account for which the voucher is issued. Neither shall he approve for payment any account unless the money has been appropriated therefor, nor shall he verify or sign any warrant except in accordance with the provisions of the city Charter.

(Code 1977, § 1.43)

Sec. 2-89. - Examination of books.

The city clerk shall have access to all books, records and documents kept by any officer, employee or department of the city. Daily reports of all moneys collected and of the disposition thereof shall be made to the city clerk by the department or person receiving the money. The books in all departments shall be balanced each calendar month, and a report thereof shall be made by the city clerk to the city manager.

(Code 1977, § 1.44)

Sec. 2-90. - Reports.

The city clerk shall present to the city manager annually, and whenever required by the city manager or the city council at any other time, a detailed statement of the financial condition of the city relative to the operating budget which shall include an account of all receipts and disbursements.

(Code 1977, § 1.45)

Secs. 2-91—2-110. - Reserved.

DIVISION 4. - ASSESSOR

Sec. 2-111. - Duties generally.

This office shall be headed by the city assessor whose duty it shall be to perform all work in connection with the assessing of property and the preparation of all assessment and tax rolls and tax notices; and such maps, plats and data as may be necessary or proper to effect an accurate and scientific assessment of property.

(Code 1977, § 1.50)

Secs. 2-112—2-130. - Reserved.

DIVISION 5. - TREASURER

Sec. 2-131. - Duties generally.

This department shall be headed by the city treasurer whose duty it shall be to:

- (1) Have the custody of all moneys of the city, any bond pertaining solely to the clerk, and all evidences of indebtedness belonging to the city or held in trust by the city.
- (2) Collect all moneys of the city, the collection of which is not provided for elsewhere by the city Charter or ordinance. He shall receive from other officers and employees of the city all money belonging to and receivable by the city that may be collected by such officers and employees, including fines, license fees, taxes, assessments and all other charges. All money shall be turned over to the treasurer after collection or receipt, and he shall in all cases give a receipt therefor and shall daily present an accounting of receipts to the city clerk.
- (3) Keep and deposit all moneys or funds in such manner and only in such places as the council may determine as soon after receipt thereof as may be conveniently possible.
- (4) Disburse all city funds in accordance with the provisions of the city Charter and this Code.
- (5) Perform such other duties as may be prescribed for him by the city manager.

(Code 1977, § 1.60)

Secs. 2-132—2-150. - Reserved.

DIVISION 6. - DEPARTMENT OF LAW

Sec. 2-151. - City attorney to head; duties.

This department shall be headed by the city attorney who shall be the legal adviser to the council, the city manager and to all departments and officers of the city. He shall represent the city in all legal proceedings or matters in which the city is interested. He shall prosecute offenses against the ordinances of the city and shall attend the meetings of the city council.

(Code 1977, § 1.130)

Secs. 2-152—2-185. - Reserved.

ARTICLE III. - BOARDS AND COMMISSIONS

FOOTNOTE(S):

⁽³⁾ **Cross reference**— Housing board of appeals, § 14-141 et seq.; traffic violations bureau, § 74-86 et seq.

DIVISION 1. - GENERALLY

Sec. 2-186. - Existing to continue; membership generally.

Such of the boards and commissions provided for in this article, as are in existence at the time of adoption of this Code, shall be continued and the members serving thereon shall remain in office for the duration of the term for which they were appointed. Except as otherwise provided for by law, Charter or this Code, the following provisions shall be applicable to all boards and commissions of the city:

- (1) *Vacancies.* Any vacancy occurring in the membership of any board or commission shall be filled for the remainder of the term in the manner provided for original appointment to such board or commission.
- (2) *Removal.* The appointing authority may remove any member of any board or commission for cause.

(3) *Rules.* Each board and commission shall have the power to make rules and regulations concerning the administration of its affairs inconsistent with laws, the city Charter and this Code.

(4) *Compensation.* All members of boards and commissions shall serve without compensation as members.

(Code 1977, § 1.150)

Secs. 2-187—2-210. - Reserved.

DIVISION 2. - ASSESSMENT BOARD OF APPEALS

FOOTNOTE(S):

⁽⁴⁾ **Cross reference**— Special assessments, ch. 62.

Sec. 2-211. - Composition; terms.

- (a) There shall henceforth be a three-man board of appeals named by the council to hear, deliberate and adjust on assessments, either general or special, in regard to hardship or special circumstance cases. Three persons will be chosen to the board of appeals; one for a one-year term expiring 12:01 a.m., January 1, 1971; one for a two-year term expiring 12:01 a.m., January 1, 1972; and one for a three-year term expiring 12:01 a.m., January 1, 1973. As each term expires, the person named to the board will hold the office for three years.
- (b) A citizen who deems himself in the category of hardship or special circumstances may petition the assessment board of appeals for a hearing.
- (c) The assessment board of appeals, upon deeming the citizen in this category (hardship or special circumstances), has the power to extend the payment of these assessments either general or special up to ten years.

(Code 1977, § 1.176)

Secs. 2-212—2-230. - Reserved.

DIVISION 3. - BUILDING CODE BOARD OF APPEALS

FOOTNOTE(S):

⁽⁵⁾ **Cross reference**— Buildings and building regulations, ch. 14.

Sec. 2-231. - Continuance; powers; hearing of appeals from decisions of building officials.

The building code board of appeals heretofore created is hereby continued. The building code board of appeals shall have the power to determine the suitability of alternate materials and types of construction and to provide for reasonable interpretation of chapter 14 of this Code. Appeals from the decisions of administrative officials charged with the enforcement provisions of chapter 14 of this Code shall be taken to such board under the provisions of such rules and regulations as it may prescribe. The board shall render all decisions in writing to the building official charged with the enforcement of chapter 14 of this Code and shall provide the appellant with a duplicate copy of such decision. The board shall have such other powers and duties as may be stipulated in chapter 14 and elsewhere in this Code.

(Code 1977, § 1.172)

Secs. 2-232—2-250. - Reserved.

DIVISION 4. - LIBRARY BOARD

Sec. 2-251. - Continuance; authority.

The library board of the city, heretofore established, is continued and shall have the powers and duties conferred in section 2-254.

Sec. 2-252. - Composition; terms of members; oaths.

The library board shall consist of five members who shall be either residents or freeholders of the city and shall be citizens of the United States. Such members shall be appointed by the mayor with the approval of the council. Prior to July 1 of each year, one member or two members, as the case may be, shall be appointed annually for a term of three years. Each member of the present library board and each member hereafter appointed shall serve until his successor is appointed and qualified. Within ten days after appointment and before entering upon his duties as a member of the library board, each appointee shall file written acceptance with the city clerk and subscribe and file with the clerk an oath to support the Constitution of the United States and the constitution of the state and to faithfully perform the duties of the office of library board member to the best of his ability.

(Ord. 1977, § 1.152; Ord. No. 01-05 § 1.152, 3-5-01)

Sec. 2-253. - Organization.

The city library board shall organize by electing annually at their first regular meeting in July, a chairman, vice-chairman, secretary and such other officers as may be necessary for the proper conduct of the duties of the city library board. The secretary shall notify the city council of the names of all such officers promptly after their appointment. Three members of the city library board shall constitute a quorum for the transaction of business.

(Code 1977, § 1.153; Ord. No. 01-05, § 1.153, 3-5-01)

Sec. 2-254. - Power and duties.

It shall be the duty of the city library board to study and observe the manner in which the library is managed and maintained by the district library board, and for that reason it may make or adopt such recommendations to the district library board, city manager or city council as may be expedient and not inconsistent with this chapter, the Charter of the city and the general laws of the state. It shall have the power to recommend candidates for librarian to the district library board. However, the final decision for selecting a librarian shall reside with the district library board. It shall make recommendations concerning library hours, custody and purchase of the books, magazines, furniture, fixtures and equipment in the library. The city library board may accept donations, contributions and gifts on behalf of the city for use at the library. All moneys received shall be deposited with the city treasurer and, except as otherwise provided by law or ordinance, credited to the general fund. Any expenditures of these funds shall be in the sole discretion of the city council. Any purchases made by or on behalf of the district library with such moneys shall revert to the city should there be a termination of the district library or should the city withdraw from the district library.

(Code 1977, § 1.154; Ord. No. 01-05, § 1.154, 3-5-01)

Sec. 2-255. - Recordkeeping.

The city library board shall keep a complete record of its proceedings. It shall make at the end of the fiscal year and at any other times when requested by the council, a report to the city council stating the condition of the library and such statistics, information and suggestions as it may deem of general interest.

(Code 1977, § 1.155; Ord. No. 01-05, § 1.155, 3-5-01)

Secs. 2-256—2-275. - Reserved.

DIVISION 5. - LOCAL OFFICERS' COMPENSATION COMMISSION

Sec. 2-276. - Established; duty generally; composition; terms of members; vacancies.

There is hereby established a local officers' compensation commission which shall determine the salaries of the mayor and members of the city council. The local officers' compensation commission shall consist of five members who are registered electors of the city and shall be appointed by the mayor subject to confirmation by a majority of the members elected and serving on the council. The terms of office shall be five

years, except that the members first appointed shall each be individually appointed to the following terms: one for one year; one for two years; one for three years; one for four years; and one for five years. The members shall be appointed before October 1 of the year in which the vacancy occurs. When vacancies occur during the term, the appointment shall be for the unexpired term.

(Ord. No. 85-3, § 1.183, 6-17-85)

Sec. 2-277. - Eligibility for membership.

No member or employee of the legislative, judicial or executive branch of any level of government or members of the immediate family of such member or employee shall be eligible to be a member of the local officers' compensation commission.

(Ord. No. 85-3, § 1.184, 6-17-85)

Sec. 2-278. - Determination of salaries; rejection by council; effective date; existing salary; expenses.

The local officers' compensation commission shall determine the salaries of the mayor and councilmembers, which determination shall be the salaries unless the city council, by resolution adopted by two-thirds of the members elected to and serving on the council, reject them. The determination of the commission shall be effective for 30 days following their filing with the city clerk unless rejected by the city council. In case of rejection, the existing salary shall prevail. Any expense allowance or reimbursement paid to the elected officials in addition to salary shall be for the expenses incurred in the course of city business and accounted for to the city.

(Ord. No. 85-3, § 1.185, 6-17-85)

Sec. 2-279. - Meetings and time of determination; quorum; chairman; session days; compensation and expenses.

The local officers' compensation commission shall meet for not more than 15 session days after September 15, in the year of 1985, and every odd-numbered year thereafter, and shall make its determination within 45 calendar days of its first meeting. A majority of the members of the commission shall constitute a quorum. The commission shall take no action or make determination without a concurrence of a majority of the members appointed and serving on the commission. The commission shall elect a chairman from among its members. The term "session days" means any calendar day on which the commission meets and a quorum is present. The members of the commission shall receive no compensation, but they shall be entitled to their actual and necessary expenses incurred in the performance of their duties, and shall not have the power to expend public funds.

(Ord. No. 85-3, § 1.186, 6-17-85)

Sec. 2-280. - Change of procedure, time and method.

The procedure for establishing the compensation of elected officials may be changed by city Charter amendment or revision.

(Ord. No. 85-3, § 1.187, 6-17-85)

Secs. 2-281—2-300. - Reserved.

DIVISION 6. - PARKS AND RECREATION BOARD

FOOTNOTE(S):

⁽⁶⁾ **Cross reference**— Parks and recreation, ch. 54.

Sec. 2-301. - Established; composition; terms of members generally.

There is hereby established a parks and recreation board for the city which shall consist of seven members appointed by the mayor with the consent of the city council for three-year terms as set forth in section 2-305.

(Code 1977, § 1.178; Ord. No. 01-09, § 1.178, 3-5-01)

Sec. 2-302. - Organization.

The parks and recreation board shall, on the first meeting of each year elect one of its members chairman and one as secretary. The board shall keep a correct record of the proceedings and shall meet at such times as it may determine not less than once each quarter. The meetings of the parks and recreation board shall be subject to the Open Meetings Act (MCL 15.261 et seq.).

(Code 1977, § 1.179; Ord. No. 01-09, § 1.179, 3-5-01)

Sec. 2-303. - Control of parks and public grounds.

The parks and recreation board shall have the power and the duty to make recommendations regarding all public parks and any lands or lots heretofore or hereafter devised and bequeathed to the city for park purposes and shall make recommendations regarding the ornamenting, adorning, laying out and improving of the grounds of such parks and may recommend the adoption of any and all rules necessary for the use of such parks. All recommendations shall be made to the city council, either directly or through the city manager.

(Code 1977, § 1.180; Ord. No. 01-09, § 1.180, 3-5-01)

Sec. 2-304. - Receipts; donations; disposition of funds.

All receipts on account of the city parks, whether arising from rentals, fees, donations, sale of any part thereof, or of any lands so willed and devised by any person to the city, shall be exclusively expended and applied under the direction and control of the city. All payments of rents, fees, donations or other monies shall be paid at city hall. In the event that any money is paid to a city employee not at city hall or to a member of the parks and recreation board, that payment shall be paid over to the appropriate official at city hall as soon as practicable. All such money shall be placed in the general fund of the city. Any recommendations of the parks and recreation board will be considered prior to such expenditures.

(Code 1977, § 1.181; Ord. No. 01-09, § 1.181, 3-5-01)

Sec. 2-305. - Initial appointments of members.

The first parks and recreation board shall consist of seven persons as set forth in [section 2-301](#), with three to be appointed for a period of three years, two for a period of two years and two for a period of one year, with all vacancies to be filled for the period of such appointment and at the expiration of such appointments with the vacancies to be filled for a term of three years.

(Code 1977, § 1.182)

Secs. 2-306—2-325. - Reserved.

DIVISION 7. - PLANNING COMMISSION

FOOTNOTE(S):

⁽⁷⁾ **State Law reference**— Municipal planning, MCL 125.31 et seq.

Sec. 2-326. - Continuance.

The city planning commission heretofore created in accordance with Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq.), as amended, is hereby continued.

(Code 1977, § 1.160)

Sec. 2-327. - Membership.

The city planning commission shall consist of the mayor, and one member of the administrative officials of the city who shall be selected by the mayor, and one member of the city council who shall be selected by the city council, all three of whom shall serve as members ex officio of the city planning commission, and six additional qualified and registered electors of the city who have been residents of the city for at least two years prior to the date of appointment, who shall be appointed by the mayor. The mayor, in appointing members, shall cause, insofar as possible, representation of different professions or occupations. All appointments of the members of the commission shall serve as such without compensation and no one of the members, except the ex officio members, shall at any time during his membership hold other municipal office.

The terms of 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. The term of each member, except the ex officio members, shall be three years and until his successor takes office. Vacancies occurring otherwise than through expiration of terms shall be filled for the unexpired term by the mayor in the case of members selected or appointed by him, by the city council in the case of the city councilmember. All appointments for vacancies by the mayor shall be subject to approval of a majority of the elected members of the city council.

(Code 1977, § 1.161)

Sec. 2-328. - Removal of members.

Members of the planning commission may, after a public hearing, be removed by the city council by a majority vote of the members elect for inefficiency, neglect of duty or malfeasance in office.

(Code 1977, § 1.162)

Sec. 2-329. - Meetings and records.

The city planning commission shall annually elect its chairman from amongst its appointed members and create and fill such other offices as it may determine. The city clerk shall act as secretary and clerk of the city planning commission. The city planning commission shall hold at least one meeting every three months. It shall adopt rules for the transaction of business, and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

(Code 1977, § 1.163; Ord. No. 97-6/16, § 1.163, 6-16-97; Ord. No. 01-08, § 1.163, 3-5-01)

Sec. 2-330. - Contracts for services.

The city planning commission may contract with city planners, engineers, architects and other consultants for such specialized services as it may require. In addition, the services of regular city employees may be obtained as found necessary for its work; provided, however, that the city planning commission shall not expend any funds or enter into any agreements for expenditures, exclusive of gifts, in excess of the amounts appropriated for the purpose by the city council. The city council shall appropriate such funds as are necessary for the commission's work.

(Code 1977, § 1.164)

Sec. 2-331. - Powers and duties.

The city planning commission shall have such powers as are necessary for the preparation and adoption of a master plan or any part thereof, the making of surveys as a basis for such a plan, the approval of public improvements, the carrying out of educational and publicity programs, the approval of plats and a street system, the adoption of regulations governing subdivisions of lands, and such other rights, powers and duties and responsibilities as are provided under the provisions of Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq.), as amended.

(Code 1977, § 1.165)

Sec. 2-332. - Gifts.

The city planning commission may receive gifts for purposes of carrying out its objectives and may expend any funds received in the form of a gift in such manner as it may deem proper.

(Code 1977, § 1.166)

Sec. 2-333. - Adoption of plan.

The planning commission may adopt the plan as a whole by single resolution or may, by successive resolutions, adopt successive parts of the plan. Such parts shall correspond with major geographical sections or divisions of the city or with functional subdivisions of the subject matter of the plan, and the planning commission may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension or addition, the commission shall hold at least one public hearing thereon notice of the time and place of which shall be given not less than 15 days prior to such hearing by one publication in a newspaper of general circulation in the city, and by registered United States mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the geographical sections or divisions of the city affected. The adoption of the plan or of any such part or amendment or extension or addition

shall be by resolution of the planning commission carried by the affirmative votes of not less than six members of the planning commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the planning commission to form the whole or part of the plan. The action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the chairman and/or secretary of the planning commission. An attested copy of the plan or part thereof shall be certified to the council and to the county register of deeds.

(Code 1977, § 1.167)

Sec. 2-334. - Public works approval.

Whenever the planning commission shall have adopted the master plan of the city, or one or more major sections of districts thereof, no street, square, park or other public way, ground or open space, or public building or structure shall be constructed or authorized in the municipality or in such planned section and district until the location, character and extent thereof shall have been submitted to and approved by the planning commission; provided, however, that in case of disapproval, the planning commission shall communicate its reasons to the council, which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership. If the public way, ground, space, building, structure or utility is one, the authorization or financing of which does not under the law or Charter provisions governing the same fall within the province of the city council, then the submission to the planning commission shall be by the board, commission, or body having such jurisdiction. The planning commission's disapproval may be overruled by such board, commission or body by a vote of not less than two-thirds of its entire membership. The failure of the planning commission to act within 60 days from and after the date of official submission to the commission shall be deemed approval. For the purpose of furthering the desirable future development of the city under the master plan, the city planning commission shall, after the commission shall have adopted a master plan, prepare coordinated and comprehensive programs of public structures and improvements. The planning commission shall annually prepare such a program for the ensuing six years, which program shall show those public structures and improvements, in the general order of their priority, which in the planning commission's judgment will be needed or desirable and can be undertaken within the six-year period. Such comprehensive coordinated programs shall be based upon the requirements of the community for all types of public improvements, and, to that end, each agency or department of such city concerned with such improvements shall, upon request, furnish the planning commission with lists, plans and estimates of time and cost of public structures and improvements within the purview of such department.

(Code 1977, § 1.168)

Sec. 2-335. - Action by council.

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

(Code 1977, § 1.169)

Sec. 2-336. - Publicity and gifts; cooperation from officials.

The planning commission shall have the power to promote public interest in and understanding of the plan and, to that end, may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine. Members of the planning commission, when duly authorized by the planning commission, may attend city planning conferences or meetings of city planning institutes, or hearings upon pending city planning legislation. The planning commission may, by resolution spread upon its minutes, pay the reasonable traveling expenses incident to such attendance. The planning commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations, and with citizens with relation to the protecting or carrying out of the plan. The planning commission shall have the right to accept and use gifts for the exercise of its functions. All public officials shall, upon request, furnish to the planning commission, within a reasonable time, such available information as it may require for its work. The planning commission, its members, officers and employees, in the performance of their functions, may enter upon any land and

make examinations and surveys and place and maintain necessary monuments and marks thereon. In general, the planning commission shall have such powers as may be necessary to enable it to fulfill its functions, promote city planning, or carry out the purposes of Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq.), as amended.

(Code 1977, § 1.170)

Secs. 2-337—2-370. - Reserved.

ARTICLE IV. - FINANCE

FOOTNOTE(S):

⁽⁸⁾ **Cross reference**— Any ordinance levying annual taxes saved from repeal, § 1-11(2); any ordinance appropriating money saved from repeal, § 1-11(3); any ordinance authorizing the issuance of bonds or borrowing of money saved from repeal, § 1-11(4); any ordinance establishing utility rates, § 1-11(5); any ordinance authorizing the purchase or sale of real or personal property saved from repeal, § 1-11(8); any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city, § 1-11(11); special assessments, ch. 62.

DIVISION 1. - GENERALLY

Sec. 2-371. - Payment of money.

All moneys belonging to the city shall be paid out upon presentation of a valid warrant approved by the city clerk and issued in accordance with the city Charter by checks drawn by the city treasurer and countersigned by the mayor.

(Code 1977, § 1.145)

Secs. 2-372—2-390. - Reserved.

DIVISION 2. - PUBLIC IMPROVEMENT FUND

Sec. 2-391. - Creation; authority.

There is hereby created a public improvement fund pursuant to Act No. 177 of the Public Acts of Michigan of 1943 (MCL 141.261 et seq.), as amended.

(Code 1977, § 1.190)

Sec. 2-392. - Purpose.

The purpose of the public improvement fund shall be the appropriating, providing for, setting aside and accumulating moneys to be used for acquiring, extending, altering or repairing public improvements which the city may by the provisions of its Charter or the general law be authorized to acquire, alter or enlarge.

(Code 1977, § 1.191)

Sec. 2-393. - Disbursements.

The moneys accumulated in the public improvement fund, notwithstanding the provisions of any law or the Charter of the city, shall not be transferred, encumbered or otherwise disposed of, except for the purpose of acquiring, extending, altering or repairing public improvements which the city may, by the provisions of its Charter or the general laws, be authorized to acquire, extend, alter or repair. The money so accumulated in such fund shall be disbursed only on specific resolution of the city council and in accordance with the other provisions of this section.

(Code 1977, § 1.192)

Sec. 2-394. - Appropriations to fund.

The council may allocate to such fund miscellaneous revenues received, including revenue raised under the provisions of state law.

(Code 1977, § 1.193)

Secs. 2-395—2-415. - Reserved.

DIVISION 3. - PURCHASES

Sec. 2-416. - Purchasing agent.

The city manager shall act as purchasing agent of the city, and shall adopt any necessary rules respecting requisitions and purchase orders.

(Code 1977, § 1.231; Ord. No. 01-02, § 1.231, 3-5-01)

Sec. 2-417. - Purchases or contracts under \$1,500.00.

Purchases of supplies, materials or equipment, the cost of which is less than \$1,500.00, may be made in the open market, but such purchases shall, where practicable, be based upon at least three competitive bids and shall be awarded to the lowest bidder meeting specifications. The purchasing agent may solicit bids verbally or by telephone, or may contact prospective bidders by written communication. Where bids are solicited by written communication, a request for such bids shall also be posted in the city hall. A record shall be kept for six months of all open market orders and the bids submitted thereon, which records shall be available for public inspection. Any or all bids may be rejected.

(Code 1977, § 1.232; Ord. No. 01-02, § 1.232, 3-5-01)

Sec. 2-418. - Purchases or contracts over \$1,500.00.

Any expenditure for supplies, materials or equipment, construction project or contract obligating the city, where the amount of the city's obligation is in excess of \$1,500.00 shall be governed by the following provisions of this section:

- (1) Such expenditures shall be made the subject of a written contract. A purchase order shall be a sufficient written contract only in cases where the expenditure is in the usual and ordinary course of the city's affairs, and in no case shall it be sufficient for the construction of public works or the contracting for supplies or services over any period of time or where the quality of the goods or materials or the scope of the services bargained for is not wholly standardized.
- (2) Notice inviting sealed competitive bids shall be published in the official newspaper at least five days before the final date of submitting bids thereon. Such notice shall give briefly the specifications of the supplies, materials or equipment or construction project or other matter to be contracted for, and shall state the amount of bond or other security, if any is to be required, to be given with the bid, and the amount of bond or other security to be given with the contract. The notice shall state the time limit, the place of filing and the time of opening bids, and shall also state that the right is reserved to reject any or all bids. Any other conditions of award of the contract shall also be stated in general terms.
- (3) The purchasing agent shall also 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.
- (4) Unless prescribed by the council, 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 council, 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.
- (5) Bids shall be opened in public by the city manager, or in the event of his being absent or incapacitated, by the city clerk, at the time and place designated in the notice requesting bids. The city manager or the city clerk and at least one other city official, preferably the head of the department most closely concerned with the subject of the contract, shall be present at the opening of the bids. The bids shall thereupon be carefully examined and tabulated and reported to the council with the recommendation of the purchasing agent. After tabulation, all bids may be inspected by the competing bidders.
- (6) When such bids are submitted to the council, the contract to be executed, in a form approved by the city attorney, shall also

be submitted; and, if the council shall find any of the bids to be satisfactory, it shall award the contract and shall authorize execution of the contract upon execution of the contract by the successful bidder and the filing of any bonds which may have been required, which bonds shall first be approved by the city attorney as to form and content. Contracts shall be awarded to the lowest competent bidder meeting specifications unless the council shall determine that the public interest will be better served by accepting a higher bid. Such award may be by resolution or ordinance. The council 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.

- (7) At the time any public works construction, maintenance or repair 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. Such 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.
- (8) 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 days after the contract has been awarded, or file any bond required within the same time, the deposit accompanying his bid shall be forfeited to the city.

(Code 1977, § 1.233; Ord. No. 01-02, § 1.233, 3-5-01)

Sec. 2-419. - Exception to competitive bidding.

Competitive bidding shall not be required in respect to contracts for professional services. In any other case where competitive bidding clearly is not practical or where no advantage would result to the city to require competitive bidding, the council, upon the written recommendation of the city manager, may authorize the execution of a contract without competitive bidding. Where a contract is let without competitive bidding the proposed contract shall be approved by the city attorney as to form and content, unless prepared by him by direction of the council, and submitted to the council.

(Code 1977, § 1.234; Ord. No. 01-02, § 1.234, 3-5-01)

Sec. 2-420. - Emergency purchases.

In case of emergency, any department head, with the approval of the city manager, may purchase directly any supplies, material or equipment, the immediate procurement of which is necessary to the continuation of the work of his department. Such purchases and the emergency causing them shall be reported in detail to the city manager within a week from the time when made, and such reports shall be preserved for a period of two years.

(Code 1977, § 1.235; Ord. No. 01-02, § 1.235, 3-5-01)

Secs. 2-421—2-440. - Reserved.

DIVISION 4. - SALE OF PROPERTY

FOOTNOTE(S):

⁽⁹⁾ **State Law reference**— Confiscation of property used to create nuisance, MCL 600.3801.

Subdivision I. - In General

Sec. 2-441. - City property.

Whenever any city property, real or personal, is no longer needed for corporate or public purposes, the property may be offered for sale on approval by the council. Personal property not exceeding \$1,500.00 in value may be sold for cash by the purchasing agent after receiving quotations or competitive bids therefor for the best price obtainable. All real property and personal property with a value in excess of \$1,500.00

may be sold after advertising and receiving competitive bids, as provided in [section 2-418](#) and after approval of the sale has been given by the council. In the sale of automotive equipment, bidders may include in their bid a trade-in allowance for old equipment which shall be in lieu of all bids required in this section.

(Code 1977, § 1.236; Ord. No. 01-02, § 1.236, 3-5-01)

Secs. 2-442—2-460. - Reserved.

Subdivision II. - Confiscated, Impounded, Abandoned and Lost and Found Property

Sec. 2-461. - Disposition alternatives.

The department of police shall be authorized to dispose of property which comes into its possession in accordance with procedures established pursuant to applicable state law, including the following:

- (1) The department of police shall provide for the disposition and sale of recovered stolen property or abandoned personal property in accordance with state law, Act No. 214 of the Public Acts of Michigan of 1979 (MCL 434.181 et seq.), as amended.
- (2) The department of police shall provide for the sale and disposition of lost property, which includes all property found in an abandoned vehicle, in accordance with state law, Act No. 273 of the Public Acts of Michigan of 1987 (MCL 434.21 et seq.), as amended.
- (3) The department of police shall maintain and dispose of impounded or abandoned vehicles in accordance with the uniform traffic code for cities, townships and villages which is authorized by Act No. 62 of the Public Acts of Michigan of 1956 (MCL 257.951 et seq.), as amended.
- (4) All pistols, weapons or devices which are seized by the department of police and determined to have been carried, possessed or used in violation of state law shall be turned over to the commissioner of the Michigan State Police pursuant to MCL 750.239.
- (5) Property seized by the department of police and which is subject to forfeiture pursuant to part 75 of article 7 of the Michigan Public Health Code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.7501 et seq.), as amended, shall be disposed of in accordance with article 7 of such code.
- (6) Property seized by the department of police and which is subject to forfeiture pursuant to Act No. 104 of the Public Acts of Michigan of 1988 (MCL 600.470 et seq.), as amended, shall be disposed of in accordance with the act.

Sec. 2-462. - Sale of property.

- (a) In all cases where property is to be sold by the department, sale shall be in accordance with the procedures set forth in state law. Alternatively, the director may authorize sale by means of public auction.
- (b) Except as otherwise required by law or by any other express provision of this Code, every public auction held pursuant to this section shall be preceded by notice describing the property to be sold to the highest bidder and setting forth the date, place and time of the sale. Such notice shall be posted in a public place for at least 15 days prior to the sale, and published in a newspaper of general circulation in the city at least ten days, and no more than three weeks, prior to the sale.
- (c) Any property that is inherently dangerous to the public is not to be sold at public auction, and may not otherwise be sold or transferred to any person failing to provide evidence of responsibility determined by the director to be adequate.

Sec. 2-463. - Disposition of proceeds.

Proceeds of any sale described in this subdivision, less necessary expenses incident thereto, shall be deposited with the city treasurer. Proceeds from property seized, forfeited and sold pursuant to article 7 of the Michigan Public Health Code (MCL 333.7101 et seq.) shall be used to enhance law enforcement efforts pertaining to such article 7. Proceeds from property seized, forfeited and sold pursuant to Act No. 104 of the Public Acts of Michigan of 1988 (MCL 600.4701 et seq.) shall be utilized as set forth in that act.

Secs. 2-464—2-500. - Reserved.

FOOTNOTE(S):

⁽¹⁰⁾ **Cross reference**— Traffic violations bureau, § 74-86 et seq.

⁽¹⁰⁾ **State Law reference**— Authority to designate certain violations as municipal civil infractions, MCL 117.4(3), (4); municipal civil infractions, MCL 600.8701 et seq.

Sec. 2-501. - 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:

Act means Act No. 236 of the Public Acts of Michigan of 1961 (MCL 600.101 et seq.), as amended.

Authorized city official means a police officer or other personnel of the city authorized by section 2-502 or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means the city municipal ordinance violations bureau as established by section 2-503.

Municipal civil infraction action means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal civil infraction citation means a written complaint or notice prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction violation notice means a written notice prepared by an authorized city official, directing a person to appear at the city municipal ordinance violations bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city, as authorized under sections 8396 and 8707(6) of the Act.

Cross reference— Definitions generally, § 1-2.

Sec. 2-502. - Citations and violation notices.

- (a) *Designated officials.* The following personnel of the city have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this article:
- (1) Police officers.
 - (2) Fire chief.
 - (3) Code enforcement officer.
 - (4) Health officer.
- (b) *Action, commencement.* A municipal civil infraction action may be commenced upon the issuance by an authorized city official of:
- (1) A municipal civil infraction citation directing the alleged violator to appear in court; or
 - (2) A municipal civil infraction violation notice directing the alleged violator to appear at the city municipal ordinance violations bureau.
- (c) *Issuance, service of citations.* Municipal civil infraction citations shall be issued and served by authorized city officials as follows:
- (1) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
 - (2) The place for appearance specified in a citation shall be the district court.
 - (3) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the city and issued to the alleged violator as provided by section 8705 of the Act.
 - (4) A citation for a municipal civil infraction signed by an authorized city official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the

statements above are true to the best of my information, knowledge and belief."

- (5) An authorized city official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- (6) An authorized city official may issue a citation to a person if:
 - a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - b. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or city attorney approves in writing the issuance of the citation.
- (7) Municipal civil infraction citations shall be served by an authorized city official as follows:
 - a. Except as provided by subsection (c)(7)b of this section, an authorized city official shall personally serve a copy of the citation upon the alleged violator.
 - b. If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy of the citation on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.
- (d) *Contents of citation.* A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged to have been violated, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
 - (1) The citation shall inform the alleged violator that he may do one of the following:
 - a. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - b. Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or, in person, or by representation.
 - c. Deny responsibility for the municipal civil infraction by doing either of the following:
 1. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the city.
 2. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
 - (2) The citation shall also inform the alleged violator of all of the following:
 - a. If the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
 - b. If the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
 - c. A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the city.
 - d. At an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
 - e. At a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
 - (3) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

- (a) *Established.* The city hereby establishes a bureau as authorized under section 8396 of the Act to accept admissions of responsibility

for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized city officials, and to collect and retain civil fines and costs as prescribed by sections 2-501—2-503 or any ordinance.

- (b) *Location; supervision; employees; rules and regulations.* The bureau shall be located at the city administrative offices, and shall be under the supervision and control of the city treasurer. The city treasurer, subject to the approval of the city council, shall adopt rules and regulations for the operation of the bureau and appoint any necessary qualified city employees to administer the bureau.
- (c) *Disposition of violations.* The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in sections 2-501 and 2-502 shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection afforded by law.
- (d) *Bureau limited to accepting admissions of responsibility.* The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and the bureau shall not determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.
- (e) *Violation notices.* Municipal civil infraction violation notices shall be issued and served by authorized city officials under the same circumstances and upon the same persons as provided for citations in section 2-502(c)(6) and (c)(7). In addition to any other information required by sections 2-501 and 2-502 or other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.
- (f) *Appearance; payment of fines and costs.* An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.
- (g) *Procedure where admission of responsibility not made or fine not paid.* If an authorized city official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by sections 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

State law reference— Authority to establish municipal ordinance violations bureau, MCL 600.8396.

Sec. 2-504. - Failure to appear; penalty.

A person served with a municipal civil infraction citation as provided in section 2-502(c)(7) who fails to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is punishable by a fine of not more than \$500.00. Failure to appear will also result in the entry of a default judgment on the municipal civil infraction.

Sec. 2-505. - Schedule of fines.

A schedule of civil fines payable to the bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established. The fines for the violations listed in this section shall be as follows:

Code Section	Offense	Fine for First Violation	Fine for Second Violation	Fine for Third or any Subsequent Violation

Cross reference— General penalty, § 1-16.

Chapter 6 - ALCOHOLIC LIQUORS

FOOTNOTE(S):

⁽¹¹⁾ **Cross reference**— Businesses, ch. 18; public intoxication, § 50-141.

⁽¹¹⁾ **State Law reference**— Liquor law, MCL 436.1 et seq.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Definitions.

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

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

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

Club means an association licensed by the liquor control commission pursuant to section 2(e) and 24(c) of Act No. 8 of the Public Acts of Michigan of 1933 (Ex. Sess.) (MCL 436.1 et seq.), as amended, to sell beer, wine and spirits for consumption on the premises only to bona fide members, who have attained the age of 21 years.

Spirits means any beverages containing alcohol by distillation, mixed with potable water and other substances in solution, and includes, among other things, wine containing an alcoholic content of over 16 percent by volume.

Wine means the product made by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment and containing not more than 16 percent of alcohol by volume. It shall also include fermented fruit juices other than grapes.

(Code 1977, § 9.151)

Cross reference— Definitions generally, § 1-2.

Sec. 6-2. - State license required.

No person shall engage in the business of selling alcoholic liquor, beer, wine or other spirits for consumption in the city without first obtaining a license therefor, as required by state statutes.

(Code 1977, § 9.152)

Sec. 6-3. - Council approval required for sale.

No person shall sell alcoholic liquor, beer, wine or spirits for consumption on the premises within the city without having obtained the approval of the council of the city of an application for a license so to sell, as required by state statutes.

(Code 1977, § 9.153)

Sec. 6-4. - Sale of spirits.

No person shall permit spirits to be consumed in any place or on any premises owned, operated or controlled by him, and licensed under the laws of the state to sell beer and/or wine, and not licensed to sell spirits.

(Code 1977, § 9.156)

Sec. 6-5. - Hours of licensed premises.

No person, either directly or indirectly, by himself, his agent, servant or employee, shall sell, give away, make delivery, transfer possession or furnish in or on the premises owned, operated or controlled by him and for which a license has been granted by the state, any alcoholic beverages between the hours of 2:00 a.m. and 12:00 noon, on any Sunday, or between the hours of 2:00 a.m. and 7:00 a.m. on any other day.

(Code 1977, § 9.157)

Sec. 6-6. - Possession or consumption of alcoholic liquor in public.

- (a) It shall be unlawful for any person to consume alcoholic liquor or to possess alcoholic liquor in an open container on a public street, sidewalk, highway or in a public park, public place of amusement or other publicly owned area not licensed to sell alcoholic beverages for consumption on the premises.
- (b) This section shall not apply to the consumption of alcohol or the possession of an open container of alcohol upon public property where such consumption or possession is within a grant of permission given by the city council of the city.

(Ord. No. 01-03, §§ 1, 2, 3-5-01)

Secs. 6-7—6-35. - Reserved.

ARTICLE II. - UNDERAGE PERSONS

FOOTNOTE(S):

⁽¹²⁾ **Cross reference**— Offenses involving underaged persons, § 50-256 et seq.

Sec. 6-36. - Sales.

No person, either directly or indirectly, by himself, clerk, agent, servant or employee, shall at any time sell any alcoholic liquor to any person unless the person has attained 21 years of age. A person who sells alcoholic liquor to a person who is underage shall be liable for a civil penalty of not more than \$500.00.

Sec. 6-37. - Purchases.

- (a) A person under the age of 21 years shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section. A person under the age of 21 years who violates this section is guilty of a misdemeanor punishable by the following fines and sanctions:
 - (1) For the first violation, a fine of not more than \$100.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, art no. 368 of the Public Acts of Michigan of 1978 (MCL 333.6107), as amended, and designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his own expense as described in subsection (b) of this section.

- (2) For a violation of this section following a prior conviction or juvenile adjudication for a violation of this section or section 33b(1) of the Public Acts of Michigan of 1933 (Ex. Sess.), a fine of not more than \$200.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, art. no. 368 of the Public Acts of Michigan of 1978 (MCL 333.6107), as amended, and designated by the administrator of substance abuse services to perform community service, and to undergo substance abuse screening and assessment at his own expense as described in subsection (b) of this section.
 - (3) For a violation of this section following two or more prior convictions of juvenile adjudications for a violation of this section or section 33b(1) of former art. no. 8 of the Public Acts of Michigan 1933 (Ex. Sess.), a fine of not more than \$500.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, art. no. 368 of the Public Acts of Michigan of 1978 (MCL 333.6107), as amended, and designated by the administrator of substance abuse services to perform community service, and to undergo substance abuse screening and assessment at his own expense as described in subsection (b) of this section.
 - (4) The secretary of state shall suspend the operator of chauffeur's license of an individual convicted of violating this subsection or subsection (c) of this section as provided in section 319 of the Michigan vehicle code, art. no. 300 of the Public Acts of Michigan of 1949 (MCL 257.319), as amended.
- (b) The court may order the person convicted of violating subsection (a) of this section to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the public health code (MCL 333.6103), as amended, 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.
 - (c) A person who furnishes fraudulent identification to a person under the age of 21 years, or notwithstanding subsection (a), a person under the age of 21 years who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.
 - (d) A peace officer who has reasonable cause to believe a person under the age of 21 years has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol tests are admissible in a criminal prosecution to determine whether the person under the age of 21 years has consumed or possessed alcoholic liquor. A person under the age of 21 years who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$100.00.
 - (e) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under art. no. 293 of the Public Acts of Michigan of 1968 (MCL 722.1 to 722.6), as amended, allegedly consumed, possessed, purchased, or attempted to consume, possess or purchase alcoholic liquor in violation of subsection (a) of this section shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (a) of this section is less than 18 years of age and not emancipated under art. no. 293 of the Public Acts of Michigan of 1968 (MCL 722.1 to 722.6), as amended. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first class mail. If an individual less than 17 years of age is incarcerated for violating subsection (a) of this section, his parents or legal guardian shall be notified immediately as provided in this subsection.
 - (f) This section does not apply to the following circumstances:
 - (1) When a minor possesses alcoholic liquor during regular working hours and in the course of his employment if employed by a person licensed by art. no. 58 of the Public Acts of Michigan of 1998 (MCL 436.1101 et seq.), as amended, by the state liquor control commission, or by an agent of the state liquor control commission, if the alcoholic liquor is not possessed for his personal consumption.
 - (2) To the consumption of alcoholic liquor by a person under the age of 21 years offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member if the purpose of the consumption is solely educational and is a requirement of the course.
 - (3) To the consumption by a person under the age of 21 years of sacramental wine in connection with religious services at a church, synagogue, or temple. To the purchase or receipt of alcoholic liquor by an underage person under the direction of the person's employer and with the prior approval of the local prosecutor's office in an undercover operation which is part of an

employer-sponsored internal enforcement action.

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

- (g) 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 Art. No. 58 of the Public Acts of Michigan of 1998 (MCL 436.1101 et seq.), as amended, or the ordinances of the city.

(Code 1977, § 9.155; Ord. No. 01-07, §§ 1—7, 3-5-01)

Sec. 6-38. - Admission of minors in bars and taverns for consumption of food.

All bars or taverns within the city that serve food, such as lunches and dinners, may admit minors into their establishments if accompanied by an adult but only for the consumption of food.

(Code 1977, § 9.158)

Sec. 6-39. - Transport of alcoholic liquor in motor vehicles.

A person less than 21 years of age shall not knowingly possess, transport or have under the person's control in a motor vehicle alcoholic liquor unless the person is employed by a licensee under this chapter and is possessing, transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment.

Cross reference— Traffic and vehicles, ch. 74.

Chapter 10 - ANIMALS

FOOTNOTE(S):

⁽¹³⁾ **Cross reference**— Environment, ch. 34; health and sanitation, ch. 42.

⁽¹³⁾ **State Law reference**— Authority to adopt animal control ordinance, MCL 287.290; crimes relating to animals and birds, MCL 750.49 et seq.

ARTICLE I. - IN GENERAL

Sec. 10-1. - Cruelty to animals.

No person shall cruelly treat or abuse any animal or bird in this city. Cruel and abusive treatment shall include, but not be confined to, inhumanely beating, not adequately feeding, not adequately watering, abandoning or confining in an area not sufficient to allow the animal adequate exercise.

(Code 1977, § 9.41)

Sec. 10-2. - Poisoning animals.

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

(Code 1977, § 9.42)

Sec. 10-3. - 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 1977, § 9.43)

Sec. 10-4. - Domestic animals and fowl.

No person shall keep or house any animal or domestic fowl within the city except dogs, cats, canaries or animals commonly classified as pets which are customarily kept or housed inside dwellings as household pets, and, furthermore, no person or family or household shall keep more than three adult cats and/or dogs or in any residence within the city. For purposes of this section a cat or dog is deemed to be an adult upon becoming ten weeks old.

(Code 1977, § 9.44)

Secs. 10-5—10-35. - Reserved.

ARTICLE II. - DOGS

FOOTNOTE(S):

⁽¹⁴⁾ **State Law reference**— Regulations pertaining to dogs, MCL 287.261 et seq.

Sec. 10-36. - Presumption of ownership.

No person owning, possessing or having charge of any dog, shall permit such dog to be at large at any time in the city in violation of any of the following restrictions:

- (1) No person shall permit any vicious dog of which he is the owner, caretaker or custodian to be unconfined unless securely muzzled and led by a leash. Any dog shall be deemed vicious which has bitten a person or domestic animal without molestation or which, by its actions, gives the indication that it is liable to bite any person or domestic animal without molestation.
- (2) No person who is the owner of any female dog shall permit or allow such female dog to go beyond the premises of such owner when such dog is in heat.
- (3) No person shall own, harbor or keep a dog which by loud or frequent or habitual barking, yelping or howling shall cause annoyance to the people in the neighborhood.
- (4) No person shall own, harbor or keep a dog that has been bitten by an animal known or reasonably suspected of having been afflicted with rabies at the time such dog was bitten, unless such dog shall have been surrendered to the police department or dog warden, held for observation, and released by the health officer of the city.
- (5) No person shall own, harbor or keep any dog, either licensed or unlicensed that, by the destruction of property or trespassing on the property of others, becomes a nuisance in the vicinity where kept.

(Code 1977, § 9.49)

Sec. 10-37. - Seizure and impounding.

Any dog which is in violation of any section of this article may be seized and impounded by the dog warden or any police officer of the city, or authorized city employee.

(Code 1977, § 9.50)

Sec. 10-38. - Rabies prevention.

Any person who shall have in his possession a dog which has contracted rabies or which has been subjected to rabies, or which is suspected of having rabies or which has bitten any person, shall, upon demand of the police department or the health officer, produce and surrender up such dog to be held for observation as provided in sections 10-39 and 10-40.

(Code 1977, § 9.51)

Sec. 10-39. - Exposure to rabies—Notice.

It shall be the duty of any person owning or harboring a dog which has been attacked or bitten by another dog or other animal showing the symptoms of rabies, immediately to notify the police department of his possession of such dog.

Sec. 10-40. - Same—Impounding and release.

Any dog impounded for observation for rabies shall be held until released by the health officer or otherwise disposed of. Any dog impounded for having bitten any person shall be held not less than 14 days and, in case any complaint shall have been made before any court asking that such dog be killed or confined, then such dog shall be confined until the case is finally disposed of.

(Code 1977, § 9.53)

Sec. 10-41. - Impoundment fee.

No dog shall be released from the pound unless the owner or persons entitled to claim the dog shall pay the fees established by the county dog departments, and if the dog was impounded by any city police officer, or authorized employee, the owner shall pay the sum of \$50.00 to the city to reimburse for the expense, prior to the dog being released from any pound. Such fee may be changed by resolution of the city council from time to time.

(Ord. No. 1985-4, § 9.54, 7-1-85)

Sec. 10-42. - Restraint.

Any owner or keeper of any dog who shall allow such dog to run at large in the city shall be guilty of a violation of this article, punishable as prescribed in section 1-16. The term "at large" shall be defined as permitting the dog to be off the owner's property without a leash or harness.

(Ord. No. 1985-4, § 9.55, 7-1-85)

Chapter 14 - BUILDINGS AND BUILDING REGULATIONS

FOOTNOTE(S):

⁽¹⁵⁾ **Cross reference**— Building code board of appeals, § 2-231 et seq.; environment, ch. 34; fire prevention and protection, ch. 38; health and sanitation, ch. 42; solid waste, ch. 58; streets, sidewalks and other public places, ch. 66; moving of buildings, § 66-3; subdivisions and land division, ch. 70; utilities, ch. 78; vegetation, ch. 82.

ARTICLE I. - IN GENERAL

Secs. 14-1—14-30. - Reserved.

ARTICLE II. - BUILDING, ELECTRICAL AND PLUMBING CODES

Secs. 14-31—14-60. - Reserved.

ARTICLE III. - DANGEROUS BUILDINGS

FOOTNOTE(S):

⁽¹⁶⁾ **Cross reference**— Environment, ch. 34; health and sanitation, ch. 42.

⁽¹⁶⁾ **State Law reference**— Dangerous buildings, MCL 125.539 et seq.

Sec. 14-61. - Definitions.

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

Dangerous building means a building or structure that has one or more of the following defects or is in one or more of the following conditions:

- (1) A door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the city.
- (2) A portion of the building or structure is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet with minimum requirements of the building code for the city for a new building or structure, purpose or location.
- (3) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (4) A portion of the building or structure has settled to such extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the building code of the city.
- (5) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (6) The building, structure or a part of the building or structure is manifestly unsafe for the purpose for which it is used.
- (7) The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to the children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.
- (8) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of the people living in the dwelling.
- (9) A building or structure is vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(Ord. of 11-6-95, § 1(8.227))

Cross reference— Definitions generally, § 1-2.

Sec. 14-62. - Maintenance of dangerous buildings.

It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building.

(Ord. of 11-6-95, § 1(8.226))

Sec. 14-63. - Notice of dangerous conditions.

Notwithstanding any other provision of this article, if a building or structure is found to be a dangerous building, the health officer shall issue a notice that the building or structure is a dangerous building. The notice shall be served on the owner, agent or lessee that is registered with the health officer under section 14-181. If an owner, agent or lessee is not registered under section 14-181, the notice shall be served on each owner or party in interest in the building or structure in whose name the property appears on the last local tax assessment records. The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building.

(Ord. of 11-6-95, § 1(8.228))

Sec. 14-64. - Hearing officer.

A hearing officer shall be appointed by the mayor to serve at his pleasure. The hearing officer shall be a person who has expertise in housing matters including, but not limited to, an engineer or architect, or a building contractor, building inspector or member of a community housing organization. An employee of the city shall not be appointed as the hearing officer.

(Ord. of 11-6-95, § 1(8.229))

Sec. 14-65. - Hearing—Right to be heard.

The person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, otherwise made safe or properly maintained.

(Ord. of 11-6-95, § 1(8.230))

Sec. 14-66. - Same—Notice.

A copy of the notice that a building or structure is a dangerous building shall be filed with the hearing officer by the health officer. The notice shall be in writing and shall be served upon the person to whom the notice is directed, either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least ten days before the date of the hearing included in the notice.

(Ord. of 11-6-95, § 1(8.231))

Sec. 14-67. - Same—Testimony; decision.

At a hearing the hearing officer shall take testimony of the enforcing agency, the owner of the property and any interested party. Not more than five days after completion of the hearing, the hearing officer shall render a decision, either closing the proceedings or ordering the building or structure demolished, otherwise made safe or properly maintained. If the hearing officer determines that the building or structure should be demolished, otherwise made safe or properly maintained, the hearing officer shall so order, fixing a time in the order for the owner, agent or lessee to comply with the order.

(Ord. of 11-6-95, § 1(8.232))

Sec. 14-68. - Failure to comply with hearing officer's order.

If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under section 14-67, the hearing officer shall file a report of the findings and a copy of the order with the city council not more than five days after noncompliance by the owner, and request that necessary actions be taken to enforce the order. The city council shall fix a date not less than 30 days after the hearing prescribed in this division for a hearing on the findings and order of the hearing officer, and shall give notice to the owner, agent or lessee in the manner prescribed in section 14-66 of the time and place of the hearing. At the hearing, the owner, agent or lessee shall be given the opportunity to show cause why the order should not be enforced. The city council shall either approve, disapprove or modify the order. If the order is approved or modified, the owner, agent or lessee shall comply with the order within 60 days after the date of the hearing under this section. In the case of an order of demolition, if the city council determines that the building or structure has been substantially destroyed by fire, wind, flood or other natural disaster, and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this section. The city council shall take all necessary action to enforce the order.

(Ord. of 11-6-95, § 1(8.233))

Sec. 14-69. - Appeals.

An owner aggrieved by any final decision or order of the city council acting as the housing board of appeals may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.

(Ord. of 11-6-95, § 1(8.234))

Sec. 14-70. - Abatement costs of city; reimbursement by owner or party in interest.

The cost of the demolition, making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, incurred by the city to bring the property into compliance with this article shall be reimbursed to the city by the owner or party in interest in whose name the property appears.

(Ord. of 11-6-95, § 1(8.235))

Sec. 14-71. - Notice of abatement costs; lien.

The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor of the amount of the costs of the demolition, making the building safe, or of maintaining the exterior of the building, structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the costs within 30 days after mailing by the assessor of the notice of the amount of the cost to the city, the city shall have a lien for the cost incurred to bring the property into conformance with this article. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this section does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, Act No. 206 of the Public Acts of Michigan of 1893 (MCL 211.1 et seq.), as amended.

(Ord. of 11-6-95, § 1(8.236))

Sec. 14-72. - Separate legal action; judgment.

In addition to other remedies under this article, the city may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The city shall have a lien on the property for the amount of a judgment obtained pursuant to this section. The lien provided for in this section shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances. In addition, a judgment obtained pursuant to this section shall also grant to the city a lien for the amount of the judgment against the owner's interest in all real property located in the state that is owned in whole or in part by the owner of the building or structure against whom the judgment is obtained. A lien provided for in this section does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

(Ord. of 11-6-95, § 1(8.237))

Sec. 14-73. - Violation of order a misdemeanor.

A person who fails or refuses to comply with an order approved or modified by the city council under section 14-68 within the time prescribed by that section is guilty of a misdemeanor, punishable as provided in section 1-16.

(Ord. of 11-6-95, § 1(8.238))

Secs. 14-74—14-95. - Reserved.

ARTICLE IV. - FENCES

FOOTNOTE(S):

⁽¹⁷⁾ **Cross reference**— Swimming pool fencing, § 14-594.

Sec. 14-96. - 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:

Fence means any partition, structure, planting or grate erected as a dividing marker, barrier or enclosure.

(Ord. of 3-7-88, § 8.82)

Cross reference— Definitions generally, § 1-2.

Sec. 14-97. - Permit—Required.

No fence shall hereafter be erected or altered without first obtaining a permit from the building inspector. Written application for such permit shall be made to the building inspector which shall contain a drawing showing the location, type of fence to be constructed, description of the property and such other information as may be required by the building inspector in order to determine whether or not such fence will violate any

ordinance of this city or law of the state.

(Ord. of 3-7-88, § 8.83)

Sec. 14-98. - Same—Application fees.

A fee of \$25.00 shall be paid with each application for a permit filed pursuant to section 14-97. Such fee may be changed by resolution of the city council from time to time.

(Ord. of 3-7-88, § 8.84)

Sec. 14-99. - Restriction on residential fence construction.

The following restrictions shall apply to fences on property zoned residential:

- (1) *Fence height.* No fence within a residential district shall exceed six feet in height in the rear or side yard. A maximum height of four feet shall apply to any fence in a front yard area (beyond the front building line) or within 30 feet of any street intersection on corner lots. Any fence which may be located in a front yard shall be of approved materials, of a design so as not to obscure sight and of a fence type listed as follows:
 - a. Post and rail;
 - b. Split rail;
 - c. Picket;
 - d. Wrought iron.

Fences of a type not listed above must be approved by the building inspector.

- (2) *Visibility.* Any fence constructed in a front yard area shall be of such material and construction so as not to substantially impair visibility in and from either direction. The building inspector shall have the authority to determine compliance with this section. This subsection shall also apply within 30 feet of any street intersection on corner lots.
- (3) *Dangerous construction.* No fence shall be constructed in a residential district which has affixed to it any spike, nail, barb (including barbed wire) or other pointed instrument exposed. All nail ends, protruding wires and sharp points shall be removed or bent to eliminate sharp extrusions. No fence shall be charged or connected with an electrical current.

(Ord. of 3-7-88, § 8.85)

Sec. 14-100. - Restrictions on nonresidential fence construction.

The following restrictions shall apply to fences on property zoned nonresidential:

- (1) *Fence height.* No fence shall be constructed which exceeds seven feet, six inches in height.
- (2) *Dangerous construction.* There shall not be affixed to any fence any spike, nail, barb (including barbed wire) or other pointed instrument within seven feet of the ground level. No fence shall be charged or connected with an electrical current.

(Ord. of 3-7-88, § 8.86)

Sec. 14-101. - Restrictions on all fences regardless of district.

The following restrictions, rules and regulations shall apply to all fences within the city:

- (1) *Location.* No fence shall be located nearer than one foot to the inside sidewalk line. If no sidewalk is present, no fence shall be located nearer than one foot of the inside street right-of-way line.
- (2) *Location continued.* All fences shall be located entirely on the property of the person, firm or corporation erecting the fence.
- (3) *Gates.* Gates in fences shall not open over public property or over property of other persons without the written consent of such other persons.
- (4) *Posts.* All fenceposts shall be placed on the inside of the fence line.
- (5) *Maintenance; nuisances.* Fences must be maintained so as not to endanger life or property. Any fence which, through lack of

maintenance or type of construction or otherwise, imperils life or property, shall be deemed a nuisance. No fence shall be constructed in such manner or of such materials that it will obstruct vision so to create a hazard to vehicular traffic or pedestrians upon the public streets and/or sidewalks, and any fence so constructed shall be deemed a nuisance. The building inspector shall notify the owner of the property on which such fence is located of the existence of such nuisance, and such nuisance shall be abated within six days after receiving notice.

- (6) *Lot lines.* The building inspector may require the owner of property upon which a fence is located or is to be located to establish lot lines upon such property through placing of permanent markers located by a licensed surveyor. Such lot lines shall be established within five days after receiving notice.
- (7) *Alterations.* Any person being the owner, lessee, occupant or agent for the same, of any property upon which is located a fence contrary to the provisions of this article, shall not alter, change or rebuild such fence without first having obtained a permit therefor in the manner provided in this article.
- (8) *Easements.* No fence shall be constructed over, through or under any utility easement without authorization of the utility utilizing such easement.

(Ord. of 3-7-88, § 8.87)

Secs. 14-102—14-130. - Reserved.

ARTICLE V. - HOUSING CODE

FOOTNOTE(S):

⁽¹⁸⁾ **State Law reference**— Housing law, MCL 125.401 et seq.

DIVISION 1. - GENERALLY

Sec. 14-131. - Purpose of article.

The purpose of this article is to provide minimum standards for existing dwellings and dwelling units; to provide for the elimination of overcrowding; and to provide for a basis of enforcement of sanitary conditions in and around structures used for human habitation; to effectively eliminate and prevent the development of slum conditions and to protect the health and safety of the people of the city.

(Ord. of 11-6-95, § 1 (8.91); Ord. No. 98-11/6, 11-6-95)

Sec. 14-132. - Applicability of article.

This article shall apply to all persons, firms, partnerships, associations and corporations owning, occupying, or having control or management of any building or premises used for dwelling purposes which is located within the city limits.

(Ord. of 11-6-95, § 1(8.92); Ord. No. 98-11/6, 11-6-95)

Sec. 14-133. - Definitions.

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

Approved means accepted by the health officer or his authorized representative as a result of their experience or investigation, or by reason of tests, or acceptable to a recognized testing laboratory, designated by the health officer.

Basement means a portion of a building located partly below grade and having less than half its floor-to-ceiling height below the average grade of the adjoining ground.

Building means any structure, framework or housing, public or private, and includes tanks and/or receptacles for the storage of materials or commodities.

Cellar means a portion of a building located partly or wholly below grade, and having half or more than half of its floor-to-ceiling height below the average grade of the adjoining ground.

Dwelling means any house, building, structure, tent, shelter, trailer or vehicle or portion thereof (except railroad cars, on tracks or rights-of-way) which is occupied or intended for occupancy in whole or in part as the home, residence, living or sleeping place of one or more human beings, either permanently or transiently. A house trailer or other vehicle, when occupied or used as a dwelling, shall be subject to all the provisions of this article, except that house trailers or other vehicles, duly licensed as vehicles, may be occupied or used as a dwelling for reasonable periods or lengths of time, without otherwise being subject to the provisions hereof for dwellings, when located in a park or place designated for the purpose by the city; provided, that such parking sites are equipped with adequate safety and sanitary facilities.

Dwelling unit and *apartment unit* mean any room or group of rooms located within a dwelling, having one kitchen sink and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Extermination means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest-elimination methods approved by the health officer.

Family means one or more persons occupying a dwelling unit, and under one head.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Guest means any person or persons who patronize a hotel for purposes within the scope of the business that is conducted therein, including nonpaying guests.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet apartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

Health officer means the legally designated health authority of the city, or his authorized representative.

Hotel means a building or structure kept, used, maintained, advertised or offered to the public as an inn or place where sleeping accommodations are furnished for rent, lease or hire whether with or without meals in which sleeping accommodations for 25 persons or more and/or 15 or more apartments are maintained for accommodation of guests.

Human habitation means the use of any room, rooming unit, dwelling, dwelling unit, apartment unit, building or premises for living, sleeping, cooking or eating purposes by one or more families or persons.

Infestation means the presence of any insects, rodents, or other pests within or around a dwelling, building or premises.

Occupant means any person living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

Operator means any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Owner means any person, alone or jointly or severally with others, who shall have:

- (1) Legal or equitable title to any dwelling, dwelling unit, building or premises with or without accompanying actual possession thereof; or
- (2) Charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Person means and includes any individual, firm, corporation, association or partnership.

Plumbing means and includes all of the following supplies, facilities and equipment; gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catchbasins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Premises means any lot or piece of land inclusive of the buildings and shall include parking lots, tourist camps, airports, junkyards or other places or enclosures however owned or occupied.

Rental unit means any dwelling unit or apartment unit which is occupied by any person or persons for which a periodic payment is made in legal tender or barter to the owner or the owner's representative. Land contract purchases are not included in this definition.

Rooming unit means a room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Roominghouse, lodginghouse and boardinghouse (hereinafter referred to as roominghouses) mean a dwelling having one kitchen and used for the purpose of providing meals or lodging or both meals and lodging for compensation of any kind, computed by day, week or month to persons other than members of the family occupying such dwelling. In the case of single-family and two-family dwellings the number of roomers or boarders shall not exceed two per dwelling unit unless such dwellings be made to comply in all respects with the provisions of this article relating to multiple dwellings.

Rubbish means combustible and noncombustible waste materials except garbage; and such term shall include but not be restricted to paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, dust and the residue from the burning of combustible materials.

Supplied means paid for, furnished or provided by or under the control of, the owner or operator.

(b) Whenever the words "dwelling," "dwelling unit," "roominghouse," "rooming unit," and "premises," are used in this article, they shall be construed as though they were followed by the words "or any part thereof." The singular of any word shall also mean the plural.

(Ord. of 11-6-95, § 1(8.93); Ord. No. 98-11/6, § 1(8.93), 11-6-95)

Cross reference— Definitions generally, § 1-2.

Sec. 14-134. - Citation and adoption.

The Housing Law of Michigan, being Act No. 167 of the Public Acts of Michigan of 1917 (MCL 125.401 et seq.), as amended, is hereby adopted and made a part of this article.

(Ord. of 11-6-95, § 1(8.121); Ord. No. 98-11/6, § 1(8.121), 11-6-95)

Sec. 14-135. - Rules and regulations created by health officer authorized.

The health officer is hereby empowered to make such rules and regulations as shall be necessary for the enforcement of this article, subject, however, to the approval of the city council. When the rules and regulations made under this article have been adopted and promulgated by the health officer and approved by the city council, they shall be deemed to be as complete and binding a part of the article as if such rules were specifically set forth in this article. The violation of any of such regulations so adopted shall be deemed a violation of this article. Copies of such rules and regulations shall be placed on file in the office of the city clerk for inspection by interested parties at any reasonable time.

(Ord. of 11-6-95, § 1(8.136); Ord. No. 98-11/6, § 1(8.136), 11-6-95)

Secs. 14-136—14-140. - Reserved.

DIVISION 2. - HOUSING BOARD OF APPEALS

FOOTNOTE(S):

⁽¹⁹⁾ **Cross reference**— Boards and commissions, § 2-186 et seq.

Sec. 14-141. - Housing board of appeals.

The city council shall act as the housing board of appeals.

(Ord. of 11-6-95, § 1(8.122); Ord. No. 98-11/6, § 1(8.122), 11-6-95)

Sec. 14-142. - Appeals.

Appeals from the rulings of any official charged with the enforcement of this article or the Housing Law of Michigan may be made to the city council acting as the housing board of appeals within 20 days from the date upon which the action is taken which is subject to appeal. Such appeal may be taken by any person aggrieved or by any officer, department, board or commission of the city. The appellant shall file with the official from whose decision such appeal is taken and with the city clerk, a notice of appeal specifying the ground therefor. With each notice of appeal filed there shall be paid a fee of \$10.00 to cover the city's cost of handling the appeal; provided that such fees may be returned or retained after hearing in the discretion of the city council. The official from whom the appeal is taken shall forthwith transmit to the city clerk a summary report of all previous action taken. The city council may at its discretion call upon the official from whom the appeal is taken, to explain his action. The final disposition of such appeal shall be in the form of a resolution either reversing, modifying or affirming, wholly or partly, the decision or the determination appealed from. To this end, the city council shall have all the powers of the official from whom the appeal is taken.

(Ord. of 11-6-95, § 1(8.123); Ord. No. 98-11/6, § 1(8.123), 11-6-95)

Sec. 14-143. - Hearings.

The city council acting as the board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to interested parties and decide the same within a reasonable time.

(Ord. of 11-6-95, § 1(8.124); Ord. No. 98-11/6, § 1(8.124), 11-6-95)

Sec. 14-144. - Decisions of board of appeals to be final.

The decision of the city council acting as the board of appeals shall be final.

(Ord. of 11-6-95, § 1(8.125); Ord. No. 98-11/6, § 1(8.125), 11-6-95)

Secs. 14-145—14-150. - Reserved.

DIVISION 3. - ENFORCEMENT

Subdivision I. - In General

Sec. 14-151. - Service; contents.

Whenever the health officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this article or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation and orders for correction of the violation to the person or persons responsible therefor, as provided in this section. Such notice shall:

- (1) Be put in writing;
- (2) Include a statement of the conditions that constitute violations of this article and what must be done to correct the same;
- (3) Specify a time limit for the performance of any act it requires; which shall be a reasonable time for the correction of the violation or violations;
- (4) Notify the owner or his agent, or the occupant as the case may require, of his right to appeal from the notice or order to the housing board of appeals as set forth in this article;
- (5) Be served upon the owner or his agent or the occupant, as the case may require; provided that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon him personally; or if a copy thereof is sent by certified mail to his last known address; or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of this state.

(Ord. of 11-6-95, § 1(8.111); Ord. No. 98-11/6, § 1(8.111), 11-6-95)

Sec. 14-152. - Emergency clause.

Whenever the health officer finds that an emergency exists which requires immediate action to protect the public health, he shall, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to suit the emergency. Notwithstanding the other provisions of this article, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately.

(Ord. of 11-6-95, § 1(8.112); Ord. No. 98-11/6, § 1(8.112), 11-6-95)

Secs. 14-153—14-160. - Reserved.

Subdivision II. - Inspections

Sec. 14-161. - Authorized; right of entry.

The health officer is hereby authorized to make inspections to determine the conditions of dwellings, dwelling units, rooming units, and premises located within the city, in order that he may perform his duty of safeguarding the health and safety of the occupants of dwellings of the general public. For the purpose of making such inspections the health officer is hereby authorized according to law to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units, and premises. The owner or occupant of every dwelling, dwelling unit, and rooming unit, or the person in charge thereof, shall give the health officer free access to such dwelling, dwelling unit or rooming unit, and its premises, at all reasonable times for the purpose of such inspection, examination, and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this article.

(Ord. of 11-6-95, § 1(8.101); Ord. No. 98-11/6, § 1(8.101), 11-6-95)

Sec. 14-162. - Frequency.

The health officer shall cause a periodic inspection to be made of every rental unit at least once every two years. Such inspection shall include a thorough examination of all parts of such rental unit and the premises connecting therewith. The health officer is also hereby empowered to make similar inspections of all dwellings as frequently as he may deem necessary.

(Ord. of 11-6-95, § 1(8.102); Ord. No. 98-11/6, § 1(8.102), 11-6-95)

Sec. 14-163. - Regular inspection fee.

The owner or owners of each rental unit shall pay an inspection fee of \$10.00 per rental unit at the time the inspection is performed by the health officer or his designate. Only one regular inspection fee shall be required every two years.

(Ord. of 11-6-95, § 1(8.103); Ord. No. 98-11/6, § 1(8.103), 11-6-95)

Sec. 14-164. - Reinspection fee.

In the event that a reinspection is necessitated because a rental unit is not approved by the health officer or his designate, the first reinspection shall be conducted at no charge to the owner or owners of the rental unit. In the event that a subsequent reinspection is required for a rental unit, the owner or owners shall pay a reinspection fee of \$10.00 for each subsequent inspection.

(Ord. of 11-6-95, § 1(8.104); Ord. No. 98-11/6, § 1(8.104), 11-6-95)

Sec. 14-165. - Warrants for nonemergency situation; no warrant required in an emergency situation.

In a nonemergency situation where the owner or occupant demands a warrant for inspection of the premises, the health officer shall obtain a warrant from a court of competent jurisdiction. The health officer shall prepare the warrant, stating the address of the building to be inspected, the nature of the inspection, as defined in this or other applicable laws, and the reasons for the inspection. It shall be appropriate and sufficient to

set forth the basis for the inspection established in this article, state law or any rules or regulations provided under state law. The warrant shall also state that it is issued pursuant to this article, and that it is for the purposes set forth in this and other acts which require that inspections be conducted. In the event of an emergency no warrant shall be required.

(Ord. of 11-6-95, § 1(8.105); Ord. No. 98-11/6, § 1(8.105), 11-6-95)

Sec. 14-166. - Preexisting conditions.

For purpose of rental inspections, no rental property owner shall be required to complete construction thereon relating to the removal, relocating or addition of walls, the removal, relocating or addition of windows or doors, or rewiring if it can be shown by the owner that any preexisting condition was lawful by the building code at the time the building was placed into rental service.

(Ord. No. 98-11/6, § 1(8.106), 11-6-95)

Secs. 14-167—14-180. - Reserved.

DIVISION 4. - REGISTRATION OF RENTAL UNITS

Sec. 14-181. - Registry to be kept; responsibility.

A registry of all rental units within the city setting forth the address of the rental unit, the name of the owner or owners of the rental unit and the address of such owner or owners shall be kept by the health officer. The owner or owners of each rental unit shall be responsible for registration.

(Ord. of 11-6-95, § 1(8.95); Ord. No. 98-11/6, § 1(8.95), 11-6-95)

Sec. 14-182. - Deadline.

For all premises currently being used as rental units the owner or owners thereof shall complete registration within 90 days from the effective date of the ordinance from which this division was derived. Registration of any new rental units shall be completed prior to occupancy by a tenant.

(Ord. of 11-6-95, § 1(8.96); Ord. No. 98-11/6, § 1(8.96), 11-6-95)

Sec. 14-183. - Fees.

The registration fee for any rental unit which is registered in a timely manner pursuant to section 14-182 shall be \$15.00 per building containing a rental unit. The registration fee for any building containing a rental unit not timely registered pursuant to this article shall be \$150.00 per building.

(Ord. of 11-6-95, § 1(8.97); Ord. No. 98-11/6, § 1(8.97), 11-6-95)

Secs. 14-184—14-255. - Reserved.

DIVISION 5. - MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES

Sec. 14-256. - Compliance with division required.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking or eating therein, which does not comply with the requirements of this division.

(Ord. of 11-6-95, § 1(8.141); Ord. No. 98-11/6, § 1(8.141), 11-6-95)

Sec. 14-257. - Kitchen sink.

Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sewer system.

(Ord. of 11-6-95, § 1(8.142); Ord. No. 98-11/6, § 1(8.142), 11-6-95)

Sec. 14-258. - Water closet, lavatory and bath.

Every dwelling unit (except as otherwise permitted under section 14-259) shall contain a room which affords privacy to a person within such room and which is equipped with a flush water closet, a lavatory basin and a bathtub or shower in good working condition and properly connected to a water and sewer system.

(Ord. of 11-6-95, § 1(8.143); Ord. No. 98-11/6, § 1(8.143), 11-6-95)

Sec. 14-259. - Shared sanitary facilities.

Under special circumstances where additional sanitary facilities must be installed to conform to section 14-258 and practical difficulties prevent the installation of such facilities within the dwelling unit, the health officer may permit sanitary facilities to be shared, provided that at least one flush water closet, one lavatory basin and one bathtub or shower shall be supplied for each two dwelling units or fraction thereof. Where more than one flush water closet or more than one bathtub or shower is supplied within one room, they shall be separated by partitions or walls which afford privacy to a person using each facility. The provisions of this section shall in no way supersede or alter the requirements of this chapter pertaining to new structures or conversions of old structures.

(Ord. of 11-6-95, § 1(8.144); Ord. No. 98-11/6, § 1(8.144), 11-6-95)

Sec. 14-260. - Water system.

The water supply shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely and free from defects and leaks. Water-heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110 degrees Fahrenheit (43 degrees Celsius). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

(Ord. of 11-6-95, § 1(8.145); Ord. No. 98-11/6, § 1(8.145), 11-6-95)

Sec. 14-261. - Rubbish storage facilities.

Every dwelling unit shall have adequate garbage storage facilities whose type and location are approved by the health officer.

(Ord. of 11-6-95, § 1(8.146); Ord. No. 98-11/6, § 1(8.146), 11-6-95)

Cross reference— Solid waste, ch. 58.

Sec. 14-262. - Water-heating facilities.

Every dwelling shall have supplied water-heating facilities which are properly installed, maintained in safe and good working condition and properly connected with the hot water lines required under the provisions of section 14-260. Such supplied facilities are to be capable of providing an adequate amount of water at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120 degrees Fahrenheit. Such supplied facilities shall be capable of meeting the requirements of this section when the dwelling or dwelling unit heating facilities required under the provisions of section 14-290 are not in operation.

(Ord. of 11-6-95, § 1(8.147); Ord. No. 98-11/6, § 1(8.147), 11-6-95)

Sec. 14-263. - Means of egress.

Every dwelling unit shall have two remote means of egress. Every dwelling unit shall have safe unobstructed means of egress leading to an open space at ground level and this open space shall lead to a public street or alley as required by the laws of the state and the city.

(Ord. of 11-6-95, § 1(8.148); Ord. No. 98-11/6, § 1(8.148), 11-6-95)

Sec. 14-264. - Sanitary drainage system.

All plumbing fixtures shall be properly connected either to a public sewer system or to an approved private sewage disposal system. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

(Ord. No. 98-11/6, § 1(8.149), 11-6-1995)

Sec. 14-265. - Storm drainage.

Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

(Ord. No. 98-11/6, § 1(8.150), 11-6-95)

Sec. 14-266. - Interior structure and sanitation.

The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Every occupant shall keep that part of the structure which such occupant occupies or controls in a clean and sanitary condition. Every owner of a structure containing a rooming house, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

(Ord. No. 98-11/6, § 1(8.151), 11-6-95)

Sec. 14-267. - Exterior structure and sanitation.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. All exterior walls shall be free from holes, breaks and loose or rotting materials; and maintained waterproof and properly surface coated where required to prevent deterioration. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

(Ord. No. 98-11/6, § 1(8.152), 11-6-95)

Sec. 14-268. - Electrical system hazards.

Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

(Ord. No. 98-11/6, § 1(8.153), 11-6-95)

Secs. 14-269—14-285. - Reserved.

DIVISION 6. - MINIMUM STANDARDS FOR LIGHT, VENTILATION AND HEATING

FOOTNOTE(S):

⁽²⁰⁾ **Cross reference**— Utilities, ch. 78.

Sec. 14-286. - Compliance with division required.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the requirements of this division.

(Ord. of 11-6-95, § 1(8.156); Ord. No. 98-11/6, § 1(8.156), 11-6-95)

Sec. 14-287. - Windows.

Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than three feet from the window and extend to a level above that

of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15 percent of the total floor area of such room.

(Ord. of 11-6-95, § 1(8.157); Ord. No. 98-11/6, § 1(8.157), 11-6-95)

Sec. 14-288. - Ventilation.

Every habitable room shall have at least one window or skylight which can be easily opened for adequate ventilation, except where there is supplied some other device or method affording adequate ventilation and approved by the health officer.

(Ord. of 11-6-95, § 1(8.158); Ord. No. 98-11/6, § 1(8.158), 11-6-95)

Sec. 14-289. - Bathroom lights and ventilation.

Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in sections 14-287 and 14-288, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system which is kept in continuous operation and approved by the health officer.

(Ord. of 11-6-95, § 1(8.159); Ord. No. 98-11/6, § 1(8.159), 11-6-95)

Sec. 14-290. - Heating facilities.

Every dwelling shall have heating facilities which are properly installed, are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of at least 65 degrees Fahrenheit, at a distance three feet above floor level.

(Ord. of 11-6-95, § 1(8.160); Ord. No. 98-11/6, § 1(8.160), 11-6-95)

Sec. 14-291. - Electrical outlets.

Every room shall contain at least two separate electrical convenience outlets or one such convenience outlet and one lighting fixture. Additional convenience outlets shall be provided in sufficient number to adequately service the electrical devices and/or appliances located therein, without the use of unapproved wiring methods. Cords to appliances and devices shall not be run through doorways or under rugs or be stapled to wood base boards, door casings or through holes in partitions on floors. All installations and repairs are to be made in a manner that conforms to this chapter.

(Ord. of 11-6-95, § 1(8.161); Ord. No. 98-11/6, § 1(8.161), 11-6-95)

Sec. 14-292. - Lighting public halls and stairways.

Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

(Ord. of 11-6-95, § 1(8.162); Ord. No. 98-11/6, § 1(8.162), 11-6-95)

Sec. 14-293. - Screens, windows and doors.

During that portion of each year when the health officer deems it necessary for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to an outdoor space shall have supplied screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens.

(Ord. of 11-6-95, § 1(8.163); Ord. No. 98-11/6, § 1(8.163), 11-6-95)

Sec. 14-294. - Screens on basement or cellar windows.

Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.

Secs. 14-295—14-315. - Reserved.

DIVISION 7. - GENERAL REQUIREMENTS RELATING TO MAINTENANCE

FOOTNOTE(S):

⁽²¹⁾ **Cross reference**— Utilities, ch. 78.

Sec. 14-316. - Compliance with division required.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the requirements of this division.

(Ord. of 11-6-95, § 1(8.171); Ord. No. 98-11/6, § 1(8.171), 11-6-95)

Sec. 14-317. - Foundation, floor, wall, ceiling and roof; maintenance.

Every exterior foundation, wall and roof shall be weathertight, watertight and rodentproof; shall be capable of affording privacy; and shall be kept in good repair. Every interior floor, wall or ceiling, shall be rodentproof, capable of affording privacy and kept in good repair.

(Ord. of 11-6-95, § 1(8.172); Ord. No. 98-11/6, § 1(8.172), 11-6-95)

Sec. 14-318. - Window, door, basement hatchway.

Every window, exterior door and basement hatchway shall be weathertight, watertight and rodentproof; and shall be kept in sound working condition and good repair. Each such window and door shall be equipped with a locking device which tightly secures the window or door. In addition, all entrance doors to dwelling units, rooming units and guestrooms shall be equipped with a locking device which tightly secures the door.

(Ord. of 11-6-95, § 1(8.173); Ord. No. 98-11/6, § 1(8.173), 11-6-95)

Sec. 14-319. - Stairs and porches; maintenance and safety.

Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(Ord. of 11-6-95, § 1(8.174); Ord. No. 98-11/6, § 1(8.174), 11-6-95)

Sec. 14-320. - Stairways, handrails and guards.

Every exterior and interior flight of stairs having more than four risers, and every open portion of a stair, landing or balcony which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 30 inches (762 mm) nor more than 42 inches (1,067 mm) high, measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches (762 mm) high above the floor of the landing or balcony.

(Ord. No. 98-11/6, § 1(8.179), 11-6-95)

Sec. 14-321. - Floor surfaces.

Every water closet compartment, bathroom and kitchen floor surface shall be constructed and maintained so as to be water resistant and so as to permit such floor to be easily kept in a clean and sanitary condition.

(Ord. of 11-6-95, § 1(8.176); Ord. No. 98-11/6, § 1(8.175), 11-6-95)

Sec. 14-322. - Supplied facilities; maintenance.

Every supplied facility, piece of equipment, or utility which is required under this article shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

(Ord. of 11-6-95, § 1(8.177); Ord. No. 98-11/6, § 1(8.176), 11-6-95)

Sec. 14-323. - Facilities not to be shut off.

No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this article to be removed from or shut off from or discontinued for any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the health officer.

(Ord. of 11-6-95, § 1(8.178); Ord. No. 98-11/6, § 1(8.177), 11-6-95)

Sec. 14-324. - Dwelling unit to be clean before occupied.

No person shall occupy or let to any other occupant any vacant dwelling, dwelling unit or premises unless it is in compliance with the requirements of this article.

(Ord. of 11-6-95, § 1(8.179); Ord. No. 98-11/6, § 1(8.178), 11-6-95)

Secs. 14-325—14-345. - Reserved.

DIVISION 8. - MINIMUM SPACE, USE AND LOCATION REQUIREMENTS

Sec. 14-346. - Compliance with division required.

No person shall occupy or let to another for occupancy any dwelling or dwelling unit for the purpose of living therein, which does not comply with the requirements of this division.

(Ord. of 11-6-95, § 1(8.181); Ord. No. 98-11/6, § 1(8.181), 11-6-95)

Sec. 14-347. - Living space.

Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area. In no case shall any private dwelling be occupied which does not contain at least 450 square feet of habitable room area.

(Ord. of 11-6-95, § 1(8.182); Ord. No. 98-11/6, § 1(8.182), 11-6-95)

Sec. 14-348. - Sleeping space.

In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 80 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.

(Ord. of 11-6-95, § 1(8.183); Ord. No. 98-11/6, § 1(8.183), 11-6-95)

Sec. 14-349. - Room arrangement.

No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by the occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.

(Ord. of 11-6-95, § 1(8.184); Ord. No. 98-11/6, § 1(8.184), 11-6-95)

Sec. 14-350. - Cooking and sleeping in same room.

Where more than two persons occupy any dwelling unit, food shall not be prepared or cooked in any room used for sleeping purposes.

(Ord. of 11-6-95, § 1(8.185); Ord. No. 98-11/6, § 1(8.185), 11-6-95)

Sec. 14-351. - Ceiling height.

At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy.

(Ord. of 11-6-95, § 1(8.186); Ord. No. 98-11/6, § 1(8.186), 11-6-95)

Sec. 14-352. - Cellar.

No cellar space shall be used as a habitable room or dwelling unit. It is not the intent of this section to prohibit the use of cellar rooms for recreation purposes.

(Ord. of 11-6-95, § 1(8.187); Ord. No. 98-11/6, § 1(8.187), 11-6-95)

Sec. 14-353. - Basement.

No basement space shall be used as a habitable room or dwelling unit unless:

- (1) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness;
- (2) The total of window area in each room is equal to at least the minimum window area sizes as required in [section 14-287](#)
- (3) Such required minimum window area is located entirely above the grade of the ground adjoining such window area; and
- (4) Openable window area in each room is provided as required under section 14-284, except where there is supplied some other device affording adequate ventilation and approved by the health officer.

Sec. 14-354. - Kitchen; use of jointly by more than one family.

No kitchen or cooking accommodations shall be permitted or maintained in any room or space of any building for the common or joint use of the individual occupants of a two-family or multiple-family dwelling.

(Ord. of 11-6-95, § 1(8.189); Ord. No. 98-11/6, § 1(8.189), 11-6-95)

Sec. 14-355. - Prohibited uses.

No horse, cow, calf, swine, sheep, goat, chickens, geese, ducks, or rabbits shall be kept in any dwelling or part thereof. No such animal shall under any circumstances be kept on the same lot or premises with a dwelling.

(Ord. of 11-6-95, § 1(8.190); Ord. No. 98-11/6, § 1(8.190), 11-6-95)

Sec. 14-356. - Temporary dwellings.

It shall be unlawful to erect or occupy any structure which is intended to be occupied in whole or in part as a temporary dwelling unless it complies with all the provisions of this article.

(Ord. of 11-6-95, § 1(8.191); Ord. No. 98-11/6, § 1(8.191), 11-6-95)

Sec. 14-357. - Certificate of compliance.

No building constructed as or altered into a dwelling shall be occupied in whole or in part for human habitation unless the health officer issues a certificate that such dwelling substantially conforms in all respects to the requirements of this article. The certificate shall specify the maximum of persons permitted to occupy the dwelling. Such certificate shall be issued within 15 days after written application therefor, if such dwelling, at the date of such application, shall be entitled thereto.

(Ord. of 11-6-95, § 1(8.192); Ord. No. 98-11/6, § 1(8.192), 11-6-95)

Sec. 14-358. - Unlawful occupation.

If any building hereafter constructed as or altered into a dwelling be occupied in whole or in part for human habitation in violation of section 14-387 during such unlawful occupation, no rent shall be recoverable by the owner or lessee of such premises for such period, and no action or special proceedings shall be maintained therefor for possession of such premises for nonrent, and such premises shall be deemed unfit for human habitation and the health officer may cause them to be vacated accordingly.

(Ord. of 11-6-95, § 1(8.193); Ord. No. 98-11/6, § 1(8.193), 11-6-95)

Secs. 14-359—14-380. - Reserved.

DIVISION 9. - RESPONSIBILITIES OF OWNERS AND OCCUPANTS

Sec. 14-381. - Maintenance of unit cleanliness.

Every owner of a dwelling containing more than two dwelling units shall be responsible for maintaining in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof. In all other cases it shall be the responsibility of the occupants.

(Ord. of 11-6-95, § 1(8.201); Ord. No. 98-11/6, § 1(8.201), 11-6-95)

Sec. 14-382. - Cleanliness requirements of occupants.

Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.

(Ord. of 11-6-95, § 1(8.202); Ord. No. 98-11/6, § 1(8.202), 11-6-95)

Sec. 14-383. - Rubbish.

Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish facilities required by section 14-261. It shall be the responsibility of the owner to remove the rubbish properly placed in containers, for all dwelling units in a dwelling containing more than two dwelling units. In all other cases it shall be the responsibility of the occupants to remove the rubbish.

(Ord. of 11-6-95, § 1(8.203); Ord. No. 98-11/6, § 1(8.203), 11-6-95)

Cross reference— Solid waste, ch. 58.

Sec. 14-384. - Garbage.

Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers required by section 14-261. It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units in a dwelling containing more than two dwelling units. In all other cases it shall be the responsibility of the occupant to furnish such facilities or containers.

(Ord. of 11-6-95, § 1(8.204); Ord. No. 98-11/6, § 1(8.204), 11-6-95)

Cross reference— Solid waste, ch. 58.

Sec. 14-385. - Screens.

Every owner of a dwelling containing more than two dwelling units shall be responsible for hanging all supplied screens and screen doors. In all other cases it shall be the responsibility of the occupant.

(Ord. of 11-6-95, § 1(8.205); Ord. No. 98-11/6, § 1(8.205), 11-6-95)

Sec. 14-386. - Extermination of pests.

The presence of insects, rodents or other pests within a dwelling or on the premises is declared to be a violation of this article. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a ratproof or reasonably insectproof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

(Ord. of 11-6-95, § 1(8.206); Ord. No. 98-11/6, § 1(8.206), 11-6-95)

Sec. 14-387. - Plumbing fixtures.

Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(Ord. of 11-6-95, § 1(8.207); Ord. No. 98-11/6, § 1(8.207), 11-6-95)

Cross reference— Utilities, ch. 78.

Sec. 14-388. - Summary eviction.

If the occupant of a dwelling shall fail to comply with the provisions of this article after due and proper notice from the health officer, such failure to comply shall be deemed sufficient cause for the summary eviction of such tenant by the owner and cancellation of his lease.

(Ord. of 11-6-95, § 1(8.208); Ord. No. 98-11/6, § 1(8.208), 11-6-95)

Secs. 14-389—14-410. - Reserved.

DIVISION 10. - SMOKE DETECTORS

Sec. 14-411. - New dwellings.

The installation of a minimum of one smoke detector per dwelling unit is hereby required for all new single and multiple residential dwellings constructed after the effective date of the ordinance from which this division is derived.

(Ord. No. 84-2, § 8.209(1), 4-2-84)

Sec. 14-412. - Existing dwellings.

All existing multiple-occupancy residential structures and single dwelling structures with rental rooms shall, within six months from the effective date of the ordinance from which this division was derived, or at the time of any change in ownership, or when a structural change or repair is made costing \$1,000.00 or more, whichever occurs first, have installed therein a minimum of one smoke detector per dwelling unit or rental room.

(Ord. No. 84-2, § 8.209(2), 4-2-84)

Sec. 14-413. - Installation.

Each required smoke detector shall be mounted on the ceiling or a wall not more than 12 inches from the ceiling, at a point centrally located in a corridor or area giving access to rooms used for sleeping purposes. In an efficiency dwelling unit the detector shall be centrally located on the ceiling of the main room. An A.C.-only unit is not permitted, and D.C.-powered detectors shall have built-in protection to warn of battery failure.

(Ord. No. 84-2, § 8.209(3), 4-2-84)

Sec. 14-414. - Maintenance.

The owner or agent of the owner shall at the time of renting the premises to a tenant demonstrate the operation of the smoke detector installed upon the premises, and ensure the proper functioning thereof. Thereafter, during the term of tenancy, the tenant shall maintain each smoke detector in proper working order.

(Ord. No. 84-2, § 8.209(4), 4-2-84)

Secs. 14-415—14-435. - Reserved.

DIVISION 11. - ROOMINGHOUSES

Sec. 14-436. - Compliance with certain article provisions.

No person shall operate a roominghouse, or shall occupy or let to another for occupancy any rooming unit in any roominghouse, except in compliance with the provisions of every section of this article except the provisions of sections 14-256—14-263, inclusive, and sections 14-381—14-388, inclusive.

(Ord. of 11-6-95, § 1(8.211); Ord. No. 98-11/6, § 1(8.211), 11-6-95)

Sec. 14-437. - License to operate required.

No person shall operate a roominghouse unless he holds a valid roominghouse license issued by the city clerk in the name of the operator and for the specific dwelling or dwelling unit. The operator shall apply to the city clerk for such license which shall be issued by the city clerk after inspection by the health officer and upon compliance by the operator with the applicable provisions of this article and of any rules and regulations adopted pursuant thereto. The fee for such license shall be as prescribed in chapter 18 of this Code.

(Ord. of 11-6-95, § 1(8.212); Ord. No. 98-11/6, § 1(8.212), 11-6-95)

Sec. 14-438. - Appeal of a denial of license.

Any person whose application for a license to operate a roominghouse has been denied may appeal the matter to the housing board of appeals under the procedure provided in division 5 of this article.

(Ord. of 11-6-95, § 1(8.213); Ord. No. 98-11/6, § 1(8.213), 11-6-95)

Sec. 14-439. - Inspection; suspension of license.

Whenever, upon inspection of any roominghouse, the health officer finds that conditions or practices exist which are in violation of any provision of this article or of any rule or regulation adopted pursuant thereto, the health officer shall give notice in writing to the operator of such roominghouse that unless such conditions or practices are corrected within a maximum period of time, to be determined by the health officer, the operator's roominghouse license will be suspended. At the end of such period the health officer shall reinspect such roominghouse, and if he finds that such conditions or practices have not been corrected, he shall give notice in writing to the operator that the latter's license has been suspended. Upon receipt of notice of suspension, such operator shall immediately cease operation of such roominghouse, and no person shall thereafter occupy for sleeping or living purposes any rooming unit therein.

(Ord. of 11-6-95, § 1(8.214); Ord. No. 98-11/6, § 1(8.214), 11-6-95)

Sec. 14-440. - Appeals of the revocation of a license.

Any person whose license to operate a roominghouse has been suspended, or who has received notice from the health officer that his license is to be suspended unless existing conditions or practices at his roominghouse are corrected, may appeal the matter to the city council acting as the housing board of appeals, under the procedure provided in this article. Provided that if no petition for such appeal is filed within ten days following the day on which such license was suspended, such license shall be deemed to have been automatically revoked.

(Ord. of 11-6-95, § 1(8.215); Ord. No. 98-11/6, § 1(8.216), 11-6-95)

Sec. 14-441. - Minimum basic facilities.

At least one flush water closet, lavatory basin and bathtub or shower, connected to a water and sewer system and in good working condition, shall be supplied for each eight persons or fraction thereof residing within a roominghouse, including members of the operator's family wherever they share the use of the facilities. In a roominghouse where rooms are let only to males, flush urinals may be substituted for not more than one-half the required number of water closets. All such facilities shall be so located within the dwelling as to be accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. No such facilities shall be located in a basement except by written approval of the health officer. Any roominghouse where food is served shall comply with chapter 42 of this Code.

(Ord. of 11-6-95, § 1(8.216); Ord. No. 98-11/6, § 1(8.216), 11-6-95)

Sec. 14-442. - Supply of bed linen and towels.

The operator of every roominghouse shall change supplied bed linen and towels therein at least once each week, and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

(Ord. of 11-6-95, § 1(8.217); Ord. No. 98-11/6, § 1(8.217), 11-6-95)

Sec. 14-443. - Minimum space.

Every room occupied for sleeping purposes by one person shall contain at least 80 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant thereof.

(Ord. of 11-6-95, § 1(8.218); Ord. No. 98-11/6, § 1(8.218), 11-6-95)

Sec. 14-444. - Means of egress.

Every roominghouse shall have two remote means of egress. Every rooming unit shall have safe unobstructed means of egress leading to an open space at ground level and this open space shall lead to a public street or alley as required by the laws of the state and the city.

(Ord. of 11-6-95, § 1(8.219); Ord. No. 98-11/6, § 1(8.219), 11-6-95)

Sec. 14-445. - Responsibility for maintenance.

The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other part of the roominghouse; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the owner.

(Ord. of 11-6-95, § 1(8.220); Ord. No. 98-11/6, § 1(8.220), 11-6-95)

Sec. 14-446. - Application of division to hotels.

Every provision of this division which applies to roominghouses shall also apply to hotels, except to the extent that any such provision may be found in conflict with the laws of the state or with the lawful regulations of any state board or agency.

(Ord. of 11-6-95, § 1(8.221); Ord. No. 98-11/6, § 1(8.221), 11-6-95)

Secs. 14-447—14-460. - Reserved.

DIVISION 12. - CONDEMNATION OF DWELLINGS

Sec. 14-461. - Dangerous building; prohibited.

It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building as defined in section 14-462.

(Ord. No. 98-11/6, § 1(8.226), 11-6-95)

Sec. 14-462. - Dangerous building defined.

As used in this division dangerous building means a building or structure that has one of more of the following defects or is in one or more of the following conditions:

- (1) A door, isle, passageway, stairway or other means of exit does not conform to the approved fire code of the city.
- (2) A portion of the building or structure is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet with minimum requirements of this chapter for a new building or structure, purpose or location.
- (3) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (4) A portion of the building or structure has settled to such extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by this chapter.
- (5) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (6) The building, structure or a part of the building or structure is manifestly unsafe for the purpose for which it is used.
- (7) The building or structure is damaged by fire, wind, or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to the children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.
- (8) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of the people living in the dwelling.
- (9) A building or structure is vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(Ord. No. 98-11/6, § 1(8.227), 11-6-95)

Sec. 14-463. - Notice of dangerous conditions.

Notwithstanding any other provision of this article, if a building or structure is found to be a dangerous building, the health officer shall issue a notice that the building or structure is a dangerous building. The notice shall be served on the owner, agent or lessee that is registered with the health officer under section 14-181. If an owner, agent or lessee is not registered under section 14-181, the notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records. The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building.

(Ord. No. 98-11/6, § 1(8.228), 11-6-95)

Sec. 14-464. - Hearing officer.

A hearing officer shall be appointed by the mayor to serve at his or her pleasure. The hearing officer shall be a person who has expertise in housing matters including, but not limited to, an engineer, architect, building contractor, building inspector or member of a community housing organization. An employee of the city shall not be appointed as the hearing officer.

(Ord. No. 98-11/6, § 1(8.229), 11-6-95)

Sec. 14-465. - Hearing—Right to be heard.

The person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.

(Ord. No. 98-11/6, § 1(8.230), 11-6-95)

Sec. 14-466. - Same—Notice.

A copy of the notice that a building or structure is a dangerous building shall be filed with the hearing officer by the health officer. The notice shall be in writing and shall be served upon the person to whom the notice is directed, either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least ten days before the date of the hearing included in the notice.

(Ord. No. 98-11/6, § 1(8.231), 11-6-95)

Sec. 14-467. - Same—Testimony; decision.

At a hearing, the hearing officer shall take testimony of the enforcing agency, the owner of the property, and any interested party. Not more than five days after completion of the hearing, the hearing officer shall render a decision, either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained. If the hearing officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the hearing officer shall so order, fixing a time in the order for the owner, agent, or lessee to comply with the order.

(Ord. No. 98-11/6, § 1(8.232), 11-6-95)

Sec. 14-468. - Failure to comply.

If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under section 14-467, the hearing officer shall file a report of the findings and a copy of the order with the city council not more than five days after noncompliance by the owner and request that necessary actions be taken to enforce the order. The city council shall fix a date not less than 30 days after the hearing prescribed above for a hearing on the findings and order of the hearing officer and shall give notice to the owner, agent, or lessee in the manner prescribed in section of the time and place of the hearing. At the hearing, the owner, agent, or lessee shall be given the opportunity to show cause why the order should not be enforced. The city council shall either approve, disapprove or modify the order. If the order is approved or modified, the owner, agent, or lessee shall comply with the order within 60 days after the date of the hearing under this section. In the case of an order of demolition, if the city council determines that the building or structure has been substantially destroyed by fire, wind, flood, or other natural disaster, and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent, or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this subsection. The city council shall take all necessary action to enforce the order.

(Ord. No. 98-11/6, § 1(8.233), 11-6-95)

Sec. 14-469. - Appeals.

An owner aggrieved by any final decision or order of the city council acting as the housing board of appeals may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.

(Ord. No. 98-11/6, § 1(8.234), 11-6-95)

Sec. 14-470. - Costs.

The cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure, or grounds adjoining the building or structure incurred by the city to bring the property into compliance with this act shall be reimbursed to the city by the owner or party in interest in whose name the property appears.

(Ord. No. 98-11/6, § 1(8.235), 11-6-95)

Sec. 14-471. - Notice; lien.

The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor of the amount of the cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the

cost within 30 days after mailing by the assessor of the notice of the amount of the cost to the city, the city shall have a lien for the cost incurred to bring the property into conformance with this article. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this section does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, Art. No. 206 of the Public Acts of Michigan of 1893 (MCL 211.1 to 211.157), as amended.

(Ord. No. 98-11/6, § 1(8.236), 11-6-95)

Sec. 14-472. - Separate legal action; judgment.

In addition to other remedies under this article, the city may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The city shall have a lien on the property for the amount of a judgment obtained pursuant to this section. The lien provided for in this section shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances. In addition, a judgment obtained pursuant to this section shall also grant to the city a lien for the amount of the judgment against the owner's interest in all real property located in the state that is owned in whole or in part by the owner of the building or structure against whom the judgment is obtained. A lien provided for in this section does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

(Ord. No. 98-11/6, § 1(8.237), 11-6-95)

Sec. 14-473. - Penalty; misdemeanor.

A person who fails or refuses to comply with an order approved or modified by the city council under section 14-468 within the time prescribed by that section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(Ord. No. 98-11/6, § 1(8.238), 11-6-95)

Secs. 14-474—14-515. - Reserved.

ARTICLE VI. - SIGNS

DIVISION 1. - GENERALLY

Sec. 14-516. - 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:

Display area means the area that is bounded by a series of curved or straight lines that are tangent to the outer boundaries of the sign.

Flashing lighted sign means a sign which is illuminated by electricity or electric or neon or similar lights which intermittently and repeatedly flash on and off in rapid succession, or so as to create an illusion of a flow of lights.

Ground sign means any freestanding sign supported by and anchored directly to the ground on privately owned property.

Projecting sign means any sign attached to or erected on the exterior wall or surface of any building which projects more than 12 inches from the wall or surface.

Roof sign means any sign mounted on or over the roof of a building.

Sign means any device, panel, banner or structure constructed or maintained with words, numbers or characters thereon for the purpose of an advertisement, announcement or giving information; provided, however, that words, numbers or characters painted on any wall of a building, on a fence or on an awning shall not be governed by the provisions of this article.

Wall sign means any sign attached to or placed flat against the exterior wall or surface of any building, no portion of which projects more than 12 inches from the wall.

(Code 1977, § 8.21)

Cross reference— Definitions generally, § 1-2.

Sec. 14-517. - Location generally.

It shall be unlawful for any sign to be attached to a door, window casing or tree; for any sign to obstruct any fire escape or building entrance, passageway or window; to be located a distance, the horizontal projection of which is less than ten feet from any fire hydrant, traffic light, fire or police box, or on any pole or column on public property; or to be erected in any location where by reason of traffic conditions or a fire hazard, it would imperil public safety or interfere with the duties of the police or fire departments. All signs shall be securely and adequately fastened and anchored. Single strand wires, wood plugs or other structurally unsafe materials are prohibited in the erection or maintenance of any sign.

(Code 1977, § 8.27)

Sec. 14-518. - Existing signs.

Existing signs which do not conform to the provisions of sections 14-523, 14-524, 14-526 and 14-528, but which do not present an immediate peril to the public safety because of such nonconformance or for any other reason, shall be deemed nonconforming structures and may be continued subject to the limitations on the continuance of nonconforming structures and uses imposed by the city zoning ordinance.

(Code 1977, § 8.32)

Sec. 14-519. - Illegal signs; nuisance.

Any sign or billboard maintained contrary to the provisions of this article shall be thereupon deemed to create a public nuisance, and shall be subject to removal by appropriate action to abate such nuisance.

(Code 1977, § 8.33)

Sec. 14-520. - Excepted signs.

A permit will not be required for a sign or banner to be placed or repaired on a vacant lot or building advertising the sale or renting of such lot or building, provided such sign or banner does not exceed six square feet in area on any one lot or building, nor violate the zoning regulations of the city. A permit will not be required for a sign to be placed on the wall of a building and flat against such building, provided such sign does not exceed six square feet in area, does not project beyond the line of such building and does not violate the zoning regulations of the city.

(Code 1977, § 8.34)

Sec. 14-521. - Maintenance.

The owner of any sign shall be required to have properly painted at least once every two years all parts and supports of the sign, unless the parts and supports are galvanized or otherwise treated to prevent rust.

(Code 1977, § 8.35)

Sec. 14-522. - Load resistance.

All signs and other advertising structures shall be designed and constructed to withstand a wind pressure of not less than 40 pounds per square foot of area, and shall be constructed to receive such loads as required by this article.

(Code 1977, § 8.36)

Sec. 14-523. - Billboards; location.

No billboard shall be erected or maintained within 100 feet of any sidewalk or public highway, nor within 150 feet of any residential or business building, nor within any distance from adjoining property of less than twice the height of such billboard, nor shall any such billboard be erected or maintained within any area restricted against billboards under any provisions of this Code.

(Code 1977, § 8.28)

Sec. 14-524. - Ground signs—Size.

No billboard, sign, bulletin board or advertising display, if standing free of any building, shall be more than 25 feet in its greatest horizontal dimension, nor more than 15 feet in height.

(Code 1977, § 8.29)

Sec. 14-525. - Same—Setback.

Other than temporary "for sale" signs, no ground sign shall be nearer the street than the building line established by law.

(Code 1977, § 8.37)

Sec. 14-526. - Roof signs—Location.

No roof sign shall be constructed nearer any edge of the roof of the building on which it is located than a distance between the roof of such building and the top of the sign.

(Code 1977, § 8.30)

Sec. 14-527. - Same—Securing.

Every roof sign shall be thoroughly secured to the building by iron or other metal anchors, bolts, supports, rods or braces. When erected upon buildings which are not constructed entirely of fireproof material, the bearing plates of such sign shall bear directly upon masonry walls and intermediate steel columns in the building. No roof sign shall be supported or anchored to the wooden framework of a building.

(Code 1977, § 8.38)

Sec. 14-528. - Projecting signs—Location.

No projecting sign shall be so hung, constructed or located that any portion of such sign, or any point on the ground projected perpendicular thereto, is nearer any public or private street, sidewalk or building entrance, than a distance equal to the distance between the top of such sign and the ground.

(Code 1977, § 8.31)

Sec. 14-529. - Same—Size.

Except by special permission of the city manager on showing by survey and report of the building inspector and chief of police that public safety will not be endangered, projecting signs shall be limited in area as follows:

- (1) Horizontal projecting signs 50 square feet each side; and
- (2) Vertical projecting signs 100 square feet each side.

(Code 1977, § 8.39)

Sec. 14-530. - Same—Securing.

Projecting signs exceeding ten square feet in area of 50 pounds in weight shall not be attached to nor supported by frame buildings nor the wooden framework of a building. Such projecting signs shall be attached to masonry walls with galvanized expansion bolts at least three-eighths of an inch in diameter, shall be fixed in the wall by means of bolts, extending through the wall, shall contain a proper size metal washer or plate on the inside of the wall and shall comply otherwise herewith. No projecting sign shall be secured with wire, strips of wood or nails, nor shall any projecting sign be hung or secured to any other sign.

(Code 1977, § 8.40)

Secs. 14-531—14-550. - Reserved.

DIVISION 2. - PERMIT

Sec. 14-551. - Required.

It shall be unlawful for any person to erect, alter, relocate, reassemble or post any sign governed by the provisions of this article within the city without first having obtained a permit therefor from the city.

(Code 1977, § 8.22)

Sec. 14-552. - Application.

An application for a permit shall be made on a form prescribed by the city, and shall contain among other things the name and address of the applicant; the type of sign and the proposed location; the name of the person who will erect or hang the sign; the written consent of the owner or lessee of the property on which any sign is to be located; and a plan or sketch of the sign, showing the dimensions, plans and specifications of the material to be used in its construction. If the sign is to be electrically illuminated, the name of the electrician who is to connect the wiring to the supply line must be specified and his license shown, and the sign shall have an approved Underwriters' Laboratories, Inc., label number, together with an electrical permit number. Electrical clocks, thermometers or similar devices shall, for the purpose of this article, be deemed to be signs. Application for permits to erect signs in which plastic materials are to be employed shall set forth the manufacturer's trade name for, and the common name of, the plastic material to be used; and shall certify either that the plastic material is noncombustible or that the plastic material has been tested by a recognized testing laboratory and rated as an approved noncombustible plastic. If plastics are employed in any part of a sign, the finished plastic unit shall be identified with the manufacturer's trade name for the plastic material or with the common name of the plastic material, if any.

(Code 1977, § 8.23)

Sec. 14-553. - Issuance.

The application for a permit, together with all plans and specifications in connection therewith, shall be approved by the city manager, and such approval shall not be given unless and until such application shall comply with all of the provisions of this Code. If such application complies with this Code, a permit to erect, alter, relocate, reassemble or post the sign shall be issued. Any sign which has been erected for a particular purpose shall not have its use changed without first making a new application and having a permit issued therefor.

(Code 1977, § 8.24)

Sec. 14-554. - Sign to bear permit number.

Every permit shall bear a number, which number shall be inscribed upon a suitable metal tag and fastened to the sign in a conspicuous location, and the sign hanger shall have the permit in his possession at the time the sign is being placed or erected.

(Code 1977, § 8.25)

Sec. 14-555. - Fee.

A permit fee of \$25.00 for each sign to be erected shall be paid at the time the application therefor is filed, except as to signs specifically designated otherwise in this article. Such fee may be changed by resolution of the city council from time to time.

(Code 1977, § 8.26)

Secs. 14-556—14-585. - Reserved.

ARTICLE VII. - SWIMMING POOLS

Sec. 14-586. - Definitions.

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

Private swimming pools means any pool designed, used and maintained for swimming purposes by an individual for use by his household and guests and located on a lot as an accessory use to a residence. Unless otherwise qualified, the term "private swimming pool" shall be construed as including both artificial and partly artificial pools. The term "partly artificial pool" shall mean a pool formed from a natural body of water which has either so limited a flow or such an inadequate natural circulation that the quality of water must be maintained by artificial means. The term "artificial pool" shall mean a pool composed entirely of artificial construction.

Wading pool means any artificially constructed pool, not designed or used for swimming, with a maximum area of 120 square feet and a maximum water depth of 24 inches.

(Code 1977, § 8.61)

Cross reference— Definitions generally, § 1-2.

Sec. 14-587. - Permit.

- (a) *Required.* It shall be unlawful to construct or establish a private swimming pool or wading pool without having obtained a permit therefor in the manner prescribed in this section.
- (b) *Application; fees.* Application for the construction and maintenance of a private swimming pool or wading pool shall be made to the building inspector by the owner of the property or by the contractor who will construct such swimming pool. The application shall be accompanied by duplicate sets of plans, specifications and plot plans of the property. The plot plan shall show the accurate location of the proposed swimming pool on the property, together with any proposed bathhouses or cabanas. The plot plan shall also show the location, height and type of all existing fencing or walls on the boundary lines of the property, together with the type and height of such fencing or enclosure as may be required by [section 14-595](#) to prevent, within reason, any person from gaining access beneath or through such fence when the pool is unguarded or unattended. A fee of \$20.00 shall be paid to the city for such private swimming pool permit, which permit fee shall be exclusive of the permit fee required for erection of any accessory structure to be used in connection with such swimming pool. A fee of \$10.00 shall be paid to the city for a wading pool. Such fees may be changed by resolution of the city council from time to time. No permit for a private swimming pool or wading pool shall be issued by the building inspector until the plans, specifications and plot plan have been approved by the city health officer and city engineer, and such approval has been properly certified on the plans. Such approval must be directly obtained from the health officer by the applicant.

(Code 1977, §§ 8.62, 8.63)

Sec. 14-588. - Construction and maintenance.

All material used in the construction of artificial private swimming pools and wading pools shall be waterproof and easily cleaned. Construction and design of such pools shall be such that the pools may be so maintained and operated as to be clean and sanitary at all times. The owners of every private swimming pool shall be responsible to maintain the pool in such condition as to prevent breaks in the pool chassis or water from the pool overflowing into adjacent public or private property.

(Code 1977, § 8.64)

Sec. 14-589. - Discharge system.

All private swimming pools now existing or hereafter constructed within the city shall be provided with one drainage outlet not in excess of three inches in diameter extending from such pool to either a brook, storm sewer or lawn sprinkling system on the premises on which the private pool is located. Such drainage shall be first approved by the city engineer and health officer after written application therefor. No private pool drain shall be connected into the city's sanitary sewer system. Approval shall not be given to discharge such water at the curb or upon the surface of any street.

(Code 1977, § 8.65)

Sec. 14-590. - Disinfection.

All private swimming pools shall be treated with chlorine or its compounds in sufficient quantity so that there will be present in the water at all times when the pool is in use, a residual of excess chlorine of not less than 0.20 parts per million of available free chlorine.

(Code 1977, § 8.66)

Sec. 14-591. - Bacteriological standards.

Not more than 20 percent of the samples of water taken from any private swimming pool, when more than 20 samples have been examined, and not more than three samples shall contain more than 200 bacteria per cubic centimeter or shall show positive test (confirmed) for coliform in any of five, ten-cubic-centimeter portions of water at times when the pool is for use. For the purpose of this section, any number of samplings of water on a single day shall be considered as one sample. The health officer is hereby authorized to take samples to ensure compliance with this article.

(Code 1977, § 8.67)

Sec. 14-592. - Accessory buildings.

Locker rooms, bathhouses, cabanas, shower rooms, toilets, runways and all other physical facilities or equipment incident to the operation of any private swimming pool shall be kept in a sanitary condition.

(Code 1977, § 8.68)

Sec. 14-593. - Location.

No private swimming pool or wading pool shall be erected nearer than ten feet to any lot line.

(Code 1977, § 8.69)

Sec. 14-594. - Fencing.

Every pool shall be completely enclosed with fencing with a height not less than four feet, nor more than six feet, so constructed as to prevent, within reason, any person from gaining access beneath or through such fence, and which shall have similarly substantial gates or doors of the same height as the fence, with facilities for locking such gates at all times when the pool is unguarded, unattended or not in actual use.

(Code 1977, § 8.70)

Cross reference— Fences generally, § 14-96 et seq.

Sec. 14-595. - Lighting.

No artificial lighting shall be maintained or operated in connection with private swimming pools in such a manner as to be a nuisance or an annoyance to neighboring properties.

(Code 1977, § 8.71)

Sec. 14-596. - Enforcement of article.

Every private swimming pool or wading pool, constructed or to be constructed in the city, shall at all times comply with the requirements of the health officer. Any nuisance or hazard to health which may exist or develop in or in consequence of or in connection with any such swimming pool shall be abated and removed by the owner, lessee or occupant of the premises on which the pool is located within ten days of a receipt of notice from the building inspector, city engineer or health officer.

(Code 1977, § 8.72)

Chapter 18 - BUSINESSES

FOOTNOTE(S):

⁽²²⁾ **Cross reference**— Alcoholic liquors, ch. 6; cable telecommunications, ch. 22; utilities, ch. 78.

Secs. 18-1—18-30. - Reserved.

ARTICLE II. - LICENSES

Sec. 18-31. - Required.

No person shall engage, or be engaged in the operation, conduct or carrying on of any enumerated trade, profession, business or privilege for which any license is required by any provision of this Code without first obtaining a license from the city in the manner provided for in this article. Any person duly licensed on the effective date of this Code shall be deemed licensed hereunder for the balance of the current license year. Any person conducting any enumerated business prior to or on the effective date of the ordinance from which this article is derived, but having not been licensed as now required, shall have 30 days from the effective date of the ordinance from which this article is derived to become licensed.

(Ord. No. 01-06, § 7.1, 3-5-01)

Sec. 18-32. - 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 such 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.

(Ord. No. 01-06, § 7.2, 3-5-01)

Sec. 18-33. - Contents of application.

The application for a business license shall contain all information relevant and necessary to determine whether a particular license may be issued, including but not limited to the following:

- (1) The applicant's full name, current address, telephone number and proof of identity, together with one full-face photograph of the applicant, not less than two square inches, nor more than three square inches. For purposes of this subsection, a photograph is required for all partners, shareholders, sole proprietors or other interested parties in any partnership, corporation, LLC, sole proprietorship or entity conducting the business;
- (2) A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale;
- (3) The specific location, if any, in which the business intends to conduct business;
- (4) If the applicant is employed by another, the name and address of the person, firm, association, organization, company or corporation employing the applicant;
- (5) If a motor vehicle is to be used, a description of the vehicle together with the motor vehicle registration number and license number;
- (6) A complete listing of any other licenses or permits issued to the applicant by the city within five years immediately preceding the date of the application;
- (7) A complete list of any and all misdemeanor or felony convictions of any person or any business entity involved in the conduct of the business. To this end, all persons required to submit a photograph under subsection (1) would be required to list their convictions under this subsection.

(Ord. No. 01-06, § 7.3, 3-5-01)

Sec. 18-34. - Health officer's certificate.

The request for a license shall be submitted to the health officer. The health officer shall conduct an actual inspection of the premises in which the applicant proposes to conduct or is conducting the trade, profession, business or privilege. The health officer shall certify that the proposed use complies with all of the health and safety standards of the city.

Sec. 18-35. - Fire chief's certificate.

The request for a license shall be submitted to the fire chief. The fire chief shall conduct a fire safety inspection of the premises in which the applicant proposes to conduct or is conducting the trade, profession, business or privilege. The fire chief shall certify that the proposed use complies with all of the fire safety standards of the city.

(Ord. No. 01-06, § 7.5, 3-5-01)

Sec. 18-36. - Police chief's certificate.

The application shall also be submitted to the chief of police who shall conduct such investigation as he deems appropriate. The chief of police shall certify that the applicant or the persons in ownership positions of the applicant are of good moral character.

(Ord. No. 01-06, § 7.6, 3-5-01)

Sec. 18-37. - Building and zoning officer's certificate.

The application shall also be submitted to the building and zoning officer of the city. The building and zoning officer shall certify that the proposed use of the premises is within the appropriate zoning guidelines and that the building or location proposed for a specific business is structurally adequate to house the proposed business or enterprise.

(Ord. No. 01-06, § 7.7, 3-5-01)

Sec. 18-38. - Businesses requiring license.

The following businesses are required to secure a license from the city clerk in order to conduct business within the corporate limits of the city:

- (1) Peddlers, solicitors and transient merchants are required to apply for and receive a license prior to conducting any business or solicitation activities within the city. United States military veterans are exempt from this requirement. For purposes of this subsection the following definitions apply:
 - a. The term peddler as used in this article shall include any person traveling by foot, wagon, automotive vehicle or other conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, or other vehicle or conveyance. Any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this article, shall be deemed a peddler. The term peddler shall include the terms hawker and huckster.
 - b. The term solicitor as used in this article shall include any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, and such definition shall include any person who, for himself, or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop, or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery. The term solicitor shall include the term canvasser.
 - c. The term transient merchant shall mean a trader who sells merchandise whether at retail or otherwise at a temporary location without intending to become a permanent merchant in that place. The term transient merchant shall include street vendors.
- (2) Tattoo parlors. No person or entity shall engage in the business of operating a tattoo parlor without first obtaining a license therefor. For purposes of this subsection the following definitions shall apply:
 - a. A "tattoo parlor" shall mean any person, business or entity which engages to any degree in tattooing, body piercing or

branding upon human tissue or a human body.

- b. The term "tattoo" shall mean either an indelible mark made upon the body of another individual by the insertion of a pigment under the skin or an indelible design made upon the body of another individual by production of scars other than by branding.
 - c. The term "body piercing" shall mean the perforation of human tissue other than an ear for a nonmedical purpose.
 - d. The term "branding" means a permanent mark made on human tissue by burning with a hot iron or other instrument.
- (3) Sexually oriented businesses. Any person operating or intending to operate a sexually oriented business within the city shall first secure a license from the city clerk. The definition of the term sexually oriented business is as defined in the zoning code for the city.

(Ord. No. 01-06, § 7.17, 3-5-01)

Sec. 18-39. - Bonds.

The city may by ordinance require that an applicant for any license or permit furnish a bond. Prior to issuance of the license such bond shall be furnished in an amount deemed adequate by the city manager or in an amount specified in an ordinance of the city. The form of such bond shall be acceptable to the city attorney. In lieu of a bond, an applicant for a license or permit may furnish one or more policies of insurance in the same amounts and providing the same protection as called for in any such bond. Any such policies of insurance shall be approved as to substance by the city manager and as to form by the city attorney.

(Ord. No. 01-06, § 7.8, 3-5-01)

Sec. 18-40. - Fees.

- (a) The fee required by this Code for any license or permit shall be paid at the office of the city clerk.
- (b) 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 any trade, profession, business or privilege for which a license is required by the provisions of this Code shall be established by resolution of the city council. The city council shall establish the fee by determining the anticipated cost of providing the necessary inspections by the city's employees and/or officials, the administrative costs in issuing the license or permit and any anticipated costs or expenses related to the regulation of the business. The city council may from time to time by resolution amend or change the fees imposed.
- (c) In the event that an applicant for a license shall fail to apply in a timely manner, or if the payment of the fee is untimely, a late fee equal to 25 percent of the original license fee, but in no event less than \$5.00 shall be paid.

(Ord. No. 01-06, § 7.10, 3-5-01)

Sec. 18-41. - Exempt persons.

No license fee shall be required from any person exempt from such fee by state or federal law. Such persons shall comply with all other provisions of this article. The city clerk shall in all such cases issue to such persons licenses which are clearly marked as to the exemption and the reason therefor.

(Ord. No. 01-06, § 7.11, 3-5-01)

Sec. 18-42. - Suspension or revocation.

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. The licensee shall have the right to a hearing before the city council on any such action by the city manager, provided a written request therefor is filed with the city clerk within five days after receipt of the notice of such suspension. The council may confirm such suspension or revoke or reinstate such license. The action taken by the city council shall be final. Upon suspension or revocation of any license or permit, the fee therefor shall not be refunded.

(Ord. No. 01-06, § 7.12, 3-5-01)

Sec. 18-43. - Renewal.

Unless otherwise provided in this Code, an application for renewal of a license shall be considered in the same manner as an original application.

(Ord. No. 01-06, § 7.9, 3-5-01)

Sec. 18-44. - Display; exhibition upon request.

Any license issued under this article shall be prominently displayed at the place of business. Every licensee shall produce his license for examination when applying for a renewal or when requested to do so by any city police officer or by any person representing the issuing authority.

(Ord. No. 01-06, § 7.13, 3-5-01)

Sec. 18-45. - Displaying invalid license.

No person shall display any expired license or any license for which a duplicate has been issued.

(Ord. No. 01-06, § 7.14, 3-5-01)

Sec. 18-46. - 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 license or permit. Improper transfer or misuse of such license or permit shall result in automatic revocation of such license or permit in addition to the general penalty provision for violation of this article.

(Ord. No. 01-06, § 7.15, 3-5-01)

Secs. 18-54—18-85. - Reserved.

ARTICLE III. - FEES AND BONDS

Sec. 18-86. - Setting.

All fees, bonds, penalty fees and insurance required by any section of this chapter shall be as set by resolution of the city council from time to time.

Secs. 18-87—18-115. - Reserved.

ARTICLE IV. - AMUSEMENT DEVICES

DIVISION 1. - GENERALLY

Secs. 18-116—18-140. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-141. - Required.

No person shall keep, maintain, use or operate for gain or hire a shuffleboard, bumper pool table, miniature pool table, pinball machine, jukebox, bowling game or other coin-operated mechanical or electronic amusement device in the city without first obtaining a license therefor.

(Code 1977, § 7.211)

Sec. 18-142. - Application.

Any person desiring to obtain a license to maintain, use or operate such coin-operated mechanical or electronic amusement devices shall make application to the city clerk on blanks to be furnished by the city. Such application shall contain the name of the owner of the device; the owner of the premises; and the owner of the business where such devices are maintained, used or operated; and a statement of the place where such business is to be carried on or operated, with a full description of the premises and of all business carried on at such premises.

(Code 1977, § 7.212)

Sec. 18-143. - Ownership of device and business required for granting.

No license shall be granted unless the applicant shall be the owner or lessee of both the device and the business. Such application shall be signed by the owner of the business, or in the case of ownership of a corporation, by the president and the secretary thereof.

(Code 1977, § 7.213)

Sec. 18-144. - Approval; fee.

No license required in this article shall be granted except upon certification by the chief of police. The fee for such license shall be as specified by resolution of the city council from time to time.

(Code 1977, § 7.214)

Sec. 18-145. - Transferability; revocation.

The license granted in this article shall not be transferable either as to owners, proprietors or location. Such licenses shall be subject to suspension and revocation in the manner provided in article II of this chapter.

(Code 1977, § 7.215)

Secs. 18-146—18-175. - Reserved.

ARTICLE V. - CARD ROOMS

Sec. 18-176. - 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:

Card room means any place open to the public for playing cards.

(Code 1977, § 7.135)

Cross reference— Definitions generally, § 1-2.

Sec. 18-177. - License required; certification; application.

No person shall engage in the business of operating a card room without first obtaining a license therefor. No license shall be granted except upon certification of the chief of police. Each license application shall designate the number of card tables to be used by the owner and/or operator.

(Code 1977, § 7.136)

Sec. 18-178. - Closing hours.

Public card rooms shall be closed promptly at 2:00 a.m., legal standard time and shall remain closed until 7:00 a.m. of the following day.

(Code 1977, § 7.137)

Secs. 18-179—18-210. - Reserved.

ARTICLE VI. - CIRCUSES, SHOWS AND EXHIBITIONS

Sec. 18-211. - Show license required for circus or show.

No person shall conduct a circus or show, except in a theater licensed under the provisions of this article, without first obtaining a license therefor which shall be known as a show license.

(Code 1977, § 7.151)

Sec. 18-212. - Animal show licenses and exhibition licenses.

No person shall conduct any dog or pony show or menagerie without first obtaining a license therefor. Such license shall be known as an animal show license. No person shall conduct any panorama, exhibition of statuary or paintings or any other exhibition, not otherwise licensed under this article, and for which an admission fee is charged, without first obtaining a license therefor to be known as an exhibition license. The provisions of this section shall not be applicable to any fair held under the direct management and supervision of any recognized agricultural association or society, nonprofit association or corporation, at which agricultural or industrial products are principally exhibited.

(Code 1977, § 7.152)

Secs. 18-213—18-245. - Reserved.

ARTICLE VII. - GASOLINE STATIONS

DIVISION 1. - GENERALLY

Sec. 18-246. - Location requirements.

No license shall be granted for any such filling station hereafter established for any location outside of the limits of the C-1 commercial district as established by the zoning ordinance of the city, nor for any location where by reason of traffic conditions or fire or explosion hazard a filling station would endanger and imperil the public safety. No such license shall be granted for any location within 200 feet of any school, church, theater, park or any other place of public assembly which has a seating capacity of 200 or more persons, nor for any location within 200 feet of any school, church, theater, park or any other place of public assembly which has a seating capacity of 200 or more persons, nor for any location within 200 feet of any building occupied in whole or in part as a dwelling house; provided, however, that a license may be granted for such filling stations for a location within less than 200 feet of any building within such commercial district occupied in whole or in part as a dwelling house when the owners of not less than 75 percent of such buildings used for dwelling house purposes within 200 feet of the proposed location consent thereto in writing, and such written consent is filed with the city clerk.

(Code 1977, § 7.93)

Sec. 18-247. - Measurement of distances.

The distance from a place of dwelling, school, church, theater or other place of public assembly to the location of such filling station as provided in [section 18-246](#) shall be measured from the nearest pump or tank to the front entrance, or to the nearest portion of the dwelling or auditorium in which the public is gathered. In case of a park, the measurements shall be from the nearest pump or tank to the regular entrance of such park; provided, however, that the foregoing provisions for parks shall not be construed to include Trumble Park, so-called, or small triangular parks not used or designated as public assembly grounds.

(Code 1977, § 7.94)

Secs. 18-248—18-270. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-271. - Required.

No gasoline filling station shall be established or maintained within the city without first obtaining a license therefor in accordance with the provisions of this article. No such license shall be issued until approved by the city council.

(Code 1977, § 7.91)

Sec. 18-272. - Application.

The application for a license to operate a gasoline filling station shall state the location of such proposed filling station and the capacity of the tank or tanks to be used, and how such oil and gasoline shall be stored and sold.

(Code 1977, § 7.92)

Secs. 18-273—18-305. - Reserved.

ARTICLE VIII. - PEDDLERS

FOOTNOTE(S):

⁽²³⁾ **State Law reference**— Veterans exempt from payment of fee for peddler's license, MCL 35.441 et seq.

DIVISION 1. - GENERALLY

Sec. 18-306. - 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:

Peddler means any person traveling by foot, wagon, automotive vehicle or other conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, or other vehicle or conveyance. Any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this article, shall be deemed a peddler. The word "peddler" shall include the words "hawker" and "huckster."

(Code 1977, § 7.71)

Cross reference— Definitions generally, § 1-2.

Sec. 18-307. - Fixed stands.

No licensee shall stop or remain in any one place upon any street, alley or public place longer than necessary to make a sale to a customer wishing to buy. Any peddler using a vehicle, when stopped, shall place his vehicle parallel to and within 12 inches of the curb and shall depart from such place as soon as he has completed sales with customers actually present.

(Code 1977, § 7.73)

Sec. 18-308. - Prohibited areas.

No peddler, in the sale of goods, wares and merchandise, shall obstruct any street, alley, sidewalk or driveway except as may be necessary and reasonable to consummate a sale nor remain, barter, sell, offer or expose for sale any goods, wares or merchandise in front of or at the side of any property against the wish or desire of the property owner or the tenant or occupant of such property. No peddler shall engage in peddling on any street, alley or public place after having been requested to desist by any police officer of the city because of congested or dangerous traffic conditions.

(Code 1977, § 7.74)

Sec. 18-309. - Prohibited practices.

No peddler shall shout or cry out his goods or merchandise nor blow any horns, ring any bell or use any other similar device to attract the attention of the public.

(Code 1977, § 7.75)

Sec. 18-310. - Curb service.

No person shall operate or maintain any stand, vehicle, store or place of business on or near to any highway in such a manner that the customers of or traders with such person occupy or congregate within the limits of any street, land, highway or public place within the city. No person shall be permitted to use the streets, alleys, lanes or public places of the city for the service of customers or for the transaction of business, or to use any stands, stores or other places of business in any manner that shall require the customer, when transacting such business, to stand within the limits of the streets, highways, alleys or public places of the city.

(Code 1977, § 7.76)

Secs. 18-311—18-330. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-331. - Required.

No person shall engage in the business of peddler without first obtaining a license therefor. No such license shall be granted except upon certification of the chief of police.

(Code 1977, § 7.72)

Sec. 18-332. - Exempt persons.

- (a) The following shall be exempt from the licensing requirements of this article but shall be subject to the other provisions of this article:
 - (1) Farmers or truck gardeners selling or offering for sale any products grown, raised or produced by them, the sale of which is not otherwise prohibited or regulated.
 - (2) Any person under 18 years of age, when engaged in peddling on foot in the neighborhood of his residence under the direct supervision of any school or recognized charitable or religious organization.
- (b) The following persons shall be exempt from the payment of license fees under this article: veterans of the armed forces.

(Code 1977, § 7.77)

Secs. 18-333—18-365. - Reserved.

ARTICLE IX. - POOL ROOMS AND BOWLING ALLEYS

Sec. 18-366. - 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:

Bowling alley means any place open to the public for bowling.

Pool room means any place open to the public for playing pool or billiards.

(Code 1977, § 7.121)

Cross reference— Definitions generally, § 1-2.

Sec. 18-367. - License required; certification; fingerprinting.

No person shall engage in the business of operating a pool room or bowling alley without first obtaining a license therefor. No license shall be granted except upon certification of the chief of police and unless a complete set of fingerprints of the applicant therefor are on file in the noncriminal identification file of the police department. Each license shall designate the number of pool or billiard tables or bowling alleys permitted thereunder, and no licensee shall keep or maintain more tables or alleys than permitted by such license.

(Code 1977, § 7.122)

Sec. 18-368. - Closing hours.

No person shall keep open any pool room or bowling alley between the hours of 12:00 midnight and 7:00 a.m. of the succeeding morning.

(Code 1977, § 7.123)

Sec. 18-369. - Restrictions for minors.

No person who is less than 17 years of age may remain or loiter in or about any premises licensed under this article as a pool room, nor shall any licensee permit any such minor to remain in such pool room. No person shall falsely represent himself to be 17 years or older in order to obtain admittance to or remain in any licensed pool room.

(Code 1977, § 7.124)

Sec. 18-370. - Public institutions excepted.

This article shall not be applicable to bowling alleys or pool rooms operated and owned by public institutions.

(Code 1977, § 7.125)

Secs. 18-371—18-400. - Reserved.

ARTICLE X. - PRECIOUS METAL AND GEM DEALERS

Sec. 18-401. - Registration required; fees.

In accordance with the provisions of the Precious Metal and Gem Dealer Act of 1981, Act No. 95 of the Public Acts of Michigan of 1981 (MCL 445.481 et seq.), as amended, the city hereby sets dealer registration fees as follows:

- (1) Dealer, \$25.00; and
- (2) Each employee, \$5.00, not to exceed the sum total of \$50.00 per dealer.

Such fees may be changed by resolution of the city council from time to time.

(Ord. of 12-7-81, § 1)

Sec. 18-402. - Form of application and registration certificate.

The application for a certificate of registration and the certificate of registration shall be in such form as may be set and supplied by the city clerk.

(Ord. of 12-7-81, § 2)

Secs. 18-403—18-435. - Reserved.

ARTICLE XI. - PUBLIC DANCES

Sec. 18-436. - 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:

Public dance means any dance to which the general public is invited, expressly or impliedly, except dances sponsored by the city.

(Code 1977, § 7.129)

Cross reference— Definitions generally, § 1-2.

Sec. 18-437. - Dancehall license required; certifications.

No person shall operate or maintain any place in or on which public dances are held, without first obtaining a dancehall license, and no person shall conduct a public dance except in or on premises licensed under this article. No license shall be granted except upon certification of the building inspector and the fire chief.

(Code 1977, § 7.130)

Sec. 18-438. - Sanitary facilities.

No license shall be issued to any dancehall or place where public dances are held, unless there is in such hall, proper provisions for ventilation, either natural or mechanical, so that each person in the hall will be supplied with 1,200 cubic feet of air per hour, and sufficient toilet conveniences so that there will be at least one women's toilet in good sanitary condition per 2,000 square feet of floor space, or fraction thereof; at least one men's toilet and urinal in good sanitary condition per 2,000 square feet of floor space or fraction thereof; and provision made for privacy therein; at least one washstand in each toilet provided with soap and sanitary towels; at least one sanitary drinking fountain, either on the dance floor or reasonably accessible thereto for each 4,000 square feet of floor space or fraction thereof; sufficient fire exits free from all rubbish and inflammable material as required by the regulations of the state fire marshal; and at least one free and unobstructed means of exit from the premises in addition to the main entrance thereto.

(Code 1977, § 7.131)

Sec. 18-439. - Building code requirements.

No license shall be issued for any place in which public dances are held unless the building code requirements of the city, as far as can be determined, are being complied with.

(Code 1977, § 7.132)

Sec. 18-440. - Closing hours.

No public dancehall shall remain open between the hours of 2:00 a.m. and 2:00 p.m.

(Code 1977, § 7.133)

Secs. 18-441—18-470. - Reserved.

ARTICLE XII. - SALES

Sec. 18-471. - 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:

Yard sales, garage sales and basement sales mean the sale or offering for sale of more than five items by other than a licensed retail merchant, church, club or charitable institution of new and used merchandise, clothing, household goods or rummage in other than premises zoned for such sale.

(Code 1977, § 7.191)

Cross reference— Definitions generally, § 1-2.

Sec. 18-472. - Penalty for violation of article.

Violation of this article is punishable by imprisonment not to exceed 90 days in jail and/or a fine not to exceed \$500.00.

(Code 1977, § 7.192)

Sec. 18-473. - Required conditions, including license.

Yard sales, garage sales and basement sales shall not be permitted in the city except under the following conditions:

- (1) Such sales shall only be conducted by the owner or occupant of the premises for the sale of goods owned by such owner or occupant.
- (2) The sale shall be for a period not greater than three days.
- (3) Signs advertising the sale may be posted on the premises where the sale is being conducted, or on a privately owned property, if written permission is obtained from the owner of the property where the sign is to be placed. Signs shall not be placed in rights-of-way, on utility poles, on public property or on any property in which prior written permission has not been given. Signs shall be removed at the closing, or end of the last day of the sale.
- (4) The owner or occupant of the premises shall be limited to two sales per calendar year.
- (5) No sale shall be held until a license for the sale has been obtained from the city clerk on a form provided by the city.

(Code 1977, § 7.192)

Secs. 18-474—18-505. - Reserved.

ARTICLE XIII. - SOLICITORS

FOOTNOTE(S):

⁽²⁴⁾ **State Law reference**— Charitable organizations and solicitations act, MCL 400.271 et seq.; public safety solicitation act, MCL 14.301 et seq.; home solicitation sales, MCL 445.111 et seq.

DIVISION 1. - GENERALLY

Sec. 18-506. - 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:

Solicitor means any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, and such definition shall include any person who, for himself, or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodginghouse, apartment, shop, or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery. The word "solicitor" shall include the word "canvasser."

(Code 1977, § 7.81)

Cross reference— Definitions generally, § 1-2.

Sec. 18-507. - Exempt persons.

Persons under 18 years of age, when engaged in soliciting on foot in the neighborhood of their residence under the direct supervision of any school or recognized charitable or religious organization, shall be exempt from the requirements of this article.

(Code 1977, § 7.85)

Secs. 18-508—18-530. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-531. - Required.

No person shall engage in the business of solicitor within the city without first obtaining a license therefor. No such license shall be granted except upon certification of the chief of police.

(Code 1977, § 7.82)

Sec. 18-532. - Application; contents.

The license application filed under the provisions of this division 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 business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;
- (7) A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (8) The fingerprints of the applicant and the names of at least two reliable property owners of the county who will certify as to the applicant's good character and business respectability, or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility; and
- (9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(Code 1977, § 7.83)

Sec. 18-533. - Fees.

The fees for a solicitor's license shall be as specified by resolution of city council from time to time. No fee for a solicitor's license shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, he may apply to the city manager for an adjustment of the fees so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and gross volume or estimated gross volume of business and such other information as the city manager may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The city manager shall then conduct an investigation, comparing the applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee fixed for the solicitor's license is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable and

nondiscriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the city manager shall have the power to base the fee upon a percentage of gross sales, or any other method which will ensure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fee as prescribed by the city council. Should the city manager determine the gross sales measure of the fee to be the fair basis, he may require the applicant to submit, either at the time of termination of the applicant's business in the city, or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of the fee therefor, provided that no additional fee during any one license year shall be required after the licensee shall have paid an amount equal to the annual license fee as prescribed by the city council.

(Code 1977, § 7.84)

Secs. 18-534—18-565. - Reserved.

ARTICLE XIV. - TAXICABS AND DRIVERS

FOOTNOTE(S):

⁽²⁵⁾ **Cross reference**— Traffic and vehicles, ch. 74.

DIVISION 1. - GENERALLY

Sec. 18-566. - Definitions.

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

Taxicab shall have the meaning given in the state uniform traffic code.

(Code 1977, § 7.231)

Cross reference— Definitions generally, § 1-2.

Sec. 18-567. - Rates.

All fares and charges for the use of taxicabs shall be determined by resolution of the city council following a hearing held by such council at a regular meeting. All taxicab licensees shall be notified of any such hearing by mail. The term "waiting time" as used in any schedule of rates and charges shall include the time when the taxicab is not in motion, beginning with the arrival at the place to which it has been called, or the time consumed while standing at the direction of any passenger, but shall not include time lost because of inefficiency of the taxicab or its operator, or time consumed by premature response to a call or by traffic delays.

(Code 1977, § 7.240)

Sec. 18-568. - Lost articles.

Every taxicab driver, immediately after the termination of any hiring or employment, shall carefully search such taxicab for any property lost or left therein, and any such property unless sooner claimed or delivered to the owner shall be taken to the headquarters of the police department and deposited with the officer in charge within 24 hours after the finding of such article.

(Code 1977, § 7.244)

Sec. 18-569. - Passengers.

Every taxicab driver shall have the right to demand payment of the legal fare in advance, and may refuse employment until so prepaid, but no taxicab driver shall otherwise refuse or neglect to convey any orderly person upon request anywhere in the city unless previously engaged or unable to do so. No driver of any licensed taxicab shall carry any other person than the passenger first employing a taxicab without the consent of the passenger.

(Code 1977, § 7.245)

The chief of police is hereby empowered, subject to approval by the city council, to make such rules and regulations regarding the dress and conduct of drivers, the maintenance, marking and operating of taxicabs as may be necessary in the interest of providing safe and orderly service to passengers, and no person shall fail to comply with any such rule or regulation. Upon adoption or change in any such rule or regulation, notice of such change shall be furnished to each taxicab licensee and taxicab driver licensee. The chief of police may require periodic reports to be submitted by operators and drivers in order to assist in the enforcement of such rules and regulations or the terms of this article. Until changed or added to in the manner provided in this section, the following rules and regulations shall be applicable to taxicabs and taxicab drivers:

- (1) It shall be the duty of every person driving or operating a taxicab to be courteous; to refrain from smoking while actually carrying passengers in his taxicab; to refrain from swearing, loud talking or boisterous conduct; to drive his motor vehicle carefully and in full compliance with the traffic regulations of the city and orders of the police officers of the city; to promptly answer all court notices, traffic violation notices or police notices; and to deal honestly with the public and with his employer.
- (2) Any taxicab licensee who is a member of any cooperative association shall furnish the police department with the name of such association and shall notify the police department of any change in his membership or affiliation within 48 hours after such change.
- (3) All taxicabs shall be kept in good running condition and clean and fit for public use and each taxicab shall be inspected at such intervals as the chief of police may direct.
- (4) Only licensed taxicabs in such number as may be designated on any taxicab stand sign shall remain at any stand to which such sign refers, while waiting for employment and each taxicab shall be parked in single file. The taxicab standing at the head of such parked line shall not be permitted to refuse to carry any orderly person who offers to hire such taxicab and agrees to pay the proper rate of fare, but any person desiring to hire any taxicab shall be free to select any taxicab he may desire on the stand, whether it be at the head of the line or not. As the taxicabs leave the taxicab stand with passengers, those in the rear shall move up, and any taxicab entering such stand shall enter at the rear thereof and shall move up as closely as possible to the last cab on such stand.
- (5) No person shall charge any fare for the hire of any taxicab other than in accordance with the current schedule of rates.
- (6) No taxicab, while awaiting employment by passengers, shall stand on any public street or place other than upon a taxicab stand; nor shall any taxicab driver seek employment by repeatedly and persistently driving his taxicab to and fro in a short space before, or by otherwise interfering with, the proper and orderly access to or egress from any theater, hall, hotel, public resort, bus station or other place of public gathering, or in any other manner obstructing or impeding traffic; but any taxicab driver may solicit employment by driving through any public street or place without stops other than those due to traffic and at such speed as not to interfere with or impede traffic and may pass and repass any theater, hall, hotel, public resort, bus station or other place of public gathering, provided that after passing such public place he shall not turn and repass until he shall have gone a distance of two blocks beyond such place.
- (7) No person shall solicit passengers for a public taxicab upon the streets of the city except the driver of the taxicab when sitting within his vehicle. Every taxicab driver shall remain on the driver's seat or inside his vehicle at all times when such vehicle is standing upon any taxicab stand or when actually engaged in carrying passengers, except that every taxicab driver shall be permitted to leave his taxicab to assist passengers into or out of such taxicab. Any taxicab driver may leave his taxicab on a taxicab stand to take care of calls of nature. During such absences his taxicab shall be parked at the rear of such taxicab stand, and no such absence shall be longer than 30 minutes.
- (8) Any taxicab licensee may place advertising matter on or in any licensed taxicab but the form and content thereof shall be first approved by the chief of police.
- (9) No taxicab driver shall drink any intoxicating beverage while on duty, nor immediately prior thereto.

(Code 1977, § 7.247)

Secs. 18-571—18-590. - Reserved.

DIVISION 2. - TAXICAB LICENSE

Sec. 18-591. - Required; certifications.

No person shall engage in the business of operating or causing to be operated, any taxicab upon the streets, alleys or public ways of the city without first having obtained a license for each such taxicab. No such license shall be granted except upon certification of the chief of police, and upon approval of the city council. Picking up passengers within the city shall be deemed engaging in the taxicab business, but discharging passengers in the city, when the trip originated from a point outside the city, shall not be so construed.

(Code 1977, § 7.232)

Sec. 18-592. - New applications; determination of public necessity and convenience.

Upon application made for any new taxicab license, as distinguished from any renewal thereof, the city council shall first consider the question of whether public convenience and necessity require the operation of such taxicab. The council shall consider the number of taxicabs operating in the city and whether the demands of the public require additional taxicab service; traffic conditions on the streets of the city and whether the additional taxicab service will result in a greater hazard to the public; and such other relevant facts as the council may deem advisable. The judgment of the council on the question of public necessity and convenience shall be conclusive.

(Code 1977, § 7.233)

Sec. 18-593. - Change in taxicab ownership shall cause revocation.

When the ownership of any taxicab shall change, whether by operation of law or otherwise, the taxicab license pertaining to such taxicab shall be automatically revoked. Any transfer of, or attempt to transfer, a taxicab license to any other person shall automatically revoke the license.

(Code 1977, § 7.234)

Sec. 18-594. - Transfer between vehicles.

The owner of any licensed taxicab who desires to transfer such license to another vehicle owned by him, shall make application to the city clerk on forms provided therefor, and shall state under oath or affirmation such facts as may be required for, or applicable to, such transfer. Upon approval of the chief of police, such transfer shall be granted.

(Code 1977, § 7.235)

Sec. 18-595. - Issuance.

Upon issuance of any taxicab license, the city clerk shall furnish the licensee a license for each vehicle so licensed.

(Code 1977, § 7.236)

Sec. 18-596. - Insurance.

- (a) Before any such license is issued, the applicant therefor shall furnish one or more policies of insurance, issued by responsible insurance companies providing indemnity for the insured in the amounts specified in this section, or as changed by resolution of the city council from time to time, and agreeing to pay, within the limits of such amounts on behalf of the insured, all sums which the insured shall become obligated to pay by reason of the liability imposed upon the insured by law, for damages because of bodily injury, including death, at any time resulting therefrom, or of damages to property, or both, sustained by any person other than the employees of the insured and caused by accident, and arising out of the ownership, maintenance or use of such licensed taxicab.
- (b) The minimum amount of such insurance coverage as to any one licensed taxicab shall be:
 - (1) On account of injury to, or death of, any person in any one accident\$100,000.00
 - (2) On account of any one accident resulting in injury to, or death of, more than one person300,000.00
 - (3) On account of damage to property in any one accident500,000.00

Such amounts may be changed by resolution of the city council from time to time.

(Code 1977, § 7.237)

Sec. 18-597. - Bonds.

In lieu of insurance required by section 18-596, the licensee may furnish a surety company bond, in a form to be approved by the city attorney in penal sums of not less for each taxicab than the amounts specified for insurance, and binding the principal and surety to the same conditions as are required in insurance policies as set forth in section 18-596.

(Code 1977, § 7.238)

Sec. 18-598. - Cancellation notice for insurance policy or bond.

Every such insurance policy or bond shall contain a clause obligating the insurer or surety to give the city clerk, by registered mail, at least ten days' written notice before the cancellation, expiration, lapse or other termination of each insurance policy or bond, or the withdrawal of surety from any such bond.

(Code 1977, § 7.239)

Secs. 18-599—18-620. - Reserved.

DIVISION 3. - TAXICAB DRIVER LICENSE

Sec. 18-621. - Required; application; certification; additional requirements; applicant qualifications.

No person shall drive a taxicab on the streets of the city without first having obtained a taxicab driver license. Applications for such license shall be made to and the licenses issued by the police department. No such license shall be granted except upon certification by the chief of police, nor unless a photograph, a complete set of fingerprints and a copy of the driving record file from the secretary of state's office of the applicant are on file in the noncriminal identification file of the police department. Two photographic pictures of each applicant shall be furnished at the time of application. The size and form of such photographs shall be prescribed by the police department. That part of section 18-44 requiring licensees to carry licenses on their persons shall not apply to taxicab drivers. The license issued to a taxicab driver shall be conspicuously displayed on the inside of the taxicab operated by him and illuminated at night. Every applicant shall be 18 years of age or over and able to read and write. Every applicant shall furnish the police department with such information as it may require and as may be reasonably necessary in order to investigate the background and character of the applicant. As an additional reason for refusal of certification, in the case of taxicab drivers, the chief of police shall refuse to certify any person whose record of previous driving violations is such as to indicate that he is not habitually a careful, skilled and prudent driver. In the discretion of the chief of police, a temporary taxicab driver license, valid for a period not to exceed 20 days, may be issued to any applicant pending certification by him.

(Code 1977, § 7.241)

Sec. 18-622. - Physical examination.

Each applicant for a taxicab driver license, shall, at his own expense, be required to submit to a medical examination by a duly licensed physician of his own choosing, and the results of such examination shall be reduced to writing by such physician on a form furnished by the police department. Such report of examination signed by the physician shall be attached to the application for a taxicab driver license. Upon application for a taxicab driver license from a person who then holds such a license, the physical examination required in this section shall be waived, unless no such examination shall have been had, and a report thereof furnished to the city, for longer than two years immediately preceding such application.

(Code 1977, § 7.242)

Sec. 18-623. - Misuse.

No person having a taxicab driver license shall allow any other person to use or attempt to use such license, for any purpose. No person shall use or have in his possession while operating a taxicab in the city, any taxicab driver license which has been issued to any other person. No taxicab licensee shall permit any person not having a taxicab driver license to operate any taxicab.

(Code 1977, § 7.243)

ARTICLE XV. - THEATERS

Sec. 18-656. - License required; exceptions.

No person shall conduct a moving picture show, vaudeville, opera house, theater or other place for the giving of plays, and other theatrical exhibitions where an admission fee is charged, without first obtaining a license therefor to be known as a theater license. The requirements of this section shall not be applicable to exhibitions or shows given for charity or for the benefit of schools or benevolent, educational, fraternal or religious societies.

(Code 1977, § 7.153)

Sec. 18-657. - Inspection of movie pictures, films or picture shows; enumeration of prohibited displays and activities.

- (a) Every person or company operating under this article and in whose place of amusement or exhibition shall be displayed moving pictures of any character, kind or description shall present the pictures, films or plates so sought to be displayed to the chief of police for his inspection. The chief of police shall designate a place where the inspection is to be held, and he is authorized, and it is hereby made his duty, to inspect or cause to be inspected such pictures, plates or films. If in his judgment, using the standards set out in this section, the motion picture or any part thereof is obscene, lewd, lascivious, filthy or indecent, sadistic or masochistic, he shall reject that motion picture or part of such motion picture and notify the person or company operating the place of amusement or exhibition from whom the pictures, films or plates were received, that the same cannot be exhibited. The test to be applied shall not be whether sexual desires or sexually improper thoughts would be aroused in those comprising a particular segment of the community, the young, the immature or the highly prudish, or would leave another segment, the scientific or highly educated or the so-called worldly wise and sophisticated, indifferent and unmoved. But such test shall be the effect of the picture considered as a whole, not upon any particular class, but upon all those whom it is likely to reach, that is, its impact upon the average person in the community. The picture must be judged as a whole in its entire content, not by considering detached or separate portions only, and by the standards of the common conscience of the community of the contemporary period of the violation charged. Any person or company who knowingly exhibits the rejected material after it has been rejected by the police chief shall, upon conviction, be subject to punishment as provided in section 1-16
- (b) Movies, pictures or films intended primarily for dissemination to a clearly deviant sexual group, rather than the public at large, are hereby declared to be obscene.
- (c) No child under the age of 12 years of age, unless accompanied by his parent or other suitable adult person, shall be permitted to enter any theater or moving picture show at any hour later than will enable the child to view a full program and be out of the theater or moving picture show by existing curfew hour. No minors under the age of 16 years shall be admitted to any theater or moving picture show at any time during regular school hours on days on which the public and parochial schools of the city are in session, unless accompanied by a parent or guardian.
- (d) It shall be unlawful for any theater or moving picture show or the owner, operator, manager or employee thereof in connection therewith, either directly or indirectly, to maintain, operate or carry on any lottery, game of chance, game of skill, bank night, screens, luck-o-grams or any other games of similar nature or engage in any similar device or plan.

(Code 1977, § 7.154)

Secs. 18-658—18-690. - Reserved.

ARTICLE XVI. - TRANSIENT MERCHANTS

FOOTNOTE(S):

⁽²⁶⁾ **State Law reference**— Licensing and regulation of transient traders, MCL 445.371 et seq.

Sec. 18-691. - 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:

Temporary business means every person engaged in the retail sale and delivery of goods, wares or merchandise, unless his goods, wares or merchandise shall have been assessed for taxation in the city during the current year.

(Code 1977, § 7.62)

Cross reference— Definitions generally, § 1-2.

Sec. 18-692. - License required; certifications.

No person shall engage in a temporary business of selling goods, wares or merchandise at retail within the city from any lot, premises, building, room or structure, including railroad cars, without first obtaining a license therefor. No such license shall be granted except upon certification of the chief of police and city treasurer.

(Code 1977, § 7.61)

Sec. 18-693. - Indebtedness to the city.

No license shall be granted to any person owing any personal property taxes or other indebtedness to the city, or who contemplates using any personal property on which personal property taxes are owing, in the operation of such business.

(Code 1977, § 7.63)

Sec. 18-694. - Benefit sales.

Any person selling or offering for sale any goods, wares or merchandise on behalf of and solely for the benefit of any recognized charitable or religious purpose shall, after meeting all other requirements, be granted a license without payment of the fee as established from time to time by resolution of the city council.

(Code 1977, § 7.64)

Sec. 18-695. - Exemption.

The operation of a business licensed under another provision of this Code shall be exempt from the requirements of this article.

(Code 1977, § 7.65)

Secs. 18-696—18-725. - Reserved.

ARTICLE XVII. - TATTOO ESTABLISHMENTS

DIVISION 1. - GENERALLY

Sec. 18-726. - Periodic inspections.

Upon issuance of a license under this article, the city health officer, the county health department or any other appropriate officer of government shall be authorized to make such inspections as are deemed necessary for the enforcement of state and local regulations.

(Code 1977, § 7.305)

Secs. 18-727—18-750. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-751. - Required.

It shall be unlawful for any person to operate any practice, business or occupation involving tattooing within the city without a license issued by the city.

(Code 1977, § 7.301)

Sec. 18-752. - Health approval required.

Upon application for a license to conduct tattooing, the city shall cause an investigation and report to be made by the city health officer, or in the absence thereof, the county health department, a copy of which shall be provided to the applicant. The applicant shall conform to any recommendations made by such health official prior to the approval of a license. The applicant may thereafter be referred to as the "licensee."

(Code 1977, § 7.302)

Sec. 18-753. - Other approvals.

The city shall have the right to require approval of the fire marshal, or any other such approval as the city shall deem necessary.

(Code 1977, § 7.304)

Sec. 18-754. - Denial.

If the health official finds good and sufficient reason to recommend denial of a license, the city shall notify the applicant in writing that a license will not be issued and of the reason therefor.

(Code 1977, § 7.303)

Sec. 18-755. - Power of suspension.

If at any time the licensee is deemed to be in violation of any law, rule or regulation of the state, county or city, or fails to comply with the recommendations thereof, the city may suspend the license heretofore granted. Upon notice to the licensee, he shall forthwith cease operation.

(Code 1977, § 7.306)

Sec. 18-756. - Fees.

The fee payable upon application for a license shall be as set by resolution of the city council from time to time.

(Code 1977, § 7.307)

Chapter 22 - CABLE TELECOMMUNICATIONS

FOOTNOTE(S):

⁽²⁷⁾ **Cross reference**— Businesses, ch. 18; streets, sidewalks and other public places, ch. 66; utilities, ch. 78.

Sec. 22-1. - Provisions saved from repeal.

Chapter 27, Cable Television of the 1977 Code, is saved from repeal. The city is working on a new ordinance because of the many changes made by the 1996 Federal Telecommunications Act.

Chapter 26 - ELECTIONS

FOOTNOTE(S):

⁽²⁸⁾ **Cross reference**— Administration, ch. 2.

⁽²⁸⁾ **State Law reference**— Michigan election law, MCL 168.1 et seq.

Sec. 26-1. - Nominating petitions.

Nominating petitions shall be filed with the city clerk between the 35th day preceding the regular city election and 5:00 p.m. on the 30th day preceding the regular city election, or on the corresponding days preceding any special election to fill any vacancy.

(Code 1977, § 1.36)

Sec. 26-2. - Precinct boundaries.

The territory comprising the city shall consist of two election precincts which precincts are hereby established:

- (1) *Precinct 1.* Precinct 1 shall consist of the following: Beginning at the intersection of North Saginaw Street and the north corporation line of the city, thence west along the north corporation line of the city to the west corporation line of the city, thence south along the west corporation line of the city to the south corporation line of the city, thence east along the south corporation line of the city to a point directly south of the place of beginning; and thence north to the point of beginning, and shall include all properties adjacent thereto which have been annexed to the city since June 11, 1956.
- (2) *Precinct 2.* Precinct 2 shall consist of all of the city not included in precinct 1, together with all properties adjacent thereto which have been annexed to the city since June 11, 1956.

(Code 1977, §§ 1.30—1.32)

Chapter 30 - EMERGENCY PREPAREDNESS

FOOTNOTE(S):

⁽²⁹⁾ **Cross reference**— Administration, ch. 2; fire prevention and protection, ch. 38; law enforcement, ch. 46; offenses and miscellaneous provisions, ch. 50.

Sec. 30-1. - Authority of city manager.

The city manager, with the approval of the city council, is hereby authorized and directed to create an organization for emergency preparedness, utilizing to the fullest extent the existing agencies within the city. The city manager shall be at the head of all emergency preparedness forces and, working through a director, shall be responsible for their organization, administration and operation.

(Code 1977, § 1.241)

Sec. 30-2. - Organization.

The organization shall consist of the following:

- (1) An office of emergency preparedness within the administrative service of the city government and under the direction of the city manager. There shall be an executive head of emergency preparedness, who shall be known as the director of the office of emergency preparedness, and such assistants and other employees as are deemed necessary for the proper functioning of the organization.
- (2) The employees, equipment and facilities of all city departments, boards, institutions and commissions suitable for, or adaptable to, emergency preparedness and designated by the city manager, with the approval of the city council, to participate in the emergency preparedness activity. Duties assigned to a city department shall be analogous to the normal duties of the department.
- (3) Volunteer persons and agencies offering service to, and accepted by, the heads of the various departments of interest and subject to the final approval of the director.

(Code 1977, § 1.242)

Sec. 30-3. - Director.

The city manager, with the approval of the city council, shall appoint a director who shall be a person experienced in public safety and disaster relief work and well versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety and welfare in the event of damage from enemy action or natural disaster.

(Code 1977, § 1.243)

Sec. 30-4. - Emergency powers and duties of the mayor.

The mayor may exercise the emergency power and authority as specified in this section. Whenever a situation requires, or is likely to require, that the mayor invoke such power and authority, he shall, as soon as possible, convene the city council to perform its legislative and administrative powers as the situation demands, and shall report to that body relative to emergency preparedness activities. Nothing in this chapter shall be construed as abridging or curtailing the powers of the city council, unless specifically provided in this section.

(Code 1977, § 1.244)

Sec. 30-5. - Assembly of emergency preparedness forces.

Under the following circumstance the mayor may assemble and utilize the emergency preparedness forces and he may prescribe the conditions of their use:

- (1) Whenever on the basis of information received from authoritative sources, he feels that attack on the city is impending or imminent.
- (2) During any period of attack on the city and thereafter so long as he shall deem it necessary. During any period when attack on the city is imminent, or when the city has been subjected to attack or during any period of natural disaster, the mayor may promulgate such reasonable regulations as he deems necessary to protect life and property and preserve critical resources. Such regulations may include, but shall not be limited to, the following:
 - a. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of emergency preparedness forces, or to facilitate the mass movement of persons from critical areas within or without the city.
 - b. Regulations designed to lessen the hazard to property and citizens from attack. Such regulations shall include blackouts and other measures to reduce vulnerability of the city during any period of natural disaster.

(Code 1977, § 1.245)

Sec. 30-6. - Aid outside city.

The mayor shall order emergency preparedness forces to the aid of other communities when required in accordance with the statutes of the state. He may request the state or political subdivisions of the state to send aid to the city in case of natural disaster or in case of disaster resulting from attack, when conditions in the city are beyond the control of the local emergency preparedness forces.

(Code 1977, § 1.246)

Sec. 30-7. - Power to contract.

When obtaining formal approvals would result in delay of attack relief activity, the mayor may, until the city council convenes, waive procedures and formalities otherwise required pertaining to the performance of public works, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase and distribution of supplies, materials and facilities and the expenditure of existing funds, and the city council is also empowered to waive any such procedure and formalities.

(Code 1977, § 1.247)

Sec. 30-8. - Natural disasters.

Whenever the mayor finds that any condition in the city has attained, or threatens to attain, the proportions of a natural disaster, he may assemble and utilize emergency preparedness forces and he may prescribe the manner and conditions of their use. He may, when he deems it in the public interest, send the emergency preparedness forces of the city to the aid of other communities stricken by natural disaster when such

disaster is affecting the national defense effort, or is seriously affecting the health, welfare or security of the stricken community; provided, however, that after the city council convenes, the further continuance of any such natural disaster relief and the period thereof shall be subject to the action of the city council.

(Code 1977, § 1.248)

Sec. 30-9. - Regulations delegating powers.

The mayor, with the approval of the city council, may make regulations permitting the director to assemble and utilize the emergency preparedness forces and request disaster relief aid as prescribed in sections 30-5, 30-7 and 30-8, and he may, with the approval of the city council, make regulations permitting the conduct of practice air raid alerts or tests of the emergency preparedness organization. Such regulations shall be filed with the city council and shall be binding upon the emergency preparedness forces when they have been approved by resolution of the council.

(Code 1977, § 1.249)

Sec. 30-10. - Municipal or private liability.

This chapter is an exercise by the city of its governmental function for the protection of the public peace, health and safety, and neither the city nor its agents and representatives, nor any person carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this chapter, shall be liable for any damage sustained to persons or property as the result of such activity.

(Code 1977, § 1.250)

Sec. 30-11. - Violation of chapter.

It shall be unlawful for any person to violate any of the provisions of this chapter or of the regulations issued pursuant to the authority contained in this chapter, or to willfully obstruct, hinder or delay any member of the emergency preparedness organization in the enforcement of this chapter or any regulations issued under this chapter.

(Code 1977, § 1.251)

Chapter 34 - ENVIRONMENT

FOOTNOTE(S):

⁽³⁰⁾ **Cross reference**— Animals, ch. 10; buildings and building regulations, ch. 14; dangerous buildings, § 14-61 et seq.; health and sanitation, ch. 42; parks and recreation, ch. 54; solid waste, ch. 58; streets, sidewalks and other public places, ch. 66; subdivisions and land division, ch. 70; utilities, ch. 78; vegetation, ch. 82.

⁽³⁰⁾ **State Law reference**— Natural resources and environmental protection act, MCL 324.101 et seq.

ARTICLE I. - IN GENERAL

Secs. 34-1—34-30. - Reserved.

ARTICLE II. - SOIL EROSION AND SEDIMENTATION CONTROL

Sec. 34-31. - Local enforcing agency.

The city is hereby designated as a local enforcing agency within the municipal limits of the city as provided by the soil erosion and sedimentation control act, MCL 324.9101 et seq.

(Code 1977, § 8.401)

Sec. 34-32. - Rules adopted.

The city adopts by reference the latest rules promulgated by the state department of natural resources and the department of agriculture pursuant to part 91 of the natural resources and environmental protection act, Act No. 451 of the Public Acts of Michigan of 1994 (MCL 324.101 et seq.), as amended. Such rules shall be available for public distribution, at reasonable charge, with not less than ten copies to be available for public inspection at the office of the city clerk.

(Code 1977, § 8.402)

Sec. 34-33. - Submission of plans.

Before the commencement of any construction project in the city involving one or more acres of land, or any construction project within 500 feet of a lake or stream or any watercourses and storm sewers discharging into the stream, an erosion and sedimentation control plan shall be submitted to the city pursuant to and in conformity with the standards and specifications developed by the Shiawassee Soil Conservation District.

(Code 1977, § 8.403)

Sec. 34-34. - Permits and fees.

Upon the filing of the application and plans and payment of the fees to the city in accordance with the fee schedule to be adopted by the city council, the submitted plan shall be reviewed and approved and the permit shall be issued, provided the plans meet standards, adopted by reference in section 34-32, to prevent soil erosion at all major construction sites in the city in excess of one acre or within 500 feet of a lake or stream, or any watercourse and storm sewers discharging into the stream.

(Code 1977, § 8.404)

Sec. 34-35. - Conditions for issuance of permit; bond.

As a condition for the issuance of a permit, an applicant shall deposit with the city clerk in the form of cash, a certified check or an irrevocable bank letter of credit, whichever the applicant selects, or a surety bond acceptable to the city council in an amount not less than the proposed cost of the installation of protective or corrective measures as may be required by the county or local enforcing agency, as certified by the city engineer.

(Code 1977, § 8.405)

Sec. 34-36. - Site inspection.

The local enforcing agency shall inspect the construction site at least once at the commencement, once during construction and at the completion of the project and shall issue cease and desist orders immediately upon a discovery of any violation of the rules adopted by reference in section 34-32.

(Code 1977, § 8.406)

Sec. 34-37. - Appeal.

When a person believes that an error has been made by the city enforcing agency in any of its orders, requirements or decisions under this article, he may appeal to the city council. The city council shall have the power to hear the appeal and may amend, alter or change the city's enforcing agency's requirements or decision so that it is consistent with the general purpose and intent of part 91 of Act No. 451 of the Public Acts of Michigan of 1994 (MCL 324.101 et seq.), as amended.

(Code 1977, § 8.407)

Secs. 34-38—34-70. - Reserved.

ARTICLE III. - JUNK VEHICLES

FOOTNOTE(S):

⁽³¹⁾ **Cross reference**— Traffic and vehicles, ch. 74.

Sec. 34-71. - Junk cars; required to be in operable condition.

- (a) Any motor vehicle must be in operating condition and eligible for use in accordance with the requirements of the Michigan Vehicle Code being Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.1 et seq.), as amended; provided, however, that any such vehicle will be permitted not to comply with these requirements for any period not to exceed 30 days.
- (b) These minimum conditions, except for any 30-day period, will include, but not be limited to, an engine that runs, four wheels and four pneumatic tires capable of holding air, and a working battery.
- (c) Any person enumerated in this section who, under special conditions of hardship, or for valid reasons such as the preservation of a historic or classic vehicle, may request an extension of the 30-day limitation by filing a timely request with the city council. The city council may at its discretion, after review of all the circumstances and after holding any hearings which it deems necessary, grant the applicant any reasonable extension of time.

(Ord. No. 83-6, § 9.221, 8-15-83)

Sec. 34-72. - Storage of partially dismantled, inoperable or wrecked motor vehicles.

- (a) No partially dismantled, inoperable, or wrecked motor vehicles shall be stored out of doors within the city for a period of time in excess of seven days unless within an approved storage area, which has been approved by the planning commission after presentation of a site plan to the planning commission.
- (b) The city manager shall establish rules and regulations for the storage of such vehicles during periods awaiting repair or claim by the owner of such vehicle, which rules and regulations shall become effective 20 days after approval by the city council, and copies of which shall be delivered to each business in the city engaged in the repair or storage of motor vehicles. Copies of such rules shall also be available to the public at city hall during regular business hours.

(Ord. No. 87-1, § 9.222, 12-15-86)

Sec. 34-73. - Application of article.

This article shall apply in all areas except where the storage of junk automobiles is in a completely enclosed building or is by a licensed junk dealer.

(Code 1977, § 9.222)

Sec. 34-74. - Penalty for violation of article.

Any person violating the provisions of this article shall, upon conviction, be punished by a fine of not more than \$100.00 or imprisoned in the county jail for not more than 90 days, or both, at the discretion of the court.

(Code 1977, § 9.223)

Secs. 34-75—34-105. - Reserved.

ARTICLE IV. - NUISANCES

Sec. 34-106. - 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:

Nuisance means 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.

Cross reference— Definitions generally, § 1-2.

Sec. 34-107. - Committing, creating or maintaining.

Public nuisances shall include, but not be limited to, whatever is forbidden by any provisions of this chapter. No person shall commit, create or maintain any nuisance.

(Code 1977, § 9.1)

Secs. 34-108—34-140. - Reserved.

ARTICLE V. - NOISE

FOOTNOTE(S):

⁽³²⁾ **Cross reference**— Disturbing the peace by loud, vulgar or boisterous conduct, § 50-146.

Sec. 34-141. - Prohibited acts.

Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive, namely:

- (1) *Animal and bird noises.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person.
- (2) *Construction noises.* The erection (including excavating therefor), demolition, alteration or repair of any building, and the excavation of streets and highways except between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, unless a permit is first obtained from the city manager.
- (3) *Sound amplifiers.* Use of any loudspeaker, amplifier or other instrument or device producing sound which is cast upon the public street, whether stationary or mounted on a vehicle, for any purpose except by speakers in the course of a public address which is noncommercial in character and when so used shall be subject to the following restrictions:
 - a. The only sounds permitted are music or human speech.
 - b. Operations are permitted for four hours each day, except on Sundays and legal holidays when no operations shall be authorized. The permitted four hours of operation shall be 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 miles per hour except when such truck is stopped or impeded by traffic. Where stopped by traffic, the sound amplifying equipment shall not be operated for longer than one minute at each such stop.
 - d. Sound shall not be issued within 100 yards of hospitals, schools, churches or courthouses.
 - e. The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound amplifying equipment and so that the volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.
 - f. No sound amplifying equipment shall be operated with an excess of 15 watts of power in the last stage 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 horn 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 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 as to produce excessive noise or disturbance, particularly during the hours between 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.
- (10) *Shouting and whistling.* Yelling, shouting, hooting, whistling or singing or the making of any other loud noise on the public street, 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 1977, § 9.25)

Sec. 34-142. - Exceptions to section 34-141.

None of the terms or prohibitions of section 34-141 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.* Excavation 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.
- (3) *Churches and religious institutions.* Any church or religious institution may play chimes or church bells between 8:00 a.m. and 9:30 p.m. on any day of the week and carillons or organs over outside amplifiers between 9:00 a.m. and 9:30 p.m. on any day of the week.

(Code 1977, § 9.26; Ord. No. 83-8, 11-21-83)

Chapter 38 - FIRE PREVENTION AND PROTECTION

FOOTNOTE(S):

⁽³³⁾ **Cross reference**— Buildings and building regulations, ch. 14; emergency preparedness, ch. 30; open fires in parks, § 54-65; hydrant use, § 78-89.

⁽³³⁾ **State Law reference**— State fire prevention code, MCL 29.1 et seq.; fire protection act, MCL 41.801 et seq.; crimes related to fires, MCL 750.240 et seq.

ARTICLE I. - IN GENERAL

Sec. 38-1. - False alarm.

No person shall willfully turn in, sound or cause to be communicated to the fire department, a false alarm of fire.

(Code 1977, § 9.90)

Sec. 38-2. - Injury to fire equipment.

No person shall willfully molest, take for his own private use, or damage in any manner, any firefighting equipment or apparatus or anything pertaining to the firefighting system, or drive any vehicle upon or against any hose or equipment of the fire department.

(Code 1977, § 9.91)

Cross reference— Offenses against property, § 50-71 et seq.

Sec. 38-3. - Fire hydrants—Obstruction.

No person shall place any obstruction whatever, nor shall any person responsible for such obstruction permit it to remain, within 15 feet of any fire hydrant.

(Code 1977, § 9.92)

Sec. 38-4. - Same—Openings.

No person, except members of the fire 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 fire department wrench.

(Code 1977, § 9.93)

Sec. 38-5. - Fireworks.

Within the city limits a person shall not sell or retail; offer for sale at retail; expose for sale at retail; keep with an intent to sell at retail; give, furnish, transport, use, explode or cause to explode any firecrackers, torpedoes, sky rockets, Roman candles, day-glow bombs or other fireworks of like construction containing more than 0.25 of a grain of explosive content per device, nor any fireworks containing an explosive or inflammable compound or a tablet or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitro-glycerine, phosphorus or a compound containing these or other modern explosives.

(Code 1977, § 9.104)

Cross reference— Discharge, display or possession of fireworks, § 50-182.

Sec. 38-6. - 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, lodgingshouses, tourist homes and all other buildings except private dwellings, and except as otherwise expressly limited in this section to a particular type of building as follows:

- (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 1977, § 9.96)

Sec. 38-7. - Nuisances.

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 exude obnoxious odors, or when such fire emits sparks or burning embers upon adjoining, adjacent, neighboring or nearby premises.

(Code 1977, § 9.98)

Sec. 38-8. - Regulation of flammable liquids.

The use, storage and processing of flammable liquids shall conform to the flammable liquids regulations of the state fire marshal, adopted November 29, 1955, effective February 15, 1956. Any person violating any of such regulations or failing to comply therewith, shall be guilty of a violation of this chapter.

(Code 1977, § 9.100)

Sec. 38-9. - Special permits.

Special permits shall be issued by the fire chief for the use, occupancy and operation of certain dangerous and hazardous businesses as specified in this section. Any permit may be revoked at any time by the fire chief or his assistants for violation of any pertinent law or provision of this Code. Permits are required to:

- (1) Transport, use or store explosives.
- (2) Handle, use or store flammable liquids in quantities in excess of 500 gallons.
- (3) Operate spray rooms or booths.
- (4) Store hazardous chemicals.
- (5) Fumigate buildings.

(Code 1977, § 9.101)

Sec. 38-10. - Blasting.

No person shall blast or carry on any blasting operation without first having obtained a written permit from the city manager. Before any such permit is issued, the applicant therefor shall file with the city clerk a bond or policy of insurance in the amount specified by the city manager, which amount shall be reasonably commensurate with the risk of damage to property and injury or death to persons arising out of the proposed blasting operation. Such policy of insurance shall indemnify the applicant, and such bond shall be conditioned upon payment by the applicant of all sums which the applicant shall become obligated to pay by reason of the liability imposed upon him by law, for damages because of bodily injury, including death at any time resulting therefrom, or for damage to property, or both, sustained by any person and arising out of the blasting operations.

(Code 1977, § 9.102)

Sec. 38-11. - Burning.

No person shall burn any type of waste material, leaves, debris, etc., within the limits of the city, except within an approved incinerator installed within a building.

(Code 1977, § 9.103)

Sec. 38-12. - Fire inspection.

The fire chief 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 building or structure, to ascertain the conditions thereof with regard to fire hazards and the condition, size, arrangement and efficiency of any and all appliances for firefighting. The fire chief is hereby empowered to appoint members of the regular personnel of the fire department to make the inspection provided in this section, who shall report in writing the results of the inspection to the fire chief and who are hereby empowered to make such written orders for the correction of any hazard or deficiency in firefighting appliances as the fire chief is authorized to make. Every order made by the fire chief or by authorized members of the fire department shall be promptly obeyed and complied with.

(Code 1977, § 9.94)

Sec. 38-13. - Open fires.

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

Open fire means a fire in which any material is burned in the open or in a receptacle or pit other than a fireplace or grill constructed for the cooking of food for human consumption.

Smoke violation means smoke drifting or blowing onto property of others for a period in excess of ten minutes.

(b) *Prohibited.* There shall be no open fires permitted within the city limits.

(c) *Exceptions to prohibition.* Exceptions to the prohibition contained in subsection (b) of this section are as follows:

- (1) Open fires may be set in performance of an official duty for the instruction or training of public firefighters, or to abate or prevent a fire hazard which cannot be abated by any other means.
- (2) Fires may be used for cooking purposes, outside in properly constructed fireplaces or grills, provided no smoke violation or nuisance is created.
- (3) Open fires may be set for recreational purposes, such as campfires, provided no smoke violation or nuisance is created.

(Ord. No. 82-5, § 9.97, 8-16-82)

Sec. 38-14. - 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, lodginghouse or tourist home in the city.

(Code 1977, § 9.99)

Cross reference— Smoking regulations, § 42-66 et seq.; similar provisions, § 50-181.

Secs. 38-15—38-45. - Reserved.

ARTICLE II. - FIRE PREVENTION CODE

Sec. 38-46. - Adoption.

A certain document, three copies of which are on file in the office of the city, being marked and designated as "The BOCA National Fire Prevention Code, 9th edition, 1993," as published by the Building Officials and Code Administrators International, Inc. is adopted as the fire code for structures and premises as provided in this article, and each and all of the regulations, provisions, penalties, conditions and terms of such BOCA National Fire Prevention Code 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 38-47.

Sec. 38-47. - Establishment of limits.

The limits referred to in section F-3003.2 of the BOCA National Fire Prevention Code/1993 in which the storage of explosive materials is prohibited are hereby established as follows: all property within city limits.

Secs. 38-48—38-80. - Reserved.

ARTICLE III. - FIRE DEPARTMENT

FOOTNOTE(S):

⁽³⁴⁾ **Cross reference**— Administrative service, § 2-36 et seq.

Sec. 38-81. - Administered by fire chief; duties generally.

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

Sec. 38-82. - Rules.

The fire chief shall adopt rules and regulations for the government of the department, subject to the approval of the city manager, which shall be entered in a book of fire department rules and which may be changed and repealed by the fire chief upon notice to and approval by the city manager. Such rules and regulations shall designate the chain of command for the department so that in the absence or disability of the chief, the responsibility for the operation of the department shall immediately and automatically be vested in the next ranking officer or member of the department present.

(Code 1977, § 1.81)

Sec. 38-83. - Equipment; maintenance and care.

The fire chief shall be responsible for the maintenance and care of all property and equipment used by the fire department.

(Code 1977, § 1.82)

Sec. 38-84. - Enforcement of fire laws.

It shall be the duty of the fire chief to enforce all state laws and provisions of this Code governing the following:

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

(Code 1977, § 1.83)

Sec. 38-85. - Other duties of chief.

The fire chief shall perform the following duties:

- (1) Investigate the origin, cause and circumstances of all fires;
- (2) Issue all orders necessary for the enforcement of state laws and provisions of this Code;
- (3) Require and supervise from time to time fire drills from all schools and educational institutions as required by law.

(Code 1977, § 1.84)

Chapter 42 - HEALTH AND SANITATION

FOOTNOTE(S):

⁽³⁵⁾ **Cross reference**— Animals, ch. 10; buildings and building regulations, ch. 14; dangerous buildings, § 14-61 et seq.; environment, ch. 34; solid waste, ch. 58; utilities, ch. 78.

ARTICLE I. - IN GENERAL

Secs. 42-1—42-30. - Reserved.

ARTICLE II. - DEPARTMENT OF HEALTH

FOOTNOTE(S):

⁽³⁶⁾ **Cross reference**— Administrative service, § 2-36 et seq.

Sec. 42-31. - Administered by health officer; powers, duties and functions.

The department of health shall be headed by the health officer who shall have charge and control of all functions involved in protecting and preserving the public health; he shall have all power provided by the statutes of the state, the city Charter, or provisions of this Code relating to the public health. Until otherwise provided, the duties and functions of the department of health shall be performed by the county health department and the director of such department shall be health officer of the city.

(Code 1977, § 1.110)

Sec. 42-32. - Communicable disease control.

The department of health shall exercise the power of quarantine and detention and shall adopt such other measures as will prevent the spreading, or aid in the prevention of, communicable diseases.

(Code 1977, § 1.111)

Sec. 42-33. - Sanitation.

The department of health shall be responsible for the inspection and supervision of the preparation, manufacture, storage and sale of all articles and commodities intended for human consumption and the regulation of all matters pertaining to sanitation conditions affecting the public health.

(Code 1977, § 1.112)

Secs. 42-34—42-65. - Reserved.

ARTICLE III. - SMOKING

FOOTNOTE(S):

⁽³⁷⁾ **Cross reference**— Starting fires by smoking, §§ 38-14, 50-181.

⁽³⁷⁾ **State Law reference**— Smoking in public places, MCL 333.12601 et seq.

Sec. 42-66. - Purpose of article.

The intent of this article is to eliminate the health hazards of smoking to all individuals while working in the Durand City Hall and Durand Memorial Library, buildings owned and operated by the city. The adverse health effects of smoking to smokers and of so-called "secondary" or "passive" smoke to nonsmokers are well documented by the medical community. Such adverse health effects threaten the general health and well-being of individuals, increase health care and insurance costs to the city, and decrease worker attendance and productivity. The general irritation produced by secondary smoke causes frustration among workers and users of city buildings and generally interferes with the quality of life therein. The smoking ban established in this article will eliminate the irritating and adverse effects of smoking, thereby promoting productivity, health and the quality of life within these city buildings, as well as lowering health care and insurance costs.

(Ord. of 2-21-94, § 1)

Sec. 42-67. - Prohibited in city-owned buildings; exception; fine.

Smoking is prohibited in all buildings owned by the city, with the exception of Durand Union Station. Any person smoking in a city-owned building shall be subject to a fine in an amount up to \$250.00.

(Ord. of 2-21-94, § 2)

Sec. 42-68. - Notice and posting.

Section 42-67 shall be posted by the city clerk at all public entrances to all buildings owned or leased by the city. The absence of a posting, however, shall not bar enforcement of this article.

(Ord. of 2-21-94, § 3)

Chapter 46 - LAW ENFORCEMENT

FOOTNOTE(S):

⁽³⁸⁾ **Cross reference**— Administration, ch. 2; emergency preparedness, ch. 30; offenses and miscellaneous provisions, ch. 50; traffic and vehicles, ch. 74.

ARTICLE I. - IN GENERAL

Sec. 46-1. - Stop and search.

- (a) A peace officer may stop a person whom he reasonably suspects is committing, has committed or is about to commit a felony and may demand of him his name, address and an explanation of his actions.
- (b) When a peace officer has so stopped a person and reasonably suspects that his own life or limb are in danger, he may search the person.
- (c) If the peace officer finds a weapon or any other thing on such person, the possession of which may constitute a crime, he may take it and keep it until completion of the questioning, at which time he shall return it, if lawfully possessed, or arrest the person.

(Code 1977, § 9.65)

Secs. 46-2—46-30. - Reserved.

ARTICLE II. - POLICE DEPARTMENT

FOOTNOTE(S):

⁽³⁹⁾ **Cross reference**— Administrative service, § 2-36 et seq.

Sec. 46-31. - Administered by police chief; duties generally.

The department of police shall be headed by the police chief, who shall be the commanding officer of the police force. He shall direct the police work of the city and be responsible for the enforcement of law and order.

(Code 1977, § 1.70)

Sec. 46-32. - Functions.

The police work of the city shall consist of the following functions:

- (1) The operation of motor and nonmotor patrol units for routine investigations and the general maintenance of law and order.
- (2) The maintenance of the central complaint desk at central police headquarters, the maintaining and supervising of police records, criminal and noncriminal identification, property identification, custody of property and the operation of detention quarters.
- (3) The investigation of crimes, the 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 operators' licenses, the maintenance and erection of traffic signs and the painting of street and crosswalk lanes.

Sec. 46-33. - Rules.

The chief of police may prescribe rules for the government of police officers of the city, subject to approval by the city manager, which shall be entered in a book of police department rules and orders and may be amended or revoked by the police chief upon written notice to the city manager. Such rules may establish one or more divisions within the police department, each of which divisions may be charged with performing one or more of the functions of the police department enumerated in section 46-32. Any such divisions shall be supervised by an officer of the police department, who shall be responsible for the particular functions of the police department assigned to the particular division supervised by him. It shall be the duty of all members of the police force to comply with such rules and orders while effective.

(Code 1977, § 1.72)

Sec. 46-34. - Acting chief.

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

(Code 1977, § 1.73)

Sec. 46-35. - Monthly reports.

The chief of police shall report monthly to the city manager all arrests made by the department, the disposition of persons arrested, the number of persons remaining in confinement for ordinance violations, and such other information as the city manager shall require.

(Code 1977, § 1.74)

Sec. 46-36. - Appointment of special police officers.

The chief of police is authorized to appoint special police officers when in his judgment the emergency and necessity therefor may exist, but such appointments shall not continue in effect for a period longer than ten days unless confirmed by the city manager.

(Code 1977, § 1.75)

Sec. 46-37. - Lost and stolen property.

The chief of police is hereby authorized to act as custodian for, and to dispose of, lost and stolen property as provided in this section:

- (1) He shall prepare a list of such property annually and shall request authority from the council to dispose of such property.
- (2) If the council approves of the request by resolution, he shall publish notice in a newspaper of general circulation within the county at least five days before the sale. The notice shall describe the property and shall state the time and place of public sale at which the property may be purchased by the highest bidder.
- (3) Until the date of the sale, upon proving ownership, the owner may claim the property at the chief's office and the sale as to such property shall be cancelled.
- (4) Receipts from the sale shall be deposited with the city treasurer and, after deducting the costs of the sale, shall be deposited to the credit of the city general fund.
- (5) If within six months of any sale an owner of property sold shall file a claim and prove his ownership of such property sold, the council shall direct the city treasurer to pay the amount received from the sale to the owner. No sums shall be paid if claim is not made within six months of the date of sale.
- (6) The chief of police or anyone acting under authority of this section and disposing of property in the manner provided in this section shall not be liable to the owner thereof.

(Code 1977, § 1.76)

Chapter 50 - OFFENSES AND MISCELLANEOUS PROVISIONS

FOOTNOTE(S):

⁽⁴⁰⁾ **Cross reference**— Emergency preparedness, ch. 30; law enforcement, ch. 46; traffic and vehicles, ch. 74.

ARTICLE I. - IN GENERAL

Sec. 50-1. - Definitions.

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

Public place means 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 1977, § 9.61)

Cross reference— Definitions generally, § 1-2.

Sec. 50-2. - Spitting.

It shall be unlawful for any person in the city to spit on any sidewalk or on the floor or seat of any public assemblage.

(Code 1977, § 9.62(30))

Sec. 50-3. - Begging.

It shall be unlawful for any person in the city to beg in any public place.

(Code 1977, § 9.62(6))

Sec. 50-4. - Prowling.

It shall be unlawful for any person in the city to prowl about any private premises of any person in the nighttime, without the authority or the permission of the owner of such premises.

(Code 1977, § 9.62(29))

Sec. 50-5. - Obstruction of streets and sidewalks by playing ball or collecting in groups.

It shall be unlawful for any person in the city to play any ball game in any public street or upon any public sidewalk so as to obstruct traffic, or to obstruct traffic on any street or sidewalk by collecting in groups for any purpose whatsoever.

(Code 1977, § 9.62(18))

Secs. 50-6—50-40. - Reserved.

ARTICLE II. - OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

FOOTNOTE(S):

⁽⁴¹⁾ **Cross reference**— Administration, ch. 2.

Sec. 50-41. - Obstructing or resisting police or peace officers.

It shall be unlawful for any person in the city to obstruct, resist, hinder or oppose any member of the police force, or any peace officer in the discharge of his duties as such.

(Code 1977, § 9.62(27))

Sec. 50-42. - False alarms for fire, burglary or security purposes.

- (a) *Public purpose.* The city council does hereby declare that false alarms for fire, burglar or security purposes constitute a threat to public health and safety by diverting emergency services of the city from legitimate public safety demands. The council further finds that the sound of false alarms constitutes a public nuisance and that responding to a false alarm is an unwarranted expense to a public body.
- (b) *Violation.* It is deemed to be unlawful for any person, business, corporation, partnership, association, company, vehicle owner or other legal entity to intentionally or unintentionally sound an audible fire, burglary or security alarm or to emanate an electronic notice to an alarm system monitoring company for emergency response when there is no legitimate purpose for such alarm.
- (c) *Enforcement.* This section is to be enforced on the following basis:
- (1) Upon the first occurrence of a false alarm from a specific home, building, business location or automobile, the city manager shall direct a letter to be mailed to the person, business, corporation, partnership, association, company, vehicle owner or other legal entity deemed to be responsible for the false alarm. The letter shall enclose a copy of this section and shall be sent by regular mail. No fine or penalty shall be assessed for a first occurrence. Failure to mail the appropriate letter or failure to receive the letter shall not be grounds to avoid the enhanced penalties provided for below.
 - (2) Upon a second occurrence in a calendar year, the person, business, corporation, partnership, association, company, vehicle owner or other legal entity shall be responsible for a civil infraction. The fine for such a violation is \$100.00 plus reimbursement of actual costs incurred by the city in responding to the false alarm.
 - (3) Upon a third or subsequent occurrence the person, business, corporation, partnership, association, company, vehicle owner or other legal entity shall be guilty of a misdemeanor punishable by a fine no less than \$100.00 and no greater than \$500.00 or imprisonment in the county jail for a period not to exceed 90 days, or a combination of such fine and jail term. In addition, the court shall order restitution in the amount of the actual costs incurred by the city in responding to the false alarm.

Secs. 50-43—50-70. - Reserved.

ARTICLE III. - OFFENSES AGAINST PROPERTY

FOOTNOTE(S):

⁽⁴²⁾ **Cross reference**— Injury to fire equipment, § 38-2; injury to park property, § 54-61; injury to water service facilities, § 78-91.

Sec. 50-71. - Larceny.

- (a) *Simple larceny.* Any person who shall commit the offense of simple larceny, by stealing the property of another, shall be guilty of a misdemeanor. This offense shall include any act of taking which is actual or constructive, without permission and with intent to deprive the rightful owner of the property or its use.
- (b) *Fraudulent procurement of goods or services.* Any person who shall request and receive any goods or services from a merchant or proprietor of a business and leave without paying for such goods or services, except when credit is given therefor by express agreement, with the intent to defraud the merchant or proprietor, shall be guilty of a misdemeanor.
- (c) *Penalty for violation of section.* Any person convicted of violating any provision of this section shall be guilty of a misdemeanor and may be fined up to \$100.00 and/or imprisoned for a period not to exceed 90 days, or both.

(Ord. of 1-20-92, §§ 9.300—9.302)

Sec. 50-72. - Littering of streets.

It shall be unlawful for any person in the city to place, deposit, throw, scatter or leave in any street, alley or public place, or on the private property of another, any refuse, waste, garbage, dead animal, washwater or other noxious or unsightly material. No person shall place, deposit, throw, scatter or leave in any street, alley or public place, any tacks, screws, nails, glass, metal scraps, metal shavings or scrap metal in any other form. No person shall convey or transport junk, broken glass or scrap metal in any other form over the public streets and alleys of the city unless the same shall be contained in a body, box or other receptacle, which is so constructed that it is impossible for any such junk, glass or metal to fall through such receptacle, or off or over the sides of the receptacle, onto the public streets and alleys of the city.

(Code 1977, § 9.12)

Cross reference— Solid waste, ch. 58.

Sec. 50-73. - Destroying or defacing public property.

It shall be unlawful for any person in the city to willfully 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 make or post handbills on, or in any manner mar the walls of, any public building, or fence, tree or pole within the city, or damage, 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.

(Code 1977, § 9.62(31))

Sec. 50-74. - Bill posting.

- (a) *Public property.* It shall be unlawful for any person to attach, place, paint, write, stamp or paste any sign, advertisement or any other matter upon any lamppost, electric light, railway, telegraph or telephone pole, shade tree or fire hydrant; or on anything within any park. Public officers posting any notice required or permitted by law shall be excepted from the provisions of this subsection.
- (b) *Private places.* It shall be unlawful for any person to attach, place, paint, write, stamp or paste any sign, advertisement or other matter upon any house, wall, fence, gate, post or tree, without first having obtained the written permission of the owner or occupants of the premises and having complied with all provisions of this Code pertaining thereto.
- (c) *Handbills.* It shall be unlawful for any person to scatter or distribute on or along any public street or municipally owned parking lot, or distribute or place, or cause to be distributed or placed, on or in any motor vehicle on any public street or municipally owned parking lot in the city, any commercial literature, advertising material, commercial handbill, or other advertising paper; provided, however, that nothing shall legally prevent an enforcing officer from attaching a violation notice on any such motor vehicle; provided further, that the provisions of this section shall not apply to the advertising material of religious, fraternal or charitable organizations. Any merchant who advertises his goods, wares or merchandise by causing such advertising material to be scattered or distributed on or along any public street or municipally owned parking lot or placed on or fastened to a motor vehicle located in any public street or municipally owned parking lot in the city shall be guilty of a violation of this Code.

(Code 1977, §§ 9.18—9.20)

Secs. 50-75—50-105. - Reserved.

ARTICLE IV. - OFFENSES AGAINST THE PERSON

Sec. 50-106. - Accosting or molesting others.

It shall be unlawful for any person in the city to improperly, lewdly or wrongfully accost, ogle, insult, swear at or use profane language to any person or annoy, follow, pursue, lay hands on, or by any gesture, movement of body or otherwise wrongfully molest any person in any public place or public vehicle.

(Code 1977, § 9.62(13))

Sec. 50-107. - Window peeping, spying or eavesdropping.

It shall be unlawful for any person to window peep, spy upon or eavesdrop at or on any private residence in the city, or upon any hotel, tourist court, apartment or trailer house, whether such private residence, hotel, tourist court, apartment or trailer house is occupied by people or not. It shall not be a defense that such window peeper, eavesdropper or spyer was not trespassing upon private property at the time of such window peeping, eavesdropping and spying.

(Code 1977, § 9.62(5))

Secs. 50-108—50-140. - Reserved.

ARTICLE V. - OFFENSES AGAINST PUBLIC PEACE

Sec. 50-141. - Public intoxication.

It shall be unlawful for any person in the city to be intoxicated or under the influence of any narcotic drug in a public place and:

- (1) Endanger directly the safety of another person or of property; or
- (2) Act in a manner that causes a public disturbance.

(Code 1977, § 9.62(2))

Cross reference— Alcoholic liquors, ch. 6.

Sec. 50-142. - Breach of the peace.

It shall be unlawful for any person in the city, with an intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned, to commit any of the following acts:

- (1) Act in such a manner as to annoy, disturb, interfere with, obstruct or be offensive to others.
- (2) Congregate with others on a public street, place or walk and so engage in such conduct as to disturb or assist in any breach of the peace.

(Code 1977, § 9.62(17))

Sec. 50-143. - Allowing disorderly conduct.

It shall be unlawful for any person to permit or suffer any place occupied or controlled by him to be a location of noisy, boisterous or disorderly persons.

(Code 1977, § 9.62(26))

Sec. 50-144. - Jostling or crowding others.

It shall be unlawful for any person in the city to jostle or roughly crowd persons in any street, alley, park or public building.

(Code 1977, § 9.62(16))

Sec. 50-145. - Fighting or quarreling.

It shall be unlawful for any person in the city to engage in any disturbance, fight, or quarrel in a public place.

(Code 1977, § 9.62(14))

Sec. 50-146. - Disturbing the peace by loud, vulgar or boisterous conduct.

It shall be unlawful for any person in the city to disturb the public peace and quiet by loud, boisterous or vulgar conduct.

(Code 1977, § 9.62(25))

Cross reference— Noise generally, § 34-141 et seq.

Sec. 50-147. - Assault; assault and battery.

It shall be unlawful for any person in the city to commit an assault, or an assault and battery on any person.

(Code 1977, § 9.62(1))

Sec. 50-148. - Collection in crowds for illegal or mischievous purposes.

It shall be unlawful for any person in the city to collect or stand in crowds, or arrange, encourage or abet the collection of persons in crowds for illegal or mischievous purposes in any public place.

(Code 1977, § 9.62(15))

ARTICLE VI. - OFFENSES AGAINST PUBLIC SAFETY

Sec. 50-181. - Starting fires by smoking.

It shall be unlawful for any person in the city 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, lodginghouse or tourist home in the city.

(Code 1977, § 9.99)

Cross reference— Similar provisions, § 38-14; smoking regulations, § 42-66 et seq.

Sec. 50-182. - Discharge, display or possession of fireworks.

It shall be unlawful for any person in the city to fire, discharge, display or possess any fireworks except of the type and under the conditions permitted by chapter 39 of the penal code of the state or any other state code.

(Code 1977, § 9.62(4))

Cross reference— Fireworks regulations, § 38-5.

Sec. 50-183. - Discharge of weapons.

It shall be unlawful for any person in the city to discharge any firearm, air rifle, air pistol or bow and arrow in the city, except when in connection with a regularly scheduled educational or training program under adequate supervision.

(Code 1977, § 9.62(3))

Sec. 50-184. - Skateboards, bicycles, roller skates, coasters and similar devices.

- (a) *Sidewalk and pedestrian areas; yielding right-of-way.* Any person upon a bicycle, roller skates, skateboard, coaster or similar device riding on any public sidewalk, public right-of-way or area commonly frequented by pedestrians shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.
- (b) *Central business areas prohibited areas.* No person shall ride on any bicycle, roller skates, skateboard, coaster or similar device on a public sidewalk, parking lot, street, right-of-way or other area commonly frequented by pedestrians within the areas of the city listed as follows:
 - (1) One hundred and 200 block of North Saginaw Street;
 - (2) One hundred block of West Clinton;
 - (3) One hundred block of East Clinton;
 - (4) One hundred and 200 block of East Main Street;
 - (5) One hundred and 200 block of West Main Street.

(Ord. of 10-3-88, § 4.57)

Cross reference— Traffic and vehicles, ch. 74.

Sec. 50-185. - Abandoned refrigerators.

- (a) It shall be unlawful for any person in the city to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or any other container of any kind which has an airtight door or lock which may not be released for opening from the inside of such ice box, refrigerator or container.
- (b) It shall be unlawful for any person in the city to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or any other container of any kind which has an airtight snap-lock or other device thereon without first removing the snap-lock or doors from the ice box, refrigerator or container.

(Code 1977, §§ 9.31, 9.32)

ARTICLE VII. - OFFENSES AGAINST PUBLIC MORALS

Sec. 50-216. - Possession of marijuana.

It shall be unlawful for any person in the city to knowingly or intentionally possess marijuana (cannabis sativa) in any form or any derivative thereof without having obtained the substance through a valid prescription from a licensed physician.

(Code 1977, § 9.62(32))

Sec. 50-217. - Transportation of persons to places of gambling or other illegal or immoral acts.

It shall be unlawful for any person in the city to knowingly transport any person to a place where prostitution or gambling is practiced, encouraged or allowed for the purpose of enabling such person to engage in gambling or in any illegal or immoral act.

(Code 1977, § 9.62(23))

Cross reference— Traffic and vehicles, ch. 74.

Sec. 50-218. - Soliciting or accosting others to commit illegal or immoral acts.

It shall be unlawful for any person in the city to solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act.

(Code 1977, § 9.62(22))

Sec. 50-219. - Engaging in illegal businesses and occupations.

It shall be unlawful for any person in the city to engage in prostitution, gambling, the illegal sale of intoxicating liquor or any other illegal or immoral business or occupation. Proof of recent reputation for engaging in prostitution, gambling, illegal sale of intoxicating liquor or other illegal or immoral occupation or business shall be prima facie evidence of being engaged or occupied therein.

(Code 1977, § 9.62(21))

Sec. 50-220. - Attending or frequenting, operating places where illegal businesses are conducted.

It shall be unlawful for any person in the city to attend, frequent, operate or be an occupant or inmate of any place where prostitution, gambling, the illegal sale of intoxicating liquor or where any other illegal or immoral business or occupation is permitted or conducted.

(Code 1977, § 9.62(20))

Sec. 50-221. - Soliciting and accosting.

Any person, 17 years of age or older, who shall accost, solicit or invite another in any public place, or in or from any building or vehicle, by word, gesture or any other means, to commit prostitution or to do any other lewd or immoral act shall be guilty of a misdemeanor.

(Code 1977, § 9.62(19))

State law reference— Similar provisions, MCL 750.453.

Sec. 50-222. - Obscene language or conduct; indecent exposure.

It shall be unlawful for any person in the city to:

- (1) Utter vile, profane or obscene language in any public place;
- (2) Engage in any indecent, insulting, immoral or obscene conduct in any public place;
- (3) Make any immoral exhibition or indecent exposure of his or her person.

Sec. 50-223. - Keeping or maintaining gaming room or gambling area.

It shall be unlawful for any person in the city to keep or maintain a gaming room, gaming tables, or any policy or pool tickets, used for gaming; or to knowingly suffer a gaming room, gaming tables or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him.

(Code 1977, § 9.62(24))

Sec. 50-224. - Public nudity.

- (a) *Purpose.* It is hereby deemed to be in the best interests of the health, safety and welfare of the citizens of the city that the city council, by ordinance, prohibit public nudity as defined below within the boundaries of the city. This section is adopted by authority granted to the city as a Home Rule City by MCL 117.5h.
- (b) *Public nudity defined.* For purposes of this section public nudity shall be defined as knowingly or intentionally displaying in a public place or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. A woman's breastfeeding of a baby does not under any circumstances constitute nudity irrespective of whether the nipple is covered during or incidental to the feeding.
- (c) *Public nudity prohibited.* It shall be unlawful for any person to commit the act of public nudity as defined in subsection (b) of this section.

(Code 1977, § 9.62(7); Ord. No. 98-3/2, §§ 9.80—9.82, 3-2-98)

Secs. 50-225—50-255. - Reserved.

ARTICLE VIII. - OFFENSES INVOLVING UNDERAGE PERSONS

FOOTNOTE(S):

⁽⁴³⁾ **Cross reference**— Underaged persons using alcoholic liquors, § 6-36 et seq.

DIVISION 1. - GENERALLY

Secs. 50-256—50-275. - Reserved.

DIVISION 2. - CURFEW

FOOTNOTE(S):

⁽⁴⁴⁾ **Cross reference**— Streets, sidewalks and other public places, ch. 66.

Sec. 50-276. - Prohibited acts; hours of curfew; exceptions.

It shall be unlawful for any person under the age of 17 years to loiter, idle, congregate or remain in or upon any street, alley, park or public place in the city between the hours of 10:00 p.m. Eastern Standard Time or daylight saving time and 6:00 a.m., immediately following, unless such person is accompanied by his parent, guardian or other person having legal custody and control of such minor, or unless such minor is in the pursuance of an errand directed by his parent, guardian or other person having his care of custody, or while the performance of some lawful employment of such minor makes it necessary that the minor is upon such street, alley, park or public place during the nighttime, between such specified hours, and except as provided in this section and this division.

Sec. 50-277. - Students attending school or community-sponsored programs.

Students attending school functions or functions sponsored or authorized by the city public schools or community-sponsored functions shall be at their respective homes within 60 minutes after such program closes. This shall include sporting events.

Sec. 50-278. - Cards or notes from employer.

A student working during the hours enumerated in section 50-276 shall secure a card or note from his employer if he is upon the streets or public places between the hours set forth in section 50-276, and shall, between such hours, have the card in his possession and exhibit such card to any officer upon request.

Sec. 50-279. - Exception for authorized sporting events.

It shall not be a violation of this division for a child to participate in one of the following sporting events until the hour of 11:00 p.m. in an open public park properly suited for such sport or upon a playing field, court or track provided by a school or church open for public use: baseball, softball, football, soccer, track, tennis and basketball.

Sec. 50-280. - Parental responsibility.

It shall hereafter be unlawful for any parent, guardian or other person having the legal care and custody of any person under the age of 17 years, to allow or permit any child, while in his custody, to violate section 50-276.

Sec. 50-281. - Violators may be arrested by authorized law enforcement organizations.

Each member of the city police department, county sheriff department, deputy sheriff or state police, or other police agency, while on duty, is hereby authorized to arrest, without warrant, any person within his presence violating any of the provisions of section 50-276 and detain such person for a reasonable time until a complaint can be made and a warrant issued and served.

Sec. 50-282. - Penalty for violation of division.

Any person, either a minor under the age of 17 years, or the parents, guardian or legal custodian of any such minor, violating any of the provisions of this article shall, upon conviction, be punished by a fine not exceeding \$100.00, or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment at the discretion of the court.

Chapter 54 - PARKS AND RECREATION

FOOTNOTE(S):

⁽⁴⁵⁾ **Cross reference**— Parks and recreation board, § 2-301 et seq.; environment, ch. 34; streets, sidewalks and other public places, ch. 66; vegetation, ch. 82.

ARTICLE I. - IN GENERAL

Secs. 54-1—54-30. - Reserved.

ARTICLE II. - DEPARTMENT OF PARKS AND RECREATION

FOOTNOTE(S):

⁽⁴⁶⁾ **Cross reference**— Administrative service, § 2-36 et seq.

Sec. 54-31. - Director; duties generally.

The department of parks and recreation shall be headed by the director of parks and recreation, who shall be in charge of the planning, development, maintenance, management and operation of all public parks and recreation facilities and the recreational use of city recreation areas and facilities.

(Code 1977, § 1.120)

Secs. 54-32—54-60. - Reserved.

ARTICLE III. - REGULATIONS

Sec. 54-61. - Injury to park property.

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

(Code 1977, § 3.1)

Cross reference— Offenses against property, § 50-71 et seq.

Sec. 54-62. - Waste containers.

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

(Code 1977, § 3.2)

Cross reference— Solid waste, ch. 58.

Sec. 54-63. - Ball games.

No baseball, football or softball throwing, or other violent or rough exercises or play, shall be engaged in, in any public park or other public place, except in such areas or spaces designated for such exercise or play under rules as adopted by the parks and recreation board.

(Code 1977, § 3.3)

Sec. 54-64. - Picnics.

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

(Code 1977, § 3.4)

Sec. 54-65. - Open fires.

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

(Code 1977, § 3.5)

Cross reference— Fire prevention and protection, ch. 38.

Sec. 54-66. - Vehicles in parks.

No person shall drive or park any vehicle in any park or playground except in spaces set aside and designated as parking areas or drives under rules adopted by the parks and recreation board. Driving and parking on all streets and public ways within any park or bordering on the same, shall be subject to all of the provisions of chapter 74 of this Code regulating traffic generally and to such additional rules and regulations as the parks and recreation board shall adopt.

(Code 1977, § 3.6)

Cross reference— Traffic and vehicles, ch. 74.

Sec. 54-67. - Additional rules; penalty for violation.

The parks and recreation board is hereby empowered to make such additional rules and regulations, subject to the approval of the city council, pertaining to the conduct and use of parks and public grounds as are necessary to administer such rules and regulations and to protect public property and the safety, health, morals and welfare of the public. Any violation of such rules and regulations shall constitute and may be punished as a violation of the ordinances of the city and, upon conviction, may be assessed a fine of not to exceed \$100.00 and/or sentenced to the county jail for a period of not to exceed 90 days.

(Code 1977, § 3.7)

Sec. 54-68. - Additional remedy.

- (a) In addition to the penalties provided in this Code for violating its provisions, with respect to damage or injury to public property, any person convicted of such damage or injury to public property shall reimburse the city for up to three times the amount of the damage as determined by the court.
- (b) In every case of conviction for such offenses, the court before whom such conviction is obtained shall enter judgment in favor of the city and against the defendant for liquidated damages as determined under subsection (a) of this section. The city, with the assistance of the city attorney, shall collect the award by execution or otherwise. If two or more defendants are convicted, the judgment shall be entered against them jointly. If the defendant is a minor, such judgment shall be entered against his parents.
- (c) Upon collection, the sums shall be credited to the general fund of the city and used for repairs or improvements to parks.

(Ord. of 6-18-79, § 3.8)

Chapter 58 - SOLID WASTE

FOOTNOTE(S):

⁽⁴⁷⁾ **Cross reference**— Buildings and building regulations, ch. 14; rubbish storage facilities for housing, § 14-261; responsibilities of owners and occupants for rubbish, § 14-383; responsibility of owners and occupants for garbage, § 14-384; environment, ch. 34; health and sanitation, ch. 42; littering of streets, § 50-72; waste containers in parks, § 54-62; streets, sidewalks and other public places, ch. 66; utilities, ch. 78.

⁽⁴⁷⁾ **State Law reference**— Authority to regulate disposal of garbage and rubbish, MCL 123.361 et seq., 324.4301 et seq.; hazardous waste management, MCL 324.11101 et seq.; solid waste management, MCL 324.11501 et seq.; waste management and resource recovery finance, MCL 324.11901 et seq.; recycling and related subjects, MCL 324.16101 et seq.; disposal of medical waste, MCL 333.13801 et seq.; low-level radioactive waste authority act, MCL 333.26201 et seq.

ARTICLE I. - IN GENERAL

Sec. 58-1. - Definitions.

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

Contractor means the person who has the contract with the city for the removal of garbage and refuse.

Department means the public works department of the city.

Downtown district means that area described as follows: Saginaw Street between Main Street and Genesee Street, Main Street between Marquette Street and Railroad Street on the East and Oak Street on the West, Oak Street between Main Street and Genesee Street and Clinton Street between Genesee Street and Mercer Street.

Garbage means all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial byproducts, and shall include all such substances from all public and private establishments and from all residences.

Person means such property owner and/or occupant requiring garbage and/or rubbish pickup services.

Premises means all residences, commercial and industrial buildings.

Rubbish means:

- (1) All ashes, magazines, newspapers, tin cans, glassware, bottles, small automobile parts and other like substances ordinarily discarded by householders.
- (2) Dirt, ashes, magazines, glassware, bottles, leaves, grass trimmings, tin cans, wastepaper, ashes, straw, shavings, junk and, in general, nonputrescible wastes normally incident to the lawful use of the premises on which accumulated.

Superintendent means the superintendent of the public works department of the city.

(Code 1977, § 2.1)

Cross reference— Definitions generally, § 1-2.

Secs. 58-2—58-30. - Reserved.

ARTICLE II. - COLLECTION AND DISPOSAL SERVICES

DIVISION 1. - GENERALLY

Sec. 58-31. - Garbage collection.

The garbage collection service of the city shall be under the supervision and direction of the superintendent. The city manager shall make such reasonable rules and regulations concerning the collection of garbage as he shall deem proper, subject to approval of the council. No person shall fail to observe any such rule or regulation so adopted and approved. Upon order of the superintendent, the garbage collection service may be discontinued to any premises where the occupant fails or refuses to comply with the provisions of this article or any rule or regulation adopted pursuant hereto, and such service need not thereafter be reinstated until such violation is remedied to the satisfaction of the superintendent.

(Code 1977, § 2.2)

Sec. 58-32. - Garbage containers—Generally.

The occupant of any premises in which any garbage shall be accumulated which is not disposed of by an approved incinerator or approved garbage grinder shall maintain on such premises, one or more approved garbage containers, each having a capacity of not less than five gallons nor more than 20 gallons. The number of containers kept on each premises shall be sufficient to conveniently store the normal accumulation of garbage on such premises over a period of not less than seven days. Such containers shall be constructed of approved material which is not easily corrodible and shall be rodentproof. Every such container shall be kept tightly covered with an impervious cover except when opened for the deposit or removal of garbage. Garbage containers shall be kept in a clean and sanitary condition at all times.

(Code 1977, § 2.3)

Sec. 58-33. - Same—Location.

Garbage containers shall be placed at the rear or side of buildings at a place which is reasonably inconspicuous and away from streets and places occupied by other persons but shall, however, be so placed as to be accessible to the collector. The occupant of the premises served shall maintain a suitable means of access from the street to each garbage container over which the garbage container can be conveniently carried. Not in excess of 50 pounds of garbage shall be placed in any one garbage container, and no container shall be filled beyond its capacity. No person shall prevent or attempt to interfere with any city employee coming upon any premises for the purpose of removing any garbage container or the contents thereof.

(Code 1977, § 2.4)

Sec. 58-34. - Rubbish collection in the downtown district.

Rubbish shall be collected in the downtown district under the supervision and direction of the superintendent. The city manager shall make reasonable rules and regulations concerning the collection and disposition of rubbish both within the downtown district and elsewhere in the city. Such rules and regulations shall be subject to approval of the council. No person shall fail to observe any rule or regulation so adopted and approved. The collection and disposition of rubbish in the downtown district shall be subject to the following rules:

- (1) No rubbish shall be placed on the curbing or in the alley for pickup unless in a completely covered container.
- (2) No person shall place rubbish for collection upon the curbing in front of his place of business, or in an alley, except between the hours of 8:00 a.m. and 9:30 a.m., Monday through Saturday.
- (3) No person shall place rubbish for collection upon the streets or alleys on Sunday.
- (4) No wastepaper or cardboard containers shall be placed upon the curbing or in the alley for collection unless they are securely baled or tied.
- (5) No containers of baled papers, or baled cardboard cartons, shall be placed on the sidewalk, street or alley, in a manner to congest either pedestrian or vehicular traffic.
- (6) All empty containers must be removed from the curbing promptly following the city pickup.

(Code 1977, § 2.5)

Sec. 58-35. - Rubbish collectors.

No person shall engage in the business of collecting, transporting or disposing of rubbish within the city without first obtaining a license therefor. Licenses shall be issued upon application to the city clerk on forms provided by him and upon payment of such fee as shall be from time to time prescribed by resolution of the council. No such license shall be issued except upon certification by the superintendent that the equipment and the ability of the licensee is such that the licensee is able to conduct a rubbish collection business in accordance with the terms of this article and rules and regulations adopted by the superintendent under this article. The superintendent shall make such rules and regulations governing the operation of the business of rubbish collection, transportation and disposition as he may deem necessary. The superintendent shall revoke the license of any rubbish collector who fails to abide by any such rule or regulation adopted by the superintendent or any provision of this article. Prior revocation of a license shall be sufficient grounds for the refusal by the superintendent to certify any future application by such licensee.

(Code 1977, § 2.6)

Sec. 58-36. - Littering and accumulation.

No person shall throw or deposit any garbage or rubbish upon or into any street, alley or other property, public or private. It shall be the duty of every occupant of property and of the owner of unoccupied property, at all times, to maintain the premises occupied or owned by him in a clean and orderly condition, permitting no deposit or accumulation of garbage or rubbish upon such premises, unless stored or accumulated as permitted by this article.

(Code 1977, § 2.7)

Sec. 58-37. - Disposition of garbage.

No person shall dispose of any garbage within the city other than by means of an approved incinerator, approved garbage grinder or the city collection service.

(Code 1977, § 2.8)

Sec. 58-38. - Accumulation and disposition of rubbish.

Any rubbish accumulated or stored outside of a dwelling or building on any premises shall be placed in containers of not less than one bushel capacity, which containers shall be placed at the rear or side of buildings at a place which is reasonably inconspicuous and away from streets and places occupied by other persons. No rubbish may be stored or accumulated which is contaminated by any garbage, unless stored as garbage. Ashes shall be stored in metal containers. Rubbish shall be disposed of only to a licensed rubbish collector or the city collection service, except that any person may dispose of his own rubbish:

- (1) By an approved incinerator located within a building.

- (2) If permitted by the superintendent, by transporting the same to a city dump, but only in accordance with the rules and regulations thereto. No person transporting any rubbish in accordance with this section shall fail to securely cover and secure the load so that such load shall be lost while being transported.

(Code 1977, § 2.9)

Sec. 58-39. - Landfill.

No person shall use any land in the city as a dump for garbage or rubbish, unless operated by the city as a part of the city garbage or rubbish collection service. Clean fill dirt may be placed upon land within the city by the owner thereof and, upon written authorization of the superintendent, other types of rubbish may be used for landfill purposes, but no such authorization shall be given unless the superintendent is satisfied that the rubbish proposed to be used is suitable for landfill purposes and does not contain garbage or objectionable rubbish.

(Code 1977, § 2.10)

Secs. 58-40—58-60. - Reserved.

DIVISION 2. - USER REGULATIONS AND RATES

Sec. 58-61. - Regulations for users of municipal refuse collection service.

All persons who shall use the municipal refuse collection service are subject to the following regulations:

- (1) The occupant of any premises in the city in which garbage or rubbish is accumulated shall maintain approved, watertight garbage containers of from five-gallon to 20-gallon capacity, complete with rodentproof tightfitting cover and handles, sufficient to store seven days accumulation of refuse. In addition, the occupant of any premises will be allowed one metal tub for garden and lawn clippings only.
- (2) Garbage must be drained of all liquids and wrapped in paper or plastic before being deposited in containers.
- (3) Rubbish and garbage must be placed in the same containers, observing a loaded weight limitation of 50 pounds per container.
- (4) Containers must be stored on private property at all times except on the regularly scheduled day of the pickup. No earlier than 8:00 p.m. on the evening prior to pickup, they must be set out at the front curblineline, or at the edge of the nearest public street abutting the dwelling unit, or at the public alley at the rear of the property, at the city's discretion. Empty containers must be returned to private property by 8:00 p.m. the day of the pickup.
- (5) Approved garbage containers are the only receptacles permitted for the storage of garbage and rubbish. Properly sealed approved plastic bags may be used on the date of the pickup. Containers must be kept in a neat and sanitary condition at all times.
- (6) Newspapers and magazines shall be tied securely in bundles or placed in covered containers.
- (7) Garden and lawn trimmings shall be placed in sealed plastic containers or open metal tubs for the weekly pickup.
- (8) The following items will not be collected under the contractor's agreement: building construction or demolition materials, rocks, bricks, stones, dirt, tree limbs or stumps, or any material not suitable for loading into a packer type truck.
- (9) Supplemental agreements may be entered into between the property owners or tenants and the contractor covering additional service.

(Code 1977, § 2.81; Ord. No. 86-3, § 2.81, 4-21-86)

Sec. 58-62. - Garbage and rubbish removal rates.

For each dwelling unit within the city, the monthly charge for garbage and rubbish collection shall be as set by resolution of the city council from time to time. Charges for this service shall be billed and paid along with the water and sewer bills issued to residents within the city.

(Ord. of 3-18-92(1), § 1(2.82))

Sec. 58-63. - Due date.

The charges shall be billed, together with the water and sewer bill each month, which shall be due the 15th of the month, and shall be charged a ten percent penalty if not paid on time.

(Ord. No. 86-3, § 2.83, 4-21-86)

Sec. 58-64. - Collection.

The payment of charges for garbage and rubbish collection may be enforced by an action of assumpsit against the owner and occupant, and such charges are made a lien on the premises receiving such services. The city clerk shall, annually, on the regular April meeting of the city council, report to the council all unpaid charges for such services furnished to any premises which, on March 31 preceding, have remained unpaid for a period of six months. The city council may thereupon, after due notice to the owners of the premises so served, assess the amount so found to be due as a tax against such premises, and such assessment amount shall be certified to the city assessor who shall place such assessment amount on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes.

(Code 1977, § 2.84)

Sec. 58-65. - Senior citizens rate.

Senior citizens or disabled veterans who have qualified for a property tax exemption or credit shall pay 90 percent of the rates as set in [section 58-62](#) only if they occupy a single-family house.

(Ord. of 3-18-92(1), §§ 2, 3(2.87))

Sec. 58-66. - Vacant dwellings.

The owners of dwelling units that are vacant for a consecutive quarterly period beginning July 1, October 1, January 1 or April 1 shall be entitled to a refund or credit in an amount set by resolution of the city council from time to time, per unit, per quarter, upon filing an affidavit of vacancy with the city clerk.

(Ord. No. 86-3, §§ 2.86, 2.88, 4-21-86)

Secs. 58-67—58-100. - Reserved.

ARTICLE III. - LEAF PICKUP

Sec. 58-101. - Policy.

The city council by resolution shall establish a leaf pickup policy for the city. The policy shall specify the dates to be set aside for leaf pickup from residential properties, the notification requirements and any other relevant factors deemed necessary by the council.

(Ord. of 12-5-94, § 1)

Sec. 58-102. - Prohibited acts.

- (a) No person shall place leaves in the city street or at such a location so as to interfere with traffic or the clear vision of motorists.
- (b) All leaves shall be placed in compliance with the leaf pickup policy as adopted by the city council, or as directed by city personnel, in the absence of a strict policy requirement.

(Ord. of 12-5-94, § 2)

Sec. 58-103. - Exceptions.

Under special circumstances as determined by the city manager or his designate, the strict compliance with this article may be waived. Any waiver shall set forth the altered requirements. The altered requirements must be strictly complied with.

(Ord. of 12-5-94, § 3)

Sec. 58-104. - Penalty for violation of article.

Any person convicted of violating any provision of this article shall be guilty of a misdemeanor and may be fined up to \$500.00 and/or imprisoned for a period not to exceed 90 days, or both.

(Ord. of 12-5-94, § 4)

Secs. 58-105—58-135. - Reserved.

ARTICLE IV. - BRUSH REMOVAL

Sec. 58-136. - Policy.

The city council by resolution shall establish a brush removal policy for the city. The policy shall specify the dates to be set aside for brush removal from residential properties, the notification requirements and any other relevant factors deemed necessary by the council.

(Ord. of 6-5-95, § 1)

Sec. 58-137. - Prohibited acts; penalty for violation of section.

- (a) No person shall place brush for pickup earlier than one week before the scheduled removal.
- (b) No person shall place brush in the city street or at such a location so as to interfere with traffic or the clear vision of motorists.
- (c) All brush shall be placed in compliance with the brush removal policy as adopted by the city council, or as directed by city personnel in the absence of a strict policy requirement.
- (d) Any person who places brush for pickup without making the appropriate notice to the city pursuant to section 58-136 shall be guilty of a civil infraction. A civil fine of \$25.00 shall be assessed to the person violating this section for a first violation. A second violation shall cause a civil fine of \$50.00 to be assessed. Any third or subsequent violation shall be a misdemeanor and shall be punished pursuant to section 58-139

(Ord. of 6-5-95, § 2)

Sec. 58-138. - Exceptions.

Under special circumstances, as determined by the city manager or his designate, strict compliance with this article may be waived. Any waiver shall set forth the altered requirements. The altered requirements must be strictly complied with.

(Ord. of 6-5-95, § 3)

Sec. 58-139. - Penalty for violation of article.

Any person convicted of violating any provision of this article shall be guilty of a misdemeanor and may be fined up to \$500.00 and/or imprisoned for a period not to exceed 90 days, or both.

(Ord. of 6-5-95, § 4)

Chapter 62 - SPECIAL ASSESSMENTS

FOOTNOTE(S):

⁽⁴⁸⁾ **Cross reference**— Any ordinance authorizing public improvements saved from repeal, § 1-11(7); assessment board of appeals, § 2-211 et seq.; finance, § 2-371 et seq.; streets, sidewalks and other public places, ch. 66.

Sec. 62-1. - Definitions.

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

Cost (when referring to the cost of any improvement) means the cost of surveys, plans, rights-of-way, spreading of rolls, notices, advertising, financing and construction, and all other costs incident to the making of such improvement, the special assessment therefor and the financing thereof.

Improvement means any public improvement, any part of the cost of which is to be assessed against one or more lots or parcels of land to be especially benefited thereby in proportion to the benefits to be derived therefrom.

(Code 1977, § 1.201)

Cross reference— Definitions generally, § 1-2.

Sec. 62-2. - Council authority.

The council shall have the power to determine that the whole or any part of the cost of any improvement shall be defrayed by special assessment upon the property especially benefited.

(Code 1977, § 1.202)

Sec. 62-3. - Time of levy.

Special assessments to pay the estimated cost of any improvement may be levied before making such improvements, or after the completion thereof, as may be determined by the city council.

(Code 1977, § 1.203)

Sec. 62-4. - Initiation of proceedings.

Proceedings for making improvements may be initiated by resolution of the city council or by petition of a majority of the owners of land liable to be assessed in any proposed special assessment district; provided, however, that all improvements shall be made at the discretion of the city council, and any petition therefor shall be advisory only and not mandatory upon the city council.

(Code 1977, § 1.204)

Sec. 62-5. - Preliminary proceedings.

Before determining to make any improvements, any part of the cost of which is to be defrayed by special assessment, the city council shall require the city manager to prepare, or cause to be prepared, plans and specifications therefor and an estimate of the cost thereof, and to file the plans and specifications and cost estimates with the city council, together with his recommendation as to what portion of the cost should be paid by special assessment and what part, if any, should be a general obligation of the city, the number of installments in which the assessment may be paid, and the lands which should be included in the proposed special assessment district.

(Code 1977, § 1.205)

Sec. 62-6. - Filing of report.

Upon receipt of the report of the city manager, if the city council shall determine to proceed with the improvement, it shall so declare by resolution, stating therein the nature of the proposed improvement, the estimated cost thereof, what portion of the cost (if any) shall be defrayed by special assessments, what portion of the cost (if any) shall be paid from the general funds of the city, designating therein the lands or premises to be included in the proposed special assessment district, and specifying whether special assessment shall be levied according to benefits or frontage. The city council shall thereupon order the report filed with the city clerk for public examination, and shall mail notice of its intention to make the improvement by certified return receipt mailing. Such notice shall describe the property to be included in the proposed special assessment district, the nature of the improvements, the estimated cost of the improvements, and what portion of the cost shall be defrayed by special assessment, and shall set a time not less than ten days following the date of mailing thereof when the council will meet and hear objections to the proposed improvements or to the inclusion of any property within the proposed special assessment district. The notice shall be served by the city clerk to each owner of property proposed to be assessed, as indicated by the records of the office of the city assessor.

(Code 1977, § 1.206)

Sec. 62-7. - Notice; inclusions.

The notice shall include a statement that appearance and protest at the hearing in the special assessment proceedings is required in order to appeal the amount of the special assessment to the state tax tribunal, and that an owner or party in interest, or his agent, may appear in person at the hearing to protest the special assessment, or may file his appearance or protest by letter, and his personal appearance shall not be required. The notice shall further include a statement that the owner or any party having an interest in the real property may file a written appeal of the special assessment with the state tax tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.

Sec. 62-8. - First public hearing.

At the time and place specified in such notice for the public hearing, the city council shall meet and hear any person affected by the proposed improvements. The city council may, at or after the public hearing, modify the proposed improvements or district in any respect which it shall deem in the best interests of the city at large; provided, however, that if the amount of work is increased or the boundaries of the district enlarged, then another hearing shall be held pursuant to the notice. Any hearing may be adjourned from time to time without further notice.

(Code 1977, § 1.207)

Sec. 62-9. - Council determination.

After hearing any objections, the city council may, by resolution, determine to make the improvements and to defray the whole or any part of the cost of the improvements by special assessment upon the property especially benefited in proportion to the benefits thereto or the frontage thereof. By such resolution, the city council shall approve the plans and specifications for the improvement; determine the estimated cost thereof; determine what proportion of such cost shall be paid by special assessment upon the property especially benefited and what part, if any, shall be a general obligation of the city; determine by resolution the rate of interest to be charged installments and designate the district of land and premises upon which special assessment shall be levied; and direct the city assessor to prepare a special assessment roll in accordance with the determination of the city council.

(Code 1977, § 1.208)

Sec. 62-10. - Completion of improvement before levy.

Any provisions of this chapter to the contrary notwithstanding, the city council may, in its discretion, delay the preparation of the special assessment roll until after the completion of the improvements in which case the special assessment roll shall then be made in accordance with the actual cost of the improvements.

(Code 1977, § 1.209)

Sec. 62-11. - Determination of actual cost.

Upon completion of the improvement and the payment of the cost thereof, the city clerk shall certify to the city manager the total cost of such improvement. The city manager shall forward this report to the city council, which shall by resolution approve or disapprove. If approved, the council shall direct the city assessor to spread the amount of the exact cost of such improvement upon the special assessment roll.

(Code 1977, § 1.210)

Sec. 62-12. - Preparation of roll.

If the assessment is required to be made according to frontage, the city assessor shall assess to each lot, premises or parcel of land such relative proportion of the whole amount to be levied as the frontage thereof bears to the total frontage of all the lots or premises to be assessed, unless the shape or size of any lot or premises shall make assessment in a different manner more equitable. If the assessment is directed to be according to benefits, the assessor shall assess to each lot, premises or parcel of land such relative proportion of the whole amount to be levied as shall be proportionate to the estimated benefit resulting to such lot or premises from such improvement. When the city assessor shall have completed the assessment roll, he shall report the completion to the city council, together with his certificate that the assessment roll conforms to the direction of the city council and the provisions of this Code.

(Code 1977, § 1.211)

Sec. 62-13. - Assessing single lots.

- (a) When any expense or cost shall have been incurred by the city upon or in respect to any single lot or premises, either by way of improvement, abatement of public hazards or nuisances, or otherwise, which expense or cost is chargeable against such lot or premises and the owner thereof under the provisions of the city Charter, or any ordinance of the city, or law of the state, and is not of that class required to be prorated among several lots and parcels of land in a special assessment district, an account of labor, material or service for which such expense or cost was incurred, with the description of the premises, and the name of the owner, if known, shall be reported to the city manager, who shall immediately charge and bill the owner thereof, if known. The city manager shall annually direct the city treasurer to prepare a special assessment roll covering all such charges which shall not have been paid. Such assessment rolls shall be reported to the council in the same manner as other rolls.
- (b) The provisions of the preceding sections of this chapter with reference to special assessments generally and the proceedings and notice necessary to be had before making improvements shall not apply to assessments contemplated in this section.
- (c) Upon confirmation of any special assessment roll authorized by this section, the special assessments shall constitute a lien upon the premises and a charge against the owner thereof until paid. The city council shall determine the number of installments in which assessments may be paid and the rate of interest to be charged on installments.

(Code 1977, § 1.212)

Sec. 62-14. - Filing roll.

Upon receipt of the special assessment roll from the assessor, the city council shall order it filed in the office of the city clerk for public examination; shall fix the time and place where it will meet and review the roll; and shall direct the city clerk to give notice of such hearing. Such notice shall set forth that the roll is on file for public examination; shall specify the time and place of the hearing on the roll; and shall be sent by certified (return receipt) mail not less than ten days prior to the date of hearing, to each owner of property subject to assessment as indicated by the records of the office of the city assessor.

(Code 1977, § 1.213)

Sec. 62-15. - Aggrieved persons.

Any person deeming himself aggrieved by the special assessment roll may appear and be heard at the hearing specified in section 62-8.

(Code 1977, § 1.214)

Sec. 62-16. - Second public hearing.

The city council shall meet and review the special assessment roll at the time and place appointed, or at any adjourned date, and shall consider any objections thereto. During the course of such hearing the city council may correct the roll in any manner it deems necessary. Any changes made in such roll shall be noted in the minutes of the council. After such hearing and review, the city council may confirm such special assessment roll with such corrections as it may have made, if any, or may refer it back to the city assessor for revision, or may annul it and any proceedings in connection therewith. The date of confirmation of each special assessment roll shall be noted thereon.

(Code 1977, § 1.215)

Sec. 62-17. - Confirmation of roll.

When any special assessment roll shall have been confirmed as set forth in section 62-16, such roll shall be final and conclusive.

(Code 1977, § 1.216)

Sec. 62-18. - Attachment of lien.

All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall, from the date of confirmation of such roll, constitute a lien upon the respective lots or parcels of land assessed and until paid shall be a charge against the respective owners of the several lots and parcels of land. Such lien shall be of the same character and effect as the lien created for city taxes and

shall include accrued interest and penalties. No judgment or decree, nor any action of the city council vacating a special assessment, shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon.

(Code 1977, § 1.217)

Sec. 62-19. - Due date.

All special assessments shall be due and payable upon confirmation unless divided into installments by the city council as provided in section 62-5. If the assessment is divided into installments, the city council shall fix the date on which each installment shall be due and payable, and it shall be the duty of the city treasurer to render annual statements for the respective installments.

(Code 1977, § 1.218)

Sec. 62-20. - Handling of assessment roll.

Upon confirmation, the assessment roll shall be transmitted by the clerk to the treasurer for collection, and the treasurer shall give notice by mail that the special assessment roll has been filed in his office setting forth the date and place where payments thereon may be paid. The whole or any part of any such special assessment thereon may be paid. The whole or any part of any such special assessment may be paid during the period of 60 days from the date of confirmation of the special assessment roll without interest or penalty. At the expiration of the 60-day period, the treasurer shall divide any remaining balance of each assessment into such number of equal installments as shall have been fixed by the city council; provided, however, that if such division operates to make any installment less than \$10.00, the treasurer shall reduce the number of installments so that each installment shall be above and as near to \$10.00 as possible.

(Code 1977, § 1.219)

Sec. 62-21. - Delinquent installments.

If any installment shall not be paid when due, the installment shall be spread upon the city tax roll in a column headed "Delinquent Special Assessments," together with interest upon all unpaid installments from the date of confirmation of the roll or the date of the last payment of interest as the case may be to and including May 20 of the year in which such tax roll is made; provided, however, that any fraction of a month shall be considered as a full month.

(Code 1977, § 1.220)

Sec. 62-22. - Collection remedies.

Whenever a delinquent installment is placed on the tax rolls, the delinquent installment shall be collected by the city treasurer with the same rights and remedies and the same penalties and interest as provided in the city Charter for the collection of taxes.

(Code 1977, § 1.221)

Sec. 62-23. - Deficiency assessments and refunds.

Should the assessments in any special assessment roll, including the amount assessed to the city at large, prove insufficient for any reason to pay the cost of the improvement for which they were made, then the city council shall make additional assessments against the city and the several lots and parcels of land, in the same ratio as the original assessments, to supply the deficiency. The total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvements. The additional assessments mentioned in this section may be made without further notice. Should the assessments levied prove to be more than five percent larger than necessary to defray the cost of the improvement, the city council shall, by resolution, order the excess over five percent to be applied to the unpaid installments of such special assessment against each lot or parcel of land, in the inverse order in which they are payable. Any amount of such excess as to any lot or parcel of land which cannot be applied as aforesaid shall be credited upon the next city tax levied against the same.

(Code 1977, § 1.222)

Sec. 62-24. - Reassessment in event of illegality.

Whenever any special assessment shall, in the opinion of the city council, be invalid by reason of irregularity in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the city council shall, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment. Whenever the assessment, or any part thereof, levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied.

(Code 1977, § 1.223)

Sec. 62-25. - Collection by court action.

In addition to any other remedies and without impairing the lien therefor, any delinquent special assessment, together with interest and penalties, may be collected in an action in assumpsit in the name of the city against the person assessed in any court having jurisdiction. If in any such action it shall appear that by reason of any irregularities or informalities the assessment has not been properly made against the defendant or upon the premises sought to be charged, the court may, nevertheless, on satisfactory proof that expense has been incurred by the city which is a proper charge against the defendant or the premises in question, render judgment for the amount properly chargeable against such defendant or upon such premises.

(Code 1977, § 1.224)

Sec. 62-26. - Division of land assessed.

Should any lot, premises or parcel of land be divided after a special assessment has been levied thereon and confirmed and divided into installments, and before the collection of all the installments thereof, the city council may require the city assessor to apportion the uncollected amount upon the several parts of such lot, premises or parcel of land so divided. Upon receipt of the special assessment roll apportioned as aforesaid from the assessor, proceedings shall be taken leading to the review and confirmation of the roll as apportioned in the same manner as proceedings are taken for the review and confirmation of special assessments generally. When the special assessment roll as apportioned shall have been confirmed it shall be conclusive upon all parties in interest.

(Code 1977, § 1.225)

Chapter 66 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

FOOTNOTE(S):

⁽⁴⁹⁾ **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, § 1-11(11); any ordinance establishing or prescribing grades in the city saved from repeal, § 1-11(12); buildings and building regulations, ch. 14; cable telecommunications, ch. 22; environment, ch. 34; curfew for underaged persons, § 50-276 et seq.; parks and recreation, ch. 54; solid waste, ch. 58; special assessments, ch. 62; subdivisions and land division, ch. 70; street improvements for subdivisions, § 70-157; traffic and vehicles, ch. 74; utilities, ch. 78; vegetation, ch. 82.

ARTICLE I. - IN GENERAL

Sec. 66-1. - Safeguards.

All openings, excavations and obstructions shall be properly and substantially barricaded and railed off, and at night shall be provided with red warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three feet apart, and parallel to the flow of traffic not over 15 feet apart.

(Code 1977, § 4.23)

Sec. 66-2. - Shoring excavations.

All openings and excavations shall be properly and substantially sheeted and braced as a safeguard to workmen and to prevent caveins or washouts which would tend to injure the thoroughfare or subsurface structure of the street.

(Code 1977, § 4.24)

Sec. 66-3. - Moving of buildings, or other heavy or bulky objects.

No person shall move, transport or convey any building or other similar bulky or heavy object, including machinery, trucks and trailers larger in width than 14 feet, into, across or along any street, alley or other public place in the city, without first obtaining a permit from the superintendent. The applicant shall file written clearances from the light, telephone, gas and water utilities, stating that all connections have been properly cut off and, where necessary, all obstructions along proposed route of moving will be removed without delaying moving operations. In addition, clearance shall be obtained from the police department, approving the proposed route through the city streets and the time of moving, together with an estimated cost to the police department due to the moving operations. The applicant shall deposit with the city the total estimated cost to the police department and department of public works, plus a cash deposit as required by section 66-87 and shall file with the city a liability insurance policy in the amount of \$100,000.00 for injury to one person and \$300,000.00 for injury to more than one person and property damage insurance in the amount of \$15,000.00.

(Code 1977, § 4.26)

Cross reference— Buildings and building regulations, ch. 14.

Sec. 66-4. - Additional regulations.

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

(Code 1977, § 4.27)

Sec. 66-5. - 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 landowner 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 expenses shall be as prescribed in section 62-13.

(Code 1977, § 4.28)

Sec. 66-6. - Temporary street closing.

The superintendent shall have the 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 street 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 such driving 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 superintendent.

(Code 1977, § 4.29)

Secs. 66-7—66-40. - Reserved.

ARTICLE II. - STREETS

DIVISION 1. - GENERALLY

Sec. 66-41. - 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:

Department means the department of public works of the city.

Street means 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.

Superintendent means the superintendent of public works of the city.

(Code 1977, § 4.1)

Cross reference— Definitions generally, § 1-2.

Secs. 66-42—66-60. - Reserved.

DIVISION 2. - NAMES AND NUMBERS

Sec. 66-61. - Street names.

All streets shall be known and designated by the names applied thereto on the map of the city known as the street plan, filed with the department of public works of the city. The naming of any new street or the changing of the name of any street shall be done by resolution, which resolution shall amend the map.

(Code 1977, § 1.20)

Sec. 66-62. - Vacating streets.

Vacated portions of streets and alleys shall be eliminated from the street plan map. The vacating of any street or alley shall be done by resolution adopted in accordance with section 7.6, chapter 7 of the city Charter, which resolution shall amend the map.

(Code 1977, § 1.21)

Sec. 66-63. - Street numbers.

All premises shall bear a distinctive street number on the front at or near the front entrance of the premises in accordance with and as designated upon the street plan map on file in the office of the department of public works.

(Code 1977, § 1.22)

Sec. 66-64. - Numbering buildings.

The owners and occupants of all buildings in the city shall cause the correct numbers to be placed thereon in accordance with the street plan map. Such numbers shall be not less than three inches high, and shall be facing the street and adjacent to the principal entrance, and in such position as to be plainly visible from the street.

(Code 1977, § 1.23)

Secs. 66-65—66-85. - Reserved.

DIVISION 3. - EXCAVATIONS OR OPENINGS

Sec. 66-86. - Damage and obstruction.

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 division. No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in this division, but this section shall not be deemed to prohibit such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises, nor to the lawful parking of vehicles within the part of the street reserved for vehicular traffic.

Sec. 66-87. - Permits and bonds.

(a) Where permits are authorized in this article, they shall be obtained upon application to the superintendent, upon such forms as he shall prescribe, and there shall be a charge of \$1.00 for each such permit, except as otherwise provided by resolution of the council. Such permit fee amount may be changed by resolution of the city council from time to time. Such permit shall be revocable by the superintendent for failure to comply with this article, rules and regulations adopted pursuant hereto, and the lawful orders of the superintendent 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 article 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. Where liability insurance policies are required to be filed on making application for a permit, they shall be in not less than the following amounts, except as otherwise specified in this article:

- (1) On account of injury to, or death of, any person in any one accident\$1,000,000.00
- (2) On account of any one accident resulting in injury to, or death of, more than one person1,000,000.00
- (3) On account of damage to property in any one accident500,000.00

Such amounts may be changed by resolution of the city council from time to time.

- (b) A duplicate executed copy or photostatic copy of the original of such insurance policy, approved as to form by the city attorney shall be filed with the city clerk.
- (c) Where cash deposits are required with the application for any permit under this article, such deposit shall be in the amount of \$50.00, except as otherwise specified in this article, 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. Such deposit amount may be changed by resolution of the city council from time to time. Six months after 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 1977, § 4.3)

Sec. 66-88. - Opening prerequisites.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the superintendent. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by section 66-87.

(Code 1977, § 4.4)

Sec. 66-89. - Emergency openings.

The superintendent may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this article shall be complied with.

(Code 1977, § 4.5)

Sec. 66-90. - Backfilling and restoration.

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

(Code 1977, § 4.6)

Sec. 66-91. - Sidewalk vaults.

Openings through the sidewalk for the delivery of fuel when lawfully in existence shall not be greater than 30 inches in diameter, shall be circular in form, and shall be effectually closed when not in actual use by an iron cover set flush within the surface of the sidewalk, level with the sidewalk, and securely locked in place. All openings in the sidewalk for the admission of light and air shall be closed and protected either by substantial iron grating or illuminating pavement of a design and so placed as to be satisfactory to the superintendent.

(Code 1977, § 4.7)

Sec. 66-92. - Utility poles.

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

(Code 1977, § 4.8)

Sec. 66-93. - Maintenance of installations in street.

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 1977, § 4.9)

Sec. 66-94. - New paving.

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

(Code 1977, § 4.10)

Sec. 66-95. - Sewer and water connections—Generally.

When such paving or resurfacing shall have been ordered or declared necessary by the city council, such sewer and water connections as are necessary shall be installed in advance of such paving or resurfacing, and the cost thereof shall be charged against the premises adjacent thereto, as a part of the special assessment for such paving or resurfacing. 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 62-13](#).

(Code 1977, § 4.11)

Sec. 66-96. - Same—Determination of necessity.

The necessity for the sewer and water connections shall be determined by the superintendent, which determination shall be based upon the size, shape and area of each abutting lot or parcel of land, the lawful use of such land under the zoning regulations of the city, the character of the locality and the probable future development of each abutting lot or parcel of land. The superintendent shall give written notice of the intention to install such sewer and water connections and to charge the cost of the installations to the premises, each owner of land abutting the street to be furnished with such connections as shown by the records of the city assessor in accordance with [section 1-15](#). Any owner objecting to the installation of any such sewer or water connection, shall file his objections in writing, within seven days after service of such notice, with the superintendent who shall, after considering each such objection made in writing, make a final determination of the sewer and water connections to be installed.

(Code 1977, § 4.12)

Sec. 66-97. - Prohibited openings.

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

(Code 1977, § 4.13)

Secs. 66-98—66-130. - Reserved.

ARTICLE III. - CURB CUTS

Sec. 66-131. - Permit required; specifications for access to private property.

No opening in or through any curb or any street shall be made without first obtaining a written permit from the superintendent. Curb cuts and sidewalk driveway crossings to provide access to private property shall comply with the following:

- (1) No single curb cut shall exceed 25 feet nor be less than ten feet.
- (2) The minimum distance between any curb cut and a public crosswalk shall be five feet.
- (3) The minimum distance between curb cuts, except those serving residential property, shall be 25 feet.
- (4) The maximum number of lineal feet of sidewalk driveway crossings permitted for any lot, parcel of land, business or enterprise shall be 45 percent of the total abutting street frontage up to and including 200 lineal feet of street frontage plus 20 percent of the lineal feet of street frontage in excess of 200 feet.
- (5) The necessary adjustments to utility poles, light standards, fire hydrants, catchbasins, street or railway signs, signals or other public improvements or installations shall be accomplished without cost to the city.
- (6) All construction shall be in accordance with plans and specifications approved by the superintendent.

(Code 1977, § 4.18)

Secs. 66-132—66-160. - Reserved.

ARTICLE IV. - SIDEWALKS

DIVISION 1. - GENERALLY

Sec. 66-161. - 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:

Sidewalk means the portion of the street right-of-way designed for pedestrian travel.

Superintendent means the superintendent of public works of the city.

(Code 1977, § 4.41)

Cross reference— Definitions generally, § 1-2.

Sec. 66-162. - Ordering construction.

The city council may, by resolution, require the owners of lots and premises to build sidewalks in the public streets adjacent to and abutting upon such lots and premises. When such resolution shall be adopted, the city clerk shall give notice thereof, in accordance with section 1-15, to the owner of such lot or premises requiring him to construct or rebuild such sidewalk within 20 days from the date of such notice.

(Code 1977, § 4.46)

Sec. 66-163. - Construction by city.

If the owner of any lot or premises shall fail to build any particular sidewalk as described in such notice, and within the time and in the manner required thereby, the superintendent is hereby authorized and required, immediately after the expiration of the time limited for the construction or rebuilding by the owner, to cause such sidewalk to be constructed and the expense thereof shall be charged to such premises and the owner thereof, and collected as provided for single lot assessments in section 62-13.

(Code 1977, § 4.47)

Sec. 66-164. - Maintenance.

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

(Code 1977, § 4.48)

Sec. 66-165. - Repair.

Whenever the superintendent shall determine that a sidewalk is unsafe for use, notice may be given to the owner of the lot or premises adjacent to and abutting upon such sidewalk of such determination, which notice shall be given in accordance with section 1-15. Thereafter, it shall be the duty of the owner to place the sidewalk in a safe condition. Such notice shall specify a reasonable time, not less than seven days, within which such work shall be commenced, and shall further provide that the work shall be completed with due diligence. If the owner of such lot or premises shall refuse or neglect to repair the sidewalk within the time limited therefor, or in a manner otherwise than in accordance with this article, the superintendent shall have the sidewalk repaired. If the superintendent determines that the condition of the sidewalk is such that immediate repair is necessary to protect the public, he may dispense with the notice. The cost of repairs under this section shall be charged against the premises which such sidewalk adjoins, and the owner of the premises, and shall be collected as provided for single lot assessments in section 62-13.

(Code 1977, § 4.49)

Sec. 66-166. - Financing by city.

Whenever an owner who has been given notice to construct or repair any sidewalk is not able immediately to finance such construction or repair, such owner may file with the city clerk a written statement under oath to that effect, and shall sign an agreement providing that the city shall finance the required construction or repair, that the owner shall reimburse the city for the total costs thereof in three equal installments with interest to be charged thereon at the rate as set by law to be charged by the county treasurer upon the collection of delinquent taxes by the county treasurer, that the first payment shall be due and payable within 90 days from the date of such agreement, and the total cost thereof shall be a lien against the property until paid. Whenever such an agreement has been signed, the owner may employ a contractor bonded to the city to complete the required construction or repair. Upon approval by the owner of an invoice submitted by the contractor, the city clerk shall draw a warrant on the city treasurer in the amount of the invoice submitted in favor of such contractor. The city treasurer shall then immediately furnish the owner with an invoice showing the three equal payments required, the date each is due, and the interest charge thereon. In the case of property being purchased under a land contract, the signature of both the seller and the purchaser shall be required for such agreement.

(Ord. No. 84-5, § 4.50, 9-17-84)

Sec. 66-167. - Bonded contractors.

Any contractor who wishes to be approved by the city for the construction or repair of sidewalks shall file with the city clerk a bond in the penal sum of \$500.00, with two sureties approved by the city clerk, conditioned that the contractor shall comply with all of the provisions and specifications contained in this article. Such bond shall be for a period of five years. The bond shall further provide that if the superintendent shall find any construction or repair to be defective within the period of five years, the contractor shall take up and reconstruct the sidewalk at his own expense. If the contractor shall fail to make such replacement after 30 days' notice from the superintendent, the owner may do so and recover the cost thereof from the bond. The city council may at any time on cause shown declare forfeited the bond of any contractor who shall violate any of the provisions of this article, or who shall fail to take up and replace any walk constructed or repaired by him which is found to be defective within five years after the sidewalk shall have been completed.

(Code 1977, § 4.51)

Sec. 66-168. - Delinquent payments.

If any payment due the city under this article shall become delinquent, the city clerk shall, at the first meeting in April of each year, certify such delinquency together with a penalty of ten percent to the city council, and the city council by resolution shall direct the city assessor to spread the same on the next succeeding July tax roll.

(Code 1977, § 4.52)

Secs. 66-169—66-190. - Reserved.

DIVISION 2. - OBSTRUCTIONS

Sec. 66-191. - Construction, demolition or repair prerequisites.

No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to such street, or for any other purpose, without first obtaining a permit from the superintendent and posting a cash deposit and filing an insurance policy as required by section 66-87.

(Code 1977, § 4.20)

Sec. 66-192. - Pedestrian passage.

At least six feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians, and, if the building operations are such that such free passageway is impracticable, a temporary plank sidewalk with substantial railings or sidewalk shelter built in accordance with chapter 14 of this Code, shall be provided around such construction.

(Code 1977, § 4.21)

Sec. 66-193. - Sidewalks to be cleared.

The occupant of every lot or parcel of land adjoining any sidewalk, or the owner of such lot or parcel of land, if not occupied, shall clear all ice and snow from sidewalks adjoining such lot or parcel of land within the time required in this section. When any snow shall fall or drift upon any sidewalk, the owner or occupant of the lot or parcel of land adjacent to the sidewalk shall remove such snow as shall have fallen or accumulated during the nighttime by 12:00 noon. Snow falling or drifting during the day shall be removed before 12:00 noon of the following day. When any ice shall form on any sidewalk, the owner or occupant of the lot or parcel of land adjoining such sidewalk shall, if practicable, immediately cause sand or salt to be spread upon the ice in such manner and in such quantity as to prevent the sidewalk from being slippery and dangerous to pedestrians, and shall remove the ice as soon thereafter as shall be practicable.

(Code 1977, § 4.53)

Sec. 66-194. - Failure to clear.

If any occupant or owner shall neglect or fail to clear ice or snow from the sidewalk adjoining his lot or parcel of land within the time limited and required in section 66-193, or shall otherwise permit ice or snow to accumulate on such sidewalk, he shall be guilty of a violation of this Code, and, in addition, the superintendent may cause such ice or snow to be cleared and the expense of removal shall become a debt to the city from the occupant or owner of such lot or parcel of land and may be collected as a single lot assessment under section 62-13.

(Code 1977, § 4.54)

Sec. 66-195. - Sidewalk displays.

It shall be unlawful for any persons, merchants or otherwise to exhibit or display goods, wares or provisions of any sort on the sidewalk in front of their prospective abodes extending beyond their own property line in the city.

(Code 1977, § 4.55)

Sec. 66-196. - Special events or occasions.

On special occasions and events and also special circumstances, citizens may petition the city council for a permit to exhibit or display such wares, merchandise, etc., for a limited period of time.

(Code 1977, § 4.56)

Secs. 66-197—66-220. - Reserved.

DIVISION 3. - SPECIFICATIONS AND PERMITS

Sec. 66-221. - Permit requirements.

No person shall construct, rebuild or repair any sidewalk except in accordance with the line, grade, slope, and specifications established by the superintendent nor without first obtaining a written permit from the superintendent, except that sidewalk repairs of less than 50 square feet of sidewalk may be made without a permit. The written permit shall be prominently displayed on the construction site. The fee for such permit shall be \$0.02 per square foot up to 275 square feet and a minimum of \$2.00; \$0.015 per square foot from 275 square feet to 800 square feet and \$0.01 per square foot in excess of 800 square feet. Such fees may be changed by resolution of the city council from time to time.

(Code 1977, § 4.42)

Sec. 66-222. - Line and grade stakes.

The superintendent shall furnish line and grade stakes as may be necessary for proper control of the work, but this shall not relieve the owner of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the superintendent. Where it is necessary to replace the engineer's stakes disturbed or destroyed without fault on the part of the city or its employees, a charge of \$1.00 per stake shall be paid.

(Code 1977, § 4.43)

Sec. 66-223. - Sidewalk specifications.

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

- (1) All walks must be at least four feet in width unless a different width is approved by the superintendent.
- (2) On all clay soil the trench shall be excavated to a depth of eight inches below the established grade and then filled with gravel or good filling dirt free from clay to a depth of four inches. Where the topsoil is not clay, the trench shall be excavated to a depth of four inches below the established grade, and no foundation shall be required.
- (3) Forms shall be of wood or metal, straight and free from warp, and of sufficient strength to resist springing. Forms shall be used to the full depth of the concrete and shall be so installed as to provide a transverse slope to one-quarter of an inch per foot toward the street.
- (4) In all new construction, where practicable, the sidewalk grade shall be established at not less than three inches nor more than six inches above the grade of the top of the curb.
- (5) Sidewalks shall be constructed of thoroughly mixed concrete of a minimum thickness of four inches at all points except for driveways where the minimum thickness shall be six inches. All concrete used shall consist of one part cement to two parts very clean, sharp sand and 2½ parts clean, hard gravel or crushed stone well graded from one-quarter of an inch to one inch in size, or transit mix of a mixture approved by the superintendent.
- (6) All surfaces shall be finished to a true contour and granular surface.
- (7) One-half-inch expansion joints shall be provided at intervals of approximately 25 feet and wherever the walk abuts a curb or another walk or building. Joining materials shall extend from the surface of the subgrade, shall be at right angles to the sidewalk surface and shall extend the full width of the walk. Surface edges of each slab shall be rounded to one-quarter of an inch radius. Marking shall be exactly at cuts between slabs.

(Code 1977, § 4.44)

Sec. 66-224. - Permit revocation.

The superintendent may revoke any permit issued under the terms of this article for incompetency or failure to comply with the terms of this article, or the rules, regulations, plans and specifications established by the department of public works for the construction, reconstruction or repair of any sidewalk. The city manager may cause work to be stopped under any permit granted for the construction, reconstruction or repair of any sidewalk for any of the causes enumerated in this section, which stop order shall be effective until the next regular meeting of the city council. If confirmed by the council, at its next regular meeting, such stop order shall be permanent and shall constitute a revocation of the permit.

(Code 1977, § 4.45)

Chapter 70 - SUBDIVISIONS AND LAND DIVISION

FOOTNOTE(S):

⁽⁵⁰⁾ **Cross reference**— Any ordinance granting or accepting easements, plats or dedication of land to public use saved from repeal, § 1-11(10); buildings and building regulations, ch. 14; environment, ch. 34; streets, sidewalks and other public places, ch. 66.

⁽⁵⁰⁾ **State Law reference**— Land division act, MCL 560.101 et seq.

ARTICLE I. - IN GENERAL

Sec. 70-1. - Purpose of chapter.

The purposes of this chapter are to provide for the orderly growth and harmonious development of the community; to secure adequate traffic circulation through coordinated street systems with relation to major thoroughfares, adjoining subdivisions and public facilities; to achieve individual property lots of maximum utility and livability; to secure adequate provisions for water supply, drainage and sanitary sewerage, and other health requirements; to secure adequate provisions for recreational areas, school sites and other public facilities; and to provide logical procedures for the achievement of these purposes.

(Code 1977, § 5.322)

Sec. 70-2. - Definitions.

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

Alley means a dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

Block means that property abutting one side of a street and lying between the two nearest intersecting streets, or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.

Clerk means the city clerk.

Commission means the planning commission of the city.

Easement means a specific area of land over which a liberty, privilege or advantage is granted by the owner to the public, a corporation or some particular person or part of the public for specific uses and purposes, and which shall be designated a "public" or "private" easement, depending on the nature of the user.

Governing body means the city council.

Improvements means grading, street surfacing, curbs and gutters, sidewalks, crosswalks, water mains, fire hydrants, sanitary sewers, storm sewers, culverts, bridges and other additions to the natural state of land which increase its value, utility or habitability.

Lot means a parcel of land separated from other parcels on a preliminary or recorded plat for the purpose of sale, lease or separate use.

Master plan means the comprehensive land use plan for the municipality, including graphic and written proposals indicating the general locations recommended for the streets, parks, schools, public buildings, zoning districts, and all physical developments of the municipality, including any unit or part of such plan separately adopted, and any amendment to such plan or parts thereof adopted by the planning commission.

Municipal engineer and *engineer* mean the staff engineer or consulting engineer of the municipality.

Municipal planner and *planner* mean the staff planner or consulting planner of the municipality.

Municipality means the city.

Parcel and *tract* mean a continuous area or acreage of land which can be described as provided for in the subdivision act.

Plat means a map or chart of a subdivision of land.

- (1) *Preliminary plat (stage 1)* means a map indicating the proposed layout of the subdivision in sufficient detail to provide adequate basis for review and meet the requirements and procedures set forth in this chapter.
- (2) *Preliminary plat (stage 2)* means a map showing all requisite details of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration, prepared in conformance with the subdivision act.
- (3) *Final plat* means a map of all or part of a subdivision providing substantial conformance to the preliminary plat (stage 2) of the subdivision prepared in conformance with the requirements of the subdivision act and this chapter and suitable for recording by the county register of deeds.

Proprietor means a natural person, firm, association, partnership, corporation or combination of any of them, which may hold any ownership interest in land, whether recorded or not.

Public reservation means a portion of a subdivision which is set aside for public use and made available for public use and acquisition.

Public utility means any person, firm or corporation, municipal department, board or commission, duly authorized to furnish, and furnishing under governmental regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

Public walkway means a right-of-way dedicated for the purpose of a pedestrian access through residential areas, and located so as to connect to two or more streets, or a street and a public land parcel.

Street means any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or municipal roadway; a street or way shown in a plat heretofore approved pursuant to law or approved by official action; or a street or way on a plat duly filed and recorded in the office of the county register of deeds. A street includes the land between the street right-of-way lines, whether improved or unimproved, and may comprise pavement shoulders, gutters, sidewalks, parking areas and lawns.

- (1) *Major thoroughfare* means an arterial street of great continuity which is intended to serve as a large volume trafficway for both the immediate municipality area and region beyond, and may be designated on the city's major thoroughfare plan, as a major thoroughfare, parkway, expressway, or equivalent term to identify those streets comprising the basic structure of the street plan.
- (2) *Collector street* means a street used primarily to carry traffic from minor streets to major thoroughfares.
- (3) *Minor street* means a street of limited continuity used primarily for access to abutting residential properties.
- (4) *Marginal access street* means a minor street paralleling and adjacent to a major thoroughfare which provides access to abutting properties and protection from through traffic.
- (5) *Boulevard street* means a street developed to two two-lane, one-way pavements, separated by a median.
- (6) *Turnaround* means a short boulevard street permanently terminated by a vehicular turnaround.
- (7) *Cul-de-sac street* means a minor street of short length, having one end open to traffic and being permanently terminated at the other end by a vehicular turnaround.
- (8) *Loop street* means a minor street of short length with two openings to traffic beginning from the same street, and projecting parallel to each other and connecting at their termination by a loop.

Subdivision act means the subdivision control act, Act No. 288 of the Public Acts of Michigan of 1968 (MCL 560.101 et seq.).

Subdivision means the partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale or lease of more than one year, or of building development, where the act of division creates five or more parcels of land each of which is ten acres or less in area; or five or more parcels of land each of which is ten acres or less in area are created by successive divisions within a period of ten years.

Thoroughfare plan means the part of the master plan which sets forth the location, alignment and dimensions of existing and proposed streets and thoroughfares.

Words. Singular words shall include the plural, and masculine words shall include the feminine and neuter.

Zoning ordinance means the city zoning ordinance.

(Code 1977, § 5.325)

Cross reference— Definitions generally, § 1-2.

Sec. 70-3. - Penalty for violation of chapter.

Any person or anyone acting in behalf of such person, violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not more than \$500.00 and the costs of prosecution or in default of the payment thereof, by imprisonment in the county jail for a period not to exceed 90 days, or both such fine and imprisonment in the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate violation.

(Code 1977, § 5.368)

Sec. 70-4. - Compliance standards.

- (a) The approvals required under the provisions of this chapter shall be obtained prior to the installation of any subdivision or project improvements within the municipality, in public streets, public alleys, public rights-of-way and public easements, or under the ultimate jurisdiction of the municipality. All subdivision or project improvements within the municipality installed in public streets, public alleys, public rights-of-way or public easements, or under the ultimate jurisdiction of the municipality shall comply with all of the provisions and requirements of this chapter, any related ordinance or code provision.
- (b) A certificate by the project engineer shall be provided, at the completion of the improvements, stating that all improvements have been constructed according to plans and specifications approved by the governing body. A form shall be provided by the city for this purpose.

(Code 1977, § 5.361)

Sec. 70-5. - Interpretation of chapter.

The provisions of this chapter shall be held to be the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the city. The regulations of this chapter are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the city nor conflict with any statutes of the state or the county, except that this chapter shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws or regulations.

(Code 1977, § 5.362)

Sec. 70-6. - Review fees.

Preliminary and final plat review fees, planning fees, engineering fees, inspection fees, water and sewer connection charges and other applicable development charges shall be paid by the proprietor as may be provided for in this chapter, or by ordinance of the municipality.

(Code 1977, § 5.363)

Sec. 70-7. - Planning review fees.

Fees shall be charged for the review of preliminary plats on the basis of the schedule contained in this section. There shall be no additional plat review fee charged for final plats which are in substantial conformance to a previously approved preliminary plat.

- (1) Conventional subdivision plats: \$50.00, plus \$1.00 per lot;
- (2) Subdivision open space plan: \$150.00, plus \$1.00 per lot;
- (3) Multiple-family residential plats: \$50.00, plus \$1.00 per dwelling unit.

Such fees may be changed by resolution of the city council from time to time.

(Code 1977, § 5.364)

Sec. 70-8. - Engineering review fees.

Engineering review fees shall be as required for city compliance.

(Code 1977, § 5.365)

Sec. 70-9. - Municipal review, inspection and administrative fees.

Municipal review, inspection and administrative fees shall be \$100.00, plus \$1.00 for each dwelling unit. Such fees may be changed by resolution of the city council from time to time.

(Code 1977, § 5.366)

Sec. 70-10. - Other fees.

Other city expenses necessitated by subdivision development shall be reimbursed to the city at cost.

(Code 1977, § 5.367)

Sec. 70-11. - Variance for hardship.

The governing body or commission may authorize a variance from this chapter when, in its opinion, undue hardship may result from strict compliance and provided the variance does not pertain to requirements of the zoning ordinance. In granting any variance, the governing body or commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required in this section, the governing body or commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the governing body or commission finds that:

- (1) There are special circumstances or conditions affecting such property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.
- (2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- (3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which such property is situated.

(Code 1977, § 5.371)

Sec. 70-12. - Platting procedure generally.

The preparation of a subdivision for platting may be preceded by an initial investigation and shall go through two phases: Preliminary Plat (Stages 1 and 2) and Final Plat, all in accordance with the procedures set forth in articles II and III of this chapter.

(Code 1977, § 5.329)

Secs. 70-13—70-45. - Reserved.

ARTICLE II. - PRELIMINARY PLAT

FOOTNOTE(S):

⁽⁵¹⁾ **State Law reference**— Preliminary plats, MCL 560.111 et seq.

Sec. 70-46. - Initial plat investigation.

Prior to the preparation of a preliminary plat, it is suggested that the proprietor meet informally with the municipal departments concerned to investigate the procedures and standards of the municipality with reference to this chapter and with the proposals of the master plan as they affect the area in which the proposed subdivision is located. The proprietor should concern himself with the following factors:

- (1) The proprietor should secure a copy of the zoning ordinance, subdivision regulations, engineering specifications, and other similar ordinances or controls relative to the subdivision and improvement of land so as to make himself aware of the requirements of the municipality.
- (2) The area for the proposed subdivision should be properly zoned for the intended use.
- (3) An investigation of adequacy of existing schools and the adequacy of public open spaces including parks and playgrounds to serve the proposed subdivision should be made by the proprietor.
- (4) The relationship of the proposed subdivision to major thoroughfares and plans for widening of thoroughfares should be investigated by the proprietor.
- (5) Standards for sewage disposal, water supply and drainage of the municipality should be investigated by the proprietor.

(Code 1977, § 5.330)

Sec. 70-47. - Stage 1.

The procedure, under this stage 1, for preparation and submittal of a preliminary plat of the land area to be subdivided shall be as follows:

- (1) *Filing.* The following filing procedure shall be followed:
 - a. Ten copies of the preliminary plat (stage 1) of the proposed subdivision, together with written application in triplicate, shall be submitted to the clerk for the planning commission.
 - b. Submittal with the clerk shall be at least ten days prior to the regular commission meeting (which meeting shall be considered as the date of filing) at which the proprietor will be scheduled to appear. Should any of the data required in this section be omitted, the clerk shall notify the proprietor of the additional data required, and commission action shall be delayed until the required data are received. The commission shall act on the preliminary plat (stage 1) within 30 days after the date of filing unless the proprietor agrees to an extension of time in writing.
- (2) *Identification and description.* The preliminary plat (stage 1) shall include the following identifications and descriptions:
 - a. Proposed name of subdivision.
 - b. Location by section, town and range, or by other legal description.
 - c. Names and addresses of the proprietor, owner proprietor, and the planner, designer, engineer or surveyor who designed the subdivision layout. The proprietor shall also indicate his interest in the land.
 - d. Scale of plat: one inch equals 100 feet as minimum acceptable scale.
 - e. Date and northpoint.
- (3) *Preparation.* The preliminary plat (stage 1) should be drawn to scale and show the arrangement of lots, blocks and streets. Dimensions of all lots shall be shown, but may be approximated. It is the intent of this chapter that the preliminary plat (stage 1) need not be done in precisely engineered plans but be only in sufficient detail to permit planning review. At this stage, the proprietor should expect that the planning commission may require major alterations to be made in the plat if it is found necessary. It is not necessary that the preliminary plat (stage 1) be prepared by and sealed by a surveyor; provided, however, that the outside dimensions of the plat shall be based upon an accurate boundary survey prepared by a surveyor.
- (4) *Existing conditions.* The preliminary plat (stage 1) shall show existing conditions as follows:
 - a. An overall area map at a scale of not less than one inch equals 1,000 feet showing the relationship of the subdivision to its surroundings within one-half mile such as section lines or major streets or collector streets shall be provided.
 - b. Boundary line of proposed subdivision, section or corporation lines within or adjacent to the tract and overall property dimensions.
 - c. Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the tract being proposed for subdivision, including those of areas across abutting roads.

- d. Location, widths and names of existing or prior platted streets and private streets and public easements within or adjacent to the tract being proposed for subdivision including those located across abutting roads.
 - e. Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the tract being proposed for subdivision.
 - f. Topography drawn as contours with an interval of not less than two feet. Topography to be based on USGS datum.
- (5) *Proposed conditions.* The preliminary plat (stage 1) shall include proposed conditions as follows:
- a. Layout of streets indicating proposed street names, right-of-way widths, and connections with adjoining platted streets and also the widths and locations of alleys, easements and public walkways.
 - b. Layout, numbers and approximate dimensions of lots, including building setback lines, showing dimensions.
 - c. Indication of parcels of land intended to be dedicated or set aside for public use or for the use of property owners in the subdivision.
 - d. An indication of the ownership, and existing and proposed use of any parcels identified as excepted on the preliminary plat. If the proprietor has an interest or owns any parcel so identified as excepted, the preliminary plat shall indicate how this property could be developed in accordance with the requirements of the existing zoning district in which it is located and with an acceptable relationship to the layout of the proposed preliminary plat.
 - e. An indication of the the system proposed for sewage disposal by a method approved by the governing body and the municipal engineer.
 - f. An indication of system proposed for water supply by a method approved by the governing body and the municipal engineer.
 - g. An indication of storm drainage proposed by a method approved by the governing body and the municipal engineer and, if involving county drains, the proposed method of drainage shall be acceptable to the county drain commissioner.
 - h. In the case where the proprietor wishes to subdivide a given area, but wishes to begin with only a portion of the total area, the preliminary plat shall include the proposed general layout for the entire area. The part which is proposed to be subdivided first shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development which the proprietor intends to follow. Each subsequent plat shall follow the same procedure until the entire area controlled by the proprietor is subdivided.
- (6) *Review by planning commission.* The planning commission shall review the stage 1 plat as follows:
- a. The clerk shall receive and check for completeness the preliminary plat as required under subsections (1) through (4) of this section. If complete and basically in conformance with applicable municipal requirements, the clerk shall place the proposal on the agenda of the next regular commission meeting.
 - b. The clerk shall transmit a copy of the preliminary plat to the municipal engineer and the municipal planner for their technical review and recommendation and transmit a copy to the school board having jurisdiction in the area where the plat is located.
 - c. The commission shall review all details of the proposed subdivision within the framework of the zoning ordinance, within the various elements of the master plan and within the standards of this chapter.
 - d. The commission shall approve conditionally, disapprove or approve the preliminary plat as follows:
 - 1. Should the approval be a conditional approval, such conditions shall be satisfied by the proprietor within a time set by the commission or the plat shall be rejected.
 - 2. Should the commission disapprove the preliminary plat, it shall record the reasons in the minutes of the regular meeting. A copy of the minutes shall be sent to the proprietor.
 - 3. Should the commission find that all conditions have been satisfactorily met, it may give approval to the preliminary plat. The chairman shall make a notation to that effect on each copy of the preliminary plat and distribute copies of such plat as follows:
 - i. Return one copy to the proprietor;
 - ii. Retain one copy which shall become a matter of permanent record in the commission files;
 - iii. Forward one copy to the school board having jurisdiction in the area concerned;
 - iv. File the remaining copies with the clerk's office.

- (7) *Action taken unless proprietor files request for hearing.* The action of the commission shall become the action of the governing body. The governing body shall decide upon a hearing or unless, within ten days after the approval or rejection of the preliminary plat, the proprietor shall file with the clerk a written request for hearing before the governing body. Such hearing, if requested, shall be held by the governing body at its next regular meeting occurring not less than ten days after filing of such request. Following such hearing, the governing body shall approve or reject the preliminary plat in accordance with section 112 of the subdivision act.
- (8) *Approval procedures.* Approval of the preliminary plat (stage 1) shall be effective for a period of nine months. Should a preliminary plat (stage 2) not be submitted for tentative approval within this time limit, the preliminary plat (stage 1) must again be submitted for approval unless an extension is applied for by the proprietor and such request is granted in writing by the planning commission or governing body, whichever body gave approval to the preliminary plat (stage 1).

(Code 1977, § 5.331)

Sec. 70-48. - Stage 2.

The procedure for the preparation and review of a preliminary plat (stage 2) requires tentative and final approval as follows:

- (1) *Tentative approval.* Tentative approval shall be required as follows:
- a. *Filing.* Filing shall be as follows:
 1. The preliminary plat (stage 2) shall conform substantially to the subdivision act.
 2. The preliminary plat (stage 2) shall conform substantially to the preliminary plat (stage 1), as approved, and it may constitute only that portion of the approved preliminary plat which the proprietor proposes to record and develop at the time; provided, however, that such portion conforms to this chapter.
 3. Ten copies of the preliminary plat of the proposed subdivision, together with written application in triplicate, shall be submitted to the clerk at least ten days prior to the regular commission meeting, which meeting shall be considered as the date of filing.
 4. The clerk shall check the proposed plat for completeness. Should any of the data required in the subdivision act, or section 70-47(1)—(4) be omitted, the clerk shall be directed to inform the proprietor of the data required, and that the application will be delayed until the required data are received.
 5. The clerk shall transmit a copy of the valid and complete preliminary plat to the municipal engineer for technical review and recommendation.
 - b. *Planning commission review; tentative approval.* Planning commission review for tentative approval shall be as follows:
 1. The clerk shall place the preliminary plat on the next regular planning commission agenda, at which meeting the proprietor will be scheduled to appear. The planning commission shall act on the preliminary plat within 30 days after the date of filing unless the proprietor agrees to an extension, in writing, of the time required for approval by the governing body and planning commission.
 2. It shall be the duty of the clerk to send a notice by registered or certified mail to the owners of land immediately adjoining the property to be platted of the presentment of the preliminary plat and the time and place of the meeting of the commission to consider such preliminary plat. Such notice shall be sent not less than five days before the date fixed therefor.
 3. The preliminary plat (stage 2) shall be reviewed by the municipal engineer as to conformity with the approved preliminary plat (stage 1) and plans for utilities and other improvements.
 4. The municipal engineer shall notify the commission of his recommendation for either approval or rejection of the preliminary plat.
 5. The preliminary plat (stage 2) documents shall be reviewed by the commission as to conformity with the approved preliminary plat (stage 1) and compliance with the requirements of this chapter.
 6. Should the commission find that the preliminary plat (stage 2) is in satisfactory conformance with the preliminary plat (stage 1) and with the requirements of this chapter, it shall approve such plat and notify the governing body of this action in its official minutes and forward the same, together with all accompanying data, to the governing body for their review.
 7. Should the commission find that the preliminary plat (stage 2) does not conform satisfactorily to the previously

approved preliminary plat (stage 1) or with the requirements of this chapter, and that it is not acceptable, they shall record the reason in their official minutes and forward such plat together with all accompanying data to the governing body, and recommend that the governing body disapprove the preliminary plat until the objections causing disapproval have been changed to meet the approval of the commission.

- c. *Governing body; tentative approval.* Tentative approval by the governing body shall be required as follows:
1. The governing body will not review a preliminary plat (stage 2) until it has received the review and recommendations of the commission. Following the receipt of such recommendations, the governing body shall consider the preliminary plat at such meeting that the matter is placed on the regularly scheduled agenda. The governing body shall take action on the preliminary plat (stage 2) within 60 days of the date of initial filing of the plat with the clerk, as required in subsection (1)b.1 of this section.
 2. Should the governing body tentatively approve the preliminary plat, they shall record their approval on the plat and return one copy to the proprietor.
 3. Tentative approval shall not constitute final approval of the preliminary plat.
 4. Tentative approval of the governing body shall be effective for a period of 12 months. Should the preliminary plat in whole or in part not be submitted for final approval within this time limit, the preliminary plat must again be submitted to the commission and governing body for approval unless an extension is applied for by the proprietor, and such request is granted in writing by the governing body.
- d. *Preliminary plat (stage 2) review by governing body; final approval.* Final approval by the governing body of a stage 2 preliminary plat shall be required as follows:
1. The proprietor shall file a valid preliminary plat with the clerk together with a certified list of all authorities required for approval in sections 112 to 119 of the subdivision act. The proprietor shall also provide approved copies of preliminary plats (stage 2) from each of the required authorities.
 2. The governing body shall take action on the preliminary plat within 20 days of the submission of all necessary approved plats.
 3. If the preliminary plat conforms substantially to the plat tentatively approved by the governing body and meets all conditions laid down for tentative approval, the governing body shall give final approval to the preliminary plat.
 4. The clerk shall promptly notify the proprietor of approval or rejection in writing. If rejected, reasons shall be given to the proprietor.
 5. Final approval shall be effective for a period of two years from the date of final approval. The two-year period may be extended if applied for by the proprietor and granted by the governing body in writing.
 6. No installation or construction of any improvements shall be made before the preliminary plat has received final approval of the governing body, engineering plans have been approved by the municipal engineer, and any deposits required under article V of this chapter have been received by the municipality.

(Code 1977, § 5.332)

Secs. 70-49—70-80. - Reserved.

ARTICLE III. - FINAL PLAT

FOOTNOTE(S):

⁽⁵²⁾ **State Law reference**— Final plats, MCL 560.131 et seq.; general requirements of plats, MCL 560.132 et seq.; submission of final plat, procedure, MCL 560.162 et seq.; submission to clerk, MCL 560.166; filing and recording fee, MCL 560.241, 560.241 a; furnishing of abstract of title or title policy, MCL 560.245.

Sec. 70-81. - Procedure for preparation and review.

The procedure for preparation and review of a final plat shall be as follows:

- (1) *Preparation.* Preparation of the final plat shall be as follows:
 - a. The final plat shall comply with the provisions of the subdivision act.
 - b. The final plat shall conform substantially to the preliminary plat as approved and it may constitute only that portion of the approved preliminary plat which the proprietor proposed to record and develop at the time; provided, however, that such portion conforms to this chapter.
 - c. The proprietor shall submit as evidence of title, an abstract of title certified to date with the written opinion of an attorney-at-law thereon, or at the option of the proprietor, a policy of title insurance for examination in order to ascertain whether the proper parties have signed the plat.
- (2) *Final plat review.* Final plat review shall be as follows:
 - a. Original copies of the plat, as required by the state department of the treasury, and four paper prints of the final plat shall be filed by the proprietor with the clerk and shall deposit such sums of money as the governing body may require in this chapter or by other ordinances.
 - b. The final plat shall be reviewed by the municipal engineer as to compliance with the approved preliminary plat (Stage 2) and plans for utilities and other improvements.
 - c. The municipal engineer shall notify the governing body of his recommendation for either approval or rejection of the final plat.
 - d. The governing body shall review all recommendations and take action on the final plat within 20 days of its date of filing.
 - e. Upon the approval of the final plat by the governing body, the subsequent approvals shall follow the procedure set forth in the subdivision act. The four prints of the final plat shall be forwarded: two to the clerk, one to the planning commission, and one to the building department. The original copies shall be forwarded to the clerk of the county plat board.

(Code 1977, § 5.333)

Secs. 70-82—70-115. - Reserved.

ARTICLE IV. - DESIGN LAYOUT STANDARDS

Sec. 70-116. - Development guides.

The subdivision design layout standards set forth under this article are development guides for the assistance of the proprietor. All final plans must be reviewed and approved by the governing body.

(Code 1977, § 5.340)

Sec. 70-117. - Streets.

Streets shall conform to at least all minimum requirements of the general specifications and typical cross sections as set forth in this article and other conditions set forth by the governing body.

- (1) *Location and arrangement.* Location and arrangement of streets shall be as follows:
 - a. The proposed subdivision shall conform to the various elements of the master plan and shall be considered in relation to the existing and planned major thoroughfares and collector streets, and such part shall be platted in the location and width indicated on such plan.
 - b. The street layout shall provide for continuation of collector thoroughfares in the adjoining subdivisions or the proper projection of streets when adjoining property is not subdivided; or conform to a plan for a neighborhood unit drawn up and adopted by the commission.
 - c. The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.
 - d. Should a proposed subdivision border on or contain an existing or proposed major thoroughfare, the commission may require marginal access streets, reverse frontage, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards.

- e. Should a proposed subdivision border on a railroad, expressway, or other limited access highway right-of-way, the commission may require the location of a street approximately parallel to and on each side of such right-of-way at a distance suitable for the development of any use of the intervening land. Such distances shall be determined with due consideration of the minimum distance required for approach grades to future grade separation.
- f. Half streets shall be prohibited, except where absolutely essential to the reasonable development of the subdivision in conformity with the other requirements of this chapter, and where the commission finds it will be practicable to require the dedication of the other half when the adjoining property is developed. Wherever there exists adjacent to the tract to be subdivided a dedicated or platted and recorded half street, the other half shall be platted.

(2) *Right-of-way widths.* Street right-of-way widths shall conform to at least the following minimum requirements:

Street Type		Right-of-Way Widths
a.	Major thoroughfare	120 feet, or in conformance with the major thoroughfare plan of the municipality
b.	Collector streets	86 feet
c.	Industrial local streets	60 feet
d.	Industrial collector streets	86 feet
e.	Multiple-family residential streets (where platted)	60 feet
f.	Local (single-family residential) streets	60 feet
g.	Marginal access streets	34 feet
h.	Turnaround (loop) street	110 feet
i.	Alley	20 feet
j.	Cul-de-sac streets, turnarounds	
	1. Industrial	75 foot radius
	2. Residential and others	60 foot radius

k. Length for cul-de-sac streets shall not exceed 600 feet.

- (3) *Street geometrics.* Standards for maximum and minimum street grades, vertical and horizontal street curves and sight distances shall be established by resolution of the governing body and approved by the municipal engineer.
- (4) *Street intersections.* Streets shall be laid out so as to intersect as nearly as possible to 90 degrees. Curved streets, intersecting with major thoroughfares and collector thoroughfares, shall do so with a tangent section of centerline 50 feet in length, measured from the right-of-way line of the major or collector thoroughfare.
- (5) *Acceleration-deceleration lanes.* Streets which intersect with major or secondary thoroughfares shall be provided with paved acceleration and deceleration lanes and passing lanes on both sides of the thoroughfare. Such lanes shall be provided in keeping with the standards approved by the governing body for this type of improvement.

Sec. 70-118. - Blocks.

Blocks within subdivisions shall conform to the following standards:

- (1) *Sizes.* Standards for block size are as follows:
 - a. Blocks shall not exceed 1,400 feet in length, except where, in the opinion of the commission, conditions may justify a greater distance.
 - b. Widths of blocks shall be determined by the condition of the layout and shall be suited to the intended layout.
- (2) *Public walkways.* Standards for public walkways are as follows:
 - a. Location of public walkways or crosswalks may be required by the commission to obtain satisfactory pedestrian access to public or private facilities or where blocks exceed 900 feet in length.
 - b. Public walkways shall be dedicated for this purpose.
- (3) *Easements.* Easement standards are as follows:
 - a. Location of utility line easements shall be provided along the rear or side lot lines as necessary for utility lines. Easements shall give access to every lot, park or public grounds. Such easements shall be a total of not less than 12 feet wide, six feet from each parcel.
 - b. Recommendations on the proposed layout of telephone and electric company easements should be sought from all of the utility companies serving the area. It shall be the responsibility of the proprietor to submit copies of the preliminary (stage 2) plat to all appropriate public utility agencies.
 - c. Easements three feet in width shall be provided where needed along side lot lines so as to provide for streetlight dropouts. Prior to the approval of the final plat for a proposed subdivision, a statement shall be obtained from the appropriate public utility indicating that easements have been provided along specific lots. A notation shall be made on the final plat indicating: "The side lot lines between lots (indicating lot numbers) are subject to streetlight dropout rights granted to the (name of utility company)."

Sec. 70-119. - Lots.

Lots within subdivisions shall conform to the following standards:

- (1) *Sizes and shapes.* Standards for size and shape of lots are as follows:
 - a. The lot size, width, depth and shape in any subdivision proposed for residential uses shall be appropriate for the location and the type of development contemplated.
 - b. Lot areas and widths shall conform to at least the minimum requirements of the zoning ordinance for the district in which the subdivision is proposed.
 - c. Building setback lines shall conform to at least the minimum requirements of the zoning ordinance.
 - d. Corner lots in residential subdivisions shall be platted at least ten feet wider than the minimum width permitted by the zoning ordinance.
 - e. Excessive lot depth in relation to width shall be avoided. A depth-to-width ratio of three to one shall normally be considered a maximum.
 - f. Lots intended for purposes other than residential use shall be specifically designed for such purposes, and shall have adequate provision for off-street parking, setback and other requirements in accordance with the zoning ordinance.
- (2) *Arrangement.* Lot arrangements shall be as follows:
 - a. Every lot shall front or abut on a street.
 - b. Side lot lines shall be at right angles or radial to the street lines.
 - c. Residential lots abutting major thoroughfares or collector thoroughfares, where marginal access streets are not desirable or possible to attain, shall be platted with reverse frontage lots, or with side lot lines parallel to the major traffic streets, or shall be platted with extra depth to permit greater distances between building and such trafficway.

- d. Lots shall have a front-to-front relationship across all streets, where possible.

(Code 1977, § 5.343)

Sec. 70-120. - Natural features.

The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor, and the dedication and provision of adequate barriers, where appropriate, shall be required.

(Code 1977, § 5.344)

Sec. 70-121. - Floodplains.

Any areas of land within the proposed subdivision which lie either wholly or in part within the floodplain of a river, stream, creek or lake, or any other areas which are subject to flooding or inundation by stormwater shall require specific compliance with the subdivision act and its review by the water resources commission of the state department of natural resources.

(Code 1977, § 5.345)

Sec. 70-122. - Subdivision open space plan.

The following requirements apply in addition to all other requirements of this chapter where a preliminary plat is filed for approval under the subdivision open space plan section of the zoning ordinance.

- (1) *Statement of principles.* Consideration by the commission and the governing body of proposed optional use of subdivision open space plan shall reflect the following basic principles:
 - a. The subdivision open space plan section of the zoning ordinance provides an optional method of subdividing property, and approval of any subdivision open space plan is subject to the discretion of the municipality.
 - b. Particular attention shall be given to the effect of a subdivision open space plan upon the immediate area, where the character of that area has been established by previous development. Major attention shall be given by the commission and the governing body to the benefits to be derived by the residents of the proposed subdivision and the municipality because of the subdivision open space plan, with minor consideration to be given to the proprietor.
 - c. The following objectives shall govern the approval or disapproval of the proposed subdivision open space plan:
 1. Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills and similar natural assets.
 2. Encourage developers to use a more creative approach in the development of residential areas.
 3. Encourage a more efficient, aesthetic and desirable use of the land while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles on the site.
 4. Encourage the provision of open space within reasonable distance of all lot development so benefits may accrue to the subdivision and to further encourage the development of recreational facilities and areas.
- (2) *Application; contents.* The application for approval of the subdivision open space plan shall contain the following in addition to the information required by other sections of this chapter:
 - a. A complete description of the land proposed to be dedicated to common use (open land) shall be provided, including the following as a minimum:
 1. Legal description of open land.
 2. Topographical survey of open land.
 3. Type of soil in open land.
 4. Description of natural features on open land (stands of trees or other vegetation, streams or other bodies of water, etc.).
 5. Other relevant factors.

- b. The proposed plan of development of the open land shall be contained in the application and shall include the following as:
 1. How legal title is to be held.
 2. How such property shall be regulated.
 3. Provisions for the payment of taxes.
 4. Persons or corporations to be responsible for maintenance.
 5. How maintenance is to be guaranteed.
 6. How maintenance and development are to be financed.
 7. Proposed uses of open land.
 8. What improvements are to be constructed by the developer and an estimate of the cost thereof prepared by a landscape architect or civil engineer, licensed to practice in the state.
 9. Other relevant facts related to the proposed uses of open land.
 - c. The application shall contain a statement of the benefits to be realized by the residents of the proposed subdivision and the municipality by approval of the proposed subdivision open space plan with particular reference to the objectives of this section.
- (3) *Review and recommendation.* Before any action is taken upon any subdivision open space plan filing, copies of the preliminary plat, application and supporting data shall be submitted by the clerk to the municipal planner and to the municipal attorney for review and recommendation.
- a. The municipal planner shall review and render an opinion upon the proposed subdivision open space plan from the materials furnished and from visits to the site or such other information as he may deem necessary and render his opinion with respect to the following:
 1. The suitability of the proposed open land for purposes proposed.
 2. The need for the proposed uses in the general area.
 3. The location and layout of the open spaces with relation to the lots within the subdivision.
 4. The effect upon neighboring areas which would result by the subdivision open space plan and the appropriateness of the development of the lot sizes proposed under the subdivision open space plan in the particular area involved.
 5. Any other factor related to the development and proper design of the proposed subdivision.
 - b. The municipal attorney shall review the proposed subdivision open space plan and render his opinion with respect to the following:
 1. The proposed manner of holding title to the open land.
 2. The proposed manner of payment of taxes.
 3. The proposed method of regulating the use of the open land.
 4. The proposed method of maintenance of property and financing thereof.
 5. Any other factor related to the legal or practical problems of ownership, use and maintenance of the open land.
- (4) *Tentative approval by planning commission; action by governing body.* If the commission is satisfied that the proposed subdivision open space plan meets the letter and spirit of this section and the zoning ordinance and should be approved, it shall give tentative approval to the plat with the conditions upon which such approval should be based. Thereafter, the governing body shall take action upon such application in accordance with the provisions of this chapter.
- (5) *Disapproval; hearing.* If the commission is not satisfied that the proposed subdivision open space plan meets the letter and spirit of the zoning ordinance or finds that the approval of the subdivision open space plan will be detrimental to existing development in the general area and should not be approved, it shall communicate such disapproval to the governing body with the reasons therefor. The proprietor shall be entitled to a hearing upon such proposal before the governing body upon written request therefor filed with the clerk.
- (6) *Contract; required approvals.* If the governing body gives preliminary approval of the proposed subdivision open space plan, it shall instruct the municipal attorney to prepare a contract setting forth the conditions upon which such approval is based, which contract, after approval thereof by the governing body, shall be entered into between the municipality and the proprietor prior to the approval of any final plat based upon the approved preliminary plat.
- (7) *Bond required.* At the time of application for final approval, the proprietor shall deposit a cash or corporate surety bond in the

amount of the estimated cost of the proposed improvement to the open land guaranteeing the completion of such improvements within a time to be set by the governing body.

(Code 1977, § 5.346)

Secs. 70-123—70-155. - Reserved.

ARTICLE V. - IMPROVEMENTS

Sec. 70-156. - Minimum standards.

- (a) The improvements set forth under this article are to be considered as the minimum acceptable standard. All those improvements for which standards are not specifically set forth shall have such standards set by ordinance or published rules of the governing body. All improvements must meet the approval of the governing body.
- (b) Prior to the undertaking of any improvements, the proprietor shall deposit with the clerk cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the governing body to ensure faithful completion of all improvements within the time specified. The amount of the deposit shall be set by the governing body, based on an estimate by the engineer. The governing body shall release funds for the payment of work as it is completed and approved by the municipality.
- (c) Prior to the acceptance by the municipality of improvements, a two-year maintenance bond in an amount set by the governing body shall be posted by the proprietor.
- (d) Improvements shall be provided by the proprietor in accordance with the standards and requirements established in this article and/or any other such standards and requirements which may from time to time be established by ordinance or published rules of the municipality.

(Code 1977, § 5.351)

Sec. 70-157. - Streets.

All streets and appurtenances thereto shall be constructed in accordance with details and specifications approved by the governing body as follows:

(1) *Pavement width standards.* Street pavement width standards are as follows:

Street Type		Pavement Width (measured from back of curb to back of curb)
a.	Major thoroughfare	In conformance with the standards and specifications established by the municipal engineer or the governing body. This width is generally established as 48 feet.
b.	Collector streets	41
c.	Industrial streets	41
d.	Multiple-family residential streets (where dedicated)	36

e.	Minor residential streets	31
f.	Marginal access streets	<u>22</u>
g.	Turnaround (loop) streets	Not less than 80 feet diameter at termination loop, 36 feet wide pavement
h.	Alley	20
i.	Cul-de-sac streets, turnarounds	
	1. Industrial	65 foot radius
	2. Residential and others	45 foot radius

(2) *Curbs and gutters.* Curbs and gutters shall be improved in accordance with details and specifications prescribed by the governing body.

(3) *Roadway pavements.* Roadway pavements shall be improved in accordance with details and specifications prescribed by the governing body.

(Code 1977, § 5.352)

Cross reference— Streets, sidewalks and other public places, ch. 66.

Sec. 70-158. - Utilities.

(a) *Requirements for underground wiring.* The proprietor shall make arrangements for all lines for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely throughout a subdivided area, except for major thoroughfare rights-of-way. Such conduits or cables shall be placed within private easements provided to such service companies by the proprietor or within dedicated public ways, provided only that overhead lines may be permitted upon written recommendation of the engineer, planner and commission and the approval of the governing body at the time of final plat approval where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, plat design and character of the subdivision. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the state public service commission. All drainage and underground utility installations which traverse privately owned property shall be protected by easements granted by the proprietor. All junction boxes for utilities shall be buried so as not to be visible above the ground level unless such utilities are located in the rear or side yards.

(b) *Storm drainage system and other drainage improvements.* Storm drainage systems and other drainage improvements shall be per plans approved by the governing body. Where county drains are involved, a letter or document of approval from the county commissioner must be submitted by the proprietor.

(1) *Sewer system.* Sewer system improvements shall be per plans approved by the governing body and the requirements of the county health board or other appropriate public health authority.

(2) *Water supply.* The water distribution system shall be per plans approved by the governing body and in conformance with the regulations of the state department of health relating to municipal water supplies.

(Code 1977, § 5.353)

Cross reference— Utilities, ch. 78.

Sec. 70-159. - Other improvements.

- (a) *Sidewalks.* Sidewalks shall be provided on the sides of all road rights-of-way adjacent to the subdivision being developed. In those instances where no good purpose would be served, the governing body may waive this requirement. All sidewalks shall be made of concrete four feet wide, four inches thick, and located one foot from the property line.
- (b) *Public walkways.* Walkways shall be at least ten feet in width. Planting pockets shall be provided in public walkways for tree and shrub planting. The planting plan and surface treatment shall meet the approval of the commission. Fences or other improvements may also be required if the commission or governing body determines they are necessary to protect the adjacent property owners.
- (c) *Trees.* Existing trees near street rights-of-way shall be preserved by the subdivider. Street trees shall be provided at least one per lot in the street right-of-way between sidewalk and curb in accordance with regulations established by the governing body.
- (d) *Street signs.* Street name signs shall be placed at all street intersections and shall be of a permanent weather-resistant construction, with street names visible from two directions, as approved by the governing body. Traffic regulation signs, as may be required, will be located as required by the governing body.
- (e) *Streetlights.* Streetlights shall be placed at all intersections and other locations as recommended by the governing body. Streetlight design shall be approved by the governing body.

(Code 1977, § 5.354)

Chapter 74 - TRAFFIC AND VEHICLES

FOOTNOTE(S):

⁽⁵³⁾ **Cross reference**— Any ordinance prescribing traffic and parking restrictions pertaining to specific streets saved from repeal, § 1-11(14); transport of alcoholic liquor in motor vehicles, § 6-40; taxicabs and drivers, § 18-566 et seq.; junk vehicles, § 34-71 et seq.; law enforcement, ch. 46; offenses and miscellaneous provisions, ch. 50; use of skateboards, bicycles, roller skates, coasters and similar devices, § 50-184; transportation of persons to places of gambling or other illegal or immoral acts, § 50-217; vehicles in parks, § 54-66; streets, sidewalks and other public places, ch. 66; trimming and corner clearance, § 82-73.

⁽⁵³⁾ **State Law reference**— Michigan Vehicle Code, MCL 257.1 et seq.; regulation by local authorities, MCL 257.605, 257.606, 257.610.

ARTICLE I. - IN GENERAL

Sec. 74-1. - Code adopted.

The city does hereby amend chapter 74 to adopt the Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.1 et seq.). Specifically included are any and all amendments thereto currently scheduled to be effective on October 1, 1999.

(Ord. No. 99-9/20, § 1, 9-20-99)

Secs. 74-2—74-65. - Reserved.

ARTICLE II. - ADMINISTRATION

FOOTNOTE(S):

⁽⁵⁴⁾ **Cross reference**— Administration, ch. 2.

DIVISION 1. - GENERALLY

Secs. 74-66—74-85. - Reserved.

DIVISION 2. - TRAFFIC VIOLATIONS BUREAU

FOOTNOTE(S):

Sec. 74-86. - Established.

A traffic violations bureau is hereby created in and for the city.

(Code 1977, § 10.21)

Sec. 74-87. - Clerk.

The clerical dispatcher for the city police department is hereby appointed clerk of the traffic violations bureau, and the dispatchers are each hereby appointed deputy clerks of the traffic violations bureau. The clerical dispatcher and dispatchers are hereby authorized to collect and account for all fines paid to the traffic violations bureau as set forth in section 74-96.

(Code 1977, § 10.22)

Sec. 74-88. - Location.

The traffic violations bureau shall be located at the office of the police department in the city hall.

(Code 1977, § 10.23)

Secs. 74-89—74-95. - Reserved.

DIVISION 3. - VIOLATIONS, CITATIONS AND FINES

Sec. 74-96. - Reports.

The clerk of the traffic violations bureau shall prepare each month a detailed traffic violations report for the previous month. This report shall list all traffic violation tickets issued according to their respective categories of violations, all tickets processed during the month that have not been received for processing and a total of all monies received for fines collected.

(Code 1977, § 10.26)

Sec. 74-97. - Citation procedure.

Whenever any motor vehicle is found parked or stopped in violation of any of the restrictions imposed by ordinance of the city or by state law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation. A duplicate copy of such ticket or notice shall forthwith be delivered to the city traffic violations bureau.

(Code 1977, § 10.24)

Sec. 74-98. - Collection of fines.

The traffic violations bureau shall have the authority and power to process such traffic violation tickets issued by the police department of the city, assess and collect all fines in accordance with the schedule set forth in section 74-103, make regular accountings of such collections, and deposit all such deposits with the city treasurer to the credit of the general fund.

(Code 1977, § 10.25)

Sec. 74-99. - Time to appear.

All persons to whom such a traffic violation ticket or notice shall have been issued may appear before the traffic violations bureau, on or before three days from the issuing date thereof, pay the fine so assessed and deposit the ticket with the bureau, which shall constitute full satisfaction for the offense charged. Upon and after payment of the prescribed penalty, no other or further arrest or prosecution of such person shall be had in respect to the particular violation for which the penalty was paid.

Sec. 74-100. - Appearance options.

Appearance before the traffic violations bureau may be made in person, by representation or by registered mail.

(Code 1977, § 10.28)

Sec. 74-101. - Right of accused to judicial process.

- (a) The right of any accused to judicial process shall be preserved, and nothing in this division shall deprive any person from having a full and impartial hearing in court in accordance with due process of law.
- (b) The accused may appear before the traffic violations bureau and file a written request, on forms provided, demanding a judicial hearing upon the charge, in which event a complaint shall be filed with the district court having jurisdiction, and prosecution shall take place according to law.
- (c) If the accused does not appear before the traffic violations bureau within three days from the date of the traffic violations ticket or notice which was issued to the accused, the traffic violations bureau shall return the duplicate copy of the ticket or notice forthwith to the officer who issued the ticket or notice, and such officer shall file a complaint with the district court having jurisdiction relative to the violation charged upon the traffic violations ticket or notice. Prosecution shall take place according to law.

(Code 1977, § 10.29)

Sec. 74-102. - Nonresidents of state charged with traffic violations.

- (a) When any person not a resident of the state shall be charged without warrant for any violation of a traffic ordinance of the city, the officer making such charge shall, upon demand of the accused, forthwith take the accused before the district court having jurisdiction to answer to the complaint made against him. If no district judge is available, and immediate trial cannot be had, the person so arrested may recognize to such officer for his appearance by depositing with such officer a sum of money not to exceed \$25.00. Such amount may be changed by resolution of the city council from time to time. Such officer shall, in all cases, give a receipt to the person arrested for the money so deposited with such officer, together with a written summons or traffic violations ticket as provided in this division.
- (b) If the accused fails to appear as required in the summons or traffic violation notice, such deposit shall be forfeited as in other cases of default upon bail and, in addition thereto, pay any other penalty provided by law. Every officer taking a deposit under this division shall, within 48 hours thereafter, deposit the money with the district judge mentioned in the summons or traffic violations notice, together with the statement of facts relating to such arrest and/or deposit.

(Code 1977, § 10.30)

Sec. 74-103. - Schedule of parking fines.

The following is the city's schedule of parking fines:

Parking	Penalties
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- (1) Overtime:
 - a. If paid within 24 hours of the time ticket was issued\$ 1.00
 - b. If paid within 72 hours of the time ticket was issued3.00
 - c. After 72 hours have elapsed it shall be a court matter
- (2) Improperly3.00
- (3) In prohibited zone3.00
- (4) On sidewalk or driveway3.00
- (5) Double5.00

- (6) Within 15 feet of fire hydrant5.00
- (7) Between sidewalk and curb3.00
- (8) Parking in a handicapped zone:
 - a. If paid within 24 hours of the time ticket was issued10.00
 - b. If paid within 72 hours of the time ticket was issued25.00
 - c. After 72 hours have elapsed it shall be a court matter.

Such fines may be changed by resolution of the city council from time to time.

(Code 1977, § 10.31)

Sec. 74-104. - Display of schedule.

A printed list of the violations and penalties referenced in section 74-96 shall be conspicuously displayed at the traffic violations bureau.

(Code 1977, § 10.32)

Sec. 74-105. - Violations notice.

- (a) There shall be established a notice to appear for violations of the Code of the city, other than violations of the traffic or parking sections, which shall be hereinafter referred to as a violations notice, whereby a police officer of this city may serve such violations notice on any person found violating any section of the Code, in lieu of immediate arrest or service of warrant.
- (b) In addition to police officers of this city, the county dog warden is empowered to issue such notices for violations of chapter 10 of this Code.
- (c) Such violations notice shall enumerate the section number of the Code alleged to have been violated, and a brief description of the charge. It shall contain spaces for the date, day of week, time of day and location of the alleged offense; the name and address of the person charged; his age, date of birth, race, sex, height and weight; make and license number of vehicle, if any involved; a space for the signature of the issuing officer; and such other information as may be prescribed by the duly authorized court of the city.
- (d) The violations notice shall be answerable to the duly authorized court of the city within a specified number of days. Failure to appear as ordered shall result in a formal complaint to the court and the issuance of a criminal warrant.

(Code 1977, § 10.33)

Secs. 74-106—74-115. - Reserved.

DIVISION 4. - STORAGE OF IMPOUNDED MOTOR VEHICLES

Sec. 74-116. - Public policy.

It is hereby deemed to be necessary by the city council to establish a policy for the impounding of motor vehicles which are required to be impounded by the laws of any governmental unit or which are found to be in violation of the ordinances of the city or which are a hazard to public safety because of their location upon a public street during a declared emergency or during snow-removal operations.

(Ord. No. 01-011, § 2.151, 4-16-01)

Sec. 74-117. - General policy.

It is hereby declared to be the general policy of the city that any vehicle to be impounded shall be stored by the towing company engaged to remove the vehicle. Such towing company shall establish its own fees and charges. The city shall not be responsible for the subject vehicle in any manner.

(Ord. No. 01-011, § 2.152, 4-16-01)

Sec. 74-118. - Storage area.

The city manager, with the approval of the city council, shall establish a secure area for the storage of motor vehicles which are impounded under section 74-116, above. The storage area shall be utilized only when the towing company engaged to remove the vehicle is not able to store the vehicle as provided in section 74-117, above. The storage area shall be made secure and shall be maintained in a secure manner during any time a vehicle is stored in the area.

(Ord. No. 01-011, § 2.153, 4-16-01)

Sec. 74-119. - Fees.

At the inception of this division the fee for storage of a vehicle shall be \$15.00 for any calendar day or portion of calendar day that the vehicle is stored. Payment in full of the storage fees and any towing charges shall be received by the city prior to releasing the vehicle. The fee for storage may be amended from time to time by the city council by resolution.

(Ord. No. 01-011, § 2.154, 4-16-01)

Sec. 74-120. - Lien.

The city shall have a lien interest against any vehicle stored for the full amount of any storage charges and for any towing charges charged by the towing company engaged by the city. Enforcement of the lien shall comply strictly with MCL 570.301 through 570.309.

(Ord. No. 01-011, § 2.155, 4-16-01)

Secs. 74-121—74-130. - Reserved.

ARTICLE III. - BICYCLES

DIVISION 1. - GENERALLY

Sec. 74-131. - Dealers—Report of purchases.

Persons engaged in the business of buying secondhand bicycles are hereby required to make a weekly report to the police department specifying:

- (1) The name and address of the person from whom each bicycle is purchased;
- (2) The description of each bicycle purchased;
- (3) The frame number thereof;
- (4) The number of the reflectorized sticker found thereon, if any.

(Code 1977, § 10.64)

Sec. 74-132. - Same—Report of sales.

All persons engaged in the business of selling new or secondhand bicycles are hereby required to make a weekly report to the police department giving a list of all sales made by such dealers, which list shall include:

- (1) The name and address of each person to whom a bicycle was sold;
- (2) The kind of bicycle sold;
- (3) A description and frame number thereon;
- (4) The number of the sticker attached thereto, if any.

(Code 1977, § 10.65)

Secs. 74-133—74-155. - Reserved.

DIVISION 2. - LICENSE

Sec. 74-156. - Required.

No person shall operate or use a bicycle propelled wholly or in part by muscle power upon any street or public highway of the city without first obtaining from the police department a license therefor.

(Code 1977, § 10.61)

Sec. 74-157. - Issuance requirements; inspection; denial.

The police department is hereby authorized and directed upon written application for a license to:

- (1) Inspect each bicycle for:
 - a. Brakes;
 - b. Horn, bell or proper-sounding device;
 - c. Lights;
 - d. Reflectors placed on wheels, pedals, frame and fenders so as to assist motor vehicles to see such bicycles at night from the front, rear and sides.
- (2) Deny a license for any bicycle not meeting the requirements set forth in sections 6.20, 6.21 and 6.22 of the Uniform Traffic Code of the city and subsection (1)d of this section.
- (3) Issue bicycle licenses which shall be effective for one calendar year. All licenses shall be dated January 1 of the year issued. When issued such license shall entitle the licensee to operate such bicycle for which the license has been issued subject to the provisions of the Michigan Vehicle Code (MCL 257.1 et seq.).

(Code 1977, § 10.62)

Sec. 74-158. - Reflectorized stickers.

- (a) The city shall annually provide reflectorized stickers, together with registration cards. Such stickers and registration cards shall have numbers stamped thereon in numerical order, beginning with the number "1," and shall indicate the year for which they are issued, and shall have the words "City of Durand, Bicycle License" stamped thereon. It shall be the duty of the police department to attach one such sticker to the frame of each bicycle and to issue a corresponding registration card to the licensee upon the payment of the license fee.
- (b) Such sticker shall remain attached during the valid period of such license. The police department shall keep a record of the date of issuance of each license, the person to whom issued and the number thereof.

(Code 1977, § 10.63)

Sec. 74-159. - Transfer report required.

It shall be the duty of every person who sells or transfers ownership of any bicycle, to report such sale or transfer by returning to the police department the registration card issued to such person as licensee of such bicycle, together with the name and address of the persons to whom the bicycle was sold or transferred. Such report shall be made within five days of the date of the sale or transfer. It shall be the duty of the purchaser or transferee of such bicycle to apply for a transfer of registration thereof, within five days of the sale or transfer.

(Code 1977, § 10.66)

Sec. 74-160. - Removal of numbers.

No person shall willfully or maliciously remove, destroy, mutilate or alter the number of any bicycle frame licensed pursuant to this article.

(Code 1977, § 10.67)

Sec. 74-161. - Destruction of stickers.

No person shall remove, destroy, mutilate or alter any license sticker or registration card during the time in which such license sticker or card is operative. Nothing in this section shall prohibit the police department from stamping numbers on the frames of bicycles on which no serial number can be found or on which the number is illegible or insufficient for identification.

(Code 1977, § 10.68)

Sec. 74-162. - Fees.

- (a) For the first annual license issued pursuant to this article, the sum of \$1.00 shall be paid. For each annual renewal of such license the sum of \$0.50 shall be paid.
- (b) In cases where a transfer of ownership is made in the manner prescribed by section 74-159, the fee for transfer of the license shall be the sum of \$0.50.
- (c) Such fees may be changed by resolution of the city council from time to time.

(Code 1977, § 10.69)

Secs. 74-163—74-195. - Reserved.

ARTICLE IV. - RAILROADS

Sec. 74-196. - Unguarded crossings.

It shall be unlawful for any railroad company and for any officer, agent or employee of a railroad company in charge of any train, to propel or permit to be propelled any cars in advance of any locomotive engine over or across any street in the city where there is not stationed a crossing watchman or where such crossing is not equipped with automatic signals, unless a member of the train crew of such train shall be posted at the crossing in advance of such train or cars to warn persons desiring to cross such railroad crossings.

(Code 1977, § 10.91)

Sec. 74-197. - Standing of trains on crossings; time limit.

No railroad engine, car or train of cars shall be left standing on a railroad track at a street, avenue or highway crossing within the city for a longer period of time than five minutes at any one time.

Chapter 78 - UTILITIES

FOOTNOTE(S):

⁽⁵⁶⁾ **Cross reference**— Any ordinance establishing utility rates saved from repeal, § 1-11(5); administration, ch. 2; buildings and building regulations, ch. 14; minimum standards for basic equipment and facilities for housing, § 14-256 et seq.; minimum standards for light, ventilation and heating for housing, § 14-286 et seq.; general requirements relating to maintenance of housing, § 14-316 et seq.; responsibilities of owners and occupants for plumbing fixtures, § 14-387; businesses, ch. 18; cable telecommunications, ch. 22; environment, ch. 34; health and sanitation, ch. 42; solid waste, ch. 58; streets, sidewalks and other public places, ch. 66; utility improvements in subdivisions, § 70-158.

ARTICLE I. - IN GENERAL

Sec. 78-1. - Department of public works—Director; duties generally.

The public works department shall be headed by the director of public works and utilities. He shall be experienced in municipal engineering works. He shall be responsible for all matters relating to construction, management, maintenance and operation of all the physical properties of the city, except as otherwise provided by the city Charter or this Code. He shall also be responsible for planning in connection with such changes or improvements to the physical properties of the city as are consistent with and necessary to the future growth and development of the city.

(Code 1977, § 1.90)

Cross reference— Administrative service, § 2-36 et seq.

Sec. 78-2. - Same—Specific functions.

The department of public works shall have the following specific functions:

- (1) It shall coordinate all engineering services for the department, as authorized by the city clerk or city manager.
- (2) It shall have charge of the construction, operation and maintenance of the city sewage system. It shall have charge of the construction and maintenance of all improved and unimproved street surfaces, the cleaning of improved streets, the removal of snow, the construction and maintenance of sidewalks and bridges, the operation of city dumps and the operation of the garbage and rubbish disposal service of the city.
- (3) It shall have charge of the control and regulation of municipal parking lots.
- (4) It shall be responsible for the control and regulation of the planting of trees, and the planning, development, maintenance and management of all boulevards. The department shall care for all shade trees located on lands devoted to public purposes and shall control all lawn extensions between sidewalks and street curbs.

(Code 1977, § 1.91)

Sec. 78-3. - Division of building inspection.

The division of building inspection shall be a division of the department of public works and shall be headed by the building inspector. This division shall be responsible for the issuance of all permits and the inspection of all work involved in the construction of sewer and water services, sidewalks, curb cuts, street openings and the inspection of all work done under the provisions of the electrical, plumbing and building codes of the city and the safety inspection of all premises, including structures thereon.

(Code 1977, § 1.92)

Sec. 78-4. - Building inspector designated as enforcing agency of state law provisions.

Pursuant to the provisions of Sec. 9 of Act No. 230 of the Public Acts of Michigan of 1972 (MCL 125.1509), as amended, the building inspector of the city is hereby designated as the enforcing agency to discharge the responsibilities of the city under Act No. 230 of the Public Acts of Michigan of 1972. The city hereby assumes responsibility for the administration and enforcement of such act throughout its corporate limits.

(Code 1977, § 1.93)

Sec. 78-5. - Water department—Head; department responsibilities.

The water department shall be headed by the superintendent of the water department who shall serve under the authority of the director of public works and utilities. It shall be responsible for the construction, operation and maintenance of city water mains and connections and other facilities pertaining to the water distribution system. It shall have charge of the pumping of water into and through the city water distribution system. It shall have charge of the construction, operation and maintenance of city water mains and connections and other facilities pertaining to the city water distribution system.

(Code 1977, § 1.100)

Cross reference— Administrative service, § 2-36 et seq.

Sec. 78-6. - Same—Water connections.

The water department shall be responsible for the installation of water connections and water meters and the issuance of permits for the inspection of all work involved in such installation.

(Code 1977, § 1.101)

Sec. 78-7. - Discharge of rainwater or runoff; duty of occupant or owner.

It shall be the duty of the occupant of every premises and the owner of unoccupied premises within the city to prohibit the discharge of rainwater or the runoff of rainwater:

- (1) In such a manner that it causes dirt, soil or gravel to discharge into the street or into the sanitary sewer system or into the storm sewer system.
- (2) In such a manner that it causes an erosion of the soil or support of any sidewalk, porch or street curb.

(Code 1977, § 9.40)

Secs. 78-8—78-40. - Reserved.

ARTICLE II. - WATER AND SEWER RATES

FOOTNOTE(S):

⁽⁵⁷⁾ **Cross reference**— Any ordinance establishing utility rates saved from repeal, § 1-11(5).

Sec. 78-41. - 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:

Person means any individual, firm, association, public or private corporation or public agency or instrumentality.

Premises means each lot or parcel of land, building or premises having any connection to the water distribution system of the city, or the sanitary sewer system of the city.

(Code 1977, § 2.61)

Cross reference— Definitions generally, § 1-2.

Sec. 78-42. - Basis of charges.

All water service shall be charged for on the basis of water consumed as determined by the meter installed in the premises of water service customers by the city water department. All sanitary sewer service shall be charged for on the basis of water consumed, to the extent that such consumption reflects the return of water to the sanitary sewers as provided in this article. No free water service or sanitary sewer service shall be furnished to any person.

(Code 1977, § 2.62)

Sec. 78-43. - Water rates.

Water rates are to be as follows:

- (1) Any customer connected by a five-eighths-inch or three-quarters-inch meter shall pay a minimum monthly charge of \$10.50 for the first 1,000 gallons and \$1.90 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (2) Any customer connected by a one-inch meter shall pay a minimum monthly charge of \$26.25 for the first 2,500 gallons and \$1.90 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (3) Any customer connected by a 1¼-inch meter shall pay a minimum monthly charge of \$37.50 for the first 3,500 gallons and \$1.90 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (4) Any customer connected by a 1½-inch meter shall pay a minimum monthly charge of \$47.75 for the first 4,500 gallons and \$1.90 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (5) Any customer connected by a two-inch meter shall pay a minimum monthly charge of \$57.75 for the first 5,500 gallons and \$1.90 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (6) Any customer connected by a three-inch meter shall pay a minimum monthly charge of \$68.25 for the first 6,500 gallons and \$1.90 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (7) Any customer connected by a four-inch meter shall pay a minimum monthly charge of \$78.75 for the first 7,500 gallons and \$1.90 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (8) In addition to the water rates designated in this section, each user connected to the water system shall pay a meter rental fee

as follows:

5/8-inch or 3/4-inch meter	\$1.00 per month
1-inch meter	2.50 per month
1 1/4-inch meter	3.50 per month
1 1/2-inch meter	4.50 per month
2-inch meter	5.50 per month
3-inch meter	6.50 per month
4-inch meter	7.50 per month

Rates may be changed by resolution of the city council from time to time.

(Ord. of 6-20-94, § 1(2.63))

Sec. 78-44. - Sewer rates for sanitary sewer.

Sewer rates are to be computed on the basis of a flat fee and water used for all users having a sewer connection with the sanitary sewer system and shall be billed in conjunction with the water bill at the following rates:

- (1) For each user connected to the water system with a five-eighths-inch or three-quarter-inch meter, the monthly fee shall be \$10.50 for the first 1,000 gallons of water used and \$2.30 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (2) For each user connected to the water system with a one-inch meter, the monthly fee shall be \$26.25 for the first 2,500 gallons of water used and \$2.30 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (3) For each user connected to the water system with a 1 1/4-inch meter, the monthly fee shall be \$37.50 for the first 3,500 gallons of water used and \$2.30 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (4) For each user connected to the water system with a 1 1/2-inch meter, the monthly fee shall be \$47.25 for the first 4,500 gallons of water used and \$2.30 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (5) For each user connected to the water system with a two-inch meter, the monthly fee shall be \$57.75 for the first 5,500 gallons of water used and \$2.30 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (6) For each user connected to the water system with a three-inch meter, the monthly fee shall be \$68.25 for the first 6,500 gallons of water used and \$2.30 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.
- (7) For each user connected to the water system with a four-inch meter, the monthly fee shall be \$78.75 for the first 7,500 gallons of water used and \$2.30 for each additional 1,000 gallons, or portion thereof, billed in 100-gallon increments.

For each user not connected to the water system, rates shall be established by the city based upon similar users within the city. Rates may be changed by resolution of the city council from time to time.

(Ord. of 6-20-94, § 2(2.64))

Sec. 78-45. - Private water supply.

Where any sanitary sewer service customer uses any private water supply, any portion of which reaches the public sanitary sewers, such private supply shall be metered at the customer's expense. The consumption therefrom shall be added to the consumption from the public water supply, and the total shall be used to establish the sanitary sewer service charges, based on water consumed. Failure to meter any water supply

shall not release the customer from paying the sanitary sewer service charge thereon. In such case, the total water consumption shall be estimated by the clerk and shall be conclusive.

(Code 1977, § 2.65)

Sec. 78-46. - Optional arrangement.

Any customer may elect to rearrange his water supply pipes and metering for the purpose of eliminating from the total water consumption the water not disposed of to the public sanitary sewers, or he may elect to establish metering facilities registering the discharge from his premises to the public sanitary sewers. All such arrangements shall be subject to the prior approval of the city clerk. The expense, including installation, maintenance and operation, shall be borne by the customer. While such an approved installation shall be in effect, the rates specified in section 78-44 shall be applied only to the water passing through the meter for water to be returned to the public sanitary sewers or to the sewage actually discharged to the public sanitary sewers. No person shall divert any water metered as water not entering the public sanitary sewers into the public sanitary sewers. Where any water metered as not entering the public sanitary sewers does enter the public sanitary sewers, the premises shall be billed at the regular sanitary sewer rates for all water used during all billing periods in which the unlawful diversion of water occurred, if it can be determined; otherwise, for a period to be determined in the discretion of the city clerk, but not in excess of five years.

(Code 1977, § 2.66)

Sec. 78-47. - Outside service.

The rates for water or sanitary sewer service to premises outside the city shall be double the rates charged to users within the city, unless contracts have been signed providing for the payment of sums in lieu of taxes, in which case the contract terms shall prevail.

(Code 1977, § 2.67)

Sec. 78-48. - Special rates.

- (a) All water and sewer charges may be changed by resolution of the city council.
- (b) Special rates for water or sanitary sewer service may be fixed by resolution of the city council for customers outside the city, customers not having a metered water supply, customers using large quantities of water not discharged into the sanitary sewers and in other cases where special considerations are applicable, in the discretion of the city council, anything contained in this chapter to the contrary notwithstanding.

(Code 1977, § 2.68; Ord. No. 01-010, § 2.68, 3-5-01)

Sec. 78-49. - Water and sewer extensions.

Water and sewer extensions outside the limits of the city shall be subject to the following. The city shall require that proposed users of city water and/or sanitary sewers must first petition the city council for annexation to the city. If it is not possible to annex to the city, proposed services may be obtained as follows:

- (1) Extensions will be granted by petition only, and petitioners will be required to pay all expenses for such extensions from existing mains capable of providing required capacities. Such extensions shall be at the discretion of the city council who shall take into consideration the existing water supply and/or sanitary treatment facilities.
- (2) The city shall charge the regular water rate to such outside users, plus an annual charge equivalent to the personal and real property taxes of the user based on the state equalized rate of property involved at the city tax rate.

(Code 1977, § 2.69)

Sec. 78-50. - Billing.

Billing for water service and sanitary sewer service shall be the responsibility of the city clerk. All water meters shall be read every quarter, and bills shall be rendered every quarter. All billings shall be subject to a ten percent penalty if not paid on or before the due date.

(Code 1977, § 2.70)

Sec. 78-51. - Collection.

The payment of charges for water service to any premises may be enforced by discontinuing the water service to any premises, and the payment of charges for sanitary sewer service to any premises may be enforced by discontinuing either the water service or the sanitary sewer service to such premises, or both, and an action of assumpsit may be instituted by the city against the customer. The charges for water service and sanitary sewer service, which, under the provisions of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq.), as amended, are made a lien on the premises to which furnished, are hereby recognized to constitute such lien. The city clerk shall, annually, at the first meeting in April of the city council, report to the council all unpaid charges for such services furnished to any premises which, on March 31 preceding, have remained unpaid for a period of six months. The city council may thereupon, after due notice to the owners of the premises so served, assess the amount so found to be due, as a tax against the premises, and the assessment shall be certified to the city assessor, who shall place the assessment on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes. In cases where the city is properly notified in accordance with Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq.), as amended, that a tenant is responsible for water or sanitary sewer service charges, no such service shall be commenced or continued to such premises until there has been deposited with the city clerk a sum sufficient to cover twice the average monthly bill for such premises as estimated by the city clerk. Where the water service to any premises is turned off to enforce the payment of water service charges or sanitary sewer services charges, the water service shall not be recommenced until all delinquent charges have been paid and a deposit as in the case of tenants is made, and there shall be a water turn-on charge determined by resolution of the city council from time to time. In any other case where, in the discretion of the city clerk, the collection of charges for water or sanitary sewer service may be difficult or uncertain, the clerk may require a similar deposit. Such deposits may be applied against any delinquent water or sanitary sewer service charges, and the application thereof shall not affect the right of the city to turn off the water service to any premises for any delinquency thereby satisfied. No such deposit shall bear interest, and such deposit, or any remaining balance thereof, shall be returned to the customer making the deposit, when he shall discontinue receiving water and sanitary sewer service.

(Code 1977, § 2.71)

Sec. 78-52. - Water and sewer tap-in fees.

For all new service to new or existing residences, the following fees shall be charged, unless they are changed by resolution of the city council from time to time:

- (1) Water tap-in, \$300.00.
- (2) Sewer tap-in, \$265.00.
- (3) Water and sewer main installation, actual cost to the city of main installation.
- (4) Meter charges shall be as set by resolution of the city council from time to time.
- (5) Water meters larger than three-quarter-inch and multiple installations shall be controlled by section 70-10
- (6) A permit and inspection fee of \$20.00 shall be paid at the time of connection of the sewer line to the city main.
- (7) New subdivisions and multiple dwelling units, fees in accordance with section 70-10
- (8) There will be a charge of \$15.00 for installation of an outside meter reader on existing installations, unless the regular reader kit will not be appropriate, in which case the actual costs to the city will be charged.
- (9) All new users shall pay to the city a water service deposit of \$150.00 except in those instances where the responsible party is the fee title owner of the property to be served. This deposit shall be returned after three years if the customer has a payment record of no more than three late payments within the three-year period, or may be used as a payment or partial payment on any delinquent bill, and the balance shall be refunded upon the termination of service and settlement of the bill.

(Code 1977, § 2-72; Ord. of 11-21-94, § 1)

Sec. 78-53. - Deferred tap-in fees.

The owner of an existing residential home, located within the corporate limits of the city, may apply for the deferral of the water and/or sewer tap-in fees (capital recovery fees). The payment schedule shall be one-third of the fee at the time of connection; one-third plus accrued interest one year from the date of connection; and the entire balance two years from the date of connection. Interest shall be at the rate of 6 percent per annum. This option is not available to newly constructed homes or rebuilt or replacement homes.

(Ord. No. 99-11/1, § 2.74, 11-1-99)

Sec. 78-54. - Collection agents.

The city clerk is authorized to enter into agreements providing for the collection of water and sewer charges by other than the city treasurer. These agreements must provide for regular remittance to the city treasurer and may not authorize collection of delinquent charges. Any agreements must first be approved by council resolution.

(Code 1977, § 2.73)

Sec. 78-55. - Nonresident properties.

This article is designed to establish the water rates and sewer rates for in-city properties only. Rates for nonresident properties shall be based upon these rates, multiplied by the nonresident property factor.

(Ord. of 6-20-94, § 3)

Secs. 78-56—78-85. - Reserved.

ARTICLE III. - WATER SERVICE

DIVISION 1. - GENERALLY

Sec. 78-86. - 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:

Department means the water department.

Lot means each lot as platted or equivalent frontage as would normally be divided into a lot, if platted.

Superintendent means the superintendent of the water department.

Water connection means that part of the water distribution system connecting the water main to a point between the curblin and property line, including a curb box and curbstop.

Water main means that part of the water distribution system located within easement lines of streets and designed to supply more than one water connection.

Water service pipe means that part of the water distribution system between the water connection and the premises served.

(Code 1977, § 2.21)

Cross reference— Definitions generally, § 1-2.

Sec. 78-87. - Water connections.

- (a) Water connections shall not be made unless the water main extends across the total frontage of the lot to be served, or across the total frontage of the lot facing one street in the case of a corner lot. Water connections or water service pipes shall not cross one lot to serve another lot. Water connections and water service pipes shall be installed in a separate trench not closer than four feet from the sewer service.
- (b) The water connection shall be made by the water department upon payment of a connection fee based on current costs. All new connections and service pipes, if installed by the department, shall be guaranteed for a period of ten years from the date installed. Any repairs to any water connection and water service pipe shall be made at the expense of the owner whose premises are served by the water connection and water service pipe, except where such repairs are made necessary by reason of defective material or workmanship occurring within ten years after the connection and/or service pipe were made, in which event, under the service guarantee of the city, such repairs shall be made at the expense of the city.

(Code 1977, § 2.22)

Sec. 78-88. - Turning on.

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 any water service for testing his work (when it must be immediately turned off) or upon receiving a written order from the department.

(Code 1977, § 2.23)

Sec. 78-89. - Hydrant use.

No person, except an employee of the city, in the performance of his duties, shall open or use any fire hydrant, except in case of emergency, without first securing a written permit from the department. In no case shall any hydrant be opened or closed except with a hydrant wrench provided by the city.

(Code 1977, § 2.29)

Cross reference— Fire prevention and protection, ch. 38.

Sec. 78-90. - Additional regulations.

The city manager may make and issue additional rules and regulations concerning the water distribution system, connections thereto, meter installations and maintenance, hydrants and water mains and appurtenances thereto, not inconsistent herewith. Such rules and regulations shall be effective upon approval by the city council.

(Code 1977, § 2.30)

Sec. 78-91. - Injury to facilities.

No person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the city water system.

(Code 1977, § 2.31)

Cross reference— Offenses against property, § 50-71 et seq.

Sec. 78-92. - Cross connections.

- (a) *Adoption of state rules.* The city adopts by reference the water supply cross connection rules of the state department of public health being R 325.431 to R 325.440 of the Michigan Administrative Code.
- (b) *Inspections.* It shall be the duty of the city to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the city and as approved by the state department of public health.
- (c) *Right of entry of inspecting officials.* The representative of the city water department shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping systems for cross connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
- (d) *Discontinuance of service; other precautionary measures.* The superintendent of the water department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connections have been eliminated in compliance with the provisions of this section.
- (e) *Labeling of nonpotable water supply.* The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this section and by the state and city plumbing codes. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

Water Unsafe
For Drinking

(f) *Authority of section.* This section does not supersede the state plumbing code and city plumbing regulations, but is supplementary to them.

(Code 1977, § 2.32)

Sec. 78-93. - Fluoride use.

Pursuant to ordinance adopted November 17, 1969, the city shall not at this present time add fluoride to the drinking water of the city in the proportion of one part to 1,000,000 parts.

(Code 1977, § 2.33)

Secs. 78-94—78-115. - Reserved.

DIVISION 2. - WATER METERS

Sec. 78-116. - Use required.

All premises using water shall be metered. Water meters shall be of a make approved by the department and shall be purchased by the property owner and installed by the department. No person except an authorized department employee shall break or injure the seal or change the location of, alter or interfere in any way with any water meter. When a single water meter shall serve two or more rental units, the owner or his agent shall be responsible for payment of water used on the premises. All new residential units in the city must have outside water meters.

(Code 1977, § 2.24)

Sec. 78-117. - Access.

The department shall have the right to shut off the supply of water to any premises when the department is not able to obtain access to the meter. Water meters shall be so located as to be readily accessible for reading and repairing. 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 such meters. 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 meters.

(Code 1977, § 2.25)

Sec. 78-118. - Reimbursement for damage.

Any damage which a meter may sustain resulting from carelessness of the owner, agent or tenant, or from neglect of either of them, to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water or steam backing from a boiler, shall be paid by the owner of the property to the department on presentation of a bill therefor. 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 1977, § 2.26)

Sec. 78-119. - Failure.

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

(Code 1977, § 2.27)

Sec. 78-120. - Inaccurate meters.

A customer may request that the meter be tested. If the meter is found defective, such meter will be replaced or repaired, and no service charge will be made.

Secs. 78-121—78-150. - Reserved.

ARTICLE IV. - SEWERS AND SEWAGE DISPOSAL

DIVISION 1. - GENERALLY

Sec. 78-151. - 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:

BOD (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil and waste pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside of the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Combined sewer means a sewer receiving both surface runoff and sewage.

Debt service charge means the charge to defray all costs, direct and indirect, necessary to repay the local costs of capital improvements allocable to the construction of facilities necessary to ensure adequate wastewater treatment.

Department means the city department of public works.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and the handling, storage and sale of produce.

Industrial cost recovery means the recovery from each industrial user a portion of the U.S. Environmental Protection Agency grant which is allocable to the construction of facilities for the treatment of wastes from such industries.

Industrial wastes means the liquid wastes from industrial, manufacturing processes, trade or business as distinct from sanitary sewage.

Major contributing industry means an industrial user that discharges a flow of 50,000 gallons or more per average workday, a flow exceeding five percent of the total treatment plant flow, toxic pollutants in toxic amounts as defined in the NPDES permit, or a flow with a significant impact on the treatment plant when considered alone or in combination with other industrial users.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Normal domestic sewage means a sanitary wastewater flow containing an average daily BOD of not more than 200 mg/l or an average daily suspended solids concentration of not more than 250 mg/l.

Operation and maintenance means the necessary work, tests, repairs, cleaning and replacement of the sewage works to ensure performance and continued operation in a manner which will conform to the design standards.

Operation and maintenance costs means all costs, direct and indirect (other than debt service), necessary to ensure adequate wastewater treatment on a continuing basis, conforming with all related federal, state and local requirements, and to ensure optimal longterm facility management (these O & M costs include depreciation and replacement costs).

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

Properly shredded garbage means wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in sewers, and no particle greater than one-half inch in any dimension.

Public sewer means a sewer in which all owners or abutting properties have equal rights and which is controlled by public authority.

Replacement means necessary expenditures made during the service life of the wastewater treatment facilities to replace equipment and plant appurtenances required to maintain the intended performance of the treatment facilities.

Sanitary sewer means a sewer which carries sewage and to which stormwater, surface water and groundwater are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments.

Sewage works means all facilities for collecting, pumping, treating and disposing of sewage.

Sewer means a pipe or conduit for carrying sewage.

Sewer service charge means the charge to defray all costs, direct and indirect, necessary to repay the local costs of capital improvements allocable to the construction of collecting, transporting and pumping facilities necessary to ensure adequate wastewater treatment.

Shall is mandatory; *may* is permissive.

Slug means any discharge of water, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow exceeding for any period of duration longer than 15 minutes, is more than five times the average 24-hour concentration of flows during normal operation.

Storm drain (storm sewer) means a sewer which carries stormwater and surface water and drainage, but which excludes sewage and industrial wastes, other than unpolluted cooling water.

Superintendent means the superintendent of public works of the city.

Suspended solids means solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

Unit means that measure of potential sewage production which is equivalent to the quantity of sewage produced by or emanating from a single-family residence occupied by any average family.

User means any premises connected to a public sewer and includes appurtenant land and improvements.

User charge means the charge levied on all users of the sewage works for the cost of operation and maintenance, including replacement and repair of such facilities.

User classes means the division of sanitary sewer customers into classes by similar process or discharge flow characteristics, as follows:

- (1) *Commercial user* means any retail or wholesale business engaged in selling merchandise or a service and that discharges only segregated domestic wastes or wastes from sanitary conveniences.
- (2) *Industrial user* means any manufacturing establishment which produces a product from raw or purchased material. This category shall also refer to any user of the publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, under divisions A, B, D, E or I, excluding those users already identified in one of the other user classes. A user may also be excluded from the industrial user class if it is determined that such user will discharge only segregated domestic wastes or wastes from sanitary conveniences.
- (3) *Institutional user* means any educational, religious or social organization such as a school, church, nursing home, hospital or other similar entity that discharges only segregated domestic wastes from sanitary conveniences.
- (4) *Residential user* means an individual home or dwelling unit including mobile homes, apartments, condominiums or multifamily dwellings that discharge only segregated domestic wastes or wastes from sanitary conveniences.

Wastewater treatment facilities means any arrangement of devices and structures used for treating sewage.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

(Ord. No. 83-3, § 2.41, 6-6-83)

Cross reference— Definitions generally, § 1-2.

Sec. 78-152. - Privies and septic tanks.

Except as provided in division 3 of 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.

(Ord. No. 83-3, § 2.42, 6-6-83)

Secs. 78-153—78-175. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

FOOTNOTE(S):

⁽⁵⁸⁾ **Cross reference**— Administration, ch. 2.

Sec. 78-176. - Protection of public health by withholding use of city water.

- (a) For the purpose of protecting the public health, the city council is hereby vested with the power to withhold the use of water from the municipal water system from any person who has refused or is unable to comply with the terms of this article, or is a habitual violator of this article.
- (b) Action to withhold use of city water may be taken by the city council on its own motion, or upon recommendation of the city manager, based upon reasons assigned by him. Before withholding the use of water from the municipal water system, written notice shall be given to the person to be affected stating the action contemplated and giving the reasons therefor. Such notice shall be served in the manner provided in chapter 1 of this Code. The person affected may present evidence of a relevant nature at such hearing, and the council shall decide the question in such a manner as to appear just and right and to the best interest of the public health.

(Ord. No. 83-3, § 2.53, 6-6-83)

Sec. 78-177. - Actions.

The council is hereby authorized to bring any appropriate action in the name of the city, as may be necessary or desirable to restrain or enjoin any public nuisance, to enforce any of the provisions of this article and, in general, to carry out the intents and purposes of this article.

(Ord. No. 83-3, § 2.54, 6-6-83)

Sec. 78-178. - Inspection and protection of sewers.

- (a) The city and duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing. While performing the necessary work on private properties, the duly authorized employees of the city shall observe all safety rules applicable to the premises established by the owner or proprietor, who shall be held harmless for injury or death to such employees, and the city shall indemnify such owner or proprietor against loss or damage to his property by such employees and against liability claims and demands for personal injury or property damage asserted against such owner or proprietor and growing out of the gaging and sampling operation, except as such as may be caused by negligence or failure of such owner or proprietor to maintain safe conditions.
- (b) No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the city system.

(Ord. No. 83-3, § 2.55, 6-6-83)

Sec. 78-179. - Penalty for violation of article.

Any person who violates any provision of this article shall be subject to a penalty of not less than \$100.00 and not more than \$300.00 per day for each and every day of such violation.

(Ord. No. 83-3, § 2.56, 6-6-83)

Sec. 78-180. - Rate structure.

Rate structure shall mean the established charges set by council action to defray the costs of operation and maintenance, debt service charges and sewer service charges as separate items. Charges for all classes of users may be adjusted to reflect strength and other characteristics described in this article which may have a deleterious effect upon the sewage works, processes or equipment. This charge as well as industrial cost recovery shall be developed at the time such additional strengths or other characteristics or industry are noted or connected to the system.

(Ord. No. 83-3, § 2.57, 6-6-83)

Sec. 78-181. - Annual review.

The rate structure which provides the system income for operation and maintenance, debt service and sewer service charges shall be reviewed annually to ensure adequate revenue to meet the costs being incurred as well as to ensure proportionality of charges to the various user classes.

(Ord. No. 83-3, § 2.58, 6-6-83)

Secs. 78-182—78-200. - Reserved.

DIVISION 3. - PRIVATE SEWAGE DISPOSAL SYSTEM

Sec. 78-201. - To be used where public sewer unavailable.

Where a public sanitary or combined sewer is not available under the provisions of division 4 of this article, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

(Ord. No. 83-3, § 2.44, 6-6-83)

Sec. 78-202. - 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.

(Ord. No. 83-3, § 2.45, 6-6-83)

Sec. 78-203. - Discontinuance.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in division 4 of this article, 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.

(Ord. No. 83-3, § 2.46, 6-6-83)

Sec. 78-204. - Maintenance.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(Ord. No. 83-3, § 2.47, 6-6-83)

Sec. 78-205. - Additional requirements.

Nothing contained in this division shall be construed to interfere with any additional requirements that may be imposed by the health officer, or otherwise limit his powers.

(Ord. No. 83-3, § 2.48, 6-6-83)

Secs. 78-206—78-225. - Reserved.

Sec. 78-226. - 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 division and regulations supplementary hereto, within 90 days after the date of official notice to do so; provided, however, that such public sewer is within 100 feet of the property line.

(Ord. No. 83-3, § 2.43, 6-6-83)

Sec. 78-227. - Permit requirements.

Neither the city nor any person shall connect any public sewer or system of public sewers to any city sewer, without first obtaining a permit therefor from the city. Each such connection permit shall show the location and extent of the work, information regarding the owner, the contractor and the engineer, and any other pertinent information as shall be determined to be necessary. All permits shall be obtained from the offices of the city, for which a fee of \$10.00 will be charged, by the city (except where the connection is made as a part of a sewer construction program of the city) to cover the cost of inspection of the connection and to verify the result of the infiltration test. The city may change by resolution the amount of this fee from time to time.

(Ord. No. 83-3, 6-6-83)

Sec. 78-228. - Water infiltration and exfiltration testing; standard air testing.

- (a) A test for water infiltration into such public sewer or system of public sewers shall be performed by the owner or contractor, after completion thereof, in accordance with procedures established by the city. When such party has determined that the sewer or system meets the following requirements for maximum infiltration, he shall arrange for the results of such tests to be verified by the city. Groundwater infiltration at any time shall not exceed 200 U.S. gallons per inch of pipe diameter, per mile of sewer, per 24-hour period. It shall be the responsibility of the city or other party constructing the sewer or system to make whatever correction may be necessary to the same to meet the infiltration requirements prior to using the city sewers to which a connection is made. If, in the opinion of the city, groundwater conditions at the time of the test would not provide a conclusive test of the extent of infiltration, then an exfiltration test shall be required. If an exfiltration test is determined to be necessary, the maximum exfiltration rate shall be the same as that permitted for infiltration.
- (b) In lieu of infiltration or exfiltration testing, the sewer line may be tested using standard air testing. The minimum holding time shall be as follows:

MCPI Air Test Tables

Minimum Holding Time in Seconds Required for
Pressure to Drop from 3½ to 2½ PSIC

Pipe Diameter

Length of Line in Feet	4 inches	6 inches	<u>8</u> inches	10 inches	<u>12</u> inches	15 inches	<u>18</u> inches	21 inches	24 inches	27 inches	<u>30</u> inches	33 inches	<u>34</u> inches	39 inches
25	4	10	<u>18</u>	28	40	<u>62</u>	89	121	138	200	248	299	356	418
<u>30</u>	<u>9</u>	20	35	55	79	124	178	243	317	401	495	399	713	837
75	13	<u>30</u>	53	83	119	186	267	346	473	601	743	898	1,020	1,105

100	<u>18</u>	40	<u>70</u>	110	158	248	356	485	634	745	851	935		
125	<u>22</u>	<u>50</u>	88	138	198	309	446	595	680					
150	<u>26</u>	59	106	165	238	371	310							
175	31	69	123	193	277	425								
200	35	79	143	220	317									
225	40	89	158	248	340									
250	44	99	174	275										
275	48	109	194	283										
300	53	119	211											
350	<u>62</u>	139	227											
400	<u>70</u>	158												
450	79	170												
500	88													
550	97													
600	106													
650	113	170	227	283	340	425	510	595	680	765	851	825	1,020	1,105

Note: To be used when testing one diameter only

(Ord. No. 83-3, 6-6-83)

Sec. 78-229. - Obtaining city approval for connection; requirements.

No building sewer shall be directly connected to any city sewer by any person without first obtaining a permit therefor from the city. The city approval shall be obtained from the city upon payment of sewer connection charges as provided in section 78-44. The party to whom such permits are issued shall be responsible for notifying the city at least 24 hours in advance of the date and time when such a connection is to be made so that proper inspection of the connection can be made.

(Ord. No. 83-3, 6-6-83)

Sec. 78-230. - Construction procedures generally; sewer materials and joints.

- (a) *Construction procedures.* All connections to city sewers shall be made in a workmanlike manner and in accordance with the procedures established by the city.
- (b) *Building sewer materials and joints.* Building sewers from the lateral sewer in the street or easement to within five feet from a house shall be:

- (1) Six-inch-diameter C-200 vitrified sewer pipe with tylox (type B) wedglock (types 1 and 3) or amvit joints or other approved joint;
- (2) Six-inch-diameter class 2400 asbestos cement pipe with ringtite or approved joint;
- (3) Six-inch-diameter, service strength, cast iron soil pipe with hot poured lead joint, or approved equal. All sewer lines within 50 feet of a private well and 75 feet of a semipublic well shall be cast iron soil pipe with hot poured lead joints, or approved equal;
- (4) Six-inch-diameter C14X concrete pipe with O-ring joints or approved equal;
- (5) Six-inch-diameter material meeting the requirements of the state plumbing code; or
- (6) The crock to iron joint shall be sealed by an approved bituminous joint filler, encased in concrete to provide a watertight seal. 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 is backfilled and the roof is on the building, thereby providing that no water from the excavated basement will enter the sanitary sewer.

(Ord. No. 83-3, 6-6-83)

Sec. 78-231. - Licensing and permit requirements for construction.

No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof, without being licensed to do such work by the city and without first obtaining a written permit from the city.

(Ord. No. 83-3, 6-6-83)

Sec. 78-232. - Costs and expenses.

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

(Ord. No. 83-3, 6-6-83)

Sec. 78-233. - Separate, independent sewer per building.

A separate and independent building sewer shall be provided for every building.

(Ord. No. 83-3, 6-6-83)

Sec. 78-234. - Materials and methods.

The size, slope alignment, material or construction of a building sewer, and the methods to be used in excavating, placing of pipe, jointing testing and backfilling the trench, shall all conform to the regulations and standard specifications of the city and other applicable rules and regulations of the state.

(Ord. No. 83-3, 6-6-83)

Sec. 78-235. - Elevation of sewer and lifting of waste.

Whenever possible, the building sewer should be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary waste carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Ord. No. 83-3, 6-6-83)

Sec. 78-236. - Guarding of excavations; restoration of public property.

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

(Ord. No. 83-3, 6-6-83)

DIVISION 5. - PUBLIC SEWER USE

Sec. 78-261. - Prohibited discharges.

- (a) No person shall connect or cause to be connected any downspouts, foundation drains, yard drains, areaway drains, catchbasins, weep tile, perimeter drains or other sources of storm surface runoff or groundwater to any public sewers or to any building sewer or drain which is connected to a public sewer, nor shall any person discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process water into any public sewer or into any building sewer or drain which is connected to a public sewer.
- (b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the city. Industrial cooling or unpolluted process waters may be discharged, upon approval of the city, to a storm sewer or natural outlet.
- (c) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
 - (1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 - (2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity (either singly or by interaction with other wastes) to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant (including, but not limited to, cyanides in the excess of two mg/l and CN in the wastes as discharged to the public sewer).
 - (3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
 - (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair, fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (d) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the city that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb or public property or constitute a nuisance:
 - (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
 - (2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l; or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit.
 - (3) Any garbage that has not been properly shredded. The installation and operation of any garbage shredder equipped with a motor of three-quarters horsepower or greater shall be subject to the review and approval of the city.
 - (4) Any waters or wastes containing strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not.
 - (5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the city for such materials.
 - (6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the city as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
 - (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city in compliance with applicable state or federal regulations.
 - (8) Any wastes or waters having a pH in excess of 9.5.
 - (9) Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime

residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

- b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - c. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(Ord. No. 83-3, § 2.49, 6-6-83)

Sec. 78-262. - Action by city.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which contain the substances or possess the characteristics enumerated in section 78-261, and which, in the judgment of the city, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

- (1) Reject the wastes.
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers.
- (3) Require control over the quantities and rates of discharge.
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes and sewer charges.

(Ord. No. 83-3, 6-6-83)

Sec. 78-263. - Pretreatment subject to review and approval by city.

If the city permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city.

(Ord. No. 83-3, 6-6-83)

Sec. 78-264. - Control manhole—When required.

Whenever the superintendent shall determine that any person using any property served by a sewer is discharging industrial wastes into the sewer, the superintendent may require the person to install a suitable control manhole in the sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the person at his expense and shall be maintained by him so as to be safe and accessible at all times.

(Ord. No. 83-3, § 2.52, 6-6-83)

Sec. 78-265. - Same—Installation.

When required by the city, the owner of any property serviced by building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such a manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Ord. No. 83-3, 6-6-83)

Sec. 78-266. - Measurements, tests and analyses; methods.

All measurement, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with Standard Methods for the Examination of Water and Sewage, and shall be determined at the control manhole provided for, or upon suitable samples taken at such control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which a building sewer is connected.

Sec. 78-267. - Special agreements between city and industrial users.

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

(Ord. No. 83-3, 6-6-83)

Sec. 78-268. - Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the judgment of the city, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the city, and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be substantially constructed, watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

(Ord. No. 83-3, 6-6-83)

Sec. 78-269. - Declaration of nuisance.

The limitations and requirements contained in this division are deemed to be absolutely essential for the preservation of the public health and safety and the effective operation of the city sewage disposal plant, and the discharge into any sewer or drain in the city of any substance which exceeds the limitations contained in this division is hereby declared to be a public nuisance, and a violation of this article.

(Ord. No. 83-3, § 2.50, 6-6-83)

Sec. 78-270. - Discharge of stormwater.

No substance, other than stormwater, which contains appreciable amounts of organic matter, bacteria biochemical oxygen demand, or any other substance which will cause pollution in the receiving stream, or which fails to conform to the general requirements contained in this division, shall be placed or poured into any storm sewer. Stormwater from any street, sidewalk or yard, or roof water from any building now being constructed, shall not be poured or delivered, or in any manner permitted to be introduced into any sanitary sewer, nor may the same be diverted or emptied into any cistern or well which permits an overflow into a sanitary sewer system; provided, however, that when there is not a storm sewer adjacent to such property, then such stormwater may be discharged into the ground.

(Ord. No. 83-3, § 2.51, 6-6-83)

Chapter 82 - VEGETATION

FOOTNOTE(S):

⁽⁵⁹⁾ **Cross reference**— Buildings and building regulations, ch. 14; environment, ch. 34; parks and recreation, ch. 54; streets, sidewalks and other public places, ch. 66.

ARTICLE I. - IN GENERAL

Secs. 82-1—82-30. - Reserved.

ARTICLE II. - GRASS AND WEEDS

FOOTNOTE(S):

⁽⁶⁰⁾ **State Law reference**— Control and eradication of noxious weeds, MCL 247.61 et seq.

Sec. 82-31. - Cutting.

No person occupying or owning any premises shall fail to cut down or mow any grass, ragweed, Canada Thistles, burdocks, crab grass, quack grass, wild growing bushes, milk weeds, wild carrots, oxeye daisies or other grass or weeds growing on property occupied by or owned by him or growing on that portion of a street which adjoins property occupied by or owned by him.

(Ord. of 8-21-95, § 1)

Sec. 82-32. - Duty of occupant or owner.

It shall be the duty of the occupant or the owner of every premises within the city to cut or mow any grass and to cut, mow, remove or destroy by lawful means any such weeds whenever such grass or weeds have grown to a length of six inches.

(Ord. of 8-21-95, § 2)

Secs. 82-33—82-65. - Reserved.

ARTICLE III. - TREES

FOOTNOTE(S):

⁽⁶¹⁾ **State Law reference**— Planting of trees along highways, MCL 247.231 et seq.; care of trees and shrubs along highways, MCL 247.241 et seq.; obnoxious plants and trees, MCL 124.151 et seq.

Sec. 82-66. - 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:

Department means the department of public works of the city. The word "superintendent" shall mean the superintendent of public works.

Park means all public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

Prohibited species means any tree of the species of poplar (*Populus Sp.*), willow (*Salix Sp.*) and box elder (*Acer Negundo*).

Street means all of the land lying between property lines on either side of all streets, highways and boulevards in the city.

Tree means trees, shrubs, bushes and all other woody vegetation.

The terms of this article, unless otherwise specifically stated in this section, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the city.

(Code 1977, § 3.11)

Cross reference— Definitions generally, § 1-2.

Sec. 82-67. - Departmental responsibility.

The department shall be charged with the duty of enforcing the provisions of this article under the supervision of the superintendent.

(Code 1977, § 3.12)

Sec. 82-68. - Permits for tree planting, care and removal.

The superintendent shall have control over all trees located within the street rights-of-way and parks in the city and the planting, care and removal thereof, subject to the regulations contained in this article. The owner of land abutting on any street may, upon obtaining prior written permission of the superintendent, prune, spray, plant or remove trees in that part of the street abutting on his land not used for public travel, but

no person shall otherwise prune, spray, plant or remove any tree in any street or park. Every such permit shall specify the extent of the authorization and the conditions to which it is subject. Where an owner of the abutting property requests the removal of a tree, the superintendent is authorized, in his discretion, to require as a condition to granting of approval for such removal that such property owner make the removal in accordance with regulations established by the department and assume all or any part of the costs of removing such tree, and also to require that the tree removed be replaced at some other nearby location by planting another tree, not necessarily of the same type. No person shall plant any tree of a prohibited species.

(Code 1977, § 3.13)

Sec. 82-69. - Tree protection.

No person shall, without authority, break, injure, kill or destroy any tree or shrub, or set any fire, or permit any fire, or the heat thereof, to injure any portion of any tree. No person owning or using, or having control or charge of gas or other substance deleterious to tree life, shall allow such gas or other deleterious substance to come in contact with the soil surrounding the roots of any tree, shrub or plant. No person shall attach or keep attached to any tree or shrub, or to the guard or stake intended for the protection of such tree or shrub, any rope, wires, chains, signs or other device whatsoever, except for the purpose of protecting it or the public.

(Code 1977, § 3.14)

Sec. 82-70. - Public tree care.

The department shall have the right to plant, trim, spray, preserve and remove trees, plants and shrubs within the lines of the 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 may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to sewers or other public improvements, or is affected with any injurious fungus, insect or other pest.

(Code 1977, § 3.15)

Sec. 82-71. - Private grounds.

The superintendent shall also have power to enter upon any private grounds in the city and to spray or otherwise treat or cause or order to be sprayed or otherwise treated, any tree or shrub or plant infected or infested by any parasite or insect pest when it shall be necessary in his opinion to do so; to prevent the breeding or scattering of any parasite or animal pests; to prevent danger therefrom to trees and shrubs planted in public streets or other public places; and whenever in the opinion of the superintendent, trimming, treatment or removal of any such tree or shrub located on private grounds shall be deemed otherwise, he shall have the power to trim, treat or remove any such tree or shrub or cause the tree or shrub to be removed, treated or trimmed.

(Code 1977, § 3.16)

Sec. 82-72. - Inspection.

The superintendent is authorized to inspect any tree within the city reported or supposed to be infected with Dutch elm disease or the virus phloem necrosis, commonly known as elm blight. If upon such inspection the superintendent determines that such tree is infected with either of such diseases, he shall, if the tree is in any public street, ground or place within the city, immediately remove and burn the same in such manner as to prevent as fully as possible the spread of such disease. If such tree is located on private property, the superintendent shall immediately serve upon the owner of such property a written notice that such tree is so infected and that the tree must be removed and burned under the supervision of the superintendent within five days of the service of such notice. If such owner cannot be found, a copy of the notice shall be posted upon the infected tree. If the tree is not so removed and burned within five days after the service or posting of the notice, the superintendent shall cause the tree to be so removed and burned. The cost of the removal and burning may be collected from the owner of the property in the manner specified in section 62-13.

(Code 1977, § 3.17)

Sec. 82-73. - Trimming and corner clearance.

Every owner of any tree 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 street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight 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 shall be confined to the area immediately above the right-of-way. All shrubs and bushes located on the triangle formed by two right-of-way lines at the intersection of two streets, and extending for a distance of 25 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 30 inches above the sidewalk grade, 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 in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of eight feet above the roadway surface. Any owner of any property failing to trim any trees, shrubs or bushes in conformity with this section shall be notified by the superintendent to do so, and such notice shall require trimming in conformity with this section within five days after the date of such notice. Upon the expiration of such period, the superintendent may cause the trimming to be done, and the costs of such work may be collected from the owner of the property in the manner specified in section 62-13.

(Code 1977, § 3.18)

Cross reference— Traffic and vehicles, ch. 74.

Sec. 82-74. - Interference with superintendent.

It shall be unlawful for any person to prevent, delay or interfere with the superintendent, or any of his employees, agents or servants, while engaged in and about the planting, cultivating, mulching, pruning, spraying or removing of any trees, plants or shrubs in or upon any public highway or public place or upon any private grounds as authorized in this article.

(Code 1977, § 3.19)

Sec. 82-75. - Additional rules and regulations.

The city manager may make additional rules and regulations pertaining to the planting, removal and care of trees, bushes and shrubs not inconsistent with the provisions of this article, subject to approval by the city council. No person shall fail to obey any such rule or regulation.

(Code 1977, § 3.20)