



CITY COUNCIL SPECIAL WORK SESSION
405 E. COLBY STREET, WHITEHALL, MI
GARDEN ROOM
March 2, 2020
5:30 p.m.

AGENDA

1. Meeting Called to Order
2. Discussion Items - Ordinance Review
 - Starting in Title V, page 16
3. Public Comment *
4. Meeting Adjourned

City of Whitehall, 405 E. Colby Street, Whitehall, MI 49461; 231-894-4048

* **PUBLIC COMMENT:** Citizens wishing to speak on any subject matter or with regard to items on the agenda should use this opportunity. As a courtesy to the council, come to the podium, state your name, and direct your comments to the board. Please limit comments to three minutes. If you have questions or issues that need to be addressed, contact City Hall during regular business hours.

TITLE V: PUBLIC WORKS

CHAPTER

50: GARBAGE AND REFUSE

51: PUBLIC IMPROVEMENTS

52: SEWERS

53: WATER

54: WATER AND SEWER RATES AND CHARGES

55: WASTEWATER DISCHARGE

CHAPTER 50: GARBAGE AND REFUSE

SECTION

§ 50.01 INTENT

§ 50.02 DEFINITIONS

§ 50.03 DISPOSAL OF REFUSE

§ 50.04 REFUSE CONTAINERS

§ 50.05 SCAVENGING

§ 50.06 GRANTING A FRANCHISE FOR HAULING, TRANSPORTING AND HANDLING OF REFUSE FOR RESIDENTIAL UNITS

§ 50.07 CHARGES FOR SERVICES

§ 50.01 INTENT

From and after the effective date of this chapter it shall be unlawful for the owner-occupant of any building, property or premises within the city to dispose of, store, collect, haul or transport, any refuse except in compliance with this chapter.

(Ord. 20A, passed 12-6-83) Penalty, see §10.99

§ 50.02 DEFINITIONS

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

CONSTRUCTION or DEMOLITION MATERIALS. Waste materials resulting from the construction or demolition of structures or buildings, and include materials such as concrete blocks, brick, broken concrete, plaster, shingles, tile, lumber, wire and other similar materials and debris, and waste accumulated from land clearings, roads, streets, sidewalks, and excavations.

GARBAGE. Any putrescible waste, such as, but not limited to fruit or vegetables and all animal or refuse matter that is incident to, or attends or arises from the preparation, use, cooking, dealing in, transporting, selling, buying or storing meat, eggs, fish, fowl, fruit, vegetables and the like from all residences and establishments, public and private.

HAULING, TRANSPORTING AND HANDLING. The collection, hauling and/or transportation of any materials regulated by the provisions of this chapter in or upon the streets and public rights-of-way within the city.

MULTIPLE RESIDENTIAL UNIT. An apartment building designed for occupancy by three or more families.

OWNER-OCCUPANT. Any owner, occupant, lessee, tenant, person, corporation, partnership, association, firm, and any other legal entity or entities, who have control over any building or structures or occupy the same within the city. For the purposes of this chapter the primary and initial responsibility for compliance with this chapter shall be on the owner-occupant who is

actually occupying the premises with the ultimate responsibility to be placed on the legal owner, but such responsibility for enforcement and compliance shall be several as well as joint.

REFUSE. Any combination of garbage, rubbish and trash.

RESIDENTIAL UNIT. Single-family residential dwelling unit, which presupposes one family occupying a home with cooking and living quarters, a mobile home or trailer, one-half of a duplex, and each apartment residence above a business establishment.

RUBBISH. All nonputrescible waste material of every kind from public and private residences and establishments, but not limited to including material from wrecked buildings, tree trimmings, discarded bed springs, washers, dryers, water heaters, refrigerators and other household appliances, tin cans, crockery, glassware, bottles and wire, and the like whether offensive or not to the public health.

STORAGE. The accumulation of materials regulated by the provisions of this chapter which are awaiting final collection, transportation and disposal.

TRASH. All ashes, papers, cans, and containers, and the like, but not leaves, tree trimmings, material from wrecked buildings, furniture and the like that comes under the definition of “rubbish” in this section.
(Ord. 20A, passed 12-6-83)

§ 50.03 DISPOSAL OF REFUSE

It shall be unlawful to deposit, place, scatter, bury or burn any refuse upon private or public property or premises within the city, in contravention of this chapter and §151.20 through §151.27 of this code.

- (A) Except as hereinafter provided, it shall be unlawful for any person, corporation, partnership, association, firm or any other entity to collect, haul, transport and /or remove refuse from residential units within the city unless such entity meets the requirements of the County Health Department.
 - (1) Exception for Actual Producers. This chapter shall not prohibit the actual producers of refuse, or the owners of premises upon which refuse has accumulated, from personally collecting, conveying and disposing of such refuse, provided such producers or owners comply with the provisions of this chapter and the regulation of the County Health Department.
- (B) Any unauthorized accumulation of refuse is hereby declared a nuisance and is prohibited. Refuse of one residential unit, or non-residential unit shall not be brought to another residential unit for collection. ~~Refuse containers shall not be left at the collection site on any day other than the collection day.~~
- (C) ~~All garbage must be stored for collection in a container of the type and quality specified in §50.04. Rescind~~
(Ord. 20A, passed 12-6-83) Penalty, see §10.99

§ 50.04 REFUSE CONTAINERS

From and after the effective date of this chapter every owner-occupant of any residential unit shall place refuse for collection by a private hauler meeting the County Health Department requirements.

- (A) Containers shall be stored in a garage, or a side or rear yard of a lot.
- (B) Refuse containers shall comply with the County Sanitation Regulations.
- (C) Refuse containers ~~shall~~ may be placed at a position on said premises which is near the public ~~road contiguous to the front yard of the premises, and where practicable not farther than five feet from the~~ right of way or traveled portion of the ~~roadway~~ right of way. Refuse containers shall not be placed upon a public sidewalk. Owner-occupants of apartments located above business establishments whose landlords have not made arrangements for refuse removal may place their containers adjacent to the container of the business establishment. Containers shall not be near any public roads for longer than 24 hours for the purpose of the removal of the contents.

§ 50.05 SCAVENGING

It shall be unlawful for any person to scavenge refuse left for disposal, and no person shall damage or destroy containers of refuse placed for storage.

(Ord. 20A, passed 12-6-83) Penalty, see §10.99

§ 50.06 GRANTING A FRANCHISE FOR HAULING, TRANSPORTING AND HANDLING OF REFUSE FOR RESIDENTIAL UNITS

The City Council may in its discretion grant an exclusive franchise and license to a person, corporation, partnership, or firm for the hauling, transporting and handling of refuse from residential units within the city. The City Council shall use the competitive bidding process for such purpose and shall make its selection based upon the capability, performance and bid price offered by the contractor. The city may engage the services of the contractor pursuant to written contract for a period as stated in the bidding information.

(Ord. 20A, passed 12-6-83)

§ 50.07 CHARGES FOR SERVICES

If the City Council implements the provisions of §50.06, it shall, by resolution, establish rates for collection and the methods of billing.

CHAPTER 51: PUBLIC IMPROVEMENTS

SECTION

Special Assessment Projects; Procedure

- [§ 51.01 TITLE](#)
- [§ 51.02 ENABLING LEGISLATION](#)
- [§ 51.03 DEFINITIONS](#)
- [§ 51.04 AUTHORITY TO ASSESS](#)
- [§ 51.06 REPORT BY CITY STAFF](#)
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- [§ 51.08 NOTICE OF PUBLIC HEARING](#)
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- [§ 51.11 TENTATIVE APPROVAL OF SPECIAL ASSESSMENT ROLL](#)
- [§ 51.12 HEARING ON SPECIAL ASSESSMENT ROLL](#)
- [§ 51.13 CREATION OF LIEN](#)
- [§ 51.14 COLLECTION PROCEDURE; LATE PENALTY](#)
- [§ 51.15 CERTIFICATION OF TOTAL COSTS](#)
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- [§ 51.20 CERTAIN POSTPONEMENTS OF PAYMENT](#)

SPECIAL ASSESSMENT PROJECTS; PROCEDURE

§ 51.01 TITLE

This chapter shall be known and may be cited as the “Special Assessment Ordinance” of the City of Whitehall, Michigan.

(Ord. 18, passed 7-28-87)

§ 51.02 ENABLING LEGISLATION

This chapter is made pursuant to the authority granted in Chapter X of the City Charter, dated August 23, 1977.

(Ord. 18, passed 7-28-87)

§ 51.03 DEFINITIONS

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

COST. When referring to the cost of any public improvement, includes the cost of service and publication of notices, preparation of plans, condemnation, spreading of rolls, advertising, financing, construction, and engineering, legal and other professional fees, interest on bonds for up to one year and all other costs incident to the making of such improvement, the special assessment therefore and the financing thereof.

PUBLIC IMPROVEMENT. Any municipal improvement which is of such a nature as to result in special benefit to the real property in the vicinity of such improvement.
(Ord. 18, passed 7-28-87)

§ 51.04 AUTHORITY TO ASSESS

The City Council shall have the power to determine the necessity of any public improvement and to determine that the whole or only part of the expense shall be defrayed by special assessment upon the property especially benefited in the manner hereinafter provided.
(Ord. 18, passed 7-28-87)

§ 51.06 REPORT BY CITY STAFF

- (A) Upon the request of the City Council, the city staff shall investigate the proposed public improvement and prepare a report which shall include:
 - (1) The concept of the proposed project;
 - (2) Cost estimates of the propose project;
 - (3) Proposed special assessment district boundaries;
 - (4) Recommendations as to the portion of the cost to be borne by the special assessment district and the portion, if any, to be borne by the city at large.
- (B) Upon completion of the report, the city staff shall submit the report to the City Council and file a copy of the report with the City Clerk. The City Council shall not finally determine to proceed with the making of any public improvement until such report of the city staff has been filed nor until after a public hearing has been held by the City Council for the purpose of hearing objections to the making of such improvement.
(Ord. 18, passed 7-28-87)

§ 51.07 TENTATIVE DETERMINATION OF PROJECT

The City Council, after review of the report of the city staff concerning the proposed public improvement, may pass a resolution tentatively determining the necessity of the improvement, setting forth the nature thereof, prescribing what part or portion of the cost of such improvement shall be paid by special assessment upon the property benefited, and what part, if any, shall be paid by the city at large, designating the limits of the special assessment district to be affected, placing the complete information concerning the proposed public improvement on file in the office of the City Clerk, for public examination, and directing the City Clerk to give notice, pursuant to

§51.08, of a public hearing on the proposed improvement, at which time and place an opportunity will be given to interested persons to be heard.
(Ord. 18, passed 7-28-87)

§ 51.08 NOTICE OF PUBLIC HEARING

The City Clerk shall schedule a public hearing to be held at a meeting of the City Council, and shall give ~~ten~~fifteen days notice, which notice shall be given by publication in a newspaper circulated in the city and by first-class mail to all property owners in the proposed special assessment district as shown by the last general tax assessment rolls of the city.
(Ord. 18, passed 7-28-87)

§ 51.09 HEARING ON NECESSITY

- (A) At the time of the public hearing pursuant to §51.07, or any adjournment thereof, which may be without further notice, the City Council shall hear any objections to the proposed public improvement and to the special assessment district, and may, without further notice, revise, correct, amend or change the plans, estimates and/or district; provided that if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to notice as provided in §51.08.
- (B) If the determination of the City Council is to proceed with the improvement, a resolution shall be passed approving the concept and cost estimates of the proposed project, the proposed assessment district, the recommendations as to the portion of the cost to be borne by the special assessment district and the portion, if any, to be borne by the city at large, and directing the City Assessor to prepare a special assessment roll and submit the same to the City Council; provided that if prior to the adoption of the resolution to proceed with the making of the public improvement, written objections thereto have been filed by the owners of the property in the district, which according to the report of the city staff will be required to bear more than 50% of the cost thereof, or by a majority of the owners of property to be assessed, no resolution determining to proceed with the improvement shall be adopted while such objections remain, except by the affirmative vote of five of the seven members of City Council.
(Ord. 18, passed 7-28-87)

§ 51.10 PREPARATION OF SPECIAL ASSESSMENT ROLL

The City Assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the proportionate amount benefited thereby. The amount in each case shall be based upon the cost estimates of the city staff as approved by City Council. When the assessment roll is complete, the City Assessor shall submit the roll to the City Council and file the roll with the City Clerk.
(Ord. 18, passed 7-28-87)

§ 51.11 TENTATIVE APPROVAL OF SPECIAL ASSESSMENT ROLL

The City Council shall review the special assessment roll and may pass a resolution tentatively approving such assessment roll, direct that the roll be open for examination in the office of the City Clerk and direct the City Clerk give notice, pursuant §51.08, of a public hearing on the proposed special assessment roll, at which time and place the City Council will meet to review the roll and provide an opportunity to interested persons to be heard.
(Ord. 18, passed 7-28-87)

§ 51.12 HEARING ON SPECIAL ASSESSMENT ROLL

- (A) At the time of the public hearing pursuant to §51.11, or any adjournment thereof, which may be without further notice, the City Council shall hear any objections to the proposed assessment roll, and may, without further notice, correct the proposed assessment roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein or it may, by resolution, confirm the assessment roll or annul the assessment roll and direct that new proceedings be instituted.
- (B) No special assessment roll shall be confirmed by resolution of the City Council except by affirmative vote of a majority of the City Council members present at the hearing where the roll is presented. Any person objecting to the proposed assessment roll shall file his objections thereto in writing with the City Clerk before the close of such hearing. Should there be written objections so filed by the owners of more than one-half of the property to be assessed, the assessment shall not be confirmed except by affirmative vote of five of the seven members of the City Council. Upon resolution confirming the special assessment roll, it shall become binding and conclusive. If the special assessment roll is annulled, the same proceeding shall be followed in making a new roll as in the making of the original roll.
(Ord. 18, passed 7-28-87)

§ 51.13 CREATION OF LIEN

Special assessments and all interest and charges thereon shall, from the date of the 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 penalty.
(Ord. 18, passed 7-28-87)

§ 51.14 COLLECTION PROCEDURE; LATE PENALTY

- (A) Following approval of the special assessment roll, the City Treasurer shall collect the same. Special assessments shall be payable in one installment or in such number of approximately equal annual installments, not exceeding 15 as the City Council may determine. The first installment of a special assessment shall be due on or before such time after confirmation as the City Council shall fix, and the subsequent installments

shall be due at intervals of 12 months from the due date of the first installment or from such other date as the City Council shall fix.

- (B) All unpaid installments prior to the transfer to the city tax roll shall bear interest payable annually at a rate to be fixed by the City Council not exceeding 8% per annum, such interest to commence at such time as shall be fixed by the City Council. The whole assessment against any lot or parcel of land may be paid to the City Treasurer at any time in full with interest and penalties accrued to the date of the payment of the next installment. If any installment of a special assessment is not paid when due, then the same shall be deemed to be delinquent and there shall be collected thereon, in addition to the interest as provided above, a penalty at a rate of 1% for each month or fraction thereof if the same remains unpaid before being reported to the City Council for reassessment upon the city tax roll. Statements of the several assessments to the respective owners of the several lots and parcels of land assessed, as indicated by the records by the City Assessor, stating the amount of the assessment and the manner in which it may be paid shall be mailed by the City Treasurer provided, however, that the failure to mail any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.

(Ord. 18, passed 7-28-87)

§ 51.15 CERTIFICATION OF TOTAL COSTS

Upon completion of the improvement, the financing thereof and the payment of the cost thereof, the City Clerk shall certify to the City Council the total cost of said improvement, together with the amount of the original roll for said improvement.

(Ord. 18, passed 7-28-87)

§ 51.16 DISPOSITION OF EXCESSIVE SPECIAL ASSESSMENTS; ADDITION ASSESSMENTS

- (A) Should the assessments in any special assessment roll prove to be insufficient for any reason to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection of such assessments, then the City Council shall make additional pro-rata assessments to supply the deficiency.
- (B) Should the amount collected on assessments prove larger than necessary by 5% or less of the amount of the original roll, the City Council may place the excess in any of the funds of the city, but if such excess shall exceed 5%, then the same shall be refunded pro-rata on the assessments against the several parcels of land according to the amounts thereof. Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be applied toward the payment of the next city tax levied against such property.

(Ord. 18, passed 7-28-87)

§ 51.17 DIVISION OF LOTS AFTER ASSESSMENT

Should any lots or land be divided after confirmation of the special assessment roll, the City Assessor shall apportion the uncollected amounts upon the several lots and lands so divided, and shall enter the several amounts as amendments upon the special assessment roll. The City Treasurer shall, within ten days after such apportionment, send notice of such action to the persons concerned at the address shown on the last general tax assessment roll by first-class mail. Said apportionment shall be final and conclusive on all parties, unless protest in writing is received by the City Treasurer within 20 days of the mailing of the aforesaid notice. The City Manager shall have the authority to confirm or amend the apportionment.
(Ord. 18, passed 7-28-87)

§ 51.18 INVALIDITY OF ASSESSMENT OR ASSESSMENT ROLL

- (A) Whenever any special assessment shall, in the opinion of the City Council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the City Council shall, whether the improvement has been made or not, have the 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. Payments already made and not refunded on premises included in the reassessment shall be applied upon the reassessment on said premises.
- (B) If the City Attorney submits a written opinion finding the assessment roll illegal, in whole or in part, the City Council may revoke its confirmation, or correct the illegality if possible, and reconfirm the roll as amended, provided that no property which is not involved in the illegality shall be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.
(Ord. 18, passed 7-28-87)

§ 51.19 ACTIONS TO CONTEST OR ENJOIN COLLECTION OF SPECIAL ASSESSMENT

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment or reassessment:

- (A) Unless, within 15 days after the confirmation of the special assessment roll, written notice is given to the City Clerk for attention of the City Council indicating an intention to file such suit or action and stating the grounds on which it is claimed such assessment or reassessment is illegal; and
- (B) Unless such suit or action shall be commenced within 30 days after the confirmation of the special assessment roll.
(Ord. 18, passed 7-28-87)

§ 51.20 CERTAIN POSTPONEMENTS OF PAYMENT

The City Council may provide that any person who, in the opinion of the City Council, because of an inability to pay the special assessments, may execute to the city an instrument creating a lien for the benefit of the city on all or any part of the real property owned by such person, which lien will mature and be effective from and after the execution of such instrument; shall be recorded with the Register of Deeds of Muskegon County, and shall not be discharged or released until the terms thereof are met in full. The City Council shall establish the procedure for making this section effective.

(Ord. 18, passed 7-28-87)

CHAPTER 52: SEWERS

SECTION

General Provisions

- § 52.01 DEFINITIONS
- § 52.02 DEPOSIT OF OBJECTIONALBE WASTE PROHIBITED
- § 52.03 DISCHARGE OF UNTREATED SEWAGE INTO NATURAL OUTLET
- § 52.04 PRIVIES, SEPTIC TANKS AND OTHER FACILITIES
- § 52.05 OWNER'S RESPONSIBILITY TO INSTALL SUITABLE TOILET FACILITIES
- § 52.06 DESTROYING OR TAMPERING WITH SEWAGE WORKS EQUIPMENT
- § 52.07 RIGHT OF ENTRY FOR PURPOSE OF INSPECTION

Private Sewage Disposal System

- § 52.20 CONNECTING BUILDING SEWER TO PRIVATE SEWAGE DISPOSAL SYSTEM
- § 52.21 WRITTEN PERMIT TO BE OBTAINED
- § 52.22 CONNECTING BUILDING SEWER TO PUBLIC SEWER
- § 52.23 NONINTERFERENCE WITH ADDITIONAL REQUIREMENTS

Building Sewers and Connections

- § 52.35 REGULATIONS ADOPTED BY REFERENCE
- § 52.36 FEES
- § 52.37 CREATION OF LIEN
- § 52.38 APPEALS

Use of Public Sewers

- § 52.40 DISCHARGE OF STORMWATER AND OTHER UNPOLLUTED DRAINAGE
- § 52.41 DEVICES WHICH PROVIDE CROSS CONNECTION BETWEEN SEWER AND WATER SUPPLY PROHIBITED
- § 52.42 GREASE, OIL AND SAND INTERCEPTORS
- § 52.43 CONTROL MANHOLE; MEASUREMENTS, TESTS AND ANALYSES
- § 52.44 INDUSTRIAL WASTES; SPECIAL AGREEMENTS
- § 52.45 NOTICE OF VIOLATION; LIABILITY

GENERAL PROVISION

§ 52.01 DEFINITIONS

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

~~**B.O.D. or BIOCHEMICAL OXYGEN DEMAND.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C., expressed in parts per million by weight.~~

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which receives the discharge from drainage pipes inside the walls of the building, and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

BUILDING SEWER. The extension from the building drain to the sanitary sewer or other place of disposal, as provided in §52.20 through §52.23.

CITY MANAGER. The City Manager, duly appointed as such, of the city of Whitehall.

CLERK. The City Clerk of the City of Whitehall, or his authorized deputy agent or representative.

COMBINED SEWER. A sewer receiving and conveying both surface run-off and sewage.

~~**DIRECTOR.** Director of Public Works of the city or an authorized deputy, agent, or representative.~~

GARBAGE. Solid wastes from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

INDUSTRIAL WASTES. The liquid wastes from industrial processes as distinct from sanitary sewage.

NATURAL OUTLET. Any outlet into a water course, pond, ditch, lake or other body of surface or ground water.

PERSON. Any individual, firm, company, association, society, corporation, or group.

~~**pH.** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.~~

PROPERLY SHREDED GARBAGE. The wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2-inch in any dimension.

PUBLIC SEWER. A sanitary sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, and storm waters as may be present.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All the facilities for collecting, pumping, treating, and disposal of sewage.

SEWER. A pipe or conduit for carrying sewage.

STORM SEWER or STORM DRAIN. A sewer which carries storm and surface waters and draining, but excludes sewage and polluted industrial wastes.

~~**SUPERINTENDENT.** Superintendent of Public Works of the city or an authorized deputy, agent, or representative.~~

SUSPENDED SOLIDS. 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.

WATER COURSE. A channel in which a flow of water occurs, either continuously or intermittently. (Ord. 25, passed 6-1-61)

§ 52.02 DEPOSIT OF OBJECTIONALBE WASTE PROHIBITED

It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste. (Ord. 25, passed 6-1-61) Penalty, see §10.99

§ 52.03 DISCHARGE OF UNTREATED SEWAGE INTO NATURAL OUTLET

It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. (Ord. 25, passed 6-1-61) Penalty, see §10.99

§ 52.04 PRIVIES, SEPTIC TANKS AND OTHER FACILITIES

Except as provided by the Muskegon County Sanitary Regulations, 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. 25, passed 6-1-61) Penalty, see §10.99

§ 52.05 OWNER'S RESPONSIBILITY TO INSTALL SUITABLE TOILET FACILITIES

- (A) The owner of all houses, buildings or facilities used for human occupancy, by habitation, 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 passing said houses, building or facilities so used, is hereby required, at said owner's expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper sewer in accordance with the provisions of this chapter, within 18 months after date of official written notice to property owner to apply for the connection, regardless of the setback or other location of the houses, buildings or facilities so used on the premises, hereby required to be served.

- (B) The owner of all houses, buildings or facilities used for human occupancy, by habitation, employment, recreation or other purpose, situated within the city and abutting any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, when not more than 200 feet of sewer construction without the need for mechanical pump or forced main is required in the street or alley or parallel to the street or alley to reach the nearest point of the most practical lateral connection of the building to be served, is hereby required at said owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the proper sewer in accordance with the provisions this chapter, within 18 months after date of official written notice to property owner to apply for the connection, regardless of the set back or other location of the houses, building or other facility so used on the premises hereby required to be served.
(Ord. 25, passed 6-1-61; Amended Ord., passed 1-24-67; Amended Ord. 01-02, passed 7-24-01) Penalty, see §10.99

§ 52.06 DESTROYING OR TAMPERING WITH SEWAGE WORKS EQUIPMENT

No unauthorized person shall maliciously, willfully, or negligently break, damage, uncover, deface or tamper with any structures, appurtenances or equipment which is a part of the municipal sewage works. Any person violating this provision ~~shall~~ may be subject to immediate arrest under charges of disorderly conduct.

(Ord. 25, passed 6-1-61) Penalty, see §10.99

§ 52.07 RIGHT OF ENTRY FOR PURPOSE OF INSPECTION

The City Manager and other duly authorized employees of the city bearing proper credentials and identification shall be permitted at all reasonable times to enter all users' properties ~~to enter upon all properties~~ for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter.

(Ord. 25, passed 6-1-61) Penalty, see §10.99

PRIVATE SEWAGE DISPOSAL SYSTEM

§ 52.20 CONNECTING BUILDING SEWER TO PRIVATE SEWAGE DISPOSAL SYSTEM

Where a public sanitary sewer is not available under the provisions of §52.05, the building sewer shall be connected to a private sewage disposal system complying with the Muskegon county Sanitary Regulations.

(Ord. 25, passed 6-1-61) Penalty, see §10.99

§ 52.21 WRITTEN PERMIT TO BE OBTAINED

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit issued by the County Health Department. ~~The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the City Manager. A permit and inspection fee of \$5 shall be paid to the City Clerk at the time the application is filed.~~
(Ord. 25, passed 6-1-61) Penalty, see §10.99

§ 52.22 CONNECTING BUILDING SEWER TO PUBLIC SEWER

At such time a s public sewer becomes available to a property served by a private sewage disposal system, as provided in §52.05, a direct connection shall be made to the public sewer in compliance with this subchapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material. All drains for other than sewage that may have been connected to the private sewage disposal system shall not be connected to the public sewer.
(Ord. 25, passed 6-1-61) Penalty, see §10.99

§ 52.23 NONINTERFERENCE WITH ADDITIONAL REQUIREMENTS

No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by the Michigan Department of Health or the County Health Officer.
(Ord. 25, passed 6-1-61)

BUILDING SEWERS AND CONNECTIONS

§ 52.35 REGULATIONS ADOPTED BY REFERENCE

The city shall provide regulations, approved by the City Council, governing the building and repair of sanitary sewers, laterals and connections, which shall address any required permits, sewer taps, costs and expenses of installation of sewers, laterals and reimbursable costs for collection systems and treatment facilities, including indemnifications, standards and specifications and any other such items that relate to current engineering, construction and payment of costs. These regulations and any amendments thereto shall be considered a part of this subchapter and are incorporated by reference.

§ 52.36 FEES

The costs for the building and repair of sanitary sewers, laterals and connections payable by the owner of the premises shall be determined by the City Council and in the event of default in payment; water service may be discontinued until said default is remedied. An action in assumpsit may also be instituted by the city against the owner of the premises to recover said charges.
(Am. Ord. 15-04, passed 07-28-15)

§ 52.37 CREATION OF LIEN

All costs assessed to the owner of the premises may be made a lien against the premises, dischargeable upon full payment of the assessed costs. The City Treasurer shall, annually on April 1, certify to the City Assessor all unpaid charges for such services furnished to any premises which, on the preceding March 31, have remained unpaid for a period of six months. The City Assessor shall place the same on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes.

§ 52.38 APPEALS

Any owner disputing the correctness of their charges shall have the right to a hearing at which time they may be represented in person and/or by counsel or any other person of their choosing and may present orally or in writing their complaint and contentions to the ~~Deputy Treasurer~~Treasurer or authorized representative. The owner may present their complaint to the Director of the Public Works and/or the City Manager if the ~~Deputy Treasurer~~or authorized representative fails to resolve the issue. ~~This official~~The Treasurer or authorized representative shall have the authority to make payment agreements with the owner.
(Ord. 99-07, passed 10-12-99)

USE OF PUBLIC SEWERS

§ 52.40 DISCHARGE OF STORMWATER AND OTHER UNPOLLUTED DRAINAGE

- (A) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.
- (B) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the City Manager. Industrial cooling water or unpolluted process waters may be discharged upon approval of the City Manager to a storm sewer, combined sewer or natural outlet.
(Ord. 25, passed 6-1-61) Penalty, see §10.99

§ 52.41 DEVICES WHICH PROVIDE CROSS CONNECTION BETWEEN SEWER AND WATER SUPPLY PROHIBITED

No person shall cause to be constructed or operate any device which provides a cross connection between sewer and water supply.
(Ord. 25, passed 6-1-61) Penalty, see §10.99

§ 52.42 GREASE, OIL AND SAND INTERCEPTORS

- (A) Grease, oil, and sand interceptors shall be provided when, in the opinion of the ~~City Manager~~Department of Public Works Director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any inflammable wastes, sand, and other harmful ingredients; ~~except that such interceptors shall not be required for private living quarters or dwelling units.~~ All interceptors shall be of a type and capacity approved by the ~~City Manager~~Department of Public Works Director and shall be located as to be readily and easily accessible for cleaning and inspection.
- (B) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, water-tight and equipped with easily removable covers which, when bolted in place, shall be gas-tight and water-tight.
- (C) Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all time.
(Ord. 25, passed 6-1-61) Penalty, see §10.99

§ 52.43 CONTROL MANHOLE; MEASUREMENTS, TESTS AND ANALYSES

When required by the ~~City Manager~~Department of Public Works Director, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the City Manager. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.
(Ord. 25, passed 6-1-61) Penalty, see §10.99

~~§ 52.44 — INDUSTRIAL WASTES; SPECIAL AGREEMENTS~~ Rescind

~~No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern, whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefore by the industrial concern.
(Ord. 25, passed 6-1-61) Penalty, see §10.99~~

§ 52.45 NOTICE OF VIOLATION; LIABILITY

- (A) Any person found to be violating any provision of this chapter except §52.06 shall be served by the city with written notice stating the nature of the violation, and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

- (B) Any person violating any of the provisions of this chapter shall become liable to the city for expense, loss or damage occasioned by the city by reason of such violation.
(Ord. 25, passed 6-1-61)

CHAPTER 53: WATER

SECTION

General Provisions

- [§ 53.01 DEFINITIONS](#)
- [§ 53.02 STANDARDS AND REGULATIONS ADOPTED BY REFERENCE](#)
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Operation of System

- [§ 53.10 WATER CONNECTIONS; CHARGE](#)
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Water Meters

- [§ 53.25 METERS REQUIRED](#)
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Water Main Extension

- [§ 53.40 PETITIONS FOR MAIN EXTENSIONS](#)

Water Supply Cross Connections

- [§ 53.50 ADOPTION OF STATE WATER SUPPLY CROSS CONNECTION RULES](#)
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- [§ 53.52 DISCONTINUANCE OF WATER SERVICE](#)
- [§ 53.53 LABELING OF WATER OUTLETS](#)

GENERAL PROVISIONS

§ 53.01 DEFINITIONS

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

WATER CONNECTION. That part of the Water Distribution System connecting the water main to a point between the curb line and property line, including the curb box and curb stop.

WATER MAIN. That part of the Water Distribution System located within easement lines or streets and designed to supply more than one water connection.
(Ord. 24, passed 6-1-61)

§ 53.02 STANDARDS AND REGULATIONS ADOPTED BY REFERENCE

- (A) A certain document, copies of which are on file in the Water Department, being marked and designated as the current “American Waterworks Association Standard,” is adopted as the standards of the city; and each and all of the regulations of the aforementioned standards are hereby referred to, adopted and made a part of this chapter as if fully set out herein.
- (B) The city may provide regulations approved by the City Council, governing the building and repair of water mains, service lines, meters and connections to the water system of the city, which shall address any required permits, water taps, costs and expenses of installation of water mains and service lines, etc., and reimbursable costs for the distribution system and pumping and treatment facilities, including indemnifications, standards and specifications and other such items that relate to current engineering, construction and payment of costs. These regulations and any amendments thereto, shall be considered a part of this chapter and are incorporated by reference.

(Ord. 99-08, passed 10-12-99)

§ 53.03 FEES

The costs for water connections payable by the owner of the premises shall be determined by the City Council and in the event of default in payment, water service may be discontinued until said default is remedied. An action in assumpsit may also be instituted by the city against the owner of the premises to recover said charges.

(Ord. 99-08, passed 10-12-99; Am. Ord. 15-04, passed 07-28-15)

§ 53.04 CREATION OF LIEN

All costs assessed to the owner of the premises may be made a lien against the premises, dischargeable upon full payment of the assessed costs. The City Treasurer shall, annually on April 1, certify to the City Assessor all unpaid charges for such services furnished to any premises which, on the preceding March 31, have remained unpaid for a period of six months. The City Assessor

shall place the same on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes.
(Ord. 99-08, passed 10-12-99)

§ 53.05 APPEALS

Any owner disputing the correctness of their charges shall have the right to a hearing at which time they may be represented in person and/or by counsel or any other person of their choosing and may present orally or in writing their complaint and contentions to the ~~Deputy-Treasurer~~ or authorized representative. ~~This official shall have the authority to make payment agreements with the owner.~~—The owner may present their complaint to the Director of the Public Works and/or the City Manager if the ~~Deputy-Treasurer~~ or authorized representative fails to resolve the issue. The Treasurer or authorized representative shall have the authority to make payment agreements with the owner.

(Ord. 99-08, passed 10-12-99)

OPERATION OF SYSTEM

§ 53.10 WATER CONNECTIONS; CHARGE

The water connection pipe shall be made by the city upon payment of the required connection fee which shall from time to time be fixed by the City Council, which considers the cost of materials, installation and overhead attributable to such installation. The cost of water meter installation shall be included in the connection fee; provided, however, the cost of a second water meter for measuring water usage for a secondary water use (i.e., lawn sprinkling), shall be fixed by City Council as a separate additional fee.

(Ord. 24, passed 6-1-61; Amended Ord. 92-2, passed 10-13-92)

§ 53.11 TURNING ON WATER SERVICE

No person, other than an authorized employee of the city shall turn on or off any water service, except that a licensed plumber may turn on water service for testing his work (when it must be immediately turned off) upon receiving a written order from the city.

(Ord. 24, passed 6-1-61) Penalty §10.99

§ 53.12 USE OF FIRE HYDRANTS

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 city. In no case shall any hydrant be opened or closed except with a hydrant wrench provided by the city.

(Ord. 24, passed 6-1-61) Penalty §10.99

§ 53.13 INJURIES 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 Distribution System.
(Ord. 24, passed 6-1-61) Penalty §10.99

WATER METERS

§ 53.25 METERS REQUIRED

All premises using municipal water shall be metered. No person except a city employee shall break or injure the seal or change the location of, alter or interfere in any way with any water meter. Water meters shall be installed by the city and shall remain the property of the city.
(Ord. 24, passed 6-1-61; Amended Ord. 92-2, passed 10-13-92)
Penalty, see :10.99

§ 53.26 ACCESS TO METERS

The city shall have the right to shut off the supply of municipal water to any premises where the city is not able to obtain access to the meter. Any qualified employee of the city shall, at all reasonable hours, have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing, or inspecting same, and no person shall hinder, obstruct, or interfere with such employee in the lawful discharge of his duties in relation to the care and maintenance of such water meter.
(Ord. 24, passed 6-1-61) Penalty §10.99

§ 53.27 REIMBURSEMENT FOR DAMAGE

Any damage which a meter may sustain resulting from carelessness of the owner, agent, or tenant or from neglect of any of them, to properly secure and protect the meter as well as any damage which may be wrought by frost, hot water, or steam backing from a boiler, shall be paid by the owner of the property to the city on presentation of a bill therefore; and in cases where the bill is not paid, the water shall be shut off and shall not be turned on until all charges have been paid to the city.
(Ord. 24, passed 6-1-61)

§ 53.28 METER FAILURE

If any meter shall fail to register properly, the city shall estimate the consumption on the basis of former consumption and bill accordingly.
(Ord. 24, passed 6-1-61)

§ 53.29 INACCURATE METERS

A consumer may request that the meter be tested. If the meter is found defective, a new meter will be installed and no charge will be made. If the meter is found to be operating and accurate within accepted tolerances, a reasonable fee as approved by Council will be charged to the property owner for such inspection.

(Ord. 24, passed 6-1-61)

WATER MAIN EXTENSIONS

§ 53.40 PETITIONS FOR MAIN EXTENSIONS

The owners of property within the city may apply to the City Council, by petition, for the extension of water mains, but the Council may, on its own initiative and without such petition having been filed, proceed to construct water main extensions or additions, and the filing of any such petition shall not make it mandatory upon the Council to proceed with the construction of any such extension or addition.

(Ord. 24, passed 6-1-61)

WATER SUPPLY CROSS CONNECTIONS

§ 53.50 ADOPTION OF STATE WATER SUPPLY CROSS CONNECTION RULES

The city adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Public Health being R 325.440 of the Michigan Administrative Code, as may be amended from time to time.

(Ord. 27, passed 4-24-73)

§ 53.51 INSPECTION OF POSSIBLE CROSS CONNECTIONS

- (A) It shall be the duty of the City Water Department to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the City Water Department and as approved by the Michigan Department of Public Health.
- (B) 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 of the city for the purpose of inspecting the piping system or systems thereof for cross connections. On request the owner, lessees or occupants of any property so served shall furnish to the ~~inspection agency~~City of Whitehall Department of Public Works any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
(Ord. 27, passed 4-24-73) Penalty, see §10.99

§ 53.52 DISCONTINUANCE OF WATER SERVICE

The City Water Department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this subchapter 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 subchapter.

(Ord. 27, passed 4-24-73)

§ 53.53 LABELING OF WATER OUTLETS

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 subchapter and by the state and city plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable systems must be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

(Ord. 27, passed 4-24-73) Penalty, see §10.99

CHAPTER 54: WATER AND SEWER RATES AND CHARGES

SECTION

- [§ 54.01 DEFINITIONS](#)
- [§ 54.02 BASIS OF CHARGES](#)
- [§ 54.03 WATER RATES](#)
- [§ 54.04 USER CHARGE SYTEM FOR SEWER SERVICE](#)
- [§ 54.05 CUSTOMER REQUESTED SHUT-OFF](#)
- [§ 54.06 BILLING](#)
- [§ 54.07 COLLECTION PROCEDURE](#)
- [§ 54.08 APPEALS](#)

§ 54.01 DEFINITIONS

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

DEPARTMENT. The Department of Public Works of the city.

ESTIMATED WATER AND/OR SEWER USAGE. The basis of projecting water and/or sewage usage, which shall be approved by the Finance Officer and shall consider matters related to the type of usage (commercial, industrial, multi-family, or single-family residential), seasons of the year, past usage data, and other factors that may be relevant, to the extent that it is reasonably possible to predict such factors and incorporate such into the billing process.

OPERATION AND MAINTENANCE. All costs, direct and indirect, inclusive of all expenditures attributable to administration, replacement, and treatment and collection of sewage or wastes, necessary to ensure adequate treatment and collection of sewage or wastes on a continuing basis in conformance with the [National Pollutant Discharge Elimination System \(NPDES\)](#) permit, and other applicable regulations.

PERSON. Any individual, firm, association, partnership, limited liability company, or public or private corporation or public agency or instrumentality.

PREMISES. Each lot or parcel of land, building or premises having any connection to the Water Distribution System of the city, or the Sewage Disposal System of the city.

REPLACEMENT. Expenditures and costs for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the system to maintain the capacity and performance for which the system was designed and constructed.

SYSTEM. The water and or sewer systems of the city.
(Ord. 21, passed 5-26-87; Am. Ord. 92-6, passed 10-27-92; Am. Ord. 94-3, passed 11-7-94)

§ 54.02 BASIS OF CHARGES

All water service shall be charged for on the basis of water consumed as determined by the meter installed in the premises of water or sewage disposal service customers by the Department. All sewage disposal service shall be charged for on the basis of water consumed. No free water service or sewage disposal service shall be furnished to any person.

(Ord. 21, passed 5-26-87)

§ 54.03 WATER RATES

The rates to be charged for water pumping, treatment, and distribution shall be established from time to time by City Council resolution.

§ 54.04 USER CHARGE SYTEM FOR SEWER SERVICE

- (A) Rates and charges for the use of the wastewater system of the city are established by resolution of the City Council and made against each lot, parcel of land or premises which may have direct or indirect connections to the system or which may otherwise discharge wastewater either directly or indirectly into the system.
 - (B) The rates and charges established shall be based upon a methodology which complies with applicable federal and state statutes and regulations. The amount of the rates and charges shall be sufficient to provide for debt service and for the expenses of operation, maintenance and replacement of the system as necessary to preserve the same in good repair and working order. The amount of the rates and charges shall be reviewed annually and revised when necessary to insure system expenses are met and that all users pay their proportionate share of operation, maintenance and equipment replacement expenses.
 - (C) The amount of such rates and charges and the intervals at which users of the wastewater system are billed shall be determined by resolution of the City Council.
 - (D) The rates and charges for operation, maintenance and replacement established by City Council shall be uniform within the area serviced by the city. No free service shall be allowed for any user of the wastewater system.
 - (E) All customers of the City's wastewater system shall receive, at a minimum, annual notification, either printed on the bill or enclosed in a separate letter, which will show the breakdown of the wastewater disposal bill into its components for:
 - (1) Operation, maintenance and replacement; and
 - (2) Debt service
- (Ord. 92-6, passed 10-27-92)*

§ 54.05 CUSTOMER REQUESTED SHUT-OFF

(Ord. 21, passed 5-26-87; Am. Ord. 95-06, passed 12-12-95, Am. Ord. 15-04, passed 07-28-15; deleting entire section)

§ 54.06 BILLING

Charges for water service and sewage disposal service shall be billed and collected quarterly-annually. All water meters shall be read every March, June and September. Bills for the quarter ending in December may be based upon the estimated usage. Bills shall be mailed by the Department within the first ten days of January, April, July and October, which bills shall be immediately due and payable and may be paid without penalty up to and including the 10th day of the following month.

(Ord. 21, passed 5-26-87; Am. Ord. 94-3, passed 11-7-94; Am. Ord. 95-02, passed 6-27-95; Am. Ord. 97-01, passed 1-14-97; Am. Ord. 00-15, passed 12-27-00; Am. Ord. 15-04, passed 07-28-15)

§ 54.07 COLLECTION PROCEDURE

- (A) The Department is hereby authorized to enforce the payment of charges for water service to any premises by discontinuing the water service to such premises. The payment of charges for sewage disposal service to any premises may be enforced by discontinuing either the water service or the sewage disposal service to such premises, or both. An action in assumpsit may also be instituted by the city against the customer for all charges.
- (B) The charges for water service and sewage disposal service, which, under the provisions of Act 94, Public Acts of 1933 of the state, as amended, are made a lien on the premises to which furnished, are hereby recognized to constitute such lien against the subject premises. The City Treasurer shall, annually before June 1 and /or November 1, certify to the City Assessor all unpaid charges for such services furnished to any premises which have remained unpaid for the preceding six months. The City Assessor shall place the same on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes.
- (C) In cases where the city is properly notified in writing, in accordance with the Act of 1933, that a tenant is responsible for water or sewage disposal service charges, no such service shall be commenced or continued to such premises until there has been deposited with the City a sum determined by the City Council.
(Am. Ord. 15-04, passed 07-28-15)
- (D) *(Ord. 10-02, passed 1-12-10, Ord. 15-04; deleting entire section)*
- (E) *(Ord. 21, passed 5-26-87; Am. Ord. 94-3, passed 11-7-94; Am. Ord. 97-01, passed 1-14-97; Am. Ord. 03-01, passed 3-11-03; Am. Ord. 15-04, passed 7-28-15; deleting entire section)*

§ 54.08 APPEALS

Any customer disputing the correctness of their bill shall have the right to a hearing at which time they may be represented in person and/or by counsel or any other person of their choosing and may present orally or in writing their complaint and contentions to the ~~Deputy~~Treasurer or authorized representative. ~~This official shall have the authority to make payment agreements with the customer.~~ The customer may present their complaint to the Director of the Public Works and/or the City Manager if the ~~Deputy~~Treasurer or authorized representative fails to resolve the issue. The Treasurer or authorized representative shall have the authority to make payment agreements with the customer.

CHAPTER 55: WASTEWATER DISCHARGE

SECTION

- [§ 55.01 PURPOSE AND INTENT](#)
- [§ 55.02 COUNTY IS CHARGED WITH ABATING VIOLATIONS](#)
- [§ 55.03 PROHIBITED DISCHARGE STANDARDS](#)
- [§ 55.04 DISCHARGE ONLY IN COMPLIANCE WITH COUNTY REGULATIONS](#)
- [§ 55.05 COUNTY MAY ENTER ALL PROPERTIES](#)
- [§ 55.06 FUTURE CONDITIONS](#)
- [§ 55.07 ADDITION TO THE DEFINITION SECTION OF LOCAL ORDINANCE](#)
- [§ 55.08 REPEAL PRIOR ORDINANCE](#)

§ 55.01 PURPOSE AND INTENT

The purpose and intent of this chapter is to establish standards and regulations for the discharge of wastewater into the County Wastewater System which standards are consistent and compatible with the standards and regulations adopted by the County Board of Public Works and by the County Board of Commissioners; and further to facilitate the enforcement of such standards and regulations by the county of violations within the city.
(Ord. 00-04, passed 9-12-00)

§ 55.02 COUNTY IS CHARGED WITH ABATING VIOLATIONS

Enforcement Agent. The county is charged with the duty of investigating, preventing and abating violations of this chapter and enforcing the provisions hereof. The responsibility for enforcement of this chapter shall be upon the County Director. Provided, that the right of enforcing this chapter is reserved to the city with respect to its collection system and the protection of its inhabitants and employees. In the event the city determines its intent to enforce this chapter, it shall notify the county of the intended enforcement action in specific cases. In such event, if the county determines that it does not intend to initiate enforcement action on behalf of the Publicly Owned Treatment Works (POTW) within a period of ten days from the service of the notice of intent or immediately in the event of an emergency, the city may initiate enforcement action. In such event the county shall provide, without charge, the city with all available technical assistance it would have provided had the county undertaken such enforcement action. If the county determines after the above notice period that it intends to initiate enforcement action, it shall notify the city of its intended action and such enforcement action shall include intended relief for the city as to its concerns as well as for the protection of the POTW. In the latter case, the damages, surcharges and civil penalties shall be allocated between the county and the city as their interests shall appear. Further, in such case, the county shall assume and pay the attorney fees and costs incurred by the county as a result of such enforcement action, but such expenses shall be includable in the allocation of costs.
(Ord. 00-04, passed 9-12-00)

§ 55.03 PROHIBITED DISCHARGE STANDARDS

No user shall introduce or cause to be introduced into the Publicly Owned Treatment Works (POTW), any pollutant, substance or wastewater which is in violation of the prohibited discharge standards of the ordinance adopted by county to control and regulate discharges into the system. (Ord. 00-04, passed 9-12-00)

§ 55.04 DISCHARGE ONLY IN COMPLIANCE WITH COUNTY REGULATIONS

All users must comply with the standards and regulations adopted for the system by the County Department of Public Works and/or the County Board of Commissioners. (Ord. 00-04, passed 9-12-00)

§ 55.05 COUNTY MAY ENTER ALL PROPERTIES

Authority. Authorized representatives of the county exhibiting proper credentials and identification shall be permitted at all reasonable times to enter all users' properties for the purpose of inspection, observation, measurement, sampling and testing in connection with the administration of and in accordance with the provisions of this chapter and the ordinances and regulations of the county. The representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewer or the POTW. (Ord. 00-04, passed 9-12-00)

§ 55.06 FUTURE CONDITIONS

Future conditions imposed on the county and/or the system by jurisdictional government agencies may require subsequent amendment of this chapter. Where federal, state or county standards require limits on parameters not covered in this chapter or limits more stringent than those specified in this chapter, such federal, state or county limits shall have precedence and take effect with respect to the applicable user on the later of: (a) their promulgation date, or (b) the date specified for compliance with such standards. (Ord. 00-04, passed 9-12-00)

§ 55.07 ADDITION TO THE DEFINITION SECTION OF LOCAL ORDINANCE

In the event any definition herein conflicts with the definition of the same or substantially same term contained in the county's ordinance regulating discharges into the wastewater system, the definition within the county's ordinance shall prevail. (Ord. 00-04, passed 9-12-00)

§ 55.08 REPEAL PRIOR ORDINANCE

Ordinance No. 28 adopted June 10, 1980, entitled, in part, “An ordinance establishing standards relating to the acceptability of wastewaters discharged to public sewers or to publicly owned treatment works” is hereby repealed in its entirety.

(Ord. 00-04, passed 9-12-00)

TITLE VII: TRAFFIC CODE

CHAPTER

70: GENERAL PROVISIONS

71: SNOWMOBILES

72: MICHIGAN VEHICLE CODE

CHAPTER 70: GENERAL PROVISIONS

SECTION

§ 70.01 UNIFORM TRAFFIC CODE ADOPTED BY REFERENCE

§ 70.02 PARKING VIOLATIONS

§ 70.01 UNIFORM TRAFFIC CODE ADOPTED BY REFERENCE

- (A) The Uniform Traffic Code for cities, townships and villages as promulgated by the director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated and adopted by reference.
- (B) *References in Uniform Traffic Code.* References in the Uniform Traffic Code for Michigan Cities, Townships and Villages to **GOVERNMENTAL UNIT** shall mean the City of Whitehall, Michigan.
- (C) *Penalties.* The penalties provided by the Uniform Traffic Code for cities, townships and villages are adopted by reference.
(Ord. 02-09, passed 12-23-02)

§ 70.02 PARKING VIOLATIONS

- (A) *Definitions.* For the purpose of this Section, the following definitions shall apply unless context clearly indicates a different meaning.

Public Street: Any street, alley or municipally owned parking lot.

Parked/Parking: The act of leaving a motor vehicle stationary (whether occupied or not) for any length of time.
- (B) The following are acts that are prohibited. No person shall:
 - (1) Park on a public street or municipal parking lot, unless otherwise marked, between the hours of 2 a.m. – 6 a.m. from November 15 to March 31 (for snow removal).
(Am. Ord. 17-01, passed 05-09-17)
 - (2) Park in the opposite direction against the traffic flow.
 - (3) Park in front of a public or private driveway or in such a manner as to impede ingress or egress from same.

- (4) Park in any manner that impedes or obstructs the normal flow of traffic, including but not limited to double parking.
 - (5) Park in any location where signs prohibit same.
 - (6) Park in a marked handicap parking zone without proper authorization or in violation of said authorization.
 - (7) Park on a sidewalk or in such a manner to impede pedestrian flow and traffic along the side of any road without sidewalks.
 - (8) Park within 15 feet of any fire hydrant.
 - (9) Park within 30 feet of any traffic control or signal or in such a manner that said parking obscures the view of a control or signal or of traffic.
 - (10) Park on any private property, including the public right-of-way and parking lots open to the public, without the consent or permission of the owner.
(Ord. 11-07, passed 10-11-11; Am. Ord. 16-04, passed 10-11-16)
- (C) Penalty:

See Section 10.99 *(Ord. 11-07, passed 10-11-11)*

CHAPTER 71: SNOWMOBILES

SECTION

§ 71.01 DEFINITIONS

§ 71.02 SNOWMOBILES TO BE REGISTERED

§ 71.03 OPERATION OF SNOWMOBILES REGULATED

§ 71.04 PARENTS AND GUARDIANS RESPONSIBLE

§ 71.01 DEFINITIONS

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

HIGHWAY or STREET. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

OPERATE. To ride in or on and to control the operation of a snowmobile.

OPERATOR. Any person who operates or is in actual physical control of a snowmobile.

OWNER. Any person other than a lien-holder, having the property in or title to a snowmobile entitled to the use or possession thereof.

SNOWMOBILE. Any motorized vehicle designed for travel primarily on snow or ice steered by wheels, skis or runners.

(Ord. 101, passed 1-14-69)

§ 71.02 SNOWMOBILES TO BE REGISTERED

Except as otherwise provided, no snowmobile shall be operated within the city unless registered by the owner as provided by Act No. 47 of the Public Acts of the State of Michigan 1968. No registration is required for a snowmobile operated exclusively on lands owned or under the control of the snowmobile owner.

(Ord. 101, passed 1-14-69) Penalty, see §10.99

§ 71.03 OPERATION OF SNOWMOBILES REGULATED

No person shall operate a snowmobile in the City:

- (A) At a rate of speed greater than is reasonable and proper having due regard for conditions then existing, unless otherwise posted for snowmobiles.
- (B) While under the influence of intoxicating liquor or narcotic drugs, barbitol or any derivative of barbitol.
- (C) In or on any property, park or playground in the City nor in any nursery, planting area or natural area of forest owned by the City, except by permit and permission granted by the City Council, first obtained. Parking of snowmobiles is permitted in City owned parking lots.
- (D) On Lake Street, Colby Street (US-BR 31), Mears Avenue and Division Avenue and any duly closed roads within the City limits other than crossing at intersections at right angles.
- (E) Between the hours of 12:00 a.m. (midnight) to 7:00 a.m.
- (F) During permissive hours without displaying a lighted headlight and lighted taillight between sunset and sunrise.
- (G) Unless equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. Excessive noise shall specifically include unnecessary racing or accelerating of the engine.
- (H) On any other property within the City limits, without the prior consent or permission of the owner or occupant of said property.
- (I) ~~Between April 1 and November 30. On less than four (4) inches of snow.~~

(Ord. 10-04, Passed 5-11-10; Am. Ord. 12-05, passed 11-27-12; Am. Ord. 18-01, Passed 1-23-18) Penalty, see §10.99

§ 71.04 PARENTS AND GUARDIANS RESPONSIBLE

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provision of this chapter.

(Ord. 101, passed 1-14-69) Penalty, see §10.99

CHAPTER 72: MICHIGAN VEHICLE CODE

SECTION

§ 72.01 CODE ADOPTED

§ 72.02 REFERENCES IN CODE

§ 72.03 NOTICE TO BE PUBLISHED

§ 72.99 PENALTY

§ 72.01 CODE ADOPTED

Pursuant to the provision of the Michigan Vehicle Code, Public Act 300 of 1999, being M.C.L.A. §257.1 through §257.923, is hereby adopted by reference in its entirety ~~and incorporated in this code, as if fully set out at length herein. At least one copy shall be on file in the office of the City Clerk and is available to the public for inspection.~~

(Ord. 02-06, passed 4-23-02)

§ 72.02 REFERENCES IN CODE

Reference in the Michigan Vehicle Code to “Local authorities” shall mean the city. Penalties upon conviction of offenses thereunder shall be assessed as provided in the Michigan Vehicle Code.

§ 72.03 NOTICE TO BE PUBLISHED

The City Clerk shall publish this ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code ~~and the fact that a complete copy of the code is available to the public at the office of the City Clerk for inspection.~~

(Ord. 02-06, passed 4-23-02)

§ 72.99 PENALTY

The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the city may not enforce any provisions of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days.

(Ord. 02-06, passed 4-23-02)

TITLE IX: GENERAL REGULATIONS

CHAPTER

90: ABANDONED OR JUNK MOTOR VEHICLES

91: ANIMALS

92: CEMETERIES

93: FIRE PREVENTION

94: NUISANCES

95: PARKS AND RECREATION; MARINAS

96: STREETS, SIDEWALKS AND PUBLIC WAYS

97: TREE MANAGEMENT

98: LIBRARY

99: NEWSRACKS

CHAPTER 90: ABANDONED OR JUNK MOTOR VEHICLES

SECTION

§ 90.01 DEFINITIONS

§ 90.02 PERMITTING DISMANTLED OR INOPERABLE MOTOR VEHICLES TO REMAIN ON PRIVATE PROPERTY; PERMIT REQUIRED

§ 90.03 DISASSEMBLING OF VEHICLES PROHIBITED; EXCEPTION

§ 90.04 REMOVAL PROCEDURE

§ 90.05 APPLICATION TO ZONING ORDINANCE

§ 90.06 PROVISIONS TO BE SUPPLEMENTAL

§ 90.07 DECLARATION OF PUBLIC NUISANCE

§ 90.01 DEFINITIONS

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

DISMANTLED and PARTIALLY DISMANTLED MOTOR VEHICLES. Motor vehicles from which such part or parts are ordinarily a component of such motor vehicle has been removed or is missing.

INOPERABLE MOTOR VEHICLES.

- (1) Motor vehicles which by reason of dismantling, disrepair or other cause are incapable of being propelled under their own power.
- (2) Unlicensed motor vehicles are required to be licensed for operation upon the public roads of the State of Michigan under the provisions of the Michigan Motor Vehicle Code.

MOTOR VEHICLES. Any wheeled vehicles which are self-propelled or intended to be self-propelled.

(Ord. 99, passed 12-28-65; Amended Ord. passed 7-26-77)

§ 90.02 ~~PERMITTING DISMANTLED OR INOPERABLE MOTOR VEHICLES TO REMAIN ON PRIVATE PROPERTY; PERMIT REQUIRED~~

It is hereby declared to be unlawful for any person, firm or corporation to store on, place on or permit to be stored or placed on or allowed to remain on any private property within the city, a dismantled, partially dismantled, cut up, removed parts from, or otherwise disassembled or inoperable motor vehicle or any parts of a motor vehicle, except within a completely enclosed building, or upon the premises of an authorized junkyard business as may be permitted under the Zoning Ordinance of the city.

(Ord. 99, passed 12-28-65) Penalty, see §10.99

~~§ 90.03 — DISASSEMBLING OF VEHICLES PROHIBITED, EXCEPTION~~

~~It shall be unlawful for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, abandoned vehicle, or otherwise, except in a completely enclosed building, or upon the premises of an authorized junkyard, as may be permitted under the Zoning Ordinance of the city.~~

~~(Ord. 99, passed 12-28-65) Penalty, see §10.99~~

§ 90.04 REMOVAL PROCEDURE

The ~~Chief of Police~~Police Department, ~~with the assistance and the cooperation of the City Clerk,~~ may remove or cause to be removed any junk automobile or abandoned, dismantled, partially dismantled or inoperative parts to be removed any junk automobile or abandoned, dismantled, partially dismantled or inoperative parts thereof, from any unenclosed private property in the city, after having notified in writing, the owner or occupant of such property of his intention to do so at least 48 hours prior to such removal. Such notice shall be served personally upon the owner or occupant of the property, if occupied or may be posted in a conspicuous place upon vacant or unoccupied property, and such vehicles or parts thereof, so removed, shall be disposed of according to law. Such removal shall not excuse or relieve any person of the obligation imposed by this chapter to keep his property free from storage or accumulation of junk or abandoned, dismantled, partially dismantled or inoperative vehicles, or the parts of either, nor from the penalties for violation thereof.

(Ord. 99, passed 12-28-65)

§ 90.05 APPLICATION TO ZONING ORDINANCE

This chapter shall not be construed to permit parking or placing of dismantled or partially dismantled vehicles on any street area in the city or in any front yard, as now or hereafter defined by said Zoning Ordinance.

(Ord. 99, passed 12-28-65)

§ 90.06 PROVISIONS TO BE SUPPLEMENTAL

This chapter shall not be construed as repealing any ordinance now in effect or hereafter made effective relating to rubbish, litter, garbage, refuse, trash or junk, but shall be construed as supplementary to any such ordinance as well as any Statute of the State of Michigan relating thereto.

(Ord. 99, passed 12-28-65)

§ 90.07 DECLARATION OF PUBLIC NUISANCE

The presence of a dismantled, partially dismantled or inoperable motor vehicle or parts of a motor vehicle on any platted or unplatted parcel of land in violation of the terms of this chapter is hereby declared to be a public nuisance.

(Ord. 99, passed 12-28-65)

CHAPTER 91: ANIMALS

SECTION

§ 91.01 PURPOSE

§ 91.02 DEFINITIONS

§ 91.03 RUNNING AT LARGE

§ 91.04 KEEPING OF ANIMALS

§ 91.05 BARKING DOGS

§ 91.06 ANIMAL WASTE

§ 91.07 DOG TO BE LICENSED AND INOCULATED

§ 91.08 DANGEROUS ANIMALS

§ 91.09 PROVISIONS AND REGULATIONS OF STATE DOG LAW

§ 91.01 PURPOSE

It is the intent of this section to ensure that the keeping of animals within the City does not pose a threat to the health, safety, and welfare of the residents of the City, to protect against the occurrence of offensive odors, noise, accumulation of animal wastes and unsanitary conditions in the City. The provisions of this section are also calculated to maintain the value of residential properties in the City of Whitehall.

(Ord. 97, passed 4-26-43; Am. Ord. 09-01, passed 3-24-09)

§ 91.02 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:

- (A) **“Dangerous Animal”** means any animal that bites or attacks and causes serious injury or death to a person or another animal. A dangerous animal does not include any of the following:
- (1) An animal that bites or attacks a person who is knowingly trespassing on the property of the animal’s owner.
 - (2) An animal that bites or attacks a person who provokes or torments the animal.
 - (3) An animal that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.
 - (4) Livestock.
 - (5) An animal that bites or attacks a wild animal while on the property or under the control of its owner.

- (B) **“Domestic Pet”** includes any animal including but not limited to dogs, cats, and caged birds which a law enforcement officer determines is not likely to bite without provocation nor cause death, maiming, or illness of a human. The term "domestic pets" does not include livestock, nor does it include exotic or wild animals, the keeping of which is prohibited.
- (C) **“Exotic Animal”** means an animal which is not indigenous to the lower peninsula of Michigan. Exotic does not include certain domesticated varieties of birds and small (less than 24" long), non poisonous snakes and lizards which are caged or otherwise contained within a building.
- (D) **“Livestock”** means animals used for human food and fiber or for service to humans. Livestock includes, but is not limited to, cattle, swine, sheep, llamas, goats, bison, equine, poultry, and rabbits. Livestock does not include animals that are human companions, such as dogs and cats.
- (E) **“Owner”** means a person who owns or harbors an animal.
- (F) **“Provoke”** means to perform a willful act or omission that an ordinary and reasonable person would conclude is likely to precipitate the bite or attack by an ordinary animal.
- (G) **“Running at large”** means any animal not on the property of its owner and not restrained by a leash.
- (H) **“Serious injury”** means permanent, serious disfigurement, serious impairment of health, or serious impairment of a bodily function of a person.
- (I) **“Torment”** means an act or omission that causes unjustifiable pain, suffering, and distress to an animal, or causes mental and emotional anguish in the animal as evidenced by its altered behavior, that an ordinary and reasonable person would conclude is likely to precipitate the bite or attack.
- (J) **“Wild Animal”** means any undomesticated animal which is indigenous to the lower peninsula of Michigan, including bear, deer, squirrels, skunks, opossums, woodchucks, and raccoons.
(Ord. 97, passed 4-26-43; Amended Ord. 09-01, passed 3-24-09)

§ 91.03 RUNNING AT LARGE

It shall be unlawful for any owner of any animal to permit the animal to go beyond the property of the owner unless restrained by a chain or leash and under the reasonable control of some person.

(Ord. 97, passed 4-26-43; Amended Ord. 09-01, passed 3-24-09) Penalty, see §10.99

§ 91.04 KEEPING OF ANIMALS

- (A) The owning of domestic pets is permitted in all zoning districts, provided that doing so is not in violation of any other local, state, or federal regulations.
- (B) In all residential zoning districts, the keeping of more than four adult domestic pets, in any combination, shall be prohibited. Domestic pets born on the premises to a legally confined pet may remain thereon until ~~six-ten~~ (610) months of age, after which they shall be considered adult domestic pets.
(Ord. 97, passed 4-26-43; Amended Ord. 09-01, passed 3-24-09) Penalty, see §10.99
- (C) The keeping of livestock (including poultry), exotic animals and wild animals within the City of Whitehall is prohibited.
(Ord. 13-02, passed 7-9-13)

§ 91.05 BARKING DOGS

It shall be unlawful for any person to own a dog in the city which by loud and frequent barking, howling, yelping, growling or any other noise causes serious annoyance or nuisance to any of the people of the city.
(Ord. 97, passed 4-26-43; Amended Ord. 09-01, passed 3-24-09) Penalty, see §10.99

§ 91.06 ANIMAL WASTE

It shall be unlawful for any person in control of an animal traveling outside of the owner's property to fail to pick up, remove and properly dispose of from any other property any of the animal's feces, manure, or solid waste.
(Ord. 97, passed 4-26-43; Amended Ord. 09-01, passed 3-24-09), Penalty, see §10.99

§ 91.07 DOG TO BE LICENSED AND INOCULATED

All dogs shall be licensed and inoculated pursuant to the Animal and Vector Control Ordinance of Muskegon County.

§ 91.08 DANGEROUS ANIMALS

- (A) The owner of a dangerous animal that bites or attacks and causes serious injury or death to a person shall be subject to fines.
Penalty, see §10.99.
- (B) The regulation of any other dangerous or grievously injured animals, along with the seizure, confinement, impoundment, and claiming of impounded animals will be regulated pursuant to the Animal and Vector Control Ordinance of Muskegon County.

§ 91.09 PROVISIONS AND REGULATIONS OF STATE DOG LAW

The provisions and regulations of the State Dog Law, Public Act 339 of 1919, as amended, being MCL 287.26 et seq., not in conflict with this ordinance are adopted and declared to be a part of this article and may be enforced in a like manner as any other provision.

CHAPTER 10: GENERAL PROVISIONS

Any person violating 91.03 through 91.06 shall be responsible for a civil infraction for the first three (3) violations. A fourth violation and a person violating Section 91.08 (Dangerous Animals) shall be guilty of a misdemeanor. Penalty, see 10.99.

CHAPTER 92: CEMETERIES

SECTION

Oakhurst Cemetery

§ 92.01 CEMETERY LOTS; SALE, PURCHASE AND USE

§ 92.02 RATES, RULES AND REGULATIONS INCORPORATED BY REFERENCE

OAKHURST CEMETERY

§ 92.01 CEMETERY LOTS; SALE, PURCHASE AND USE

- (A) All cemetery lots and grave spaces when purchased are accepted by the purchaser subject to all rules and regulations in force or such rules and regulations as may be adopted hereafter; and cannot be used for any other purpose than the burial of the human dead.
- (B) Purchasers of cemetery lots or grave spaces will have the ground conveyed to them by a Perpetual Care Agreement; the same shall state that the lot has been sold and accepted according to the rules and regulations of Oakhurst Cemetery, and shall be recorded in the cemetery records, giving lot and section numbers.
- (C) Any sale, transfer or assignment of a Perpetual Care Agreement for any place of burial shall be with the consent of ~~the Cemetery Superintendent, countersigned by~~ the City Clerk, acknowledging the transferred agreement, and in no instance shall any of the rules and regulations accepted by the original owner be abrogated.
- (D) Upon the death of the original owner or owners of a cemetery lot or grave space, the transferees to such a lot or grave space shall be entitled to all the privileges of the original owner or owners and shall be recorded as the owner of said lot or grave space, provided that such transferees have furnished the ~~Cemetery Superintendent or~~ City Clerk with written proof of their ownership.
- (E) ~~Perpetual Care Agreements for joint ownership of a cemetery lot or grave space are issued under the same rules and regulations as apply to a single person. Rescind~~
- (F) ~~No Perpetual Care Agreement will be issued until cemetery lot is fully paid for. In case of neglect or refusal to pay the full amount of the purchase price with accrued interest the City Council shall have the right by inquisition to remove the bodies of such a lot to the single section and purchaser will be notified of such action at his or her last address as appearing on the cemetery records. Rescind~~
- (G) Persons desiring a burial upon the lot of another person must furnish written permission to the ~~Cemetery Superintendent~~ City Clerk from the owner thereof.
- (H) The cemetery grounds are in direct charge of the ~~Superintendent~~ Public Works Department.

~~(I)~~ ~~The right to dig graves, establishing grades, extending water mains, building foundations, and underground concrete vaults is reserved by the City Council. Rescind~~

~~(H)~~(I) Whenever outside workers are engaged by any lot owner to perform work on the cemetery grounds, ~~a permit~~permission to do such work must first be obtained by the lot owners from the ~~Superintendent of the cemetery~~City.

~~(K)~~(J) All grade lines are established by the Cemetery Superintendent and cannot be changed by the lot owners. No lot shall be filled or raised above the established grade.

~~(H)~~(K) The City Council ~~or their successors~~ shall establish a schedule of prices for the sale of lots and all other work performed within the cemetery, and also reserves the right to change the price for the sale of lots and all other work performed within the cemetery grounds, when in their judgment it shall become necessary to do so.

~~(A)~~(L) The City Council reserves the right to set aside any given section of the cemetery and place said section under any such special rules and regulations as it deems desirable to the beautification of the cemetery as a whole.

~~(H)~~(M) No interment will be made until the grave space to be used is entirely paid for.
(Ord. 30, passed 6-4-52) Penalty, see §10.99

§ 92.02 RATES, RULES AND REGULATIONS INCORPORATED BY REFERENCE

The city may promulgate rates, rules, and regulations governing the management of the cemetery. These rates, rules, and regulations and any amendments thereto shall be considered a part of this chapter and are incorporated by reference.

CHAPTER 93: FIRE PREVENTION

SECTION

Fire Code

§ 93.01 ADOPTION OF FIRE CODE

§ 93.02 CHANGES TO FIRE CODE

§ 93.03 ESTABLISHMENT AND DUTIES

§ 93.04 NEW MATERIAL, PROCESS OR OCCUPANCIES WHICH MAY REQUIRE PERMITS

§ 93.05 ORDINANCE REPEAL

§ 93.06 SEVERABILITY

§ 93.07 PENDING PROCEEDINGS

§ 93.01 ADOPTION OF FIRE CODE

That a certain document which is on file in the office of the clerk of the City of Whitehall, being marked and designated as the *International Fire Code*, 2015 edition and all subsequent editions as amended and restated from time to time, including Appendices and all amendments, as published by the International Code Council, be and is hereby adopted as the Fire Code of the city of Whitehall, State of Michigan regulating and governing the handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issue of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the City of Whitehall are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any prescribed in Section 2 of this ordinance.

§ 93.02 CHANGES TO FIRE CODE

That the following sections are hereby revised:

Section 101.1 Insert: City of Whitehall

Section 109.4 Insert: Misdemeanor, Five Hundred Dollars (\$500; 90 days)

Section 111.4 Insert: One Hundred Dollars (\$100); Five Hundred Dollars (\$500)

§ 93.03 ESTABLISHMENT AND DUTIES

- (A) The Code shall be enforced by the White Lake Fire Authority with input from the city manager as may be required.
- (B) The White Lake Fire Authority shall report annually to the City Manager and the City Council; the report shall contain all proceedings under this Ordinance, with such statistics as the Fire Chief wishes to include. The Fire Chief shall recommend any amendment to this Ordinance ~~with~~ which in his judgment is desirable.

§ 93.04 NEW MATERIAL, PROCESS OR OCCUPANCIES WHICH MAY REQUIRE PERMITS

A designated member of the City Council, the City Manager and the Fire Chief shall serve as a committee to determine and specify after giving interested parties an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those enumerated in the Code. The fire chief shall post a list of all such items in a conspicuous place at his office and distribute copies to all interested parties.

§ 93.05 ORDINANCE REPEAL

Any previously adopted Fire Code and all other ordinances or parts of laws in conflict herewith are hereby repealed.

§ 93.06 SEVERABILITY

If any sections, subsections, sentences, clause or phrase of this ordinance is for any reason, held to be unconstitutional; such decision shall not affect the validity of the remaining portions of this section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, clauses or phrases be declared unconstitutional.

§ 93.07 PENDING PROCEEDINGS

Nothing in this ordinance or in the Fire Code hereby adopted shall be construed to affect any suit or proceeding impeding in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right of remedy of any character be lost, impaired or affected by this ordinance.

(Ord. 15-05, Repealed and replaced Chapter 93: Fire Prevention, passed 7-28-15; Am. Ord. 17-03: Fire Code, passed 8-22-17)

CHAPTER 94: NUISANCES

SECTION

General Provisions

§ 94.01 NUISANCE DEFINED AND PROHIBITED

Public Nuisances

§ 94.10 DANGEROUS STRUCTURES AND PREMISES

§ 94.11 LITTERING

§ 94.12 NOISE CONTROL

§ 94.13 ABANDONED REFRIGERATORS

§ 94.14 GRASS AND NOXIOUS WEEDS

§ 94.15 OPEN FIRES

Junk or Rubbish on Private Property

§ 94.25 PRESENCE OF JUNK OR RUBBISH DECLARED A NUISANCE

§ 94.26 DEFINITIONS

§ 94.27 DEPOSIT OR MAINTENANCE OF JUNK OR RUBBISH ON PREMISES BY OWNERS PROHIBITED

§ 94.28 ABATEMENT PROCEDURE

§ 94.29 PROVISIONS TO BE SUPPLEMENTAL

GENERAL PROVISIONS

§ 94.01 NUISANCE DEFINED AND PROHIBITED

Whatever annoys, injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance. Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this chapter. No person shall commit, create, or maintain any nuisance.

(Ord. 94, passed 6-1-61) Penalty, see §10.99

PUBLIC NUISANCES

§ 94.10 DANGEROUS STRUCTURES AND PREMISES

- (A) No person shall maintain any structure which is a menace to the health, ~~morals~~ or safety of the public. No person owning or occupying any premises shall permit any condition to exist thereon which endangers the public health or safety.

- (B) The City Manager may abate any such public nuisance, if the public safety or health requires immediate action, without preliminary order of the Council. Thereafter, the cost of abating such nuisance shall be charged against the premises and the owner thereof.
(Ord. 94, passed 6-1-61) Penalty, see §10.99

§ 94.11 LITTERING

No person shall 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, wash water or other noxious unsightly material and no person shall intentionally release any balloon, paper lantern, kite or other object into the air within the city limits unless it is reasonably controlled to be drawn back and collected at the end of a flight.

(Ord. 94, passed 6-1-61) Penalty, see §10.99
(Am. Ord. 18-04, passed 10-23-18)

§ 94.12 NOISE CONTROL

- (A) It shall be unlawful for any person to create, assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing, unusual, or unnecessary noise, which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the city.
(Ord. 10-04, passed 5-11-10)

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

~~(1) The sounding, or permitting to be sounded, of any signal device on any automobile, motorcycle, bus, or other vehicle while such vehicle is not in motion, except as a danger signal, if another vehicle is approaching apparently out of control, or while such vehicle is in motion, except when a signal is necessary to insure the safety, and then only to the extent that the signal is reasonably necessary for such purpose; the use of any such vehicle upon a public street when such vehicle is so out of repair or has such defective, insufficient, inadequate, damaged, altered or broken parts, equipment, or when such grinding, rattling or other disturbing noises, the sounding of a horn or signal device for purposes of repair or testing, except within a suitably enclosed building and then only under circumstances which are such that the sounding of the horn, or other signal device cannot be a nuisance to others; the creation by means of such signal devices of any unreasonable loud or harsh sound; the sounding of said devices for an unnecessary and unreasonable period of time; the use of any such vehicle upon a public street, when such vehicle is so out of repair, or is so loaded, or when it has sustained such mechanical or other defects as to create loud, or unnecessary grating, grinding, rattling or other disturbing noises.~~

~~(2) The playing of any radio, phonograph, or musical instrument of any character in such a manner or with such volume, at any time or place as to annoy or disturb the quiet, comfort, or repose of persons in any office, dwelling, hotel, or other type of residence or of any person in the vicinity.~~

~~(3) The keeping of any animal or bird which by frequent or loud or long continued noise shall disturb the comfort and repose of any person in the vicinity.~~

- ~~(4) The discharge into open air of exhaust of any steam engine, compressed air machine, stationary internal combustion engine, motor vehicle, or any other machine, except through a muffler or other device which will effectively prevent loud or explosive or disturbing noises therefrom.~~
- ~~(5) The creation of a loud unnecessary noise in connection with the loading or unloading of any vehicle or the opening and closing or destruction of bales, boxes, crates, or other containers.~~
- ~~(6) Yelling, shouting, whistling, loud talking or singing on the public streets, particularly between the hours of 10 p.m. to 7 a.m., or at other times or place to annoy, or disturb the quiet comfort or repose of persons in any office, dwelling, motel or any other type of residence or of any persons in the vicinity.~~
- ~~(7) The use of any drums, loud speakers, musical devices, or other instrument or devices for the purpose of attracting attention by the creation of noise to any performance, show or sale or display of merchandise.~~
- ~~(8) The use of mechanical or electrical loud speakers, amplifiers and public address systems on or about trucks or other vehicles (including motorcycles and mopeds) for any purpose whatever, so as to produce sound that is clearly audible at a distance of 50 feet from the vehicle between the hours of 7:00 a.m. and 11 p.m., or clearly audible at a distance of 25 feet from the vehicle between the hours of 11:00 p.m. and 7:00 a.m., except when specific permit is first granted by the City Manager.~~
- ~~(9) The blowing of any steam whistle attached to any stationary boiler or whistle operated by compressed air, except to give notice of the time to begin or stop work or as a warning of danger, or except upon request by proper public authorities.~~
- (10) The erection, excavation, demolition, alteration, or repairing of any building in a residential or business district other than between the hours of 7:00 a.m. to 8:00 p.m. on week days, except in case of urgent necessity, in the interest of public safety and then only upon permission having been first obtained from the City Manager.
- ~~(11) The carrying on or operation of any business, or occupation, located in a residential section of the city between the hours of 10:00 p.m. and 7:00 a.m., which makes an unusual, loud, frequent, or disturbing noise, causing a nuisance and disturbance to any person residing in the vicinity.~~
- (12) The firing of fire arms, fire crackers, fireworks (except on the day ~~preceding the day or, or the day after a~~ legally recognized as National Holiday~~s~~, except such days shall be prohibited between 1:00 a.m. and 8:00 a.m. and otherwise in conformance with MCL 28.451-471; Public Act 256 of 2011 and §130.01(B)(5) herein), air guns, or other combustible substances for the purpose of making a noise or disturbance.
(Am. Ord. 12-02, passed 7-24-12, Am. Ord. 13-04, passed 07-09-13)
- ~~(13) The practicing and training of any drum corps, band, orchestra, or other musical organization or the practice by individuals on the various musical instruments, which produce a noise or disturbance, and which annoy the peace, repose, and comfort of the residents in the vicinity thereof,~~

~~(14) It shall be unlawful for any person, knowingly or wantonly, to operate or cause to be operated, any machine, device, apparatus or instrument of any kind whatsoever between the hours of 6:00 a.m. and 12:00 midnight, the operation of which shall cause reasonably preventable electrical interference with radio or reception in the city; provided, however, that x-ray pictures, examinations, or treatments may be made at any time if the machines or apparatus used therefore are properly equipped to avoid all unnecessary or reasonably preventable interference with radio and television reception and are not negligently operated. This section shall not be construed to embrace the regulation of any transmitting, broadcasting or receiving instrument, apparatus or device used in interstate commerce or the operation of which instrument, apparatus or device is licensed or authorized by or under the provisions of any Act of congress of the United States.
(Ord. 94, passed 6-21-61, Amended Ord. 98-8, passed 12-8-98) Penalty, see §10.99~~

§ 94.13 ABANDONED REFRIGERATORS

- (A) It shall be unlawful for any person 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 air-tight door, or lock which may not be released for opening from the inside of said ice box, refrigerator or container.
- (B) It shall be unlawful for any person to leave outside of any building or dwelling in a place accessible to children abandoned, unattended or discarded ice box, refrigerator or any other container of any kind which has an air-tight snap-lock or other device thereon without first removing the said snap-lock or doors from said ice box, refrigerator or container.
(Ord. 94, passed 6-1-61)

§ 94.14 GRASS AND NOXIOUS WEEDS

- (A) ~~No person occupying any premises and no person owning any unoccupied premises shall permit or maintain on any such premises any growth of weeds, grass or other rank vegetation to a greater height than six inches on the average, or any accumulation of dead weeds, grass or brush. All residential and exterior property shall be maintained free from weeds or plant growth in excess of 6 inches.~~ No such occupant or owner shall cause, suffer or allow ivy, ragweed or other poisonous plants, or plants detrimental to health, to grow on any premises in such manner than any part of such ivy, ragweed, or other poisonous or harmful weed shall extend upon, overhang or border any public place, or allow seed, pollen or other particles or emanations therefrom to be carried through the air into any public place.
- (B) It shall be the duty of the occupant of every premises and the owner of unoccupied premises within the city, to cut and remove or destroy by lawful means, all such weeds, grass, or rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of division (A).
- (C) If the provisions of divisions (A) and (B) are not complied with, the City Manager, or his duly authorized representative, shall notify the occupant, or owner of unoccupied premises to comply with the provisions of said divisions within a time to be specified in said notice, ~~which notice shall be given in accordance with 10.21.~~ Said notice shall require compliance with division (A) and (B) within five days after service of such notice, and if such notice is not complied within the time limited, the City Manager ~~shall~~ may cause such weeds, grass and other vegetation to be removed or destroyed and the actual cost of such cutting, removal or destruction plus 15% ~~for~~

~~inspection and other additional cost in connection therewith,~~ shall be assessed as a tax lien against said premises.
(Ord. 94, passed 6-1-61; Am. Ord. 96-01, passed 8-13-96) Penalty, see § 10.99

§ 94.15 OPEN FIRES

Open fires are prohibited in the city except in accordance with the provisions of this Ordinance.

The following are definitions for the words and phrases used in this section:

§ 94.16 DEFINITIONS

APPROVED CONTAINER is defined as a container constructed of metal or masonry with a metal covering device with openings no larger than three-quarters (3/4) inch with draft holes near the bottom no larger than three-quarters (3/4) inch.

OPEN FIRE means any fire outside of a building or structure involving any type of combustible material, whether for cooking, pleasure or any other purpose, located anywhere within the city, on public or private property.

BONFIRE is defined as an outdoor fire exceeding the size of a recreational fire and used for ceremonial purposes.

RECREATIONAL FIRE means any fire such as a campfire contained in a fire pit or portable manufactured fire container for the purpose of recreational and personal enjoyment.

OUTDOOR COOKING APPARATUS means a charcoal grill, camping stove or similar apparatus designed exclusively for cooking food.

FIRE PIT means a structure with the following components:

- A. The diameter of the pit shall not exceed three (3) feet;
- B. The depth of the pit shall be one (1) to two (2) feet deep; and
- C. The rim of the pit shall be lined with rock, concrete, brick or steel that is six (6) inches wide all around the perimeter.

WASTE MATERIAL is defined as: household paper and paper products; treated wood and manufactured wood products, plastics, furniture and furniture pieces, used building materials, chemicals, refuse and yard waste, including leaves.

§ 94.17 PERMISSABLE FIRES

- A. Recreational fires outside of one or two family dwellings in the city shall be permitted if done in accordance with the following provisions:
 - (1) No recreational fire may be within twenty-five (25) feet of an existing structure or property line. Provided, however, in the case of a lot wherein the above dimensions cannot be met because of the small size of the lot, then the said pits or containers shall be located in the center of the rear of the property an equal distance from the property line and any structure located thereon.

- (2) No such burning shall be done prior to 7:00 a.m., and must not be continued after 2:00 a.m.
- (3) No recreational fires shall occur unless under the supervision of a person of mature years and discretion.
- (4) Material that is acceptable to burn in a recreational fire shall be limited to clean clear unpainted unfinished and untreated wood and wood products (excluding particle board and similar products), split firewood, tree limbs and charcoal. No accelerant such as gasoline and kerosene may be used except charcoal lighter fluid.
- (5) A fire extinguisher or water hose shall be connected and available at all times when a recreational fire is active.
- (6) No recreational fire shall exceed three (3) feet in diameter and two (2) feet in height.

- C. Bonfires and recreational fires in other locations shall only be allowed by permit issued by the fire chief or his designee pursuant to rules promulgated by the fire chief.
- D. Fires in an outdoor cooking apparatus are permitted in accordance with the provisions of the International Fire Code.

E. ~~Any person, firm or corporation who violates this section may be given a municipal civil infraction for the first offense if there have been no prior incidents. If, however, in the judgment of the officer responding to a first offense, a person has displayed blatant disregard of the ordinance, that person may be fined as a second offense. On the second offense the person, firm, or corporation shall be responsible for a municipal civil infraction with a fine of \$250.00, plus costs. On the third offense, or any further offense, the person, firm or corporation shall be responsible for a municipal civil infraction with a fine of \$500.00 plus costs and any applicable fee from the fire department. The Whitehall Police Department is hereby designated as the authorized city officials to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this section.~~

G. ~~The officer shall make an actual visual inspection of the burn site when feasible. If illegal waste materials are in the burning site, this will be considered an offense.~~

§ 94.17 PROHIBITED FIRES

A. Incineration of waste material, outside of dwellings in the city, shall be prohibited.

- B. Obnoxious odors; wind, sparks and embers.
 - (1) 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 excessive smoke, sparks or burning embers upon adjoining, adjacent, neighboring or nearby premises.
 - (2) No such burning shall be done at any time or place when wind conditions will create or be apt to create a nuisance to anyone or the property of anyone in the vicinity thereof, or be a danger to the property of any person in the vicinity thereof.
 - (3) ~~Any person, firm or corporation who violates this section may be given a municipal civil infraction if there have been no prior incidents. If, however, in the judgment of the officer responding to a first offense, a person has displayed blatant disregard of the ordinance,~~

~~that person may be fined as a second offense. On the second offense the person, firm, or corporation shall be responsible for a municipal civil infraction with a fine of \$250.00, plus costs. On the third offense, or any further offense, the person, firm or corporation shall be responsible for a municipal civil infraction with a fine of \$500.00 plus costs and any applicable fee from the fire department. The Whitehall Police Department is hereby designated as the authorized city officials to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this section.~~

- (4) ~~The responding officer shall make an actual visual inspection of the burn site when feasible. If illegal waste materials are in the burning site, this will be considered an offense. (Ord.18-03, passed 4/10/18).~~

JUNK OR RUBBISH ON PRIVATE PROPERTY

§ 94.25 PRESENCE OF JUNK OR RUBBISH DECLARED A NUISANCE

The presence of any junk or rubbish as defined in this subchapter on premises within the city is hereby **declared** to be a nuisance per se, and in addition to the other penalties provided herein may be abated by injunction.

(Ord. 102, passed 4-22-69)

§ 94.26 DEFINITIONS

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

JUNK. Any worn-out, cast-off or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some other use. Any article or material which, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new shall not be considered junk.

NOTICE. A letter, stating the manner in which this subchapter is being violated, the description and/or location of the premises, the name of the owner(s) and tenants (if any) in occupancy of said premises, and the period of time within which said premises shall be cleared from the violation of this subchapter. Such letter shall be signed by the Chief of Police.

OWNER. The term owner as used herein shall be the person, firm or corporation in whose name said premises are listed in the assessment rolls of the city.

RUBBISH. Rubbish means and includes wire, chips, shavings, bottles, broken glass, crockery tin, cast or wooden ware, bedding, boxes, rags, dead weeds, stumps, tree trunks, brush, paper, circulars, hand bills, boots, shoes, ashes, or litter of any kind that will be a detriment to the public health and safety.

(Ord. 102, passed 4-22-69)

§ 94.27 DEPOSIT OR MAINTENANCE OF JUNK OR RUBBISH ON PREMISES BY OWNERS PROHIBITED

No person, firm or corporation shall deposit, store, maintain, collect, or permit the storage, deposit, maintenance or collection of any junk or rubbish on his own premises or any premises he or they own or use under his or their control.

(Ord. 102, passed 4-22-69) Penalty, see §10.99

§ 94.28 ABATEMENT PROCEDURE

- (A) Any person, firm or corporation, who within 15 days after notification of said violation by the Chief of Police, shall fail to remove or cause to be removed any junk or rubbish or have the same placed in an adequate enclosure or building shall be deemed guilty of violating the provisions of this subchapter.

- (1) Such notice as is ~~hereinafter~~ provided shall be served upon the owner as appears by the city tax assessment roll of the city, and tenant if there is such in occupancy by certified mail or by an officer of the Whitehall Police Department.
- (2) The fact that such premises are allowed to be used, rented or leased by the owner to another party shall not relieve said owner from the responsibilities herein created.
(Ord. 102, passed 4-22-69) Penalty, see §10.99

§ 94.29 PROVISIONS TO BE SUPPLEMENTAL

This subchapter shall not be construed as repealing any other ordinance now in effect or hereafter made effective relating to rubbish, litter, refuse, trash, junk or dismantled motor vehicles or parts thereof, but shall be construed as supplementary to any such ordinances as well as any statute of the state relating thereto.

(Ord. 102, passed 4-22-69) Penalty, see §10.99

CHAPTER 95: PARKS AND RECREATION; MARINAS

SECTION

General Provisions

§95.01 SPEED OF VESSELS ON WHITE LAKE

City Park Regulations

§95.10 INJURY TO PARK PROPERTY

§95.11 WASTE CONTAINERS

§ 95.12 BALL GAMES

§ 95.13 PICNICS

§ 95.14 OPEN FIRES

§ 95.15 VEHICLES IN PARKS

§ 95.16 PARK HOURS

§ 95.17 CAMPING PROHIBITED

§ 95.18 ADDITIONAL RULES

§ 95.19 THROWING STONES, DEBRIS OR RUBBISH

§ 95.20 RESTROOMS

GENERAL PROVISION

§95.01 SPEED OF VESSELS ON WHITE LAKE

Except when specified operators of water vessels are authorized by the City Council for public events, it is unlawful for the operator of a water vessel to exceed a slow no wake speed on the waters of White Lake, ~~City of Montague~~ and the City of Whitehall, from the Highway 31 bridge south to a line which extends in an easterly direction (090° true) from the southern-most portion of Maple Beach Park to the nearest landfall.

(Ord. 111, passed 3-23-83; Amended Ord., 98-10, passed 12-22-98)

CITY PARK REGULATIONS

§95.10 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.

(Ord. 31 passed 6-1-61) Penalty, see § 10.99

§95.11 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.

(Ord. 31, passed 6-1-61) Penalty, see § 10.99

~~§ 95.12 BALL GAMES~~

~~No baseball, football or softball throwing, or other violent or rough exercises or play shall be engaged in any public park or other public place, except in such areas or spaces designated for such exercises or play by the City Council.~~

~~(Ord. 31 passed 6-1-61) Penalty, see § 10.99~~

~~§ 95.13 PICNICS~~

~~Picnics may be held in such parts of any park as shall be designated for that purpose by the City Manager, subject to any rules or regulations pertaining thereto.~~

~~(Ord. 31, passed 6-1-61)~~

§ 95.14 OPEN FIRES

No person shall kindle or build any 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 said fire is extinguished.

(Ord. 31, passed 6-1-61) Penalty, see § 10.99

§ 95.15 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 by the City Manager. 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 93, regulating traffic generally and to such additional rules and regulations as the City Manager shall adopt pursuant to this subchapter.

(Ord. 31, passed 6-1-61) Penalty, see § 10.99

§ 95.16 PARK HOURS

All parks shall be closed for public use from 10:00 p.m. until 6:00 a.m. of the following day.
Penalty, see § 10.99

§ 95.17 CAMPING PROHIBITED

Camping is strictly prohibited in any park without prior written consent from the City Council.
Penalty, see § 10.99

§ 95.18 ADDITIONAL RULES

The City Manager 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 the same and to protect public property and the safety, health, morals and welfare of the public, and no person shall fail to comply with such rules and regulations.

(Ord. 31, passed 6-1-61) Penalty, see § 10.99

§ 95.19 THROWING STONES, DEBRIS OR RUBBISH

No person shall throw, discharge or otherwise place or cause to be placed in the waters, pond, bay or other body of water in or adjacent to any park, any stones, rocks, debris, food, rubbish or other material which could cause damage or harm any person or property or pollute the water.

(Ord. 00-07, passed 10-10-00) Penalty, see 10.99

~~**§ 95.20 RESTROOMS**~~

~~No person shall dress or undress in any vehicle or place except in bathhouses, boats, motor homes or vehicles designed for such purpose. All persons shall cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of seven years shall use the restrooms or washrooms designated for the opposite sex.~~

~~*(Ord. 00-07, passed 10-10-00) Penalty, see § 10.99*~~

CHAPTER 96: STREETS, SIDEWALKS AND PUBLIC WAYS

SECTION

General Provisions

- § 96.01 PLACEMENT OF INSTALLATIONS, DEBRIS OR BARRIERS WHICH ENDANGER PUBLIC TRAVEL PROHIBITED
- § 96.02 BURNING MATERIALS ON PAVED SURFACES; INTERFERING WITH PROPER CURING OF STREET PAVEMENT
- § 96.03 OBSTRUCTIONS AND ENCROACHMENTS
- § 96.04 USE OF STREETS FOR DISPLAY OF GOODS, WARES AND MERCHANDISE; PERMIT REQUIRED
- § 96.05 AWNINGS
- § 96.06 USE OF SKATE BOARDS, ROLLER SKATES AND STREET SKATES
- § 96.07 PLACEMENT OF DUMPSTERS RESTRICTED
- § 96.08 STREET SIGNS AT INTERSECTIONS
- § 96.09 CONSTRUCTION PERMIT REQUIRED

Sidewalk Construction and Repair

- § 96.20 PURPOSE
- § 96.21 DEFINITIONS
- § 96.22 LINE AND GRADE STAKES
- § 96.23 SIDEWALK SPECIFICATIONS
- § 96.24 PERMIT REVOCATION
- § 96.25 FAILURE TO COMPLY; CONSTRUCTION BY CITY
- § 96.26 MAINTENANCE OF SIDEWALKS
- § 96.27 SIDEWALK REPAIR
- § 96.28 REMOVAL OF SNOW AND ICE FROM SIDEWALK

Private Roads

- § 96.40 PURPOSE
- § 96.41 DESIGN REQUIREMENTS
- § 96.42 APPLICATION
- § 96.43 EXISTING PRIVATE ROADS
- § 96.44 FEES
- § 96.45 INDEMNIFICATION
- § 96.46 STREET ACCESS

GENERAL PROVISIONS

§ 96.01 PLACEMENT OF INSTALLATIONS, DEBRIS OR BARRIERS WHICH ENDANGER PUBLIC TRAVEL PROHIBITED

Hereafter it shall be unlawful for any person, firm or corporation to leave, place or erect, or cause the same to be left, placed or erected, any fence or other installation, debris or barrier in, on, or along the right-of-way of any street or alley or any other public way, park or public property in the city, or any material which by reason of its construction or otherwise, is dangerous in itself, or by reason of its location cause an obstruction on said street alley or public way, and thereby endangers public travel.

(Ord. 41, passed 6-1-61) Penalty, see § 10.99

§ 96.02 BURNING MATERIALS ON PAVED SURFACES; INTERFERING WITH PROPER CURING OF STREET PAVEMENT

It shall be unlawful for any person, firm or corporation to burn garbage, rubbish, leaves, or any other material, upon the paved portion of any street, alley, or highway in this city and it shall also be unlawful for any person, firm or corporation through the use of oil, water, or any other substance or material, by sprinkling or by any other means, to interfere with the proper curing of street paving, or damage, injure or deface any such improvement.

(Ord. 41, passed 6-1-61) Penalty, see § 10.99

§ 96.03 OBSTRUCTIONS AND ENCROACHMENTS

It is provided that the restrictions against obstructions and encroachments set out in § 96.01 and 96.02 shall not apply to acts of this municipality in serving the public uses and to uses authorized and permitted by the City Manager, ~~in consultation with the City Councilor designee, upon application~~ for emergencies or necessities, not inconsistent with the use of streets, highways and alleys for their primary purposes and for limited periods, such as the loading and unloading of goods and passengers, construction work, play streets and public parades, but no such grant of necessity or privilege shall be authorized for a time beyond the temporary need existing therefore.

(Ord. 41, passed 6-1-61, Am. Ord. 16-05, passed 12-13-16)

§ 96.04 USE OF STREETS FOR DISPLAY OF GOODS, WARES AND MERCHANDISE; PERMIT REQUIRED

No person, firm or private corporation, their employees or agents, shall cause or permit the placement of any goods, wares, or merchandise or other articles including, but not limited to, newspaper vending machines (other than is herein permitted) on any city sidewalk, city right-of-way, or on any city property; provided, however, that temporary stands or fixtures displaying merchandise for sale during special events such as festivals, arts and crafts shows, and sidewalk sales may be placed on sidewalks, city right-of-ways, or city property by first obtaining permission ~~therefor~~ from the City Council.

(Ord. 41, passed 6-1-61; Am. Ord. passed 10-23-90) Penalty, see 10.99

~~§ 96.05 AWNINGS~~

~~No awning or awnings shall hereafter be placed in front of any building that shall drop down at the ends or sides lower than six feet and six inches from the sidewalk.~~

(Ord. 41, passed 6-1-61) Penalty, see § 10.99

§ 96.06 USE OF SKATE BOARDS, ROLLER SKATES AND STREET SKATES

- (A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ROLLER SKATES and **STREET SKATES.** Small wheels near the toe and heel of the shoe or frame that would attach to a shoe which are used for gliding on a hard surface such as a floor or sidewalk, etc.

SKATEBOARDS. An item consisting of a ~~short~~-board, generally oblong, with small wheels at each end, for riding on a hard surface such as a floor or sidewalk.

TO ROLLER SKATE. To skate on any type of roller skates or street skates.

- (B) *Skateboards, Roller Skates and Street Skates Regulated.* No person shall roller skate, ride, or operate a skateboard within the city without complying with the terms of this subchapter:

(1) No person shall ride:

- (a) Or cause to ride, or operate any form of roller skates or skateboard for any purpose on any public way, street, sidewalk, plaza, or parking area in the downtown business district which is described as an area within the following boundary: beginning at the south right-of-way (R.O.W.) of Hanson Street at Thompson intersection, then east on Hanson to the west R.O.W. of Livingston Street, then south on Livingston to the north R.O.W. of Spring Street, then west on Spring to the east R.O.W. of Lake Street, then northwest on Lake to the north R.O.W. of Colby Street, then east on Colby to the west R.O.W. of Thompson, then north on Thompson to a point which would be the south R.O.W. of Hanson Street extended to the west R.O.W. of Thompson, then east on the south R.O.W. of Hanson to the point of beginning.
- (b) On any step, wall, bench, table, or any other public or private fixture or surface not intended for use as a walking surface by pedestrians.
- (c) In a careless, reckless, or acrobatic manner upon any public way or publicly-owned property.
- (d) At a speed greater than a walking or pedestrian speed upon a crosswalk or when crossing the roadway or overtaking a pedestrian on a sidewalk.
- (e) In any manner so as to destroy, deface, mark, damage, or injure any public or private property of another.
- (f) So as to assault, molest, touch, annoy, harass, frighten, or abuse any person in any public place or private place open to the public, or so as to obstruct the free, uninterrupted passage of the public.
- (g) Other than single file when approaching or passing any pedestrian on any sidewalk or other pedestrian way.

- (h) In any manner which would likely result in injury or harm to any person or place.
- (i) On private property without first obtaining permission of the owner.
- (j) Within any city park.
(Ord. passed 7-11-89; Am. Ord. Passed 7-10-90) Penalty, see § 10.99

§ 96.07 PLACEMENT OF DUMPSTERS RESTRICTED

(A) No person, firm, or private corporation, their employees or agents, shall cause or permit the placement of any garbage dumpster or refuse dumpster on any city sidewalk, right-of-way, or on any city property.

~~(B) Any such garbage or refuse dumpster on private property within any commercially-zoned area as shown on the city zoning map shall be located within an area surrounded by a solid fence at least six feet in height and constructed in a manner and of wood materials so as to shield the dumpster from the view of passersby. A site plan showing the location of the dumpster and detailing the materials of which the fence will be constructed must be approved by the Zoning Administrator prior to its installation.~~

~~(C) Any dumpster on private property located within any commercially-zoned area which existed before the adoption of the ordinance on which this section is based shall be fenced in as above by June 1, 1991. (Move to Zoning)~~

~~(D) The foregoing restrictions notwithstanding, upon obtaining approval of the Zoning Administrator, a dumpster may be placed on private or public property on a temporary basis, not exceeding 60 days, for utilization by the occupant of the premises during periods of construction, demolition, or making of improvements.
(Ord. passed 10-23-90) Move to Zoning~~

~~**§96.08 STREET SIGNS AT INTERSECTIONS**~~

~~The City Council is hereby authorized to cause the erection of signs designating the names of streets, avenues and other public highways, except alleys, and at all street and avenue intersections in the city.
(Ord. 3, passed 6-18-47) Rescind~~

§ 96.09 CONSTRUCTION PERMIT REQUIRED

No person shall construct, rebuild or repair in or upon any street or public right-of-way except in accordance with the Department of Transportation Highway Standards, nor without first obtaining a written permit from the Department. Said permit shall be prominently displayed on the construction site.
(Ord. 40A, passed 10-22-85) Penalty, see § 10-99

SIDEWALK CONSTRUCTION AND REPAIR

§ 96.20 PURPOSE

This subchapter shall provide for the establishment, administration, and enforcement of a Sidewalk Program, prescribing specifications and permits, line and grade stakes, sidewalk maintenance and repair, permit revocation, construction and removal of snow and ice from sidewalks in the city, and to prescribe payment for the violation of said program.

(Ord. 40A, passed 10-22-85)

§ 96.21 DEFINITIONS

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

DEPARTMENT: The City Department of Public Works.

SIDEWALK. The portion of the street right-of-way designed for pedestrian travel.

(Ord. 40A, passed 10-22-85)

§ 96.22 ~~LINE AND GRADE STAKES~~

~~The Department 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 Department.~~

~~(Ord. 40A, passed 10-22-85)~~ Rescind

§ 96.23 SIDEWALK SPECIFICATIONS

Sidewalks constructed in public right of ways shall be constructed in accordance with City specifications ~~on file in the office of the City Manager, copies of which shall be available to the public.~~

(Ord. 40A, passed 10-22-85)

§ 96.24 ~~PERMIT REVOCATION~~

~~The City Manager may suspend any permit issued under the terms of this subchapter for incompetency or failure to comply with the terms of this subchapter, or the rules, regulations, plans and specifications established by the City 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.~~

~~(Ord. 40A, passed 10-22-85)~~ Rescind

§ 96.25 ~~FAILURE TO COMPLY; CONSTRUCTION BY CITY~~

~~If the owner of any lot or premises shall fail to build any particular sidewalk as described in said notice, and within the time and in the manner required thereby, the City Manager is hereby authorized and required, immediately after the expiration of the time 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.~~**Rescind**

(Ord. 40A, passed 10-22-85)

§ 96.26 MAINTENANCE OF SIDEWALKS

No person shall permit any sidewalk which adjoins property owned by him to fall into a state of disrepair or to be unsafe. If any owner shall neglect to keep and maintain the sidewalk which adjoins property owned by him in good repair and safe for the use of the public, the owner shall be liable to the city for any damages recovered against the city sustained by any person by reason of such sidewalk being unsafe and out of repair.

(Ord. 40A, passed 10-22-85)

§ 96.27 SIDEWALK REPAIR

Whenever the City Manager shall determine that a sidewalk is unsafe for use, notice may be given to the owner of the lot or premises adjacent to and butting upon said sidewalk for such determination. Thereafter it shall be the duty of the owner to place said sidewalk in a safe condition. Such notice shall specify a reasonable time, not more than 60 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 said sidewalk within the time limited therefor, or in a manner otherwise than in accordance with this section, the City Manager shall have said sidewalk repaired. If the City Manager determines that the condition of said sidewalk is such that immediate repair is necessary to protect the public, he may dispense with said notice. The cost of repairs hereunder shall be charged against the premises which said sidewalk adjoins and the owner of said premises.

(Ord. 40A, passed 10-22-85)

§ 96.28 REMOVAL OF SNOW AND ICE FROM SIDEWALK

It shall be the duty of the owner of the lot or premises abutting a sidewalk to remove promptly all snow or ice from the sidewalk. Upon 24 hour notice given in writing by the City Manager or his/her designee, for the removal of said snow or ice, the City Manager or his/her designee, may order the work done by the Department, if the owner or occupant of the premises fails to remove the same within 24 hours after the service of said notice and the expense incurred thereto shall become a valid claim in favor of the city and against the said owner or occupant. In the event of failure of such property owner or occupant to pay, the City Manager may certify the amount to the City Treasurer to be added to the next City Tax Bill for collection.

(Ord. 13-01, passed 5-14-13)

PRIVATE ROADS

§ 96.40 PURPOSE

- (A) The city discourages the use of private roads within its boundaries but recognizes that under extenuating circumstances, private roads may be allowed provided they are properly designed, constructed and maintained for the movement of vehicular traffic, including emergency vehicles, in a safe and efficient manner.

- (B) The city has determined that as large tracts of land are divided, sold, transferred and developed, private access roads are being created to provide access to the newly divided properties which are not subject to regulation under the Michigan Land Division Act of 1967, as amended, and other state regulations. The city determines that it is in the best interest of the public health, safety and welfare to regulate the construction, improvement, extension, relocation and use of private roads to assure that:
- (1) Private roads are designed with width, surface and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance and other safety vehicles;
 - (2) Said roads are constructed of suitable materials to ensure minimal maintenance and safe passage; and
 - (3) Private roads will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands and other significant natural features of the city.
(Ord. 40A, passed 10-22-85)

§ 96.41 DESIGN REQUIREMENTS

All private roads shall be constructed according to the following design requirements:

- (A) Any lot not having the required minimum lot width on a public road shall have such required lot width upon a private road;
- (B) All private roads shall have direct access to a public road;
- (C) Public road access:
 - (1) The layout of the private road and the intersections of the private road with either a public or private road shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured;
 - (2) The minimum distance between intersections of public and/or private road rights-of-way shall not be less than 150 feet, as measured along the right-of-way line thereof;
 - (3) Any private road shall be designed so that no lots abutting and having access to such private road shall have direct access to a country primary or county local road;
 - (4) At least one street sign at the entry to the private road from the public road shall indicate the existence of such private road by appropriate notice so stating. A stop sign conforming to the requirements of the Michigan Manual of Uniform Traffic Control Devices shall also be provided at the exit point from the private road to the public roadway;
- (D) All private roads shall have a recorded permanent right-of-way and easement with a minimum width of at least 66 feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right of way;
- (E) Private roads shall have a minimum width of 22 feet of traveled surface;
- (F) Private roads shall be paved by the property owner, or the property owners association, upon the occurrence of either of the following events, whichever occurs first:

- (1) Forthwith upon, or prior to, the issuance of a building permit for the second principal building served by the private road; or
 - (2) At such time as the private road provides access to five or more lots. For new lots, this date shall be the date of the final approval of any application to create additional lots.
- (G) A minimum clear width of 36 feet shall be maintained centered in the right-of-way of easement;
 - (H) The specifications for surface and base materials, shoulders, curbs, culverts, signs, cul-de-sacs and methods of construction of private roads shall conform to the city standards for local roads. Private road grades shall not exceed 10%;
 - (I) The City Council may require the installation of trees or other landscaping to compensate for the removal or alteration of natural features or amenities;
 - (J) Street lighting may be required by the City Council. If so required, street lighting shall be installed in accordance with the standards of Consumers Energy Company as approved by the City Council. Street lighting shall be installed, operated and maintained at no cost to the city and the city may require an appropriate agreement indemnifying and holding it harmless with regard to the street lighting;
 - (K) Private roads shall be inspected for compliance by an agency qualified to do so and designated by the City. All inspection costs shall be paid by the applicant before final approval of the private road.
 - (L) All private roads shall be named and identified by the use of appropriately located road name signs. Road names shall not duplicate any existing road name in Muskegon County, and shall be subject to the approval of City Council. All lots fronting on the private road shall have an address on the private road.
(Ord. 02-03, passed 4-9-02)

§ 96.42 APPLICATION

- (A) No individual, association, corporation or entity, either public or private, shall construct a private road without first having obtained a private road permit from the City Council.
- (B) An application for a private road permit shall contain the following:
 - (1) A completed private road permit application, provided to the applicant by the Zoning Administrator;
 - (2) A detailed written description of the development to be served by the private road, including a description of the proposed association or other entity which shall be responsible for operation and maintenance of the private road;
 - (3) Seven copies of a site plan, drawn to scale, prepared by a registered engineer or land surveyor, showing the precise location, grade, route, elevation, dimensions and design of the private road and any proposed extensions thereto, existing and proposed curb cuts and the location and distance to any public road which the private road is to intersect;

- (4) A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private road;
 - (5) The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity and television cable to be located within the private road right-of-way or within 20 feet of either side thereof; copies of the instruments describing and granting such easements shall be submitted with the application;
 - (6) The location of any lakes, streams, wetlands and drains with the proposed right of way or within 100 feet thereof;
 - (7) The location of any other buildings and structures located, or to be located within 100 feet of the private road right-of-way;
 - (8) The applicant(s)/owner(s) of the proposed private road right-of-way or private road shall provide the City Council with a recordable private road maintenance or restrictive covenant agreement between the owner(s) of the private road right-of-way and any other parties having any interest therein, or other documentation satisfactory to the City Council which shall provide for and assure that the private road shall be regularly maintained, repaired and snow plowed so as to assure that the private road is safe for travel at all times and the cost thereof paid.
- (C) Prior to the City Council approving or disapproving a private road permit application, the Planning Commission will review the application and make its recommendation to the City Council as to whether a private road permit should issue after the Planning Commission deliberates on factors it deems relevant, including the following:
- (1) The proposed private road will not be detrimental to the public health, safety or general welfare;
 - (2) The proposed private road will not adversely affect the use of land;
 - (3) That the private road will be constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians and emergency vehicles in all weather conditions;
 - (4) That the private road will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands and natural environment of the city;
 - (5) The construction of the private road conforms to the requirements of this section and all relevant permits and licenses have been obtained and provided to the city. Verification of the private road's conformance with this section will be provided by the applicant's civil engineer who submits a set of as-built drawings carrying a certificate and statement certifying that the private road has been completed in accordance with the requirements of the permit.
- (D) The City Council may require that the applicant comply with reasonable conditions relative to the design and construction of the private road.
- (E) The City Council may, as a condition of the private road construction permit, require that the applicant provide a performance guarantee.

- (F) Upon application, the City Council may modify any of the private road requirements of this section after finding that all of the following conditions exist:
 - (1) Topography, soils and/or other significant natural features physically preclude or prevent compliance with the requirements of this section without substantial alteration of such natural features; such natural features shall be clearly identified and described in the application of any such modifications;
 - (2) The justification of any modification is not due solely to financial considerations which, upon approval of the requested modification, would provide a financial benefit;
 - (3) That no other reasonable private road design alternatives are available that would comply with the requirements of this section;
 - (4) That the request for modification was reviewed by the Traffic Engineer designated by the City Council.
- (G) Construction of a private road is to be commenced within one year of issuance of the permit and the applicant is to proceed diligently to completion of the road. If construction is not commenced within such period and pursued to completion, the permit shall expire and the applicant shall reapply as provided in this section if the applicant later decides to proceed. The period within which construction must be commenced is subject to extension by the City Council for good cause shown and, as a condition of extension, the City Council may increase the amount of performance guarantee required.
- (H) The Building Inspector shall not issue occupancy permits for any building on lots served by a private road until construction of the private road as approved by the City Council has been completed and the owner shall have submitted to the Zoning Administrator a Completion Certificate signed by a registered engineer indicating that the road has been completed in accordance with the approved plan and the requirements of this section.
(Ord. 02-03, passed 4-9-02)

§ 96.43 EXISTING PRIVATE ROADS

Private roads existing prior to the effective date of this subchapter or the extension of private roads existing prior to the effective date of this subchapter, shall not be subject to the requirements of this section, except for the following:

- (A) Prior to the construction of any kind on an existing private road, or the extension of such private road, or on parcels which depend thereon for access, and prior to the issuance of any building permits, the Zoning Administrator shall review an application submitted in accordance with the requirements of this section:
- (B) The Zoning Administrator, after review of the application by the Traffic Engineer, and other individuals or agencies deemed appropriate by the Zoning Administrator, shall issue a Private Road Permit, provided the following standards are met with regard to the existing private road, or an extension thereof:
 - (1) An existing private road, or extension thereof, shall have sufficient width and grade and a surface of suitable material to provide safe passage and maneuverability of private vehicles and police, fire ambulance and other safety vehicles;

(2) A soil erosion permit shall be provided to the Zoning Administrator which the Administrator may consider as evidence that the extension of an existing private road shall protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands and other significant natural features of the city;

a. If a private road is extended, or if additional lots are created or buildings are to be constructed such that paving is required pursuant to § 96.41 (F) herein, then the entire length of the private road shall be constructed or reconstructed in accordance with the standards of the city for local paved roads as described herein, for a width of 22 feet or the width of the existing right-of-way, whichever is less.

(C) Building permits may be issued prior to the construction of the private road, provided a performance guarantee assuring the completion of the private road has been submitted in accordance with the requirements of this section and the Article XXIII (Special Use Permit) of the Whitehall Zoning Code.

(Ord. 02-03, passed 4-9-02)

§ 96.44 FEES

Fees for the permits required herein shall be set by the City Council from time to time, by resolution.

(Ord. 02-03, passed 4-9-02)

§ 96.45 INDEMNIFICATION

The applicant(s)/owner(s) of the private road agree that by applying for or securing a permit to construct the private road that they shall indemnify and will hold the city harmless from any and all claims for and/or property damage arising out of the use of the private road or of the failure to properly construct, maintain, use, repair and replace the private road.

(Ord.02-03, passed 4-9-02)

§ 96.46 STREET ACCESS

Any lot of record created after the effective date of this subchapter shall from upon a public street or private road meeting the requirements of the city for the minimum lot width required by this subchapter.

(Ord. 02-03, passed 4-9-02)

CHAPTER 97: TREE MANAGEMENT

SECTION

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GENERAL PROVISIONS

§ 97.01 **PURPOSE AND APPLICATION OF REGULATIONS.**

~~The provisions of this chapter, except as otherwise specifically stated herein, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the city. It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the city.~~

(Ord. 34, passed 9-27-83)

§ 97.02 **DEFINITIONS**

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

CURB ~~FREE-LAWN.~~ That part of a street not covered by sidewalk or paving, lying between the property line and the portion of the street paved for vehicular traffic.

DEPARTMENT or DPW. The Department of Public Works of the city.

~~**SUPERINTENDENT.** Shall mean Superintendent of the Department or his authorized representative.~~

DEVELOPER. All persons or an organization of any kind who shall engage in new construction or other improvements in any zoning district of the city.

~~**DIRECTOR.** Shall mean Director of Public Works Department or his authorized representative.~~

PARK. 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. Any tree of poplar (populus Sp.), willow (Salix Sp.), box elder (Acer Negundo), silver maple (Acer Saccharinum), locust (Robina Sp.), tree of heaven (Ailanthus Altissima), catalpa (Catalpa Sp.), mulberry (Morus Sp.), Siberian Elm (Ulmus Pumila), birch (Betula Sp.), and any other species so determined by the council.

PUBLIC UTILITY. Any person, owning or operating any pole, line, pipe or conduit located in any public street or over or along any public easement or right-of-way for the transmission of electricity, gas, telephone service or ~~telegraph~~ other communication service.

STREET. All of the land lying between property lines on either side of all streets, highways and public right-of-ways in the city.

TREE. Unless the context clearly indicates otherwise, means trees, shrubs, bushes and all other woody vegetation, whether potted or not.

(Ord. 34, passed 9-27-83)

§ 97.15 **REFORESTATION MAINTENANCE AND REMOVAL**

The planting, maintenance, or removal of trees in public places in the city will be performed by the Department of Public Works or private contractor in accordance with the adopted policies, and may be accomplished by order of the City Manager or the DPW ~~Superintendent~~ Director upon recommendation of

the City Council, ~~or by petition of parties owning a majority of the lineal footage of the fronting property along a street.~~
(Ord. 34, passed 9-27-83)

~~§97.16~~ **APPROVED STREET TREE SPECIES AND STANDARDS**

~~(A) The following list constitutes the official street tree species for the city. No species other than those included in this list may be planted as street trees without written permission of the City Manager.~~

Small Trees

Crabapple, Flowering
Hawthorne
Lilac Jap Tree
Pear, Bradford
Plum, Flowering
Redbud
Serviceberry

Medium Trees

Hackberry
Honey Locust, Thornless
Honey Locust, Imperial
Honey Locust, Moraine
Honey Locust, Shademaster
Honey Locust, Skyline
Honey Locust, Sunburst
Hornbeam, American
Linden
Maple, Red
Oak, English

Large Trees

Ginko
Linden
Maple, Norway
Maple, Sugar
Oak, Bur
Oak, Pin
Oak, Red
Oak, White
Sycamore

~~(B) Spacing. The spacing of street trees shall be in accordance with the species size classes listed above and no trees may be planted closer together than 30 feet for small trees, 40 feet for medium trees, and 50 feet for large trees, except in special plantings designed or approved by a landscape architect.~~

~~(C) Distance from curb and sidewalk. The distance trees may be planted from curbs or curb lines and sidewalks shall be in accordance with the species size classes listed above and no trees may be planted closer to any curb or sidewalk than two feet for small trees, three feet for medium trees and four feet for large trees.~~

~~(D) Distance from street corner and fireplug. No street tree shall be planted closer than 30 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than ten feet of any fireplug.~~

~~(E) Utilities. No street trees other than those species listed as "Small Trees" may be planted under or within ten lateral feet of any overhead utility wire, or within five lateral feet of any underground water line, sewer line, transmission line or other utility.~~

~~(Ord. 34, passed 9-27-83) Penalty, see § 10.99 Rescind~~

~~(F)~~(B) All planting, transplanting, trimming, pruning or removal of any tree upon or from any curb tree lawn, street, park, or public place in the city shall conform to the American National Standards Institute A300.

(Am. Ord. 06-04, Passed 8-22-06, Am. Ord. 06-09, Passed 12-12-06)

~~(G)~~(C) Clean up and restoration, including brush debris resulting from line clearing activities, shall take place within 10 business days following the date on which the planting, transplanting, trimming, or removal on any curb tree lawn, street, park, or public place in the city took place and in such a manner as to repair all damage to the surrounding area created by the activities and additionally to clean and restore the work area to a reasonable standard.

(Am. Ord. 06-04, Passed 8-22-06, Am. Ord. 06-09, Passed 12-12-06)

~~§97.17~~ **DEVELOPER'S RESPONSIBILITY**

- ~~(A) General. Developers shall be required to fulfill tree planting and protection requirements as provided under the ordinances and policies of the city including, but not limited to, subdivision regulations and site plan requirements.~~
- ~~(B) Minimum planting requirements. One tree of an approved species measuring at least one and one-half inch caliper shall be planted in the street at all new construction sites, residential or otherwise, for each site or lot of 80 feet or less, and at least two trees for every lot in excess of 80 feet frontage. Corner lots shall require at least one tree for each street. The developer shall show the location of the required trees on the submitted site plan to the issuance of a building permit, the developer shall be responsible for fulfilling these requirements.
~~(Ord. 34, passed 9-27-83) Penalty, see § 10.99 (in zoning).~~~~

§ 97.18 PROTECTION OF TREES AND SHRUBS

~~Unless a permit shall have been issued by the City Manager, i~~It shall be unlawful for any persons to do the following to any trees in or upon any curb ~~tree~~ lawns, parks or other public places:

- (A) Fasten any sign, card, poster, wire, rope or other material to, around or through, any tree or its guard, except in emergencies such as storms or accidents, except for any nursery tag identifying its species or care;
- (B) Remove, break, injure, mutilate, kill, cut, peel or destroy any tree or shrub by any means or in any manner;
- (C) Permit any fire to burn where such fire will injure any portion of any tree or shrub;
- (D) Permit any toxic chemical to seep, drain, or to be emptied on or about any tree or shrub;
- (E) Deposit, store, place or maintain, on any street, highway, or other public place, any brick, sand, stone, concrete or other material which may impede free passage of water, air or fertilizer to the roots of any tree or shrub growing therein;
- (F) Fail to repair or stop any leak existing or occurring in any gas pipe or main within a radius of 40 feet of any tree;
- (G) Knowingly permit any electrical wires to come into contact with any tree or shrub;
- (H) Allow excavations and driveways to be placed within five feet of any tree without written permit from the DPW ~~Superintendent~~Director. Any person making such excavation or construction shall guard any tree within six feet thereof with a good substantial frame box to be approved by the Department, and all building materials or other debris shall be kept at least four feet from any tree.
- (I) Plant any prohibited species of tree as hereunto set forth under § 97.40.
(Ord. 34, passed 9-27-83) Penalty, see § 10.99

§ 97.19 COMPENSATION FOR TREES DESTROYED OR DAMAGED

The cost of public trees growing on streets, curb tree lawns, parks, or other public places which are destroyed or damaged to the point where repair or replacement is needed shall be paid for by the person or persons causing such damages in the amount needed to replace or repair the destroyed or damaged trees. ~~The Council shall determine all questions of cost related to damage. Any value realized from any tree removed from public property shall be for the exclusive benefit of the city.~~
(Ord. 34, passed 9-27-83)

§ 97.20 PRIVATE TREES; DISEASE, INSECTS AND OTHER HAZARDS

- (A) When the City Manager or DPW Superintendent shall discover that any tree growing on private property within the city is afflicted with any dangerous insect, infestation, disease or condition, he shall immediately serve a written notice upon the property owner or his agent describing the tree or trees, their location, the nature of the insect infestation, or disease or condition, to prevent the spreading thereof, and shall specify the corrective measures required to be taken. This notice may require the pruning, treatment or destruction of the affected trees as reasonably necessary.
- (B) Every notice shall be complied with within a definite time as stated in the notice, but within no less time than ten days after service thereof upon the property owner.
- (C) If at the expiration of the time limit in the notice, the owner has not complied with the requirements thereof, the city shall carry out the requirements of that notice. The cost of completing the work necessary to resolve the condition complained of shall be assessed against the property on the next tax roll of the city.
(Ord. 34, passed 9-27-83) Penalty, see § 10.99

§ 97.21 TRIMMING AND REMOVAL OF TREES ON PRIVATE PROPERTY

- (A) Any tree growing on private property and so located as to extend its branches over a public street, highway, sidewalk, park or other public place, or so located as to become a traffic hazard, shall be trimmed or removed by the property owner on whose property the tree stands, so as to remove obstruction from the public street, highway, sidewalk, park, or public place and so as to eliminate the traffic hazard and the menace and the danger to the public, pursuant to written notice by and under the supervision of the city. All tree branches shall be trimmed to maintain a clear vision area for the vertical height of ten feet above the street or right-of-way.
- (B) When such notice is given, the property owner will be given a reasonable and definite time to comply with the order, but not less than ten days, unless immediate hazard exists. If the work is not satisfactorily completed within that time, then the city DPW ~~Superintendent~~ Director or his agents may enter upon the property, make the necessary trimming or removals, and properly dispose of the same; provided that all or part of the costs involved in the trimming or removal when done by the city DPW ~~Superintendent~~ Director or his agents shall be assessed against the property on the next tax roll of the city. 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 street light.
(Ord. 34, passed 9-27-83) Penalty, see § 10.99

PERMIT REQUIREMENTS

§ 97.30 PERMITS REQUIRED

- (A) No person or public utility shall hereafter plant, transplant, trim, prune, or remove any tree upon or from any curb ~~tree~~-lawn, street, park, or public place in the city, nor cause such act to be done by others without first obtaining a written permit from the ~~Office of the City Manager~~DPW Director.
- (B) The requirements of §97.30A shall not apply to trimming, pruning, or removal under emergency conditions defined as the loss or imminent threat to public safety, property or~~of~~ loss of utility service nor shall it apply to the City of Whitehall.
(Ord. 34, passed 9-27-83, Am. Ord. 06-04, passed 8-22-06, Am. Ord. 06-09, passed 12-12-06)

§ 97.31 APPLICATION FOR PERMITS

Applications for permits must be made at the office of the ~~City Manager~~Department of Public Works not less than 72 hours in advance of the time the work is to be done for private removal or planting in the street right-of-way.
(Ord. 34, passed 9-27-83) Penalty, see § 10.99

§ 97.31 PERMIT EXPIRATION

- (A) Each permit granted shall contain an expiration date, and the work shall be completed in the time allowed in the permit, and in the manner therein described.
- (B) Any permit issued shall be void if its terms are violated, or if the work described is not substantially completed by its expiration date.
- (C) Permit extensions may be granted by the City Manager if in his judgment conditions warrant.
(Ord. 34, passed 9-27-83) Penalty, see § 10.99

§ 97.33 CONTENTS OF PERMIT

- (A) Every permit issued by the City Manager shall describe work to be done, or state the number of trees to be removed or planted and the location, size, species, or variety of each tree, the method of planting and other information that the City Manager or DPW Superintendent may require to insure that the work will be done properly.
 - ~~(B)~~ Whenever any tree shall be planted in conflict with the provisions of the permit it shall be lawful for the City Manager or DPW ~~Superintendent~~Director to cause removal of the same, and the cost for removal shall be assessed to the permittee as provided by law ~~in the case of special assessments~~.
- (Ord. 34, passed 9-27-83)

§ 97.34 PERMIT FEE; SUPERVISION

- (A) No charge shall be made for any permit unless it is necessary to retain a consultant to supervise the provisions of the permit, and in such case, the City Manager shall determine the charge for the service based on actual cost plus an additional one percent of the actual cost of the service for the City Administrative purposes.
- (B) In issuing any and all permits, the City Manager shall act promptly and shall keep duplicate records of all permits issued and of compliance therewith.
- (C) Permits for all tree management activities will be issued only after the DPW Superintendent or the City Manager makes a thorough investigation as to the advisability of the proposed work. (Ord. 34, passed 9-27-83)

ADMINISTRATION AND ENFORCEMENT

§ 97.40 AUTHORITY TO ENFORCE; RESPONSIBILITY AND POWERS

- (A) The City Manager shall be charged with the duty of enforcing the provisions of this chapter.
- (B) The City Manager shall have control over all trees located within the street right-of-ways and parks in the city and the planting, care and removal thereof, subject to the regulations contained in this chapter. (Ord. 34, passed 9-27-83)

§ 97.41 RESPONSIBILITY OF CITY COUNCIL; DUTIES

- (A) It shall be the responsibility of the Council to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented by the City Manager to the City Council along with the proposed budget and upon its acceptance and approval shall constitute the official comprehensive city tree plan for the city.
- (B) The Council may retain a registered ~~Michigan~~ Forester as a consultant to assist in the technical matters of Forestry Management.
- (C) The City Council may request the City Manager to consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of this chapter. (Ord. 34, passed 9-27-83)

~~**§ 97.42 DONATIONS, GIFTS AND REQUESTS**~~

- ~~(A) The City Council may receive gifts or bequests from any person for the planting and/or maintenance of trees and shrubs on any street or public property.~~

~~(B) Said gifts or bequests shall be received by the city and maintained in a special fund for the above purpose. Rescind~~
(Ord. 34, passed 9-27-83)

§ 97.43 AUTHORITY OF CERTAIN OFFICIALS TO INSPECT TREES ON PRIVATE PROPERTY

The City Manager, DPW ~~Superintendent~~ Director or their agents shall have authority to enter upon private property at all reasonable hours for purposes of examining any trees, shrubs, plants or vines where hazardous conditions, destructive insects, or diseases are suspected. The city may remove such specimens as are required for analysis to determine the presence of insect, disease, or other detrimental condition. It shall be unlawful for any person to prevent the City Manager, ~~Superintendent~~ DPW Director or their agents from entering private property for purposes of carrying out the duties hereunder.
(Ord. 34, passed 9-27-83) Penalty, see § 10.99

CHAPTER 98: LIBRARY

SECTION

~~§ 98.01 — DUTY TO RETURN PROPERTY~~

~~§ 98.02 — OVERDUE CHARGES~~

~~§ 98.03 — NOTICE TO RETURN~~

~~§ 98.04 — FAILURE TO RETURN PROPERTY~~

~~§ 98.05 — DAMAGE TO PROPERTY~~

~~§ 98.06 — COST RECOVERY~~

~~§ 98.01 — DUTY TO RETURN PROPERTY~~

~~Any person entrusted with or coming into possession of any book, magazine, pamphlet, manuscript, picture, clipping, exhibit, cassette, video, or other property belonging to the City Public Library shall promptly return such property no later than the stamped due date.~~

~~(Ord. 94-2, passed 9-13-94)~~

~~§ 98.02 — OVERDUE CHARGES~~

~~Overdue charges may be assessed against any person entrusted with or coming into possession of any property belonging to the library. Nothing contained in this chapter shall be construed as eliminating the charges for overdue library material prescribed in the rules and regulations of the Board of Directors of the City Public Library.~~

~~(Ord. 94-2, passed 9-13-94) Penalty, see § 10.99~~

~~§ 98.03 — NOTICE TO RETURN~~

~~The City Clerk, upon direction from the City Librarian, shall notify a person entrusted with or in possession of any property belonging to the City Library that has not been properly returned, that such property shall be returned within 30 days from the date of such notice. The notice shall be by certified mail, with return receipt requested, addressed to such person at the last address furnished to the library. Return of such property shall be accompanied with the assessed overdue charges.~~

~~(Ord. 94-2, passed 9-13-94)~~

~~§ 98.04 — FAILURE TO RETURN PROPERTY~~

~~It shall be unlawful for any person entrusted with or coming into possession of any property belonging to the City Public Library who shall fail, refuse, or neglect to return to the library any book, magazine, pamphlet, manuscript, picture, clipping, exhibit, cassette, video, or other property belonging to the Library or to pay the reasonable value thereof within 30 days from the date of notice to return.~~

~~(Ord. 94-2, passed 9-13-94) Penalty, see § 10.99~~

~~§ 98.05 — DAMAGE TO PROPERTY~~

~~It shall be unlawful for any person to willfully injure, destroy, or mutilate any property of the City Public Library including but not limited to any book, magazine, pamphlet, manuscript, picture, clipping, exhibit, cassette video, or other property.~~

~~(Ord. 94.2, passed 9-13-94) Penalty, see § 10.99~~

~~§ 98.06 — COST RECOVERY~~

~~Any person found guilty of violating this chapter shall be responsible for payment of all costs incurred by the city in enforcement of this chapter. Such costs shall include, but not be limited to postage and other costs associated with notification, attorney fees, replacement costs of damaged or non returned library property, charges, fines, and any further related costs.~~

~~(Ord. 94.2, passed 9-13-94)~~ **Rescind**

CHAPTER 99: NEWSRACKS

SECTION

~~§ 99.01 — DEFINITIONS~~

~~§ 99.02 — RESTRICTIONS ON LOCATIONS AND SIZE~~

~~§ 99.03 — STANDARDS~~

~~§ 99.04 — IDENTIFICATION~~

~~§ 99.05 — INSURANCE~~

~~§ 99.06 — VIOLATIONS~~

~~§ 99.07 — APPEALS~~

~~§ 99.08 — ABANDONMENT~~

~~§ 99.99 — PENALTY~~

~~§ 99.01 — DEFINITIONS~~

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

~~**DISTRIBUTOR.** The person responsible for placing and maintaining a newsrack in a public place.~~

~~**NEWSRACK.** A self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers or other news periodicals. This definition shall not include a portable platform or stand used by a person to distribute printed materials on a temporary basis, which is removed from the public place when not in use, so long as it conforms to the location restrictions contained in § 96.04.~~

~~**PUBLIC PLACE or PLACES.** Public grounds, streets, sidewalks, alleys, bridges, culverts, overpasses, underpasses, grade crossing separations and approaches, public ways, squares and commons. (Ord. 02-01, passed 4-9-02)~~

~~§ 99.02 — RESTRICTIONS ON LOCATIONS AND SIZE~~

~~(A) No newsrack shall encroach on a public place without a newsrack permit from the city, applications for which are available from the City Clerk's office.~~

~~(B) No newsrack shall be located where it would endanger the safety of persons or property; obstruct the vision of motorists or unreasonable interfere with or impede the flow of pedestrian or vehicular traffic or the ingress into and egress from any building.~~

~~(C) No newsrack shall be located:~~

~~1) Within six feet of any fire hydrant or other emergency facility;~~

~~2) Where it projects beyond any curb return at an intersection;~~

~~3) Within three feet of any crosswalk;~~

- ~~4) Within three feet of any curb return at an intersection;~~
- ~~5) Within three feet of any curb return on any driveway;~~
- ~~6) Where it unreasonably interferes with access to a bus shelter or public bench;~~
- ~~7) Where it unreasonably interferes with loading or unloading at the front or rear door of buses;~~
- ~~8) In any handicap access ramp;~~
- ~~9) In such manner as to reduce the clear space for the passageway of pedestrians to less than four feet;~~
- ~~10) On any planted public place improved with lawn, flowers, shrubs, or other landscaping.
(Ord. 02-01, passed 4-9-02)~~

~~§ 99.03 STANDARDS~~

- ~~(A) No newsrack shall be used primarily for advertising or publicity purposes, but its primary purpose shall be the dissemination of news and the display, sale or purchase of a newspaper or news periodical contained therein.~~
- ~~(B) Each newsrack, except those newsracks dispensing publications without charge, shall be equipped with a coin return mechanism to permit a person using the machine to secure an immediate refund in the event such person is unable to receive the publication for which payment was made. The coin return mechanism shall be maintained in good working order.~~
- ~~(C) Newsracks shall not be larger than two feet wide, one and one-half in depth and four feet in height, provided, however, a double newsrack consisting of two entry openings in one frame out of which is dispensed the same newspaper may be three feet wide and one and one-half feet in depth.~~
- ~~(D) Each newsrack shall have affixed to it, in a readily visible place, an identification plate, not smaller than two inches by four inches in size, setting forth the name and address of the distributor and the telephone service to call or report a malfunction or to secure a refund in the event of a malfunction of the coin return mechanism.~~
- ~~(E) Newsracks shall not be placed at such locations likely to induce vehicular passengers to disembark and thus disrupt the traffic flow or otherwise cause traffic safety problems, while temporarily leaving the vehicle to access the newsrack.~~
- ~~(F) Multiple newsracks shall be placed in a single grouping. The number of newsracks in a grouping on each lot or parcel shall be limited to five. Any such grouping containing more than three newsracks shall be served by a minimum of one off-street parking space. The space(s) shall be located immediately adjacent to the grouping.~~
- ~~(G) Newsracks shall be properly secured to prevent movement as a result of normal, naturally occurring winds common to the area and to deter vandalism.~~
- ~~(H) The location of newsracks shall not interfere with pedestrian movement and safety.~~

- ~~(I) The coloring of each newsrack shall be limited to two colors, none of which shall be fluorescent and shall consist of metal construction of frame, top, bottom, sides, and legs.~~
 - ~~(J) Each newsrack shall be maintained in a neat and clean condition and in good state of repair. Any newsrack which is broken, disfigured or in a condition of disrepair or unsightly shall be immediately repaired, replaced or removed and in the event the distributor fails to do so for a period of 10 days after the city mails notice to the distributor, the city shall be authorized to remove the newsrack.~~
- ~~(Ord. 02-01, passed 4-9-02)~~

~~§ 99.04 IDENTIFICATION~~

~~Any person desiring to place or maintain a newsrack in a public place shall first inform the City Manager, in writing, where he or she wishes to locate a newsrack.~~

~~§ 99.05 INSURANCE~~

- ~~(A) Any person placing newsracks in or about a public place or places within the city shall provide proof of general public liability insurance in the minimum amount of \$500,000 for each occurrence and \$1,000,000 in the aggregate and \$50,000 for property damage.~~
 - ~~(B) Said insurance policy or policies shall name the city as an additional insured and shall provide for 10 days written notice by certified mail to the City Manager of any material change or cancellation of said policy.~~
 - ~~(C) A certificate of insurance in a form approved by the City Council shall be delivered to the City Manager prior to the placement of any newsrack in a public place. A single policy of insurance may cover more than one newsrack.~~
 - ~~(D) The failure of any person to maintain said policy or policies in full force and effect shall be grounds for the City Manager to declare that the newsrack which has been installed, used or maintained in violation of the provisions of this chapter and shall be subject to written order to correct the offending condition as provided in §99.06.~~
- ~~(Ord. 02-01, passed 4-9-02)~~

~~§ 99.06 VIOLATIONS~~

- ~~(A) Upon determination by the City Manager that a newsrack has been installed, used or maintained in violation of any of the provisions of this chapter, the City Manager shall issue a written order to correct the offending condition to the distributor. The order shall specifically describe the offending conditions.~~
- ~~(B) Each day the offending condition exists, after notice thereof is received by the distributor, shall be deemed a separate offense.~~
- ~~(C) Failure by the distributor to properly correct the offending condition with 10 calendar days after the mailing date of the order shall result in the use of the newsrack being summarily removed by the city.~~

~~(Ord. 02-01, passed 4-9-02)~~

~~§ 99.07 — APPEALS~~

- ~~(A) Any person aggrieved by a finding, notice or action taken under the provisions of this chapter may appeal to the City Council.~~
- ~~(B) A written appeal to the City Council from the decision of the City Manager shall be filed by the aggrieved person with the City Clerk with 10 days of the decision of the City Manager. The time and place for the hearing of the appeal shall be set by the City Council and written notice thereof given. The aggrieved person may present evidence to the City Council by way of the public hearing as to why the decision of the City Manager should not be upheld.~~
- ~~(C) The taking of an appeal to the City Council shall suspend the removal of any newsrack until the City Council makes its determination, unless, in the judgment of the City Manager, the newsrack presents a clear and present danger of imminent personal injury or property damage.~~
- ~~(D) Nothing contained in this section shall be interpreted to limit or impair the exercise by the city of its police power in the event of any emergency to remove any such newsrack.~~
- ~~(Ord. 02-01, passed 4-9-02)~~

~~§ 99.08 — ABANDONMENT~~

~~In the event a newsrack remains empty for a period of 15 continuous days, the newsrack shall be deemed abandoned and may be summarily removed.~~

~~(Ord. 02-01, passed 4-9-02)~~

~~§ 99.99 — PENALTY~~

~~A violation of any provision of this chapter is hereby declared to be a municipal civil infraction, a public nuisance and is subject to the penalties thereof for single or multiple offense as set forth in § 10.99 (G)~~

~~(Ord. 02-01, passed 4-9-02)~~ **Rescind**

TITLE XI: BUSINESS REGULATIONS

CHAPTER

110: ADVERTISING

111: NONCHARITABLE AND CHARITABLE SOLICITATIONS

112: TELECOMMUNICATIONS

113: TAXICABS

114: YARD SALES AND GARAGE SALES

115: SEXUALLY ORIENTED BUSINESSES

116: ELECTRONIC REPORTING

117: PAYMENT IN LIEU OF TAXES

118: PROHIBITION OF MARIHUANA ESTABLISHMENTS

119: RENTAL PROPERTY

CHAPTER 110: ADVERTISING

SECTION

General Provisions

§ 110.01 STREET BANNERS

Bill Posting

§ 110.15 POSTING ON CITY PROPERTY

§ 110.16 PROPERTY OWNER'S CONSENT

§ 110.17 SCATTERING BILLS

§ 110.18 BILL POSTING REFUSE

§ 110.19 OBSCENE ADVERTISING

§ 110.20 EXCLUSION

GENERAL PROVISIONS

§ 110.01 STREET BANNERS

The erection of temporary signs or banners for advertising purposes over or across any public street, alley, or public grounds, or any part thereof, is hereby prohibited except by express approval of the City Manager.

(Ord. 74, passed 6-1-61) Penalty, see § 10.99

BILL POSTING

§ 110.15 POSTING ON CITY PROPERTY

No person shall paint, print, post, or in any way affix any picture, bill, banner, or advertising matter of any kind upon any post, hydrant, curb, sidewalk or other public improvement in any public ground or street or public building, structure or erection of any kind, belonging to the city, nor cause the same to be done, unless express consent therefor shall have been first granted by the City Council, nor upon any mast or pole in any street or alley, erected or used for supporting or conducting any wire or cable or incidental thereto, or upon any tree, lamp post or any structure or erection of any kind within the limits of any public street or ground in the city (whether the permission therefor has been granted by the owner or otherwise), except legal or official notices.

(Ord.74, passed 6-1-61) Penalty, see § 10.99

§ 110.16 PROPERTY OWNER'S CONSENT

No person shall hereafter paint, post or in any way affix any pictures, bills, signs, or advertising matter of any kind upon any post, fence, bill board, or sign board, or upon any building or erection or structure of any kind within the city, nor cause the same to be done, unless the building, lot or object upon which the

same may be placed is the property or under the control of the person or persons so doing or unless the consent of the owner or the person in control thereof shall be first obtained for advertising purposes, providing same shall comply with the Zoning Ordinance.
(Ord. 74, passed 6-1-61) Penalty, see § 10.99

§ 110.17 SCATTERING BILLS

No person shall scatter, place or throw any bills, leaflets, pamphlets or other advertising matter on the surface of any of the public streets, alleys, or on the public grounds of the city, not in the yards of private residences, nor in or on parked vehicles, nor cause the same to be done by another.
(Ord. 74, passed 6-1-61) Penalty, see § 10.99

§ 110.18 BILL POSTING REFUSE

No bill poster shall scatter, daub or leave any paste, glue or other like substance, used for affixing bills, upon any public sidewalk or pavement nor scatter or throw away any old bills or waste material, removed from bill boards, on the surface of any public street or alley nor on the surface of any private grounds, nor in the rear of any bill boards or sign boards.
(Ord. 74, passed 6-1-61) Penalty, see § 10.99

§ 110.19 OBSCENE ADVERTISING

- (A) No bill poster or other person shall post or distribute any bill or advertising containing pictures, illustrations or printed matter of any obscene nature.
(Ord. 74, passed 6-1-61)
- (B) Material is obscene when the average person, applying contemporary community standards, would find that the work taken as a whole, appeals to the prurient interest; the work depicts or describes, in patently offensive way, sexual conduct specifically defined by the applicable law; and the work, taken as a whole, lacks serious literary artistic, political, or scientific value.
Penalty, see § 10.99

§ 110.20 EXCLUSION

Noncommercial handbills are exempt from the imposition of the regulations of this subchapter.

CHAPTER 111: NONCHARITABLE AND CHARITABLE SOLICITATIONS

SECTION

Peddlers, Solicitors, and Itinerant Merchants

- [§ 110.01 DEFINITION](#)
- [§ 111.02 COMPLIANCE](#)
- [§ 111.03 LICENSE REQUIRED](#)
- [§ 111.04 APPLICATION FOR LICENSE](#)
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Charitable Solicitations

- [§ 111.15 PERMIT REQUIRED](#)
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Tag Days

- [§ 111.30 DEFINITION](#)
- [§ 111.31 NUMBER OF DAYS](#)
- [§ 111.32 APPLICATION FOR PERMIT](#)
- [§ 111.33 APPLICANT COVENANTS](#)
- [§ 111.34 PROHIBITIVE AREAS](#)
- [§ 111.35 INCORPORATED GUIDELINES AND TERMINATION](#)

PEDDLERS, SOLICITORS, AND ITINERANT MERCHANTS

§ 110.01 DEFINITION

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

ITINERANT MERCHANT. ~~HAWKER~~Hawker, peddler, solicitor, transient vendor or ,ITINERANT MERCHANT, PEDDLER, SOLICITOR, or TRANSIENT VENDOR. A any person, either principal or agent, who goes house to house or from place to place in the city, soliciting and dickering to do business with customers he meets in his travel as opportunity for such business arises out of immediate circumstances, or who goes about indiscriminately selling or taking orders from anyone for goods, wares, merchandise and services; including pictures and photographs and the processing thereof; and including indiscriminate solicitation thereof by telephone and the subsequent house to house delivery and receipt of payment therefor.
(Ord. 72, passed 12-10-58)

§ 111.02 COMPLIANCE

It shall be unlawful for any person, as defined in this subchapter, to engage in the business of hawker, peddler, itinerant merchant, transient vendor or solicitor, as herein defined, until the provisions of this subchapter have been complied with.

(Ord. 72, passed 12-10-58) Penalty, see § 10.99

§ 111.03 LICENSE REQUIRED

~~The practice of going in and upon private and/or public residence properties in the city, by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise, for the purpose of soliciting orders for the sale of goods, wares and merchandise, and/or selling or disposing of, and/or peddling by hawking the same, unless licensed under this subchapter, is hereby declared to be a nuisance and punishable as a misdemeanor. No person shall engage in the business of peddling or soliciting without first obtaining a license.~~

(Ord. 72, passed 12-08-58)

§ 111.04 APPLICATION FOR LICENSE

Every ~~hawker~~, peddler, or solicitor, as defined in this subchapter, desiring to do business in the city shall make an application in writing to the City Clerk for a license to operate as a hawker, peddler, itinerant merchant, transient vendor or solicitor, and pay the fee therefor. The application for a license shall contain the following items, together with such additional information as the City Clerk may require for the determination of good reputation, health, and responsibility of the applicant:

- (A) The full name, permanent address, business address, local, address, and age and occupation of the applicant at the time of filing the application.
- (B) The name of the person, firm or corporation represented, if any, together with the address of the central or district office of the same.
- (C) A list or general description of the article or articles to be sold, or offered for sale.
- (D) The length of time for which the license is desired.

~~(E) The proposed method of delivery to buyers, whether by weight, measure, package or otherwise.~~

~~(F) The proposed method of hawking or peddling ~~soliciting~~, whether on foot, by handcar or pushcart, or vehicle.~~

~~(E)~~

~~(G) A list of licenses which the applicant has held from the city or applications filed therefor within five years preceding this application.~~

~~(H) A list of hawkers', peddlers', or solicitors' licenses issued to said applicant by the state, or cities therein.~~

~~(F)~~ (E) The affidavit of the applicant to the truth of the information given in the application, signed by the applicant.

(Ord. 72, passed 12-10-58)

Investigation and Issuance

§ 111.05 CARRYING OF LICENSE

Each licensee or solicitor shall carry his license at all times while he is engaged in the conduct of the business of hawking and peddling. Such licensee shall exhibit his license upon the request of any officer of the city, or of any police officer or of any other citizen. Refusal to exhibit a license shall be prima facie evidence of failure to obtain a license.

(Ord. 72, passed 12-10-58) Penalty, see § 10.99

§ 111.06 REFUSAL TO GRANT LICENSE

The City Manager shall have the power to refuse to grant any license authorized under the terms of this subchapter whenever in his judgment it is for the best interests of the community to do so, having in mind the welfare, safety, and health of the city, and to revoke a license granted upon violation of any of the terms of this subchapter. In case the license is revoked for violation of the express conditions and regulations under which it was granted, the full amount of the fee paid therefor shall be forfeited to the city and no licensee shall have a right to a refund of any part of said fee.

(Ord. 72, passed 12-10-58)

§ 111.07 FEES

The fees payable ~~as provided for in § 111.02,~~ for any license to be issued under the terms hereof, shall be established by the City Council resolution.

§ 111.08 EXCEPTIONS

Nothing in this subchapter shall be held to apply to:

(A) Any person, firm or corporation engaged in a business of supplying at fixed intervals, to regular customers, of certain types of goods or services over generally fixed routes;

~~(B) Any recognized charitable, civic or religious organizations, provided permission has first been granted by the City Council;~~

(B)

(C) The solicitation, selling and delivery from any established place of business within the city, defined to mean and include any room, building, shop or store, in, where, or from which a person transacted business during regular retail trade business hours within the city, in the selling, or offering for sale, of goods, wares and merchandise or services, for not less than six continuous months, immediately preceding the house to house selling and/or soliciting herein prohibited; or

~~(D) Farmers and truck gardeners who themselves or through their employees, vend, sell, or dispose of products of their own farms and gardens only including berry pickers who sell berries of their own picking, also woodcutters who sell wood of their own cutting, also mechanics and artisans selling products of their own make and manufacture.~~

(Ord. 72, passed 12-10-58)

CHARITABLE SOLICITATIONS

§ 111.15 PERMIT REQUIRED

No person, corporation, or society of any kind, nature or description, either charitable or fraternal, their agents, representatives or employees, shall sell any newspapers, articles or things or solicit funds or secure subscriptions for the purpose thereof, the proceeds of which are to be used for any ~~so-called~~ charitable purpose, within the limits of the city, without first having secured from the City Council a permit in writing so to do. The City Manager may revoke the permit of any such person, society or corporation as in his opinion fails to comply with the provisions of this subchapter.

(Ord. 73, passed 6-1-61) Penalty, see § 10.99

§ 111.16 ISSUANCE OF PERMIT

Application blanks for such permits shall be prepared by the City Clerk, ~~and furnished free to the applicants.~~ There shall be no fee charged for the ~~issuance application~~ or granting of such permit.

(Ord. 73, passed 6-1-61)

§ 111.17 MISREPRESENTATIONS

No person, society or corporation, their agents, representatives or employees shall falsely or by misrepresentation of any kind, sell any newspaper, article or thing or secure subscriptions therefor, claiming the proceeds of which sale or subscriptions are to be used for any so-called charitable purpose.

(Ord. 73, passed 6-1-61) Penalty, see § 10.99

§ 111.18 NOTICE OF DENIAL

If the city should deny or revoke a license or permit, it shall notify the petitioner in writing of the following:

- (A) The grounds and reasons for denial or revocation;
- (B) That the petitioner has the right to a hearing if the written request for such a hearing is received by the city within ten days after the service of the notice;
- (C) The earliest date the petitioner may reapply for a license or permit; and
- (D) That evidence of satisfying the previous grounds for denial or revocation may be considered upon reapplication.

TAG DAYS

§ 111.30 DEFINITION

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

TAG DAYS. The practice of soliciting donations in the public streets and ways for the purpose of raising money for community nonprofit organizations.

§ 111.31 NUMBER OF DAYS

No more than ten tag days in each calendar year shall be permitted in the city, and in any event, no more than two in any given month, more than one on any given weekend.

§ 111.32 APPLICATION FOR PERMIT

Applications for a permit to hold a Tag Day must be signed and submitted to the City Council on an application form provided by the city. If the applicant is a corporation, the application shall be accompanied by a certification signed by the appropriate officer or agent of the corporation indicating that the applicant's board of directors or trustees has authorized the application and has accepted full responsibility for the conduct of its solicitors.

Penalty, see § 10.99

§ 111.33 APPLICANT COVENANTS

The issuance of a permit shall be conditional upon the applicant's agreement to the following covenants; said agreement shall be expressed in the application request and implied in the acceptance of the permit:

- (A) Applicant will indemnify the city and its officers, agents, employees, and Council members and hold them harmless from any and all loss or damage growing out of the activities of the applicant and its solicitors.
- (B) In the event of lawsuit against the city for alleged injury, loss or damage to any person or property directly or indirectly growing out of such solicitation activity, the applicant will file a timely appearance and appropriate defensive pleadings and will not permit entry of default judgment.
- (C) Nothing contained herein shall be construed to prohibit the city from entering an appearance in its own behalf through its own legal counsel in the event the City Council should consider it prudent to do so in order to protect the city's interests, and the costs incident to such action shall be borne by the applicant.
- (D) The charitable or civic applicant maintains at least \$500,000 in liability insurance.
- (E) All solicitors must be at least 18 years of age.
- (F) The solicitors must wear high visibility safety apparel that meets current American Standards promulgated by the International Safety Equipment Association.
- (G) The portion of roadway upon which the solicitation occurs is not a work zone and is within an intersection where traffic control devices are present.
- (H) Applicant is a charitable or civic organization qualified under IRC Code §501(c)(3) or (4), 26 USC 501, or a Veterans Organization that has tax exempt status under the IRS Code.

§ 111.34 PROHIBITIVE AREAS

- (A) No Tag Day solicitations shall be conducted on Sundays or national holidays.
- (B) During days when special events, parades or festivals are scheduled in the City, solicitations in the central business district during said special event, parade or festival and solicitations in the central business district are restricted to the adjacent sidewalks and parking lots. Penalty, see §10.99

§ 111.35 INCORPORATED GUIDELINES AND TERMINATION

- (A) The City Police Chief shall provide guidelines for the conduct of Tag Days which shall be complied with the by the applicant, the same being incorporated herein as a part of this subchapter. The guidelines shall be given with the permit issued by the City Council.
- (B) The City Council authorizes the Chief of Police, or his duly authorized agent, in his sole discretion, to stop any and all solicitation activities whenever the guidelines are not observed or unforeseen circumstances cause him or her to consider such activities to have become hazardous or dangerous to public health and safety.
(Ord. 16-03, Adopted 9-13-16), (Amended Ord. 17-04, Adopted 9-26-17)

CHAPTER 112: TELECOMMUNICATIONS

SECTION

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§ 112.02 CONFLICT

§ 112.03 DEFINITIONS

§ 112.04 PERMIT REQUIRED

§ 112.05 ISSUANCE OF PERMIT

§ 112.06 CONSTRUCTION/ENGINEERING PERMIT

§ 112.07 CONDUIT OR UTILITY POLES

§ 112.08 ROUTE MAPS

§ 112.09 REPAIR OF DAMAGE

§ 112.10 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE

§ 112.11 MODIFICATION OF EXISTING FEES

§ 112.12 SAVINGS CLAUSE

§ 112.13 USE OF FUNDS

§ 112.14 ANNUAL REPORT

§ 112.15 CABLE TELEVISION OPERATORS

§ 112.16 EXISTING RIGHTS

§ 112.17 COMPLIANCE

§ 112.18 RESERVATION OF POLICE POWERS

§ 112.19 AUTHORIZED CITY OFFICIALS

§ 112.99 PENALTY

§ 112.01 PURPOSE

The purposes of this chapter are to regulate access to and ongoing use of public right-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Public Act 48 of 2002) (“Act” or “the Act”) and other applicable law. And to ensure that the city qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(Ord. 02-07, passed 10-22-02)

§ 112.02 CONFLICT

Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable law.

(Ord. 02-07, passed 10-22-02)

§ 112.03 DEFINITIONS

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

ACT. The Metropolitan Extension Telecommunications Rights-of-Way Act (Public Act 48 of 2002), as amended from time to time.

AUTHORITY. The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to § 3 of the Act.

CITY. The City of Whitehall.

CITY COUNCIL. The City Council or its designee. The section does not authorize delegation of any decision or function that is required by law to be made by the City Council.

CITY MANAGER. The City Manager or his or her designee.

MPSC. The Michigan Public Service Commission in the Department of the Consumer and Industry Services, and shall have the same meaning as the term **COMMISSION** in the Act.

PERMIT. A non-exclusive permit issued pursuant to the Act and this chapter to a telecommunications provider to use the public rights-of-way in the city for its telecommunications facilities.

PERSON. An individual, corporation, partnership, association, governmental entity, or any other legal entity.

PUBLIC RIGHT-OF-WAY. The area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

TELECOMMUNICATION FACILITIES or **FACILITIES** means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. **TELECOMMUNICATION FACILITIES** or **FACILITIES** do not include antennas, supporting structures for antennas, equipment shelters or houses, and ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in § 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

TELECOMMUNICATIONS PROVIDER, PROVIDER, and TELECOMMUNICATIONS SERVICES mean those terms as defined in § 102 of the Michigan Telecommunications Act, Public Acts 179 of 1991, being M.C.L.A. § 484.2102. Telecommunication provider does not include a person or an affiliate of the person when providing a federally licensed commercial mobile radio service as defined in § 332(d) of Part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communications device. For the purpose of the Act and this chapter only, a provider also included all of the following:

- (1) A cable television operator that provides a telecommunications service.
- (2) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
- (3) A person providing broadband internet transport access service.
(Ord. 02-07, passed 10-22-02)

§ 112.04 PERMIT REQUIRED

- (A) *Permit required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the city for its telecommunications facilities shall apply for and obtain a permit pursuant to this chapter.
- (B) *Application.* Telecommunications providers shall apply for a permit on an application from approved by the MPSC in accordance with § 6(1) of the Act. A telecommunications provider shall file one copy with the City Attorney. Upon receipt, the City Clerk shall make three copies of the application and distribute a copy to each telecommunications franchisee. Applications shall be complete and include all information existing and proposed facilities in accordance with § 6(5) of the Act.
- (C) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary or confidential information, which is exempt from the Freedom of Information Act, Public Acts 442 of 1976, being M.C.L.A. §§ 15.231 to 15.246, pursuant to § 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.
- (D) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.
- (E) *Additional information.* The City Manager may request an applicant to submit such additional information which the City Manager deems reasonable necessary or relevant. The application shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City Manager. If the city and the applicant cannot agree on the requirement of additional information requested by the city, the city or the applicant shall notify the MPSC as provided in § 6(2) of the Act.
- (F) *Previously issued permits.* Pursuant to § 5(1) of the Act, authorizations or permits previously issued by the city under § 251 of the Michigan Telecommunications Act, Public Acts 179 of 1991, being M.C.L.A. § 484.2251 and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of § 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this chapter.
- (G) *Existing providers.* Pursuant to § 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the city as of such date, that has not previously obtained authorization or a permit, under § 251 of the Michigan Telecommunications Act, Public Acts 179 of 1991, being M.C.L.A. §484.2251, shall submit to the city an application for a permit in accordance with the requirements of this chapter. Pursuant to § 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500 application fee required under division (C) above. A provider under this division shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in § 5(4) of the Act.
(Ord. 02-07, passed 10-22-02)

§ 112.05 ISSUANCE OF PERMIT

- (A) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the City Manager. Pursuant to § 15(3) of the Act, the City Manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under § 112.04(B) for access to a public right-of-way within the city. Pursuant to § 6(6) of the Act, the City Manager shall notify the MPSC when the City Manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The City Manager shall not unreasonably deny an application for a permit.
- (B) *Form of permit.* If an application for permit is approved, the City Manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms in accordance with §§ 6(1), 6(2) and 15 of the Act.
- (C) *Conditions.* Pursuant to § 15(4) of the Act, the City Manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.
- (D) *Bond requirement.* Pursuant to § 15(3) of the Act, and without limitation to division (C) above, the City Manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.
(Ord. 02-07, passed 10-22-02)

§ 112.06 CONSTRUCTION/ENGINEERING PERMIT

A telecommunications provider shall not commence construction upon, over, across or under the public rights-of-way in the city without first obtaining a construction or engineering permit as required under "Table of Special Ordinances Table II: Franchise Ordinance Standards" of the City Code, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. 02-07, passed 10-22-02)

§ 112.07 CONDUIT OR UTILITY POLES

Pursuant to § 4(3) of the Act, obtaining a permit or paying fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. 02-07, passed 10-22-02)

§ 112.08 ROUTE MAPS

Pursuant to § 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the city, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the city. The route maps should be in paper or electronic format unless and until the Commission determines otherwise, in accordance with § 6(8) of the Act.

(Ord. 02-07, passed 10-22-02)

§ 112.09 REPAIR OF DAMAGE

Pursuant to § 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the city, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. 02-07, passed 10-22-02)

§ 112.10 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE

In addition to the non-refundable application fee paid to the city set forth in § 112.04(D), a telecommunications provider with telecommunications facilities in the city's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to § 8 of the Act.

(Ord. 02-07, passed 10-22-02)

§ 112.11 MODIFICATION OF EXISTING FEES

In compliance with the requirements of § 13(1) of the Act, the city hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of § 13(4) of the Act, the city also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the city's boundaries, so that those providers pay only those fees required under § 8 of the Act. The city shall provide each telecommunications provider affected by the fee with a copy of this chapter, in compliance with the requirement of § 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the city's policy and intent, and upon application by provider or discovery by the city, shall be promptly refunded as having been charged in error.

(Ord. 02-07, passed 10-22-02)

§ 112.12 SAVINGS CLAUSE

Pursuant to § 13(5) of the Act, if § 8 of the Act is found to be invalid or unconstitutional, the modification of fees under § 112.11 shall be void from the date the modification was made.

§ 112.13 USE OF FUNDS

Pursuant § 10(4) of the Act, all amounts received by the city from the Authority shall be used by the city solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the city from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the city under Public Acts 51 of 1951.

(Ord. 02-07, passed 10-22-02)

§ 112.14 ANNUAL REPORT

Pursuant to § 10(5) of the Act, the City Manager shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

(Ord. 02-07, passed 10-22-02)

§ 112.15 CABLE TELEVISION OPERATORS

Pursuant to § 13(6) of the Act, the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. 02-07, passed 10-22-02)

§ 112.16 EXISTING RIGHTS

Pursuant to § 4(2) of the Act, except as expressly provided herein with respect to fees, this chapter shall not affect any existing rights that a telecommunications provider or the city may have under a permit issued by the city or under a contract between the city and a telecommunications provider related to the use of the public rights-of-way.

(Ord. 02-07, passed 10-22-02)

§ 112.17 COMPLIANCE

The City hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The City shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (A) Exempting certain route maps from the Freedom of Information Act, Public Acts 442 of 1976, being M.C.L.A. §§ 15.231, 215.246, as provided in § 112.04(C);
- (B) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with § 112.04 (F);
- (C) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500.00 application fee, in accordance with § 112.04(G);
- (D) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the city, in accordance with § 112.05(A);
- (E) Notifying the MPSC when the city has granted or denied a permit, in accordance with §112.05(A);
- (F) Not unreasonably denying an application for a permit, in accordance with § 112.05(A);
- (G) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in § 112.05(B);

- (H) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with § 112.05(C);
- (I) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with § 112.05(D);
- (J) Not charging any telecommunications providers any additional fees for construction or engineering permits; in accordance with § 112.06;
- (K) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this regulations, in accordance with § 112.11;
- (L) Submitting an annual report to the Authority, in accordance with § 112.14; and
- (M) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with § 112.15.
(Ord. 02-07, passed 10-22-02)

§ 112.18 RESERVATION OF POLICE POWERS

Pursuant to § 15(2) of the Act, this chapter shall not limit the city's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the city's authority to ensure and protect the health, safety and welfare of the public.
(Ord. 02-07, passed 10-22-02)

§ 112.19 AUTHORIZED CITY OFFICIALS

The City Manager or his or her designee is hereby designated as the authorized city official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal chapter violations bureau) for violations under this chapter as provided by the City Code.
(Ord. 02-07, passed 10-22-02)

§ 112.99 PENALTY

A person who violates any provision of this chapter or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to a restraining order to prevent continued violation of this chapter, and § 10.99. Nothing in this section shall be construed to limit the remedies available to the city in the event of a violation by a person of this chapter or a permit.
(Ord. 02-07, passed 10-22-02)

CHAPTER 113: TAXICABS ?REPEAL?

SECTION

General Provisions

§ 113.01 DEFINITIONS

Business Licenses and Driver Permits

§ 113.10 LICENSE REQUIRED; APPLICATION

§ 113.11 LICENSE FEES

§ 113.12 REVOCATION OF OR REFUSAL TO GRANT LICENSE

§ 113.13 PERMIT REQUIRED TO OPERATE TAXICAB; APPLICATION; EXAMINATION

§ 113.14 ISSUANCE OF PERMITS

§ 113.15 DURATION OF PERMITS AND LICENSES

Standards of Operation

§ 113.25 RULES AND REGULATIONS

§ 113.26 FAILURE TO GIVE SERVICE

§ 113.27 POSTING OF FARES

§ 113.28 FAILURE TO PAY FARE

GENERAL PROVISIONS

§ 113.01 DEFINITIONS

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

PERSON. Any person, firm or corporation

STREET. Any street, alley, avenue, court, land, or public place in the city.

TAXICAB. Any motor vehicle engaged in the business of carrying persons for hire, whether the same is operated from a street stand or from a garage, where no regular or specified route is traveled, but passengers are taken to and from such places as they may designate; provided, that automobiles used exclusively as hearses, ambulances, hotel buses, or sight-seeing buses shall not be construed to be within the meaning hereof.

(Ord. 71, passed 7-30-47)

BUSINESS LICENSES AND DRIVER PERMITS

§ 113.10 LICENSE REQUIRED; APPLICATION

- (A) No person, either as principal, agent, or employee, shall run or operate any taxicab business on the streets of the city without having first obtained a license therefor, and no license certificate therefor shall be issued in any other than the following manner.
- (B) A person desiring a license to operate a taxicab business shall file with the City Manager an application therefor stating:
 - (1) The name, age, and residence of the person applying for such license, and what, if any, previous experience he has had in such business, and if he is himself to drive, he must secure a permit as in this chapter provided;
 - (2) The name, age and residence of the person to be in immediate charge of any such taxicab or taxicabs, if other than the person making application, who shall obtain a driver permit as hereinafter provided;
 - (3) The type of vehicles and their registration to be used.
- (C) The City Manager shall furnish the proper forms of application and the same shall be filed with him. He shall cause an investigation to be made of the fitness of the applicant as to character and ability and shall transmit the application with his recommendation to the City Council. If, in the opinion of the City Council, the person making the application is a proper person, both by experience and character they may authorize the granting of a license upon the payment of the license fee and filing of bond or policy of insurance as herein provided; such license to be issued by the City Clerk and received subject to the provisions of this chapter and all future amendments hereto.
(Ord. 71, passed 7-30-47) Penalty, see § 10.99

§ 113.11 LICENSE FEES

The license fees shall be established by City Council resolution.
(Ord. 71, passed 7-30-47)

§ 113.12 REVOCATION OF OR REFUSAL TO GRANT LICENSE

- (A) The license of any person driving a taxicab business shall automatically be revoked in the event that he pleads guilty to or is convicted of violating any ordinance or law relating to traffic and the use of the streets, or of being intoxicated while driving a taxicab, provided, such person may make application to the City Council for reinstatement and the action of the Council thereon shall be final.
- (B) A violation of any of the provisions of this chapter or of the traffic ordinance of the city or of the statutes of the state shall be sufficient grounds for the revocation of any license or permit issued hereunder and shall be considered sufficient ground for the refusal to grant a license or permit in the first instance.
(Ord. 71, passed 7-30-47)

§ 113.13 PERMIT REQUIRED TO OPERATE TAXICAB; APPLICATION; EXAMINATION

- (A) No person authorized to operate a taxicab business shall employ a driver unless such driver shall have a permit as herein provided.
- (B) Applications for a permit to operate or drive a taxicab upon the city shall be made to the City Manager upon blanks furnished by him. Each applicant shall state his name, age, residence, and how long he has been engaged in driving an automobile. Each applicant shall be of good character and provide the names and addresses of three references.
- (C) The City Manager shall himself, or through the Chief of Police, make an examination as to whether said applicant is worthy, capable, and of good moral character and properly qualified by experience to operate and drive such automobile for hire. The examination shall be based on the knowledge of the then existing traffic ordinances and vehicle laws, and also upon rules and regulations prescribed by this chapter, in addition to a driving test to determine the applicant's ability to operate said vehicle, and if said applicant shall fail to pass the driving test or examination herein provided, no permit shall be granted him. Provided, however, he shall be given an opportunity for re-examination within three months from the date of the first test or examination. The City Council may, in its discretion, grant a permit based upon such application.
(Ord. 71, passed 7-30-47) Penalty, see § 10.99

§ 113.14 ISSUANCE OF PERMITS

No permit to drive or operate any taxicab shall be granted to any person under the age of 21 years.
(Ord. 71, passed 7-30-47)

§ 113.15 DURATION OF PERMITS AND LICENSES

All permits and licenses granted hereunder shall expire on June 30 next following.
(Ord. 71, passed 7-30-47)

STANDARDS OF OPERATION

§ 113.25 RULES AND REGULATIONS

It shall be unlawful for any person to:

- (A) Drive any taxicab while under the influence of liquor or to drink any intoxicating liquors whatsoever while transporting passengers.
- (B) Procure or transport or to aid or abet in the procuring or transporting of any intoxicating liquor.
- (C) Allow any taxicab to be used for immoral purposes, or to procure or aid in procuring any person or persons for immoral purposes.

- (D) Operate any taxicab without displaying a copy of the “Business License and Driver’s Permit” in plain view of any passenger.
- (E) Fail, neglect or refuse to turn in to the Police Department, within 24 hours, all the lost articles found in the taxicab.
- (F) Drive or operate any taxicab upon any street unless the owner thereof shall have given, and there is in full force and effect at all times while such person is driving or operating such taxicab under a license from the City Council, a policy of insurance as security in the minimum of \$150,000, which policy shall insure to the benefit of any person or persons who may receive bodily injury or suffer death, or property damage, by reason of the negligence or misconduct of the driver, owner or operator of such taxicab; the said policy to be approved by the City Council and filed with the City Clerk. Provided, any person operating more than one taxicab, a policy in the sum of \$500,000 over and above any existing claim or liability covering the operating of all of the said cabs and increased or renewed from time to time as and if liability is asserted against such person or claim made by reason of said policy, shall be deemed a compliance with this provision.
- (G) Fail to notify the Police Department within one hour after any accident, giving the time and location of the accident, the name of any person injured, character of injuries so far as known, and in case of property damage, the amount of damage.
(Ord. 71, passed 7-30-47) Penalty, see § 10.99

§113.26 FAILURE TO GIVE SERVICE

It shall be unlawful for the driver of any taxicab not already engaged, to refuse or neglect when applied to, and tender of fare made, to convey any person or persons to any place or places within the city, and on the person or persons being placed in such conveyance, the same shall be driven by the most direct and safe route to the place to which such person or persons wish to go. Provided, this shall not be construed to require any taxicab driver to take as a passenger any person under the influence of liquor or to justify his assisting in the carrying of liquor in violation of any law or ordinance, or the use of his taxicab for immoral purposes.

(Ord. 71, passed 7-30-47) Penalty, see § 10.99

§113.27 POSTING OF FARES

There shall also be posted by the owner or driver of such taxicab in a conspicuous place in the inside of such taxicab and in full view of each occupant thereof, printed in type not less than one-half inch in size, a card containing the rates of fares to be charged for the use thereof.

(Ord. 71, passed 7-30-47) Penalty, see § 10.99

§113.28 FAILURE TO PAY FARE

Any person refusing to pay after having received the service shall be liable to punishment as provided in this chapter.

(Ord. 71, passed 7-30-47) Penalty, see § 10.99

CHAPTER 114: YARD SALES AND GARAGE SALES

SECTION

§ 114.01 DEFINITIONS

§ 114.02 PERMITS AND FEES

§ 114.03 LICENSING

§ 114.04 INFORMATION TO BE FILED

§ 114.05 EXCEPTIONS

§ 114.06 TIME OF SALES

§ 114.07 ADVERTISING

§ 114.01 DEFINITIONS

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

GARAGE SALES. Includes all sales ~~entitled “garage sale”, “lawn sale”, “attic sale”, “rummage sale”, “flea market sale”, or any similar, casual sale~~ of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of the sale.

GOODS. Includes any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

PERSON. Individuals, partnerships, voluntary associations and corporations.
(Ord. 92-4, passed 9-22-92)

§ 114.02 PERMITS AND FEES

It shall be unlawful for any person to conduct a garage sale in the city without first filing with the City Clerk the information hereinafter specified and obtaining from the Clerk a license to do so, to be known as a “Garage Sale License”. The fee for such license shall be \$1.
(Ord. 92-4, passed 9-22-92; Am. Ord. 93-3, passed 6-22-93) Penalty, see § 10.99

§ 114.03 LICENSING

- (A) A license shall be issued to any given commercial building or any given residential building only ~~one-three~~ three times within a 12-month period, and no such license shall be issued for more than ~~two~~ three consecutive calendar days.
(Ord. 92-4, passed 9-22-92; Am. Ord. 93-3, passed 6-22-93) Penalty, see § 10.99

§ 114.04 INFORMATION TO BE FILED

The information to be filed with the Clerk, pursuant to this chapter, shall be as follows:

- (A) Name of person, firm, group, corporation, association, or organization conducting the sale.
- (B) Name of owner of the property on which the sale is to be conducted and consent of owner if applicant is other than the owner.
- (C) Location at which sale is to be conducted.
- (D) Number of days of sale.
- (E) Date, nature of any past sale.
- (F) Relationship or connection applicant may have had with any other person, firm, group, organization, association, or corporation conducting the sale and the date or dates of such sale.
- (G) Whether or not applicant has been issued any other vendor's license by any local, state or federal agency.
- (H) Sworn statement or affirmation by the person signing that the information therein given is full and true and known to him to be so.
(Ord. 92-4, passed 9-22-92)

§ 114.05 EXCEPTIONS

The provisions of this chapter shall not apply to or affect the following persons of sales:

- (A) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- (B) Persons acting in accordance with their powers and duties as public officials.
- (C) Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.
- (D) Downtown sidewalk sales events for which City Council has given its approval to the downtown merchants as a group.
- (E) City wide garage/yard sale events for which and under such terms as the City Council may give its approval.
(Ord. 92-4, passed 9-22-92; Am. Ord. 93-3, passed 6-22-93, Ord. 11-03, passed 3-8-11)

§ 114.06 TIME OF SALES

Permitted sales shall only be held between the hours of 8:00 a.m. to 5:00 p.m.; ~~provided however, no such sale shall be permitted on any Sunday, holiday;~~ and provided, further, that no public street or right-of-way shall be used for the conduct or for the advertisement of any such sale.
(Ord. 92-4, passed 9-22-92) Penalty, see § 10.99

§ 114.07 ADVERTISING

No advertising of a sale shall be done by posting of signs on telephone poles, power poles, trees, traffic signs or in any manner within the street rights-of-way.

(Ord. 92-4, passed 9-22-92) Penalty, see § 10.99

CHAPTER 115: SEXUALLY ORIENTED BUSINESSES

SECTION

§ 115.01 PURPOSE AND INTENT

§ 115.02 DEFINITIONS

§ 115.03 BUSINESS REQUIREMENTS

§ 115.04 PROHIBITED CONDUCT; AIDING AND ABETTING

§ 115.05 NUISANCE PER SE

§ 115.99 PENALTY

§ 115.01 PURPOSE AND INTENT

The purpose and intent of this chapter is to regulate sexually oriented businesses and related activities to promote the health, safety, and welfare of patrons and employees of such businesses, and to promote the health, safety and welfare of the citizens of the city. The provisions of this chapter are not intended, nor shall they have the effect of, imposing a limitation or restriction on the content of any communicative materials including, but not limited to, sexually oriented materials that are protected by the First Amendment to the United States Constitution or by Article I, Section 5 of the Michigan Constitution of 1963. Additionally, it is not the intent of the provisions of this chapter, nor shall it have the effect of, restricting or denying access by adults to sexually oriented materials that are protected by said federal and state constitutions. Further, it is not the intent of the provisions of this chapter, nor shall it have the effect of, denying access by the distributors and exhibitors of sexually oriented entertainment to their target market. This chapter shall not be interpreted as intending to legitimize any activities which are prohibited by federal or state law, or by any other ordinance of the city.

(Ord. 99-10, passed 10-26-99)

§ 115.02 DEFINITIONS

The following words and terms, as used in this chapter, shall have the meaning indicated in this section.

PERSON. An individual, sole proprietorship, partnership, corporation, limited liability company, association, or such entity.

PUBLIC NUDITY. ~~The knowing or intentional display of any individual's genitals, anus, or of a female's individual breast, in a public place, or at any other place for payment or promise of payment by any person. An individual's genitals or anus shall be considered to be displayed if it or they are visible, provided, however, an individual's genitals or anus shall not be considered to be displayed if they are covered by a fully opaque covering. A female's breast shall be considered to be displayed if the nipple or areola is visible, provided, however, a female's breast shall not be considered to be displayed if the nipple and/or areola are covered by a fully opaque covering. Payment or promise of payment include the payment of, or promise of payment of, any consideration or admission fee. Public nudity shall not include any of the following:~~

- ~~(1) The exposure of a woman's breast while feeding a child, whether the nipple or areola is visible or incidental to the feeding.~~

~~(2) Any materials which meets or satisfies the definition contained in M.C.L.A. §752.362, as amended.~~

~~(3) Any sexually explicit visual material, as defined in M.C.L.A. §722.673, as amended.~~

~~(4) Any display of an individual's genitals or anus, or of a female breast, which occurs as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan. The knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female's breast with less than a fully opaque covering of the nipple and areola. Nudity, as used in this section, does not include a woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.~~

PUBLIC PLACE. Any real property, or appurtenance to real property, which is owned by the state, by any municipality of the State, a public agency, or any college or university of the State. The term includes, but is not limited to, a structure, enclosure and, facility or complex such as a court, mall, park, or other area, feature or element which is owned or operated by the State of Michigan, or any subordinate unit of the government, agency, commission, or instrumentality of the State. Public place shall also mean a business or an educational, refreshment, entertainment, recreation, health, transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

SEXUALLY ORIENTED BUSINESS. A business or commercial enterprise that conducts or engages in any of the activities hereinafter defined:

- (1) **ADULT ARCADE.** Any place to which the public is permitted or invited wherein coin operated, slug operated, electronically controlled, or mechanically controlled still or motion picture machines, projectors, or image producing or image projecting devices are maintained to show images to five or fewer persons per machine or device at any time, and where the images so projected, produced, or displayed are distinguished or characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (2) **ADULT BOOKSTORES or ADULT VIDEO STORES.** A commercial establishment that, as one of its business purposes or services, offers for sale or rental for any form of consideration, any or more of the following:
 - (a) Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations or media which depict or describe specified sexual activities or specified anatomical areas; or
 - (b) Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

A commercial establishment may have other business purposes or services that do not involve the offering for sale or rental of the material identified in the subdivisions (a) or (b) above, and still be categorized as an Adult Bookstore or Adult Video Store. The sale or rental of such material shall be deemed to constitute a business purpose or service of an establishment if it comprises 40% or more of the floor area of visible inventory within the establishment.

- (3) **ADULT CABARET.** A nightclub, bar, restaurant, lounge, or similar commercial establishment that regularly features:
 - (a) Persons who appear in a state of nudity;

- (b) Live performances that are characterized by the exposure of specified sexual activities or specified anatomical areas;
 - (c) Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
 - (d) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
- (4) **ADULT MOTEL** or **ADULT HOTEL**. A motel, hotel, or similar commercial establishment that:
- (a) Offers accommodation to the public for any form of consideration and provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way that advertises the availability of any of the above;
 - (b) Offers a sleeping room for rent for a period of time that is less than 12 hours; or
 - (c) Allows a tenant or occupant of a sleeping room to offer it for rent or other consideration for a period of time that is less than 12 hours.
- (5) **ADULT MOTION PICTURE THEATER**. A commercial establishment which, for any form or consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or anatomical areas.
- (6) **ADULT THEATER**. A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in state of nudity, or that regularly features live performances that are characterized by exposure of specified sexual activities or specified anatomical areas.
- (7) **ESCORT**. A person who, for consideration agrees or offers to act as companion, guide, or date of another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- (8) **ESCORT AGENCY**. A person or business establishment who furnishes, offers to furnish, or advertises to furnish escorts as one of its business purposes or services, for a fee, tip, or other consideration.
- (9) **NUDE MODEL STUDIO**. Any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons, who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the state.

SPECIFIED ANATOMICAL AREAS.

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock or anus; or female breast immediately below the top of areola; or

- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or breast;
- (2) Sex acts, ~~normal or perverted~~, actual or simulated, including, but not limited to, intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of, or in connection with, any of the activities set forth in subdivisions (1), (2), and (3) above.
(Ord. 99-10, passed 10-26-99)

§ 115.03 BUSINESS REQUIREMENTS

- (A) No business operations shall be conducted except between the hours of 8:00 a.m. and 1:00 a.m.
- (B) No person younger than 18 years of age shall enter into or be permitted to remain on the premises of a sexually oriented business at any time the sexually oriented business is open for business.
- (C) A sexually oriented business which offers live entertainment shall provide:
 - (1) A dressing area for performers which has direct access to and from the dressing area and the performance area or stage so that the performer may enter the performance area or stage without entering the area from which the patrons view the performance. The dressing area must be separate from, and not freely accessible to, area of the business to which patrons or customers have ready access, and must contain hot and cold running water, toilet facilities, and must also be handicap accessible to the extent required by the Americans with Disabilities Act, as amended.
 - (2) A performance area or stage which is at least 12 inches above the area from which patrons view the performance.
 - (3) Signs must be posted which notify patrons of the sexually oriented business that contact between the patrons and any employee, owner, independent contractor, or performer who displays specified anatomical areas or who performs specified sexual activities is prohibited. At a minimum, two such signs must be displayed on the premises of the sexually oriented business. The required signs must be situated in the area of the sexually oriented business in which patrons are admitted to the sexually oriented business and in which patrons are served beverages, if any. The signs must be at least 24 inches by 36 inches in size and contain the following notice:

NOTICE: Physical contact between the patrons and performers who display specified anatomical areas or who perform specified sexual activities is prohibited by Ordinance of the City of Whitehall. Violators will be prosecuted.

The notice must be printed in bold face type which is at least 24 point in lettering size.

- (D) An employee, owner, independent contractor, or performer of any kind who displays specified anatomical areas or performs specified sexual activities shall not have any physical contact with a patron of the sexually oriented business in regards to, or the receipt of, tips or gratuities. Physical contact with patron includes, but is not limited to, any contact between the employee, owner, independent contractor, or performer of the sexually oriented business and a patron in which the patron touches any part of the employee's, owners, independent contractor's, or performer's body.
- (E) A sexually oriented business shall meet all local, state and federal building code requirements. A sexually oriented business shall only be located in the city as provided for by the city Zoning Ordinance.
- (F) An operator of a sexually oriented business shall permit the City Zoning Administrator and his or her agents, including any law enforcement official or building inspector, to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the requirements of this chapter, of any other city ordinances, or of any other law or regulation.
- (G) No employee, owner, independent contractor, or performer shall engage in any act of public nudity, unless that person is in or on the performance area or stage area.
- (H) No patrons shall be permitted to engage in any act of public nudity.
(Ord. 99-10, passed 10-26-99) Penalty, see § 115.99

§ 115.04 PROHIBITED CONDUCT; AIDING AND ABETTING

No person shall operate a sexually oriented business in any manner which violates a provision of this chapter. No person shall aid, assist, abet, or encourage any other person to engage in or commit any act which violates a provision of this chapter.

(Ord. 99-10, passed 10-26-99) Penalty, see § 115.99

§ 115.05 NUISANCE PER SE

Any act which is a violation of this chapter is deemed to be a nuisance per se. Nothing in this chapter shall prohibit the city or any other interested party from seeking such relief as may be permitted by law or equity regarding the existence of a nuisance.

(Ord. 99-10, passed 10-26-99)

§ 115.99 PENALTY

Any person who violates a provision of this chapter shall be responsible for a municipal civil infraction, and upon an admission or determination of responsibility thereof, shall be subject to a fine of not more than \$500 plus court costs. Each day that a violation occurs shall be considered a separate violation. The issuance of a citation for municipal infraction shall not in any way limit the city in seeking enforcement of the provisions of this chapter including, but not limited to, requesting a civil restraining order from any court of competent jurisdiction. (Ord. 99-10, passed 10-26-99)

CHAPTER 116: ELECTRONIC REPORTING

SECTION

§ 116.01 PURPOSE AND INTENT

§ 116.02 ELECTRONIC FILING REQUIRED

§ 116.01 PURPOSE AND INTENT

The purpose of this article is to improve the system of reporting to law enforcement officials all items collected by pawn brokers, second hand dealers and precious metal/gem dealers for the purpose of aiding law enforcement in locating and retrieving stolen property.

§ 116.02 ELECTRONIC FILING REQUIRED

Pursuant to state statutes, MCL §§ 445.404, 445.405, 446.205 and 445.484, second hand or junk dealers, pawnbrokers, and precious metal and gem dealers are all required to keep detailed records of all articles received during the course of business and to send a copy of all such records to local law enforcement.

All such required reports shall be submitted electronically using the services of an electronic reporting service company selected by the City. All such filings shall comply with all requirements regarding the specific information to be supplied and time frame for doing so, as outlined within the applicable state statute.

(Ord. 12-06, passed 12-18-12)

CHAPTER 117: PAYMENT IN LIEU OF TAXES

§ 117.01 PURPOSE

This ordinance authorizes and approves an annual service charge in lieu of taxes for residential housing developments that: (1) serve Low Income or Moderate Income Persons (as defined in the State Housing Development Authority Act, Act 346 of the Public Acts of Michigan of 1966 (1966 PA 346, as amended: MCL 125.1401 et seq), and this Ordinance); (b) are financed or assisted by USDA-RD or the Authority in accordance with Act 346; (c) are located within the City of Whitehall; and (d) comply with this Ordinance.

§ 117.02 TITLE

This Ordinance shall be known and cited as the “City of Whitehall Payment in Lieu of Taxes Ordinance.”

§ 117.03 PREAMBLE

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for low income citizens and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with act 346. The City is authorized by Act 346 and this Ordinance to establish or change the annual service charge to be paid in lieu of taxes by any and all classes of housing exempt from taxation under Act 346 at any amount it chooses not to exceed the taxes that would be paid but for Act 356. It is further acknowledged that housing for low income persons and families is a public necessity, and as the City will be benefitted and improved by such housing, the encouragement of the same by providing certain real-estate tax exemptions for such housing is a valid public purpose; further, that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of taxes during the period contemplated this Ordinance are essential to determination of economic feasibility of housing developments which are constructed and financed in reliance of such tax exemption.

The City acknowledges that TJ Whitehall Limited Dividend Housing Association Limited Partnership (the "Sponsor" as defined in section 4 of this Ordinance) has committed to rehabilitate, own and operate a housing development identified as "Whitehall apartments" on certain property located at 1123 E. Colby Street, Whitehall, Michigan, which is legally described in Section 4.G. of this Ordinance, to serve Low Income or Moderate Income Persons, and that the Sponsor has offered to pay and will pay to the city, on account of the Housing Development, an annual service charge for public services in lieu of all taxes.

§ 117.04 DEFINITIONS

The terms used within this Ordinance shall have the following meanings:

"Act" means the State Housing Development Authority Act, being Act 346 of the Public Acts of Michigan of 1966, (1966 PA 346, as amended; MCL 125.1401 et seq).

"Annual Shelter Rents" means the total actual collections during each calendar year from all occupants of a housing development representing rents or occupancy charges, which rental amounts shall be exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

"Authority" means the Michigan State Housing Development Authority.

"Class" means the Housing Development known as Whitehall Apartments for Low Income or Moderate Income Persons.

"Contract Rents" are defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to the U.S. Housing Act of 1937, as amended.

"Federally-Aided Mortgage" means any of the following:

- a. A below market interest rate mortgage insured, purchased, or held by the Secretary of the Department of Housing and Urban Development (HUD) or United States Department of Agriculture-Rural Development (USDA-RD)
- b. A mortgage receiving interest reduction payments provided by the HUD or USDA-RD;
- c. A Housing Development to which the Authority allocates low income housing tax credits under Section 22b of the Act; or

- d. A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate-income housing, consistent with the Act.

“Housing Development” means a development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines to improve the quality of the development as it relates to housing for persons of low income. For the purposes of this Ordinance, “Housing Development” means Whitehall Apartments located on the property legally described as:

(Legal Description Attached as Exhibit “A”)

“Low Income or Moderate Income Persons” means persons and families eligible to reside in the Housing Development as defined in the Act, as amended.

“Sponsor” means person(s) or entities which have applied to the authority for the Tax Credits to finance a Housing Development. For the purposes of this Ordinance, the Sponsor is TJ Whitehall Limited Dividend Housing Association Limited Partnership.

“Tax Credits” means the low income housing tax credits made available by the Authority to the sponsor for rehabilitation of the Housing Development by the Sponsor in accordance with the Low Income Housing Tax Credit Program administered by the Authority under Section 42 of the Internal Revenue code of 1986, as amended.

“USDA-RD” means the United States Department of Agriculture, Rural Services Division.

“Utilities” means fuel, water, sanitary sewer service and/or electrical services, which are paid by the Housing Development.

§ 117.05 CLASS OF HOUSING DEVELOPMENT

This Ordinance shall apply only to the Housing Development to the extent that the Housing Development provides housing for Low Income and Moderate Income Persons and is financed or assisted by USDA-RD or the Authority pursuant to the Act.

§ 117.06 ESTABLISHMENT OF ANNUAL SERVICE CHARGE

- A. The City acknowledges that the sponsor and USDA-RD and/or the Authority have established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Ordinance and the qualification of the Housing Development for exemption from all ad valorem property taxes and payment of an annual service charge in lieu of ad valorem taxes in an amount established in accordance with this Section. In consideration of the Sponsor’s offer to rehabilitate, own and operate the Housing Development, the City agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes that would otherwise be assessed to the Housing Development under Michigan law.

- 1. Effective upon the adoption of this ordinance and subject to the receipt by the City of the “Notification of Exemption” (or such other similar notification) by the Sponsor and/or the Authority, the annual service charge shall be equal to twelve (12%) percent of Annual Shelter Rents.

- B. The Housing Development, and the property on which it is constructed, shall be exempt from all ad valorem property taxes from and after the commencement of rehabilitation of the Housing Development by the Sponsor under the terms of this Ordinance.

§ 117.07 LIMITATION OF THE PAYMENT OF ANNUAL SERVICE CHARGE

Notwithstanding Section 6, if any portion of the Housing Development is occupied by other than Low Income and Moderate Income Persons, the full amount of the taxes that would be paid on those units of the Housing Development if the Housing Development were not tax exempt shall be added to the service charge in lieu of taxes.

§ 117.08 CONTRACTUAL EFFECT OF ORDINANCE

Notwithstanding the provisions of Section 15(a) (5) of the Act to the contrary, and subject to the terms of this Ordinance including, but not limited to Section 11 herein, this Ordinance constitutes a contract between the City and the Sponsor to provide an exemption from ad valorem property taxes and to accept the payment of an annual service charge in lieu of such taxes, as previously described in this Ordinance. It is expressly recognized that the Authority and USDA-RD are third party beneficiaries to this Ordinance.

§ 117.09 PAYMENT OF SERVICE CHARGE

The annual service charge in lieu of taxes shall be payable to the City in the same manner as ad valorem property taxes are payable, to the City and distributed to the several units levying the general property tax in the same proportion as paid with the general property tax in the previous calendar year. The annual payment shall be paid on or may 1 of each year for the previous calendar year. Collection procedures shall be in accordance with the provisions of the General Property tax Act 91893 PA206, as amended; MCL 211.11, et seq.)

§ 117.10 DURATION

This Ordinance shall remain in effect for twenty-five (25) years or for so long as the Housing Development remains subject to a Federally Aided Mortgage and so long as the Housing Development submits the required annual notification of exemption pursuant to MCL 125.1415(a)(1), as amended, whichever occurs sooner. The term of this Ordinance shall commence upon the issuance of the Notification to Local Assessor of Exemption as issued by the Authority; provided, however, that if the improvements are not commenced within two (2) years of the effective date of this Ordinance, the Ordinance shall terminate.

§ 117.11 FILING OF ANNUAL AUDIT

The Sponsor, or its successor, shall file a copy of any and all annual audits required to be provided to the federal government, the State of Michigan, and/or the Authority simultaneously with the City. The audit shall include detail with respect to occupancy of the Housing Development, Annual Shelter Rents received from the Housing Development, and the cost for utilities during the audit period.

§ 117.12 PUBLICATION; EFFECTIVE DATE

This Ordinance shall become effective 15 days following its publication.

§ 117.13 SEVERABILITY

The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section of provision so declared to be unconstitutional or invalid.

§ 117.14 REPEAL

All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such inconsistency or conflict.

(Ord. 18-02, passed 2-27-2018)

CHAPTER 118: PROHIBITION OF MARIHUANA ESTABLISHMENTS

§ 118.01 TITLE

This ordinance shall be known and may be cited as the City of Whitehall's Prohibition of Marihuana Establishments Ordinance.

§ 118.02 DEFINITIONS

Words used herein shall have the definitions as provided for in the Initiated Law 1 of 2018, as may be amended.

§ 118.03 NO MARIHUANA ESTABLISHMENTS

The City of Whitehall hereby prohibits all marihuana establishments within the boundaries of the City pursuant to the Initiated Law of 2018, as may be amended.

§ 118.04 VIOLATIONS AND PENALTIES

- A. Any person who disobeys, neglects, or refuses to comply with any provision of this ordinance or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
- B. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the City to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the City incurs in connection with the municipal civil infraction.
- C. Each day during which any violation continues shall be deemed a separate offense.
- D. In addition, the City may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
- E. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the City or by such other person(s) as designated by the City Council from time to time.

§ 118.05 SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

§ 118.06 REPEAL

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

(Ord. 18-07, passed 11/27/2018)

CHAPTER 119: RENTAL PROPERTY

§ 119.01 PURPOSE AND INTENT

The City of Whitehall recognizes a compelling interest in establishing standards for safe residential rental structures and residential rental units in the City. This ordinance is designed to promote continued maintenance of safe rental properties.

§ 119.02 SCOPE

This Article shall apply to any dwelling or part thereof, or any other structure or part thereof, which is occupied by persons other than the owner and the owner's immediate family, pursuant to any oral or written rental or lease agreement, or other valuable compensation for the purpose of residing therein or thereon. Rental units shall include, but not be limited to single family dwellings, multiple family dwellings or any structure, building or property used for residential dwelling purposes.

This Article shall not apply to hospitals; nursing homes; convalescent homes; foster homes; temporary group shelters provided by legal nonprofit agencies which are inspected, certified, and licensed by the State of Michigan; hotels and motels licensed and inspected by the State of Michigan; apartment complexes under the jurisdiction of a state or federal agency; or short term rental units defined as a unit with an intended duration of less than thirty consecutive days that is inspected by a state or nationally recognized association.

§ 119.03 REGISTRATION

- (A) The owner of any rental unit existing as of the effective date of this ordinance, shall be responsible for the registration of each rental unit no later than ninety (90) days after the effective date of this ordinance.
- (B) The owner of any rental unit existing after the effective date of this ordinance shall be responsible for the registration of each rental unit prior to allowing occupancy of any new or converted rental dwelling unit.

- (C) A new owner of a registered rental unit shall be responsible for the submittal of a new registration within thirty (30) days of assuming ownership.
- (D) The owner of any rental unit shall be responsible for submitting any information changes to an existing registration form.
- (E) Registration forms will be provided by the City.
- (F) It shall be a violation for any owner or agent of the owner to provide inaccurate information for the registration of rental units or fail to provide required information.
- (F) A registration fee, as established from time to time by the City Council, shall be paid in full at the time of registration.

§ 119.04 PENALTY

Failure to register within the prescribed time period shall result in a penalty fee as established from time to time by the City Council.

§ 119.05 SEVERABILITY

Should any part of this ordinance be held invalid by a Court of Competent Jurisdiction, the remaining parts shall be severable and shall continue in full force and effect.

(Ord. 18-08, passed 12/18/2018)

TITLE XIII: GENERAL OFFENSES

CHAPTER

130: OFFENSES AGAINST CITY REGULATIONS

SECTION

§ 130.01 DISORDERLY CONDUCT

§ 130.02 CURFEW FOR MINORS

§ 130.03 FURNISHING OR USING OF INTOXICATING LIQUOR BY PERSONS UNDER 21 YEARS OF AGE

§ 130.04 CONTROLLED SUBSTANCES

§ 130.05 HUNTING AND CARRYING UNENCASED HUNTING DEVICES PROHIBITED

§130.06 POSSESSION OF TOBACCO PRODUCTS BY MINORS

§ 130.01 DISORDERLY CONDUCT

- (A) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC PLACE. 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.

STUDENT. Any person of school age and properly enrolled in the school at which her or she is present.

- (B) The following are acts that are prohibited. No person shall:

- (1) Commit an assault, or an assault and battery on any person;
- (2) Be intoxicated in a public place and endanger directly the safety of another person or of property or act in a manner that causes a public disturbance;
- ~~(3) Drive or attempt to drive or operate any motor vehicle on any highway within the city while under the influence of an intoxicating liquor or drugs;~~
- ~~(4)~~(3) 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 or a ceremony under adequate supervision;
- (5)(a) Display or possess any fireworks except of the type and under the conditions permitted by MCL 28.451-471; Public Acts 256 of 2011 (Michigan Fireworks Safety Act) and;

- (5)(b) Fire or discharge of any fireworks as set forth in paragraph (a) on any days other than the day preceding, the day of, or the day after a legally recognized National Holiday.
- (5)(c) On the following days after 11:00 a.m.:
- i. December 31 until 1:00 a.m. on January 1
 - ii. The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
 - iii. June 29 through July 4 until 11:45 p.m. on each of those days.
 - iv. July 5, if that date is a Friday or Saturday, until 11:45 p.m.
 - v. The Saturday and Sunday immediately preceding Labor day until 11:45 p.m. on each of those days.
- (5)(c) *(Rescinded by Ordinance 19-02, passed 5-28-19)*
- (5)(d) Fireworks shall not be used or possessed by a minor unless under the direct supervision of an adult.
- (5)(e) An individual shall not use fireworks while under the influence of alcohol or a controlled substance or a combination of the two as defined in MFSA.
- (5)(f) A person shall not ignite, discharge or use fireworks on public property, school property or the property of another person or organization without that person's or organization's express permission to use those fireworks on said premises.
- (5)(g) Unless otherwise provided, if a person knowingly, intentionally or recklessly violates the provisions of this Section, the person is guilty of a crime as follows:

~~1. (Rescinded by Ordinance 15-03, Passed 07-14-15)~~

~~2.1. A civil infraction with a fine of \$500.00
(Ord. 12-03, Passed 7-24-12; Amended Ord. 13-03, passed 7-9-13; Amended Ord. 19-02, passed 5-28-19)~~

(6) Engage in peeping in the windows of any inhabited place;

~~(7) Beg in any public place;~~

~~(8) Swim or bathe in any public place without wearing proper apparel;~~

~~(9) Utter vile, profane or obscene language in any public place;~~

~~(10) Engage in fortune telling or pretend to tell fortunes for hire, gain, or reward;~~

~~(11)(7) Engage in any indecent, insulting, immoral, or obscene conduct in any public place;~~

~~(12)(8) Make immoral exhibition or indecent exposure of his or her person;~~

~~(13) Print, engrave, sell, offer for sale, give away, exhibit or publish, or have in his possession for any such purpose, any obscene, lewd, lascivious, indecent or immodest book, pamphlet, paper, picture, cast statuary, image or representation or other article of an indecent or immoral nature, or any book, paper, print, circular or writing made up~~

~~principally of pictures or stories of immodest deeds, lust, or crime, or exhibit any such article within the view of any passerby;~~

(14)(9) Improperly, lewdly or wrongfully accost, ogle, insult, annoy, follow, pursue, lay hands on, or by gesture, movement of body or otherwise wrongfully molest any person in any public place or public vehicle;

- ~~(15)~~(10) Engage in any disturbance, fight, or quarrel in a public place;
- ~~(16)~~(11) 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;
- ~~(17)~~(12) Jostle or roughly crowd persons in any street, alley, park, or public building;
- ~~(18)~~(13) ~~Play any ball game in public street or sidewalk or otherwise~~Participate in any activity that obstructs vehicular or pedestrian traffic on any street or sidewalk by collecting in groups thereon, for any purpose;
- ~~(19)~~(14) Engage in any act of prostitution;
- ~~(20)~~(15) Attend, frequent, operate or be an occupant or inmate of place where prostitution, gambling, the illegal sale of intoxicating liquor, or where any other illegal or immoral business or occupation is permitted or conducted;
- ~~(21)~~(16) Engage in prostitution, gambling, the illegal sale of intoxicating liquor; illegal drug, or any other illegal or immoral business or occupation. Proof of recent reputation for engaging in prostitution, gambling, illegal sale of intoxicating liquor, illegal drug, or other illegal or immoral occupation or business shall be prima facie evidence of being engaged or occupied therein;
- ~~(22)~~(17) Solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act;
- ~~(23)~~(18) 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;
- ~~(24)~~(19) Disturb the public peace and quiet by loud, boisterous, or vulgar conduct;
- ~~(25)~~(20) Permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous, or disorderly persons;
- ~~(26)~~(21) Obstruct, resist, hinder, or oppose any member of the police force, or any peace officer in the discharge of his duties as such;
- ~~(27)~~ ~~Wander about the streets, either by day or night, or loiter in any public building, without any lawful means of support or without being able to give a satisfactory account of himself;~~
- ~~(28)~~(22) Prowl about any alley or the private premises of any person ~~in the nighttime,~~ without authority or the permission of the owner of such premises;
- ~~(29)~~ ~~Spit on any sidewalk or on the floor or seat of any public assemblage;~~
- ~~(30)~~(23) Throw or propel any ~~snowball, missile or~~ object from any moving vehicle or toward any person or automobile;
- ~~(31)~~ ~~Throw or propel any snowball, missile or object toward any person or automobile;~~

~~(32)~~(24) 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, street light, street sign, traffic-control device, railroad sign or signal, parking meter, or shade tree belonging to the city or located in the public places of the city, or mark or post handbills on, or in any manner mar the walls of, any public building, or fence, tree, or pole within the city, or destroy, take, or meddle with any property belonging to the city, or remove the same from the building or place where it may be kept, placed, or stored, without proper authority;

~~(33)~~(25) Summon, as a joke or prank or otherwise without any good reason therefor, by telephone or otherwise, the Police or the Fire Department or any public or private ambulance to any address where the service called for is not needed;

~~(34)~~(26) Disturb any school, meeting or congregation lawfully assembled, whether religious, political, or otherwise;

~~(35)~~(27) ~~With sticks, stones, or in any other manner w~~Willfully break, or injure, in any manner any window, door or other parts of any building, whether such building is occupied or not; or willfully and maliciously destroy or injure the personal property of another person or any school property, or city property, including trees or other plants.
(Am. Ord. 14-03, passed 10-28-14)

~~(36)~~(28) TRESPASSING.

(a) Trespass upon any land or buildings owned, occupied or otherwise by a school within the city without having legitimate business therein.

(b) Willfully enter upon the lands or premises of another without lawful authority, after having been forbidden so to do by the owner or occupant, agent or servant of the owner or occupant, with a conspicuous notice forbidding any trespass thereon, or any person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, the agent or servant of either, who without lawful authority neglects or refuses to depart therefrom.
(Am. Ord. 14-04, passed 10-28-14)

~~(37)~~(29) Have in his or her possession or in any motor vehicle, upon any public street, park or other public place, or any place open to the public, an open receptacle or container containing any alcoholic beverages or intoxicating liquors; except, one may have in possession, but not in a motor vehicle, open alcoholic beverage containers, when and where the City Council of the city grants to organizations, under terms and conditions that the Council determines appropriate, permission to sell and/or distribute alcoholic beverages in a city park for specific events where the participating organization(s) can provide adequate supervision of the event and obtain liability insurance for the sale and/or distribution of alcoholic beverages naming the city as additional party insured.

~~(38)~~(30) No person, while on public or private grounds adjacent to any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of such school session or class thereof. (Am. Ord. 09-02, passed 9/8/2009)

~~(39)~~(31) No person, while on public or private lands adjacent to any building or lands owned, occupied or otherwise used by a school within the City, in or on which any gathering or function is in progress, whether in the day or nighttime, shall willfully make or assist in making of any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of such gathering or function. (Am. Ord. 09-02, passed 9/8/2009)

~~(40)~~(32) Fail to give true information of their identity and identifying information, including, but not limited to, their full name, address, and date of birth; or give false or misleading identifying information in response to lawful request by a police officer, peace officer, sheriff or deputy sheriff, or person acting with and having police officer powers, who is lawfully exercising police or peace officer powers, or authorized person where there is probable cause to arrest a person for the commission of a crime or reasonable basis to stop a person to issue him or her a civil infraction citation.
(Ord. 95, passed 6-1-61; Am. Ord. passed 4-22-69; Am. Ord. passed 9-22-70; Am. Ord. 93-1, passed 5-25-93; Am. Ord. 14-05, passed 10-28-14; Am. Ord. 17-02, passed 5-23-17) Penalty, see §10.99

§130.02 CURFEW FOR MINORS

- (A) It shall be unlawful for any minor under the age of 17 years to loiter, wander, stroll, or play in or upon public streets, highways, alleys, parks, playgrounds, public places, places of amusement, vacant lots, or other unsupervised places in the city between the hours of 10:00 p.m. and 6:00 a.m., official city time, Sunday through Thursday of each week, and between the hours of 12:00 a.m. and 6:00 a.m., official city time, Friday and Saturday of each week.
- (B) It shall be unlawful for the parent, guardian, or other person having the legal care and custody of a minor under the age of 17 years to permit such minor to loiter, wander, stroll, or play in or upon the public streets, highways, alleys, parks, playgrounds, public places, places of amusement, vacant lots, or other unsupervised places in the city between the hours of 10:00 p.m. and 6:00 a.m., official city time, Sunday through Thursday of each week; and between the hours of 12:00 a.m. and 6:00 a.m., official city time, Friday and Saturday of each week.
- (C) It shall not constitute a defense hereto, that the parent, guardian, or other person having legal care and custody of a minor who violates any of the provisions of this section, did not have knowledge of the presence of said minor in and upon any of the streets, alleys, public places, vacant lots, or other unsupervised places prohibited in ~~division-subsection~~ (A) hereof.
- (D) Whenever any child under the age of 17 years is arrested with or without a warrant for the alleged violation of any of the provisions of ~~division-subsection~~ (A) hereof, such child shall be taken immediately before the Juvenile Division of the Probate Court of Muskegon County and the officer making the arrest shall immediately make and file or cause to be made and filed, a petition against such child as required by state statute to the Probate Court of the county.
(Ord. 98, passed 12-10-63)
- (E) *Exemptions.* This section does not apply to a minor who is:
 - (1) Accompanied by his parent, guardian or custodian;
 - (2) Accompanied by an adult specified by his parent, guardian or custodian;

- (3) Carrying out an errand or other lawful activity as directed by his parent, guardian or custodian; or
- (4) Participating in, going to, or returning from:
 - (a) Lawful employment; or
 - (b) A lawful athletic, educational, entertainment, religious or social event.
Penalty, see § 10.99

§130.03 FURNISHING OR USING OF INTOXICATING LIQUOR BY PERSONS UNDER 21 YEARS OF AGE.

~~(A) Definitions. For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~**ALCOHOLIC LIQUOR.** Shall be as defined in the laws of the state.~~

~~**MINORS.** Persons less than 21 years of age.~~

~~(B) Prohibited acts:~~

~~(1) No person shall knowingly sell, give or furnish any alcoholic liquor to a minor within the city, except upon authority and pursuant to a prescription of a duly licensed physician.~~

~~(2) No minor in the city shall purchase or knowingly possess or transport any alcoholic liquor, or knowingly possess or transport or have under his control in any motor vehicle any alcoholic liquor unless said minor is employed by a licensee under the Liquor Control Act of Michigan and is possessing, transporting or having such alcoholic liquor in a motor vehicle under his control during regular working hours and in the course of his employment.~~

~~—(Ord. 105, passed 9-22-70) Penalty, see § 10.99~~

~~(A) Subject to subsection (c), any person under the age of 21 years shall not purchase or attempt to purchase, consume or attempt to consume, possess or attempt to possess alcoholic liquor or have any bodily alcoholic content. A minor who violates this section is guilty of a misdemeanor and subject to the penalties provided in this Code.~~

~~(B) 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 preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content. A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis must not be administered without a court order, but a peace officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a state civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.~~

(C) Subsection (a) shall not be construed to prohibit a person under 21 years of age from possessing and/or consuming alcoholic beverages if any of the following circumstances exist:

(1) The alcoholic beverages are possessed during regular working hours and in the course of the person's employment if such employment is by a person properly licensed by the State of Michigan, by the Liquor Control Commission or by an agent of the Liquor Control Commission, and if the alcoholic beverage is not possessed for such person's personal consumption.

(2) The person is participating in an undercover decoy operation and the person has purchased or received alcoholic beverages exclusively at the direction of a state, county or local police agency as part of an undercover operation.

(3) The person is consuming sacramental wine in connection with religious services at a church, synagogue or temple.

(4) The alcoholic beverage is either an over-the-counter or prescribed commercially prepared product which is intended for use as a medicine to treat colds, coughs, allergies or influenza, and is being possessed or used for that purpose.

(D) As used in this section, "any bodily alcohol content" means either of the following:

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

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

§130.04 CONTROLLED SUBSTANCES

(A) Controlled substances are deemed to be and are described as defined in the "Controlled Substances Act of 1971 of the State of Michigan," as amended, being Sections 335.301 et seq. of Michigan Compiled Laws.

(B) The following acts within the city are prohibited:

(1) No person shall at any time have or possess ~~a hypodermic needle or any other~~ instrument or implement adapted for the use of controlled substances ~~by subcutaneous injection or intracutaneous injection~~ for any ~~other~~ manner or method of introduction and which is possessed for that purpose, unless such possession is authorized by the certificate of a licensed medical doctor or osteopathic physician issued within the period of one year; provided that the prohibition contained in this division shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists, and embalmers in the normal legal course of their respective business or profession, nor to persons ~~suffering from~~ diagnosed with diabetes, asthma or any other medical condition requiring self-injection.

(2) Any fraud, scheme, device, trick, deceit, misrepresentation, subterfuge, or any other form of concealment for the purpose of obtaining money or any other thing of value by the sale, furnishing, supplying or giving away of any substance represented to be a

controlled substance, as described in ~~division-subsection~~ (A) of this section, when the same may or may not be the same, shall be deemed a violation this section.

- (3) No person shall loiter about, frequent or live in any building, apartment, store, automobile, boat, boathouse, airline or other place of any description whatsoever where controlled substances, hypodermic needles or other instruments or implements or empty gelatin capsules are used, sold, dispensed, furnished, given away, stored or kept illegally. (Ord. 106, passed 5-22-73) Penalty, see § 10.99

§130.05 HUNTING AND CARRYING UNENCASED HUNTING DEVICES PROHIBITED

- (A) *Purpose.* It is the purpose of this section to prevent the potential harm which may be inflicted upon people which may result from the unintentional discharge of hunting devices within the city.
- (B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HUNTING. Carrying an unencased hunting device in public while not engaged in a training program or authorized parade.

HUNTING DEVICE. Any mechanical device commonly used or intended to be used, for hunting birds and animals but not limited to firearms, air rifle, air pistol, pellet gun, bow with arrows, crossbow and slingshot.

- (C) *Prohibition.* No person shall hunt within the city except as specifically permitted by state law.
- (D) *Exception.* The provisions of this section do not apply to law enforcement officers, security personnel, persons lawfully acting in the defense of persons or property; or to activities or situations specifically authorized by state law.
- (E) *Transportation of weapons.* This section shall not prohibit the following kinds of transportation of weapons:
- (1) Transportation of a fully unloaded weapon in a locked trunk or baggage compartment of a vehicle.
 - (2) Transportation by a carrier in intrastate or interstate commerce, in boxes or crates in locked compartment.

~~(F) *Toy weapons.* This section shall not apply to the possession of a toy bow equipped with rubber tipped arrows or other soft tipped arrows, and this section shall not apply to the possession toys designed to look like other weapons.~~

~~(G)~~(F) Impoundment. In addition to the other penalties provided in this section or provided by law, any weapon found anywhere in the city in violation of this section shall be impounded and held by the Police Department. Such weapon shall be held subject to court action to determine ownership and shall not be returned to any person prohibited to own guns.

~~(H) Penalty. Any person, firm or corporation violating any provision of this section shall be fined not less than \$5 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
(Ord. 92-3, passed 9-22-92)~~

§130.06 POSSESSION OF TOBACCO PRODUCTS BY MINORS

(A) A minor shall not do any of the following:

- (1) Purchase or attempt to purchase a tobacco product, vapor product or alternate nicotine product.
- (2) Possess or attempt to possess a tobacco product, vapor product or alternative nicotine product.
- (3) Use a tobacco product, vapor product or alternative nicotine product.
- (4) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product or alternative nicotine product.

~~(B) An individual who violates subsections (1), (2), (3), or (4) is responsible for a civil infraction punishable by a fine of not more than \$50.00 for each violation.~~

~~(G)~~(B) A person shall not give, or furnish a tobacco product, vapor product or alternative nicotine product to a minor, including but not limited to, through a vending machine.

~~(D) Before selling, offering for sale, giving, or furnishing a tobacco product, vapor product or alternative nicotine product to an individual, a person shall verify that the individual is at least 18 years of age by examining a government issued photographic identification that establishes that the individual is at least 18 years of age. except those persons that visually appear to be older than 25 years of age.~~

(C) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation.

(Ord. 14-02, passed 10-28-14)

§130.07 MARIHUANA POSSESSION AND USE

(A) DEFINITIONS

- (1) "Marihuana" means that term as defined in section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106.
- (2) "THC" means delta-9-tetrahydrocannabinol acid.

(B) The following acts within the city are prohibited:

- (1) No person under 21 years of age shall at any time possess or consume any marihuana plant or plant material, or any product, extract, or edible items containing THC, or any accessory used solely for the purpose of processing or consuming of marihuana plant material, or any product or extract unless such possession is authorized by MCL 333.26424 and possess a valid card issued by the State of Michigan.
- (2) No person shall smoke or inhale any marihuana plant material or any product or extract containing THC in a public place or in a place open to the general public and where prohibited by the persons who own, occupy or manage the property.
- (3) No person shall possess more than 2.5 ounces of dried or partially dried marihuana plant or plant material, 2.5 ounces of any edible item containing THC or 15 grams of liquid or solid extract of THC outside of their own residence.
- (4) No person shall use butane or any other method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit to extract resin from marihuana plants or plant material in any public place, motor vehicle, or within the curtilage of any residential structure.
- (5) No person shall knowingly sell, give or furnish any marihuana plant, plant material, or any product, extract or edible items containing THC to a person under 21 years of age.
- (6) No person shall cultivate marihuana plants that are visible from a public place without the use of binoculars, aircraft or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area, or cultivate more than 12 plants per qualified adult owning, occupying or managing the property.
- (7) No person shall consume marihuana or THC products in any form while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoke marihuana within the passenger area of a vehicle upon a public way.
- (8) No person shall possess or consume any marihuana plant or plant material, or any product, extract, or edible items containing THC upon the grounds of any public or private school or school properties, where children attend classes for preschool, kindergarten or grades 1 through 12 or in any school bus.

(C) A person who violates subsections (1), (2), or (3) shall be guilty of a civil infraction.

(D) A person who violates subsections (4), (5), (6), (7) or (8) shall be guilty of a misdemeanor.

- (E) Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.
- (F) Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

(Ord. 18-06, passed 11/27/2018)

TITLE XV: LAND USAGE

CHAPTER

150: ACCEPTANCES AND VACATIONS

151: BUILDING REGULATIONS

152: SOIL EROSION AND SEDIMENTATION

153: SUBDIVISION REGULATIONS

154: SWIMMING POOLS

155: CIVIL INFRACTIONS

CHAPTER 150: ACCEPTANCES AND VACATIONS

SECTION

[§ 150.01 ACCEPTANCE PROCEDURE](#)

[§ 150.02 VACATION PROCEDURE](#)

§ 150.01 ACCEPTANCE PROCEDURE

All streets, alleys, and parcels of land accepted by the city for public use shall be accomplished by City Council resolution in accordance with the provisions of the Charter of the city.

§ 150.02 VACATION PROCEDURE

All streets and alleys vacated by the city and turned over to private ownership shall be accomplished by City Council resolution in accordance with the provisions of the Charter of the city.

CHAPTER 151: BUILDING REGULATIONS

SECTION

State Construction Code

[§ 151.01 ADOPTION BY REFERENCE](#)

[§ 151.02 STATE CONSTRUCTION CODE SECTION DEALING WITH MECHANICAL REGULATIONS](#)

Property Maintenance Code

[§ 151.10 ADOPTION BY REFERENCE](#)

[§ 151.11 AUTHORITY TO ENFORCE](#)

Underground Utilities

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House Numbering

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Abatement of Dangerous Buildings

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§ 151.55 NOTICES AND ORDERS OF BUILDING OFFICIAL

§ 151.56 APPEAL

§ 151.57 PROCEDURES FOR CONDUCT OF HEARING APPEALS

§ 151.58 ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL OR THE BOARD OF APPEALS

§ 151.59 PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

§ 151.60 RECOVERY OF COST OF REPAIR ON DEMOLITION

STATE CONSTRUCTION CODE

§ 151.01 ADOPTION BY REFERENCE

- (A) Pursuant to the provision of the Michigan Building, Electrical, Mechanical or Plumbing Code, in accordance with Section 9 of Act 230, P.A. 1972, as amended, the Building, Electrical, Mechanical or Plumbing Official of the city is hereby designated as the enforcing agency to discharge the responsibility of the city under Act 230, P.A., 1972, as amended, State of Michigan. The city assumes responsibility for the administration and enforcement of the Act through its corporate limits.
- (B) Complete printed copies of the State Construction Code, and the sections relating to building, plumbing and electrical, herein adopted, are available for public use, inspection and distribution at the office of the City Clerk during office business hours.
(Ord. 88, passed 3-27-79; Am. Ord. 99-2, passed 4-27-99)

§ 151.02 STATE CONSTRUCTION CODE SECTION DEALING WITH MECHANICAL REGULATIONS

A certain document, three copies of which are on file in the office of the City Clerk, being marked and designated as "State Construction Code" sections dealing with mechanical regulations, is hereby adopted as the Mechanical Code of the city, for the control of buildings and structures as herein provided, and each to, adopted and made a part hereof, as if fully set out in this chapter.
(Ord. 88, passed 5-9-89)

PROPERTY MAINTENANCE CODE

§ 151.10 ADOPTION BY REFERENCE

A certain document, copies of which are on file in the Office of the City Clerk, being marked and designated as the latest edition of "The BOCA National Existing Structures Code" as published by Building Officials and Code Administrators (BOCA) International, Inc., is adopted by the City Council as the Property Maintenance Code of the city for the control of buildings and structures as herein provided; and each and all of the aforementioned Code are hereby referred to, adopted, and made a part thereof, as if fully set out in this chapter.

(Ord. 100, passed 1-22-85)

§ 151.11 AUTHORITY TO ENFORCE

It shall be the duty and responsibility of the Code Official to enforce the provisions of the "BOCA National Existing Structures Code", in the Inspection Department of the city, which is hereby established and which shall be operated under the supervision of the City Manager.

(Ord. 100, passed 1-22-85)

~~§ 151.15 UNDERGROUND UTILITIES~~

~~All telephone, electric, television, gas and similar service, distributed by wire, cable or pipe, shall be placed underground. Such conduits, pipes or cables shall be placed with private easements obtained by such service providers, or within dedicated public ways, provided however, that overhead lines may be permitted upon written recommendation of the Public Works Director, Planning Commission and the approval of the City Council where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, civic design and visual character of the community. 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 transverse privately owned property shall be protected by easements granted by the property owner.~~

~~*(Ord. 00-08, passed 10-10-00)*~~

BLIGHT CONDITIONS

§ 151.20 TITLE

This chapter shall be known and may be cited as the Anti-Blight Code.
(Ord. 107, passed 10-9-73)

§ 151.21 AUTHORITY FOR ENACTMENT AND DEFINITIONS

This chapter is enacted pursuant to the intents and purposes of Act 167 of the Public Acts of 1917; Act 344 of the Public Acts of 1945; and Act 208 of the Public Acts of 1949, each as amended, and in the enforcement and interpretation of this chapter the definitions contained in said Acts shall apply, consistent with the letter and spirit of the Acts.
(Ord. 107, passed 10-9-73)

§ 151.22 PURPOSE

The purpose of this chapter being to prevent, reduce or eliminate blight or potential blight in the city by the prevention or elimination of certain environmental causes of blight or blighting factors which exist or which may in the future exist, it is hereby determined that the following uses, structures or activities are causes of blight which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods. On and after the effective date of this chapter no person, firm or corporation of any kind shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the city, owned, leased, rented or occupied by such person, firm or corporation.

(A) In any area zoned residential:

- (1) The storage upon any property, except in a completely enclosed building, of building material, unless there is in force a valid building permit issued by the city for construction upon said property and said materials are intended for use in connection with such construction. Building materials shall include but shall not be limited to lumber, brick, concrete or cinder blocks, plumbing material, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.
- (2) The storage or accumulating of junk, trash, rubbish or refuse of any kind, except domestic refuse stored in such a manner as not to create a nuisance, for a period not to exceed 15 days. The term **JUNK** shall include parts of machinery or motor vehicles, boat hulls, unused stoves or other appliances stored in the open, remnants of wood, metal or any other materials or other cast-off material of any kind, whether or not the same could be put to any reasonable use.
- (3) The existence of any structure or part of a structure or premises which, because of fire, wind or other natural disaster or physical deterioration or possible fire is dangerous to the health, safety or welfare of others.
- (4) The existence of any vacant dwelling, garage, or out-buildings which are not kept securely locked, windows kept glazed, or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.

- (5) In any area the existence of any partially completed structure, unless such is in the course of construction in accordance with a valid and existing building permit issued by the city and unless such construction is completed within a reasonable time.

- (B) In any area zoned non-residential, causes of blight: The causes of blight or blighting factors set forth above as applicable to areas zoned for residential purposes are hereby determined to be or blight or blighting factors and subject to the prohibitions of this chapter, if located in areas zoned for other than residential purposes, unless such uses of property are incidental to an necessary for the carrying out of any business or occupation lawfully being carried upon the property in question. (Ord. 107, passed 10-9-73)

§ 151.23 MAINTAINING SANITARY CONDITIONS OF DWELLINGS REQUIRED

- (A) The owner of every multiple dwelling, and in the case of private and two-family dwellings, the occupant or occupants thereof, shall provide for use of said dwelling, keep clean and in place, properly covered receptacles of non-absorbent material for holding garbage, refuse, ashes, rubbish and other waste matter. Garbage chutes are prohibited.

- (B) Every dwelling and part thereof shall be kept clean and shall also be kept free from any accumulation of dirt, filth, rubbish, garbage or other matter in or on the same, or in the yards, courts, passages, areas or alleys connected therewith, excepting as provided in division (A). The owner of every dwelling shall be responsible for keeping the entire building and premise in a sanitary condition and free from vermin, and the owner shall also be responsible for complying with the provisions of the section, except that the tenants shall also be responsible for the cleanliness of those parts of the premises that they occupy and control. (Ord. 107, passed 10-9-73) Penalty, see Ch. 155

§ 151.24 DECLARATION OF PUBLIC NUISANCE

It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk vehicles, abandoned vehicles, building materials, and/or the maintenance of blighted structures or premises within the city tends to result in blighted and deteriorated neighborhoods, the spread of vermin and disease, the increase in criminal activity, the increase of fire and traffic hazards, and therefore, is contrary to the public peace, health, safety and general welfare of the community and violations hereof are declared to be public nuisances. (Ord. 107, passed 10-9-73) Penalty, see Ch. 155

§ 151.25 AUTHORITY TO ENFORCE

This chapter shall be enforced by the City Manager or by such other person or persons as may be designated by the City Manager. (Ord. 107, passed 10-9-73)

§ 151.26 ABATEMENT PROCEDURE

The owner, if known, and the occupant of any premises upon which any one or more of the causes of blight or blighting factors set forth in § 151.22 are found to exist shall be notified in writing to remove or eliminate such causes of blight or blighting factors from such premises within ten days after service of notice upon him or them. Such notice may be served personally or by certified mail, return receipt requested, addressed to the owner at the address shown on the latest City Tax Rolls, and to the occupant at the address of the premises involved. If the owner or occupant cannot be served personally or by certified mail, a copy of the notice shall be posted in a conspicuous place on the premises and published once in the official newspaper of the city. Additional time may be granted by the enforcement officer.

(Ord. 107, passed 10-9-73)

§ 151.27 APPEAL

- (A) Said appeal shall be heard by the City Council at the next regular meeting thereof and said appellant shall appear before the Council and show cause, if any he has, supporting his appeal. Any officer of the city or any resident may also appear and present any facts they have pertinent to the matter involved.

- (B) After hearing the facts so presented to the City Council, the City Council may uphold the notice as given or may extend the time for compliance therewith or may set aside the notice entirely, or make such other disposition as in its judgment shall be reasonable and just, and fix the time for compliance.

(Ord. 107, passed 10-9-73)

HOUSE NUMBERING

§ 151.45 NUMBERING BUILDINGS; PLAN

All buildings situated or hereafter erected and located on any of the streets, avenues and public highways except alleys, within the city shall be numbered by the owner or owners, occupant or occupants thereof according to the following plan, namely;

- (A) House numbers on the east and west streets and avenues shall begin on the north and south boundaries of Colby Street and run north and south on a unit basis of 20 feet per number or 100 to each block. Such numbers shall change from 100 to the succeeding 100 at the intersecting street, or the produced line of intersecting streets.
- (B) House numbers on the east and west streets and avenues shall begin on the east and west boundaries of Mears Avenue and run east and west on a unit basis of 20 feet per number or 100 to each block. Such numbers shall change from 100 to the succeeding 100 at the intersecting street, or the produced line of intersecting streets.
- (C) The even numbers on north and south streets shall be on the west side of said streets. The even numbers on the east and west streets shall be on the north side of said streets.
- (D) Such numbers shall not be changed without the consent of the City Manager and it shall be the duty of the City Manager to adjust numbers or renumber such streets from time to time as the same may be required.
(Ord. 3, passed 6-18-47)

§ 151.46 DISPLAY OF STREET NUMBERS

The numbers assigned to premises in accordance with this chapter shall be prominently displayed by the owner, lease-holder or occupant so as to be visible from the center of the street on which said premises front. Said assigned numbers may be displayed on the front of the building or residence, on/at mailboxes or at the street right-of-way line of the particular premises.

(Ord. 3, passed 6-18-47; Am. Ord. 3A, passed 12-10-85; Am. Ord. 96-02, passed 9-24-96) Penalty, see Ch. 155

§ 151.47 PLATS TO BE KEPT BY CITY CLERK TO SHOW NUMBERS

For the purpose of facilitating a correct enumeration, plats of all streets, avenues, and public highways within the city showing the proper numbers of all lots or houses fronting upon all highways, except alleys, shall be prepared and kept on file in the office of the City Clerk, which shall be opened during the office hours of the City Clerk to the inspection of any owner or occupant of any building desiring to know the proper numbering of building.

(Ord. 3, passed 6-18-47)

§ 151.48 FAILURE TO NUMBER BUILDING

Any person being the owner or occupant of any building now erected or that may hereafter be erected in the city who violates the provisions of this chapter and neglects or refuses to number any building owned or occupied by him, in conformity with the provisions of this chapter and with the plan for numbering buildings as aforesaid, ~~shall be subject to a penalty of \$100.~~ Each day that a violations continues after due notice has been served, shall be deemed a separate offense.

(Ord. 3, passed 6-18-47; Am. Ord. 3A passed 12-10-85) Penalty, see Ch. 155

ABATEMENT OF DANGEROUS BUILDINGS

§ 151.50 PURPOSE AND SCOPE

- (A) It is the purpose of the subchapter to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the Building Code, Housing Code or otherwise available by law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished. The purpose of this subchapter is not to create or otherwise establish or designate any particular class or group who will or should be especially protected or benefited by the terms of this subchapter.
- (B) The provisions of this subchapter shall apply to all dangerous building, as herein defined, which are now in existence or which may hereafter become dangerous n this jurisdiction.
(Ord. 99-3, passed 7-13-99)

§ 151.51 ALTERATIONS, ADDITIONS AND REPAIRS

All building or structures which are required to be repaired under the provisions of this subchapter shall be subject to the provisions of §§ 151.01-151.02 and 151.10.

(Ord. 99-3, passed 7-13-99)

§ 151.52 GENERAL DEFINITIONS

For the purpose of this subchapter, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code or the Housing Code.

BUILDING CODE. Refers to §§ 151.01-151.02 and 151.10.

DANGEROUS BUILDING. Any building or structure deemed to be dangerous under the provisions of § 151.54 of this code.

BUILDING OFFICIAL. Includes the following: community development director and building inspector, or their authorized representatives.

(Ord. 99-3, passed 7-13-99)

§ 151.53 ENFORCEMENT

(A) General

- (1) The building official is authorized to enforce the provisions of this subchapter. The ~~Whitehall Community Development Director~~City Manager or designee shall have power to render interpretations of this subchapter and to enforce, subject to the oversight of the City Manager, the rules and supplemental regulations adopted by City Council for the purpose of clarifying the application of the subchapter provisions. Such interpretations shall be in conformity with the intent and purpose of this subchapter.
- (2) The building official is hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this subchapter.
- (3) When it is necessary to make an inspection to enforce the provisions of this subchapter, or when the building official or the building official's authorized representative has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this subchapter which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this subchapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or the other persons having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

(B) *Fixing of dangerous building.* All buildings or portions thereof which are unanimously determined after inspection by the Building Inspector, City Manager ~~and Community Development Director~~or designee to be dangerous as defined in this subchapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal.

(C) *Violations.* It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this subchapter.

(D) *Inspection of work.* All buildings or structures within the scope of this subchapter and all construction or work for which a permit is required shall be subject to inspection by the building inspector in accordance with and in the manner provided by §§ 151.01-151.02 and 151.10-151.11.

(E) *Construction board of appeals.* Decisions or determinations made by the building official may be appealed to the Construction Board of Appeals.
(Ord. 99-3, passed 7-13-99)

§ 151.54 DEFINITION OF DANGEROUS BUILDINGS

For the purpose of this subchapter, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, providing that such conditions

or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

- (A) Whenever any door, aisle, passageway, stairway or other means of exit is not sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- (B) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- (C) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
- (D) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.
- (E) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- (F) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
- (G) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earth tremors than is required in the case of similar new construction, or whenever its exterior or supporting walls lean to such an extent it manifestly presents a dangerous condition.
- (H) Whenever the building or structure, or any portion thereof, because of
 - (1) Dilapidation, deterioration or decay;
 - (2) Faulty construction;
 - (3) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - (4) The deterioration, decay, or inadequacy of its foundation; or
 - (5) Any other cause, is likely to partially or completely collapse.
- (I) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

- (J) Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
- (K) Whenever a vacant building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become
 - (1) An attractive nuisance to children;
 - (2) A harbor for vagrants, criminals or immoral persons; or as to
 - (3) Enable persons to resort thereto for the purpose of committing unlawful acts.
- (L) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings, which violation would have a causal relationship to the dangerous condition of the structure or building.
- (M) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the:
 - (1) Strength;
 - (2) Fire resisting qualities or characteristics; or
 - (3) Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
- (N) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by a city, county or state health officer to be unsanitary, unfit for human habitation or in such condition that is likely to cause sickness or disease.
- (O) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.
- (P) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law, in equity jurisprudence or in accordance with § 151.24.
- (Q) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public. For the purpose of this section, a building or structure shall be deemed abandoned if it is in a state of disrepair or destruction with no apparent occupancy by habitation or other attendance for a period of six months. (*Ord. 99-3, passed 7-13-99*)

§ 151.55 NOTICES AND ORDERS OF BUILDING OFFICIAL

(A) *General.*

- (1) When the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, vacation or demolition of the building.
- (2) The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:
 - (a) The street address and a legal description sufficient for identification of the premises upon which the building is located.
 - (b) A statement that the building official has found the building dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of § 151.54 of this subchapter.
 - (c) A statement of the action required to be taken as determined by the building official.
 1. If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all the circumstances, provided however, the work shall be completed within six months.
 2. If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable, but not in excess of 30 days.
 3. If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.
 - (d) Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official:
 1. Will order the building vacated and posted to prevent further occupancy until the work is completed, and
 2. May proceed to cause the work to be done and charge the costs thereof against the property or its owner.
 - (e) Statements advising:

1. That any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the Construction Board of Appeals, provided the appeal is made in writing as provided in this code and filed with the building official within 60 days from the date of service of such notice and order; and
 2. That failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.
- (3) The notice and order, and any amended or supplemental notice and order, shall be served upon the owner or record and posted on the property; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records; the holder of any mortgage of deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person required herein to be served shall not invalidate any proceeding hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.
- (4) Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each person at their address as it appears on the last equalized assessment roll of the county or as known to the building official, then a copy of the notice and order shall be so mailed, addressed to the person, at the address of the building involved in the proceedings. If the person fails to receive a mailed notice, said person shall be sent a second notice by mail or may be notified by person service. The failure of the person to receive such mailed notice after two attempts by the building official shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.
- (5) Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail shall be affixed to the copy of the notice and order by the building official.
- (B) *Recordation of notice and order.* If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the building official shall file in the office of the Muskegon County Register of Deeds a certificate describing the property and certifying:
- (1) That the building is a dangerous building and
 - (2) That the owner has been so notified.

Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the Muskegon County Register of Deeds certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

(C) *Repair, vacation and demolition.* The following standards shall be followed by the building official (and by the Construction Board of Appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

- (1) Any building declared a dangerous building under this code shall be made to comply with one of the following:
 - (a) The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair; or
 - (b) The building shall be demolished at the option of the building owner; or
 - (c) If the building does not constitute an immediate danger to the life, limb, property, or safety of the public it may be vacated, secured, and maintained against entry.
- (2) If the building or structure is in such condition as to make it immediately dangerous to the life, limb property or safety of the public or its occupants, it shall be ordered to be vacated.

(D) *Notice to vacate.*

- (1) Every notice to vacate shall, in addition to being served as provided in § 151.55(A) (3), be posted at or upon each exit of the building and shall be in substantially the following form:

**DO NOT ENTER
UNSAFE TO OCCUPY**

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
City of Whitehall

- (2) Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under § 151.55(A)(2), reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and certificate of occupancy issued pursuant to the provisions of the building code.
(Ord. 99-3, passed 7-13-99)

§ 151.56 APPEAL

(A) *General.*

- (1) *Form of appeal.* Any person entitled to service under § 151.53(A)(3) may, upon payment of an appeal fee ~~of \$100 appeal~~ adopted by council from any notice and order of any action of the building official under this code by filing at the office of the building official under this code by filing at the office of the building official a written appeal containing:

- (a) A heading in the words: "Before the Construction Board of Appeals of the City of Whitehall."
- (b) A caption reading: "Appeal of" giving the names of all appellants participating in the appeal.
- (c) A brief statement setting forth the legal interest of each of the appellants in the building of the land involved in the notice and order.
- (d) A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
- (e) A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
- (f) The signatures of all parties named as appellants and their official mailing addresses.
- (g) The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within ~~60~~30 days from the date of the service of such order or action of the building official; provided, however, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with § 151.55(D), such appeal shall be filed within 10 days from the date of the service of the notice and order of the building official.

- (2) *Processing of appeal.* Upon receipt of any appeal filed pursuant to this section and the appeal fee, the building official shall present it at the next regular or special meeting of the Construction Board of Appeals.
 - (3) *Scheduling and noticing appeal for hearing.* As soon as practicable after receiving the written appeal, the Construction Board of Appeals shall fix a date, time and place for the hearing of the appeal by the Construction Board of Appeals. The date shall not be less than 10 days nor more than ~~60~~30 from the date the appeal was filed with the building official. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the secretary of the Construction Board of Appeals either by causing a copy of the notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.
- (B) *Effect of failure to appeal.* Failure of any person to file an appeal in accordance with provisions of § 151.56(A) shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.
 - (C) *Scope of hearing on appeal.* Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

- (D) *Staying of order under appeal.* Except for vacation orders made pursuant to § 151.55(D), enforcement of any notice and order of the building official issued under this code shall be stayed during the pence of an appeal therefrom which is properly and timely filed.
(Ord. 99-3, passed 7-13-99)

§ 151.57 PROCEDURES FOR CONDUCT OF HEARING APPEALS

(A) *General.*

- (1) The Construction Board of Appeals, as a body, shall serve as hearing examiner to conduct the hearings, provided there is a quorum of a simple majority. A vote of a majority of members will establish the decision of the Construction Board of Appeals.
- (2) A record of the entire proceedings shall be made by ~~tape~~-recording or by any other means of permanent recording determined to be appropriate by the Construction Board of Appeals.
- (3) The proceeding at the hearing shall also be reported by a stenographic reporter if requested by any party thereto. The party requesting the stenographer shall be responsible for any appearance fee charged by the stenographer. A transcript of the proceedings shall be made available to all parties upon requires and upon payment of the fee prescribed therefor. Such fees may be established by the Construction Board of Appeals, but shall in no event be greater that the cost involved.
- (4) The Construction Board of Appeals may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such hearing, no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.
- (5) In any proceedings under this chapter, the Construction Board of Appeals, any board member, or the hearing examiner has the power to administer oaths and affirmations and to certify official acts.
- (6) The Construction Board of Appeals and its representatives shall proceed with reasonable dispatch to conclude a matter before it. Due regard shall be shown for the convenience and necessity of any parties and their representatives; provided however, the Construction Board of Appeals shall render its determination within 30 days from the date the hearing is concluded.

- (B) *Form of notice of hearing.* The notice to appellant shall be substantially in the following form, but may include other information:

"You are hereby notified that a hearing will be held before the Construction Board of Appeals at _____ on the _____ day of _____, 20____, at the hour _____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the Construction Board of Appeals."

(C) *Subpoenas.*

- (1) The Construction Board of Appeals may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the Construction Board of Appeals or upon the written demand of the appellant. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in possession or under control. A subpoena need not be issued when the affidavit is defective in any particular.
- (2) Any person who refuses without lawful excuse to attend any hearing or to produce material evidence which the person possesses or controls as required by any subpoena served upon such person as provided for herein shall be guilty of a misdemeanor and subject to penalties outlined in Chapter 155.

(D) *Conduct of hearing.*

- (1) Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
- (2) The appealing party may be represented by an attorney, licensed to practice law in the state. The building official may be represented by the city attorney or assistant city attorney.
- (3) Oral evidence shall be taken only on oath or affirmation.
- (4) Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
- (5) Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.
- (6) Irrelevant and unduly repetitious evidence shall be excluded.
- (7) Each party shall have these rights, among others:
 - (a) To call and examine witnesses on any matter relevant to the issues of the hearing;
 - (b) To introduce documentary and physical evidence;
 - (c) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
 - (d) To impeach a witness regardless of which party first called the witness to testify;
 - (e) To rebut the evidence;

- (f) To be represented by anyone who is lawfully permitted to do so.
- (8) (a) In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the city and ordinances of the city or rules and regulations of the Construction Board of Appeals.
- (b) Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.
- (c) Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or written or oral presentation of authority, the manner of such refutation to be determined by the Construction Board of Appeals or hearing examiner.
- (d) The Construction Board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that:
 - 1. Notice of such inspection shall be given to the parties before the inspection is made;
 - 2. The parties are given an opportunity to be present during the inspection, and;
 - 3. The Construction Board of Appeals or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Construction Board of Appeals or hearing examiner.

(E) *Method and form of decision.*

- (1) When a contested case is heard before the Construction Board of Appeals itself, a member thereof who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.
- (2) The Construction Board of Appeals may decide the case upon the entire record before it, with or without taking additional evidence.
- (3) The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested.
- (4) The effective date of the decision shall be the date it is issued.

~~(5) In the event the appellant prevails on all issues submitted on appeal to the Construction Board of Appeals, the appellant shall be entitled to be reimbursed the appeal fee paid. (Ord. 99-3, passed 7-13-99)~~

§ 151.58 ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL OR THE BOARD OF APPEALS

(A) *Compliance.*

- (1) After any order of the building official or the Construction Board of Appeals made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor and subject to penalties outlined in Chapter 155.
- (2) If, after any order of the building official or Construction Board of Appeals made pursuant to this code shall have become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may:
 - (a) Cause such person to prosecuted under § 151.58(A)(1) or
 - (b) Institute any appropriate action to abate such building as a public nuisance in the Muskegon County Circuit Court.
- (3) Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:
 - (a) The building official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

**DO NOT ENTER
UNSAFE TO OCCUPY**

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
City of Whitehall

- (b) No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.
- (B) *Extension of time to perform work.* Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 120 days, within which to complete the repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.
- (C) *Interference with repair or demolition work prohibited.* No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code; or with any person

to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person have an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code. Violation of this provision is a misdemeanor and shall subject the person to penalties as outlined in Chapter 155 and injunctive relief requested by the city in the Circuit Court for the county.
(Ord. 99-3, passed 7-13-99)

§ 151.59 PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

When any work of repair of demolition is to be done pursuant to the order of the Circuit Court, the cost of such work may be made a special assessment against the property involved or may be made a personal obligation of the property owner if ordered by the Court.
(Ord. 99-3, passed 7-13-99)

§ 151.60 RECOVERY OF COST OF REPAIR OR DEMOLITION

- (A) If the Circuit Court orders that the charge shall be a personal obligation of the property owner, the attorney for the city shall collect the same on behalf of the city by use of all appropriate legal remedies.
- (B) If the City Council orders that the charge shall be assessed against the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter the assessment shall constitute a special assessment against and a lien upon the property.
- (C) The amount or any special assessment may be appealed in the same manner as any other special assessment.
(Ord. 99-3, passed 7-13-99)

CHAPTER 152: SOIL EROSION AND SEDIMENTATION

SECTION

~~§ 152.01 – 152.14~~

~~Repealed for the purpose of allowing the State of Michigan to administer the objectives of the Ordinance pursuant to Part 91 Soil Sedimentation Control, of Act 451 of the public Acts of 1994.
(Ord. 04-04, passed 8-10-04)~~

CHAPTER 153: SUBDIVISION REGULATIONS

SECTION

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GENERAL PROVISIONS

§ 153.01 DEFINITIONS

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

PARKING SPACE. An area of not less than 160 square feet, exclusive of drives or aisles giving access thereto, accessible from streets or alleys, and to be usable for the storage or parking of self-propelled passenger automobiles.

SUBDIVIDE. Shall have the same meaning as defined in Act 172 of the Public Acts of 1929 and amendments thereto.

(Ord. 51, passed 7-1-57)

§ 153.02 RECORDING OF PLAT

No person shall sell or convey any lot in any plot by reference thereto until such plat has been duly recorded in the office of the County Register of Deeds. Every plat approved by the Planning Commission shall, by virtue of such approval, be deemed to be an amendment of, or an addition to, or a detail of the City Plan and a part thereof.

(Ord. 51, passed 7-1-57) Penalty, see Ch. 155

§ 153.03 METES AND BOUNDS PLATTING

The description of any lot or parcel in a plat of a subdivision, filed hereafter, by metes and bounds in the instrument of transfer or other document used in the process of selling or transfer, is a violation of these regulations.

(Ord. 51, passed 7-1-57) Penalty, see Ch. 155

§ 153.04 SALES CONTRARY TO REQUIREMENTS

Any sale of or option or contract to sell land subdivided contrary to the provisions of these regulations, shall be voidable as provided in Section 78a of the Michigan Platting Act as amended.

(Ord. 51, passed 7-1-57)

§ 153.05 PUBLIC WATER AND SEWER SERVICES

Public sewer or water service shall not be provided for any dwelling or other structure located on a plot subdivided or sold in violation of these regulations, excepting that such service may be installed in any structure when deemed necessary by the Health Department for the protection of the public health.

(Ord. 51, passed 7-1-57) Penalty, see Ch. 155

§ 153.06 PARTITIONING AND DIVIDING OF LOTS, OUTLOTS AND OTHER PARCELS OF LAND ON RECORDED PLAT

- (A) No lot, outlot or other parcel of land in a recorded plat shall be further partitioned or divided unless in conformity with this chapter and amendments thereto, and also the Subdivision Control Act of 1967 of the State of Michigan and its amendments.
- (B) No lot, outlot or parcel of land shall be partitioned or divided which would result in any remaining parcel having less square footage or less frontage than allowed by this chapter provided, however, a partitioned parcel may be utilized in conjunction with an adjoining parcel, with common ownership to satisfy such square footage and frontage requirements.
- (C) The owner of any lot, outlot or parcel of land which is subject to a partition or division shall pay for:
 - (1) The cost of making water and sewer service available to any parcel which is deprived of such services by reason of such partition or division, unless such parcel has such services available by reason of being adjacent to and used in conjunction to other land, with common ownership, which has such services available; and
 - (2) The cost of terminating water and sewer services to a parcel which is used in conjunction with other adjacent land, with common ownership, which has such services available, the availability of two water and sewer services to a parcel or parcels of land used as one being hereby prohibited.
- (D) No lot, outlot or other parcel of land may be partitioned or divided into more than four parts.
- (E) The approval or disapproval of such partition or division shall be made by resolution of the City Council after written application is made therefor by the owner of such land; provided, however, the City Council may, prior to making such determination, submit the application to the City Planning Commission for its recommendation.
- (F) The city may require a map of survey prepared by a registered land surveyor prior to considering the application for approval of such partition or division of any lot, outlot or parcel of land.
(Ord. 51-A, passed 9-26-89; Am. Ord. 97-07, passed 11-25-97)

PREPARATION AND FILING OF PLATS

§ 153.10 APPLICATION

An application in writing shall be submitted to the City Planning Commission by the owner or his authorized representative for approval of a preliminary plat of any proposed subdivision lying in the limits of the city. *(Ord. 51, passed 7-1-57)*

§ 153.11 PRELIMINARY PLAT

Three copies of the preliminary plat at a scale of not more than 200 feet to the inch showing the following shall be submitted with the application.

- (A) Title under which proposed subdivision is to be recorded, description of land to be platted, name and address of owner and technical author of the plan.
- (B) Location of existing property lines, streets, buildings, water courses, railroads, utilities and other physical features.
- (C) The location of the adjoining streets, utilities, buildings and other physical features which relate to the development of the subdivision.
- (D) The location, name and width of proposed streets, alleys, easements and public utilities, parks, lots and building lines on the property to be subdivided.
- (E) Any engineering data deemed necessary relative to the topography, street cross-section, sewer elevations, water elevations, et seq.
- (F) Proposed use of property.
- (G) Areas proposed to be dedicated for public purposes.
- (H) Proposed grade elevations at street intersection or breaks of grades.
- (I) Date, north point and graphic scale.
(Ord. 51, passed 7-1-57)

§ 153.12 TENTATIVE APPROVAL OF PRELIMINARY PLAT

- (A) Preliminary plats shall be subject to the tentative approval of the City Planning Commission, who shall take into consideration the city's requirements and the most appropriate use of the land. Particular attention will be given to the standards of design, the justification for the development of public improvements and the subdivision's conformity to the existing street plan. The width, location and arrangements of streets, the dimensions of lots, the location of utilities and other features will be studied.
- (B) If the preliminary plat is not approved, a list of the changes necessary to render the plan acceptable will be made known to the subdivider.

- (C) If, after hearing as provided in § 153.14, the preliminary plat meets the tentative approval of the City Planning Commission, it shall so recommend to the City Council, and if the City Council shall then tentatively approve the same, the subdivider may proceed to make an accurate survey of the property and prepare the proposed final plat. Plans thus tentatively approved by the City Planning Commission and City Council shall bear the signature of the Chairman of the Commission and the City Manager, and one copy shall be filed in the office of each, and a third signed copy returned to the subdivider, accompanied by such suggested changes as may be required.
- (D) The approval of a preliminary plat shall not constitute an acceptance of the subdivision. The final or record subdivision plat shall be submitted to the City Planning Commission in triplicate, within one year after approval of the preliminary plat, otherwise the approval of the preliminary plat shall become null and void unless an extension of time is applied for and the application is granted by the Commission.
(Ord. 51, passed 7-1-57)

§ 153.13 RECORD OR FINAL PLAT

The final plat shall be prepared and presented in accordance with the provisions of Act 172, Public Acts of Michigan for 1929 as amended, and in addition, shall show:

- (A) Any private restrictions shall be shown on plat or reference to them made thereon; and plats shall contain paper acknowledgements of owner and mortgages accepting said platting restrictions.
- (B) In addition to the above, the City Planning Commission will require a statement from each subdivider indicating:
 - (1) Ownership of the property proposed to be subdivided as evidenced by an abstract of title certified to date, or, at the option of the proprietor, a policy of title insurance.
 - (2) The improvements and utilities to be installed by the subdivider.
 - (3) The restrictions to be imposed upon the property after subdivision.
 - (4) The streets, alleys, parks and easements as agreed upon with the Planning Commission, with a recital that same are dedicated to the use of the public.
 - (5) The total area in acres of the tract to be subdivided.
 - (6) The net area in lots.
 - (7) The total lot frontage in feet, classified as to residential frontage, business frontage and industrial frontage.
 - (8) The area in streets.
 - (9) The area in parks.
(Ord. 51, passed 7-1-57)

§ 153.14 HEARING

Any preliminary plot submitted to the City Planning Commission shall contain the name and address of a person to whom notice of a hearing shall be sent and no plat shall be acted on by the Planning Commission without affording a hearing thereon. Notice shall be sent to said person at the address by registered mail of the time and place of such hearing not less than five days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the platted land, as their names and addresses appear upon the latest city tax record.

(Ord. 51, passed 7-1-57)

§ 153.15 APPROVAL

The Planning Commission shall examine the final plat for compliance with the preliminary plat, any required changes suggested upon tentative approval, and any additions, modifications or deletions made necessary by amended or new statutory requirements; and, in its discretion, may hold a further hearing or hearings, and shall, within 60 days after submission of the proposed final plat to it, approve, modify or disapprove said proposed final plat, and provided also that the applicant for approval may consent to an extension of such 60-day period to permit further consideration and decision by said Planning Commission and no plat shall be finally approved by the City Council without the prior approval of said City Planning Commission except as provided in §§ 153.36 through 153.40 of this chapter.

(Ord. 51, passed 7-1-57)

DESIGN STANDARDS

§ 153.20 CONFORMITY TO CITY PLAN

Subdivisions shall be in harmony with the Comprehensive Master ~~Thoroughfare~~ Plan.

(Ord. 51, passed 7-1-57)

§ 153.21 STREETS

(A) *Relation to adjoining street system.*

- (1) The arrangement of streets in a new subdivision shall make provision for the continuation of principal existing streets in adjoining or adjacent subdivisions, insofar as they may be necessary public requirements. In general, such streets shall be of a width as great as that of the street so continued or projected. The center line of such streets shall continue with the center line of existing streets, insofar as possible.
- (2) In general, the streets shall extend to the boundary of the subdivision to provide the proper access to adjoining property, and provide for proper connection with the highway system for contiguous land.
- (3) Where the plot submitted covers only a part of the subdivider's tract, a sketch of a proposed future street system of the unsubmitted part shall be considered in the light of adjustments and connections with the street system of the part not submitted.

(B) *Access to property.*

- (1) Each residential lot within a subdivision shall be provided with a satisfactory means of access. Building permits shall not be issued for the construction of buildings which do not have access on a public street. There shall be no reserve strips controlling access to a street, except where the control of such strips is definitely placed with the City Council.
- (2) Unplatted land within the limits of the city shall be considered in the light of future extension of existing streets, and no parcel of land in a unplatted area shall be eligible for a building permit until the location of the proposed improvements within said area shall be first approved by the City Planning Commission and certified in writing to the City Manager.

(C) *Large allotments.* Where the parcel is subdivided into larger tracts than for building lots, the platting shall not be such as to stop the opening of major streets and the extension of adjacent minor streets, which in the judgment of the Council should ultimately be opened and extended.

(D) *Street Intersections.* Streets shall be required to intersect each other at as nearly right angles as practicable. Streets converging at one point shall be reduced to the least practicable number.

(E) *Streets in relation to railroads.* Whenever a subdivision is to be laid out adjacent to a railroad right-of-way, a street shall be placed parallel to the railroad. The intersection of the center-line of the parallel street with that of any street which crosses the railroad shall not be less than 300 feet from the line of the railroad right-of-way.

~~(F) *Dedication of half streets.* The dedication of half streets will be permitted where a subdivision adjoins undeveloped property, and wherever there already exists a dedicated and recorded half street or alley on an adjoining plat, the other half must be dedicated on the proposed plat to make the street or alley complete.~~

~~(G)~~(F) *Dead-end streets.* Dead-end streets will not be approved if they exceed 400 feet in length. Every permanently dead-end street shall be of such width at the closed end and will permit a turning radius ~~of not less than 50 feet~~ approved by the local Fire Authority.

~~(H)(G)~~ Building lines and setback lines. Building lines shall conform to the requirements of the Zoning Ordinance and the Comprehensive Master ~~Thoroughfare~~ Plan as provided by Act 285, Public Acts 1931 as amended.

~~(H)(H)~~ Street Widths. The width for ~~major~~ streets shall conform to the width designated on the Comprehensive Master ~~Thoroughfare~~ Plan. The minimum width for ~~minor~~ streets right of way shall be 60 feet, except in cases where the topography or special conditions make a street of less width more suitable, the City Planning Commission may waive the above requirements.

~~(H)(I)~~ Street grades. Profiles may be required of all streets at the discretion of the City Planning Commission. The minimum grade allowed shall be 0.5%.

~~(K)~~ Corner radii. ~~Curb corners shall be rounded with a radius of not less than 25 feet. Intersections where the interior angle is less than 60 degrees shall have the curb corners rounded with at least a 30 foot radius and when the interior angle is less than 135 degrees it is recommended that the corner be rounded with a minimum radius of ten feet. Property lines at such corners shall be rounded or otherwise set back sufficiently to permit such construction.~~

~~(H)(J)~~ Access to streets across ditches. Subdividers shall provide access to all proposed streets across water courses or ditches in a standard manner approved by the City Manager.

~~(H)(K)~~ Street and subdivision names. All proposed streets obviously in alignment with another already existing and named, must bear the same name. New street names shall not duplicate existing street names and all names must be approved by the City Planning Commission. Duplication of proposed subdivision names, with the names of those already existing, will not be permitted.

(Ord. 51, passed 7-1-57) Penalty, see Ch. 155

§ 153.22 ALLEYS

Alleys, having a minimum width of 20 feet, will be required in the rear of all local business and commercial lots. A diagonal cut-off shall be made at all acute and right-angle intersection of alleys sufficient to provide an inside turning radius of 30 feet. At the intersection of alley lines with street lines, a corner cut-off line shall be provided between points established by measuring a distance of five feet in both directions along the alley line and the street from the point of their intersection.

(Ord. 51, passed 7-1-57) Penalty, see Ch. 155

§ 153.23 EASEMENTS

Where alleys are not provided, easements of not less than six feet in width shall be provided on each side of rear lot lines and of side lot lines where necessary for utilities and shall be noted on the record plat. These easements should not be direct and continuous from block to block. Easements of greater width may be required along natural water courses and channels, such easements to conform substantially with the lines of such natural water-ways.

(Ord. 51, passed 7-1-57) Penalty, see Ch. 155

§ 153.24 MONUMENTS

Monuments shall conform to and shall be placed as required of Act 172, Public Acts of 1929 as amended.

(Ord. 51, passed 7-1-57) Penalty, see Ch. 155

§ 153.25 BLOCK

Residential blocks shall not be less than 200 feet wide, they shall not be less than 660 feet long and not more than 1200 feet long. Where blocks are more than 800 feet long, a ten foot crosswalk shall be provided near the center of the block. Business, commercial and industrial blocks shall not be less than 280 feet wide and they shall not be less than 280 feet long. Where blocks are more than 280 feet long a ten-foot crosswalk shall be provided near the center of the block.

(Ord. 51, passed 7-1-57) Penalty, see Ch. 155

§ 153.26 LOTS

(A) *Size of lots.*

- (1) No lot classified as residential shall be platted that is less than 60 feet in width and less than ~~7,200~~6,000 square feet in area.
- (2) No lot classified as business, commercial or industrial shall be platted that is less than 22 feet in width.
- (3) The subdivider and the Planning Commission shall consider the off-street parking provisions and make adequate allowance for the same when needed.

(B) *Lot Lines.* All side lot lines should be at right angles to straight street lines, or radial to curved street lines, unless a vacation from this rule will give a better street and lot plan.

(C) *Lots with double frontage.* Lots with double frontage shall be avoided, but if provided, the corner lots must have sufficient depth so that a reasonable front yard may be provided on both street frontages to protect similar frontages on adjacent lots in each direction.

(D) *Corner lots.* Corner lots shall have extra width sufficient to permit the maintenance of building lines on both front and side. In normal cases, the width required will not be less than the amount of the established building line on the side street, plus the irreducible width and such side yard requirements as are provided for by the Zoning Ordinance.

(Ord. 51, passed 7-1-57) Penalty, see Ch. 155

§ 153.27 OPEN SPACES; PARKS, SCHOOLS AND PLAYGROUND SITES

Due consideration shall be given by the subdivider and the Planning Commission to the dedication or reservation of suitable sites for future schools, parks, and playgrounds, the location of these features to conform as nearly possible to the Master Plan of the city. No property shall be subdivided for residential use if such is considered unsuitable for building purposes by the Planning Commission.

(Ord. 51, passed 7-1-57)

~~§ 153.28 PROPERTY USE AND AREA RESTRICTIONS~~

~~(A) Wherever property is subdivided with the intention that it shall have a use more restricted than that designated in the Zoning Ordinance, such use shall be stated either in an application for amendment to the Zoning Ordinance or in a separate statement filed with the Commission.~~

~~(B) Property use and area restrictions must be in accordance with the Zoning Ordinance.~~

~~(C) Business lots when platted shall bear a reasonable relation in number to the probable future number of families constituting the purchasing power of the neighborhood. The commission will reserve the right to allocate business lots in accordance with its Master Plan and Zoning Ordinance.~~

~~—(Ord. 51, passed 7-1-57)~~

§ 153.29 UTILITIES AND IMPROVEMENTS

(A) *Street surfacing, sidewalks, sewers and water.*

(1) A plat will not be approved or dedication of a street accepted unless the following improvements are made or cash, certified check or a surety bond furnished to guarantee the improvements.

(2) The installation of storm sewers, storm water inlets where necessary, sanitary sewers, house connections from main sewer to property lines and water mains with house connection to the property lines, detailed plans and specifications showing grades and depths of all sewers and grades of all streets must be provided with the plat and must be approved by the City Manager. Construction must be in accordance with standard city specification, for the various improvements.

(B) *Off-street parking for business use.* Off-street parking facilities, on the basis of one parking space, exclusive of drives or aisles giving access thereto, shall be provided for each 200 square feet of platted business area.

(C) *Street Trees.* Whenever the Planning Commission deems it desirable in order to insure continuity of purpose, street trees shall be planted in conformance with a planting plan approved by the Planning Commission.

(D) *Underground Utilities.* The proprietor shall make arrangements for all lines for gas, telephone, electric, television and other similar services distributed by wire, pipe or cable to be placed underground entirely throughout a subdivision area. Such conduits, pipes or cables shall be placed with 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 Public Works Director, Planning Commission and the approval of the City Council 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 with standards of construction approved by the State Public Service Commission. All drainage and underground utility installations which transverse privately owned property shall be protected by easements granted by the proprietor.

(Ord. 51, passed 7-1-57; Am. Ord. 00-09, passed 10-10-00) Penalty, see Ch. 155

ADMINISTRATION AND ENFORCEMENT

§ 153.35 SUBMISSION TO AND APPROVAL BY CITY COUNCIL REQUIRED

No plat shall be transmitted to any county or state approving authority for official action as required by the State Platting Procedure until each plat shall have, in the first instance, been approved by the City Council, in accordance with the regulations of this chapter, and Sections 16 and 17 of Act 172 of the Public Acts of Michigan for 1929 as amended.

(Ord. 51, passed 7-1-57) Penalty, see Ch. 155

§ 153.36 CITY COUNCIL VESTED WITH POWERS, DUTIES AND RESPONSIBILITIES OF PLANNING COMMISSION WHEN NECESSARY

If the City Planning Commission shall cease to exist, or its authority be limited or voided by court decree so as to prevent it from functioning as intended herein, or if said City Planning Commission shall fail to act within a reasonable time, or having acted, any interested person shall feel aggrieved by the action so taken, then the City Council shall be vested with all the powers, duties and responsibilities of said City Planning Commission and may and shall act in its place and stead, either by original jurisdiction or by administrative review as the case may be, if application be to it to do so.

(Ord. 51, passed 7-1-57)

§ 153.37 ADMINISTRATIVE REVIEW

The City Council shall have the power to review all actions taken by said City Planning Commission, upon timely application being made for such review, where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by the City Planning Commission or any of its designated officers, in carrying out or enforcement of the provisions of this chapter.

(Ord. 51, passed 7-1-57)

§ 153.38 VARIANCES

- (A) The City Council shall have the power on original jurisdiction if the same may be invoked as provided in § 153.36 above, or on administrative review as provided, when application therefor shall have been addressed to it, to authorize such variances or special exceptions from the provisions or requirements of this chapter as will not be contrary to the public interest; but only in such cases where, owing to special conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of this chapter would cause undue and unnecessary hardship, and no such variance shall be authorized by the City Council unless it shall find beyond reasonable doubt, that the following facts and conditions exist:
 - (1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties.
 - (2) That such variance is necessary for the preservation and enjoyment of a substantial property right which otherwise would be substantially impaired or lost.

- (3) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair or defeat the purposes and intent of this chapter or the public interest.

- (B) No hearing before the City Council involving a proposed plat, whether called by original jurisdiction or through administrative review, shall be held unless at least five days prior thereto notice by registered or certified mail of the time and place of such hearing shall have been given to the proponent of such plat and to each of the owners of lands immediately adjoining the land proposed to be platted, as their names and addresses appear upon the latest city tax record, and in the discretion of the Council to any other part who may be interested or affected by such action.

§ 153.39 FILING FEES

The subdivider shall pay a filing fee to the City Treasurer. Such fee shall be established by resolution of the City Council and shall cover the cost of advertising and notices, cost of checking statements, and cost of recording the approved plat.

(Ord. 51, passed 7-1-57)

§ 153.40 ADOPTION OF RULES AND REGULATIONS

The City Council and the City Planning Commission shall each adopt their rules and regulations of procedure consistent with the law and due process. Any party may appear at such hearings in person or by agent or attorney.

(Ord. 51, passed 7-1-57)

CHAPTER 154: SWIMMING POOLS

SECTION

§ 154.02 PERMIT REQUIRED; FEE

§ 154.03 DISTANCE FROM LOT LINE

§ 154.04 WATER SUPPLY

§ 154.05 LIGHTS

§ 154.06 NOISE CONTROL

§ 154.07 RIGHT OF ENTRY FOR PURPOSE OF INSPECTION

§ 154.01 DEFINITIONS

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

PRIVATE. It is not open to the public, it is not publicly owned, or not otherwise regulated by the state either by statute or by rules or regulations of one of its administrative bodies.

SWIMMING POOL. Any artificially constructed, non-portable pool capable of being used for swimming or bathing, having a depth of two feet or more at any point.
(Ord. 81, passed 7-22-69)

§ 154.02 PERMIT REQUIRED; FEE

- (A) A permit shall be applied for and issued by the Building Inspector before construction shall begin on any swimming pool. The application for the permit shall be accompanied by a complete and detailed set of plans and specifications of the swimming pool, and a plot plan of the property showing the location of the swimming pool thereon. Before any permit shall be issued such plans and specifications and plot plan shall be approved by the Building Inspector, and before any swimming pool shall be used, a final inspection and approval must be had from the Building Inspector.

All applications for a permit shall be accompanied by a permit fee, such fee to be determined according to value as outlined in ~~State-the~~ Construction code, as adopted by the city.

~~(B) — by Ordinance No. 88, which is incorporated herein by reference.~~

~~(Ord. 81, passed 7-22-69; Am. Ord. passed 11-14-72) Penalty, see Ch. 155~~

§ 154.03 DISTANCE FROM LOT LINE

Swimming pools shall not be any nearer than six feet from the side or rear lot lines or from any house, building, or residence.

(Ord. 81, passed 7-22-69) Penalty, see Ch. 155

§ 154.04 WATER SUPPLY

There shall be no cross-connections of the city water supply with any other source of water supply for the pool. The line from the city water supply to the pool shall be protected against backflow of polluted water by means of an air gap and shall discharge at least six inches above the maximum high-water level of the make-up tank or the pool.

(Ord. 81, passed 7-22-69) Penalty, see Ch. 155

§ 154.05 LIGHTS

Lights used to illuminate any swimming pool or family pool shall be so arranged and shaded as to reflect light away from adjoining premises.

(Ord. 81, passed 7-22-69) Penalty, see Ch. 155

~~§ 154.06 NOISE CONTROL~~

~~Repealed in total. (Ord. 10-04, passed 5-11-10)~~

§ 154.07 RIGHT OF ENTRY FOR PURPOSE OF INSPECTION

The Building Inspector shall have the right at any reasonable hour to inspect any swimming pool for the purposes of determining that all provisions of this chapter are fulfilled and complied with. No person shall deny entry to the Building Inspector nor interfere with him in the performance of his duties.

(Ord. 81, passed 7-22-69)

CHAPTER 155: CIVIL INFRACTIONS

SECTION

§ 155.01 AUTHORIZED CITY OFFICIAL

§ 155.02 VIOLATIONS; CIVIL INFRACTIONS; SANCTIONS; NUISANCE; INJUNCTIVE RELIEF

§ 155.03 MUNICIPAL CIVIL INFRACTION

Cross-references:

General Penalty, § 10.99

Municipal civil infractions see Ch. 33

§ 155.01 AUTHORIZED CITY OFFICIAL

~~Upon recommendation of the~~ ~~The~~ appointed Building Inspector, Plumbing Inspector, and ~~Heating Mechanical~~ Inspector ~~are each respectively hereby designated as an authorized city official to issue~~ municipal civil infraction citations may be issued for violations under Chapters 151, 152, 153 and 154 of Title XV, directing alleged violators to appear in court or municipal civil infraction violations notices directing alleged violators to appear at the City Municipal Ordinance Violations Bureau, as provided by the code of ordinances of the city.

(Ord. 95-05, passed 8-8-95)

§ 155.02 VIOLATIONS; CIVIL INFRACTIONS; SANCTIONS; NUISANCE; INJUNCTIVE RELIEF

- (A) (1) Whenever, by the provisions of this chapter, the performance of any act is required, the performance of any act is prohibited, or wherever any regulation, dimension or limitation is imposed on the use of or upon any land, or on the erection or alteration, or the use or change of occupancy of structure, or the uses within such structure, a failure to comply with the provisions of this chapter shall constitute a violation of this chapter.
- (2) Any violation of any provision of this chapter or any permit, license or exception granted hereunder, or any lawful order of the Building Inspector, Plumbing Inspector or Heating Inspector issued in pursuance of this chapter shall be a municipal civil infraction. A **VIOLATION** includes any act which is prohibited or made or declared to be unlawful or an offense under Chapters 151, 152, 153, and 154 of Title XV and any omission or failure to act where the act is required.
- (3) Every day on which a violation exists shall constitute a separate violation and a separate offense.
- (B) Unless a violation of this code is specifically designated as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.
- (C) The penalty for a misdemeanor violation shall be a fine not exceeding \$500 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by this chapter.
- (Ord. 95-05, passed 8-8-95)

§ 155.03 MUNICIPAL CIVIL INFRACTION

A person who violates any provision of Chapters 151, 152, 153, and 154 of Title XV is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50, plus costs and other sanctions for each infraction. Repeat offenses under this chapter shall be subject to increased fines as provided by § 10.99 of the code of ordinances.

(Ord. 95-05, passed 8-8-95)